

Narrative Persuasion in Legal Settings: What's the Story?

BY PHILIP J. MAZZOCCO AND MELANIE C. GREEN

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The idea that storytelling can enhance courtroom persuasion is as old as litigation itself. Researchers who study story-based persuasion are interested in the factors that render such influence more or less likely. The present article examines recent theory and research on narrative persuasion, and ends with corresponding recommendations for litigators.

To begin, researchers in the area of story-based persuasion draw a distinction between argument-based persuasive communications, also referred to as *rhetorical* communications, and story- or narrative-based persuasive communications. Rhetorical communications persuade by presenting a series of logical and cogent arguments in favor of a given viewpoint. In contrast, narratives describe a series of interrelated events that take place in a particular setting and typically involve one or more specific characters. Lacking straightforward arguments, narrative persuasion tends to be driven by the actions and portrayal of antagonists and protagonists, and also by the overall themes of the story.

Researchers in the field of social psychology have studied rhetorical persuasion for approximately sixty years, and during this time, rhetorical persuasion has remained a central focus of social psychological studies. As a consequence, a great deal is known about the factors that enhance or diminish the effectiveness of argument-driven persuasive communications (e.g., Brock & Green, 2005). In contrast, the focused and theory-based study of narrative persuasion has been primarily constrained to the past ten or fifteen years, and so researchers are still working toward a full understanding of the factors that influence narrative persuasion, as well as the psychological mechanisms responsible for these effects. Nevertheless, impressive strides have been made by theoreticians and researchers, many of which may be of interest to legal practitioners.

Green and Brock (2000, 2002) proposed the transportation-imagery model of narrative persuasion, which suggests that recipients of persuasive narratives (e.g., films, books, verbal communications, etc.) can become mentally transported into the world of the story (see also Gerrig, 1993). While in this story-world, participants are said to partially lose touch with their own world. In this way, narratives can function as an escape from reality. When recipients return to their own

world, the theory of transportation suggests they often return bearing the influences of the story world. Relevant to the current discussion, participants often return with beliefs and attