



Winning Jury Trials: Lessons From Hollywood

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Winning Jury Trials: Lessons From Hollywood (How to Pitch Your High Concept Case)



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SAMPLE CLIENT: JACK TORRANCE

- Father
- Husband
- School Teacher
- Accused of breaking his son's arm
- 2 sides to Jack's story: what's the best way to tell it?
- There are certain, key techniques that you can use to make your client's story more powerful, relatable, and compelling

SHARED HERITAGE

A hundred years ago, people had the time to follow this structure through narratives, through shared stories

- Myths
- Fairy tales
- Biblical stories

Examples: stories of Christ, Horus, Osiris, Prometheus, Moses, etc.

DWINDLING ATTENTION SPANS

People no longer have time to process lengthy narratives

Studies show that because of technology (Twitter, 140 characters, phones, the net, etc) and our reliance on web browsing, our attention span is down to 9 seconds

We now collectively have the same attention span as a goldfish



Information needs to be parsed out in quick, bite-sized chunks

MONOMYTH

Stories have traditionally followed a common structure:

- An ordinary, likable, relatable person's world is turned upside down;
- They're forced on a journey;
- They encounter trials/obstacles along the way;
- They overcome the trials/obstacles and achieve a gift at the end of the journey – usually an insight or self-knowledge.

HIGH CONCEPT

Recognizing that they only have seconds to hook an audience, Hollywood studios emphasize HIGH CONCEPT IDEAS

HIGH CONCEPT = BIG, SIMPLE, AND
IMAGINATIVE

Audiences expect to see certain things, CERTAIN BEATS, happen at predictable points in a movie

This is how people view and process information now

YOUR JURY, YOUR AUDIENCE

We worked with jury consultants on a recent high profile toxic tort case

We conducted a mock jury

The jury was representative of the audience that goes to see movies

They process information the same way

They expect your case to be presented as a movie would be

WHAT AUDIENCES EXPECT – YOUR CASE LOGLINE

Audiences expect to know what it is you're telling them quickly ...

What's your logline? 25 words or less, what's your movie, what's your case about?

This is not the same as a pitch or concept

Examples:

- *Paranormal Activity (2009) – After moving into a suburban home, a couple becomes increasingly disturbed by a nightly demonic presence;*
- *Rocky (1976) – A small time boxer gets a once in a lifetime chance to fight the heavyweight champ in a bout in which he strives to go the distance for his self-respect;*
- *Star Wars (1977) – Luke Skywalker, a spirited farm boy, joins rebel forces to save Princess Leia from the evil Darth Vader, and the galaxy from the Empire's planet-destroying Death Star.*

THE CONCEPT

The producers were having trouble pitching the movie *AVATAR* because of a fairly complex plot when someone suggested its concept:

DANCES WITH WOLVES in outer space

The execs immediately got what it was about

Other examples: *SPEED* is *DIE HARD* in a bus; *OUTLAND* was

HIGH NOON in space, etc.; the book *MEG* (about a Megalodon shark) was sold simply on the phrase "*JURASSIC SHARK*" - my movie was sold as *THE FAST AND THE FURIOUS* with planes

Real Life Example: mock jury thought of our toxic tort case as *MICHAEL CLAYTON* meets *A CIVIL ACTION*

5 DEVICES HOLLYWOOD USES TO CREATE SYMPATHETIC CHARACTERS

- Highlight a person who's the victim of undeserved misfortune;
- A person who's an expert (the best there is) at their job;
- A person who's honest;
- A person who fights to do what's right in the face of danger;
- A person who's hard working.

Examples:

THE FUGITIVE; THE SHAWSHANK REDEMPTION; GLADIATOR; THE FUGITIVE

WHY YOUR CLIENT MUST SAVE THE CAT

You need to emphasize some aspect of your client that makes the jury want to invest themselves in him/her and his/her story

Demonstrate that your client is likable, relatable

Someone we want to root for

Also known as "Saving The Cat," after the hero in ALIEN, Ripley, saving the cat named Jonesy

*Particularly important if you are representing the Defendant

Example: *ALADDIN*



TOO MUCH COLLEGE & STICKY IDEAS

Don't fall prey to the curse of knowledge

Opaque and abstract ideas don't captivate and inspire people

Ideas that are simple, concrete, AND profound do

These are the ideas that STICK, that have HOOKS that cling to memory

This is why high-concept movies, features that are REFRESHINGLY FAMILIAR, are so effective

Example: *ALIEN* is *JAWS* in outer space

6 STICKY IDEA PRINCIPLES:

- Simple: *ALIEN*=*JAWS* in outer space
- Concrete: Aesop's fables – using animals to illustrate universal shortcomings
- Credible: Specific details=more credibility; vivid details often trump a barrage of statistics
- Emotional: Anti-smoking ads; anti-drug “This is your brain on drugs” ad
- Part of a story: Properly told, stories become simulations that suck the audience/juror in
- Create a mystery: Get the audience's / jury's guessing machine going by asking a question – Example: *THE HUNGER GAMES* – how will Katniss fare as a competitor?

RETURNING TO OUR CLIENT: JACK TORRANCE

The Prosecutor believes they have our client, Jack Torrance, dead to rights

They believe they'll be able to show Jack in a bad light

He's a former alcoholic, a failed writer, a property manager, a man with a short temper

We've got some footage of Jack the Prosecutor plans to use



HOW TO BEST PRESENT JACK'S STORY

How do we employ the techniques discussed to best tell Jack's story?

Show Jack as a sympathetic character: the victim of undeserved misfortune, a hard worker who's struggling to do the right thing

Sticky Idea #1: bring the emotion – highlight Jack's attempts to fight to bring his family together while taking on a new job

Sticky Idea #2: make it concrete – Jack's like Job in the Rockies

Use these techniques to show that Jack's someone the audience/jury should invest in, someone worth rooting for.

Faculty Biography: Jeff Hines

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Mr. Hines joined the firm as a partner in 2003. He was formerly the managing principal of a regional law firm's District of Columbia and Virginia offices. Mr. Hines is licensed in Maryland, the District of Columbia and Virginia, and has represented clients in trials and appeals in all three jurisdictions. His areas of practice include professional malpractice, toxic tort and environmental litigation, pharmaceutical litigation, product liability, and commercial, securities and employee litigation.

Mr. Hines defends attorneys, health care providers, realtors, clergy, social workers and other professionals in malpractice claims brought in Maryland, Virginia and the District of Columbia. In 2013, Mr. Hines successfully tried a six-week medical malpractice jury trial in the Circuit Court for Baltimore County. And in 2011, Mr. Hines successfully tried a legal malpractice claim before a jury in the Circuit Court for Montgomery County. That same year, Mr. Hines also tried a will caveat case in the Orphans' Court for Prince George's County, Maryland. In 2008, Mr. Hines successfully tried a will construction case in the Circuit Court for Montgomery County. In 2005, he convinced a federal judge in the United States District Court for the Eastern District of Virginia to apply Virginia law regarding the non-assignability of legal malpractice claims, substantially reducing an insurance company's claims against its panel counsel. In 2004, Mr. Hines obtained a defense verdict in Maryland for an accountant who allegedly provided improper tax advice. In December 2003, Mr. Hines successfully tried a wrongful adoption matter involving allegations of child trafficking and brain damage in the Circuit Court for Montgomery County. Mr. Hines was able to strike plaintiff's expert neuropsychologist for basing his opinion on unreliable data.

At his prior firm, Mr. Hines obtained a defense verdict after a three-week jury trial in a sexual abuse case brought against a psychologist in the Circuit Court for Fairfax County. In addition, Mr. Hines obtained a defense verdict in a multi-million dollar case against an attorney brought in the Superior Court of the District of Columbia. Mr. Hines has also defended attorneys and health care providers in matters before disciplinary boards. As a service to his clients, Mr. Hines provides in-house educational seminars to professionals to assist them in avoiding claims.

Practice Areas

- Product Liability
- Pharmaceutical and Medical Device Litigation
- Toxic Tort and Environmental Litigation
- Professional Liability
- Employment Litigation
- FINRA Litigation

Education

- University of Maryland (B.S. 1981)
- University of Maryland, School of Law (J.D., with Honors, 1985)

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Mr. Mahaffey is Of Counsel to the firm. His current practice concentrates on commercial litigation, securities litigation, wrongful death litigation, professional liability defense, and general insurance defense.

Mr. Mahaffey handles cases primarily before the United States District Courts for Maryland and the District of Columbia, the Circuit Courts of Maryland, and the Superior Court for the District of Columbia, as well as mediations around the country. He is responsible for all aspects of case management, including the development of case strategy, selection of expert witnesses, taking and defending of expert and fact witness depositions, and preparation of pleadings and motions. He has obtained summary judgment on behalf of numerous clients, has directed numerous arbitrations and mediations, and has assisted in jury trials resulting in defense verdicts.

In addition to his professional experience, Mr. Mahaffey has written numerous articles for a number of prominent law reviews on emerging issues concerning the legal profession.

Mr. Mahaffey has represented a variety of businesses in complex business tort litigation. He has represented entities in matters concerned with allegations of tortious interference with economic relations and other business torts. Mr. Mahaffey has likewise handled other cases involving claims of defamation and tortious interference with contractual relations.

Mr. Mahaffey has defended numerous insureds in a wide variety of claims arising from auto and truck collisions, premises-related injuries, construction claims, and intentional torts.

Mr. Mahaffey also has substantial experience in the defense of product liability claims, defending manufacturers of construction equipment and commercial products against claims of negligence, strict liability and breach of warranty.

Practice Areas

- Professional Liability
- Commercial and Business Tort Litigation
- Insurance Law
- FINRA Litigation

Education

- University of Maryland (B.A. 1996)
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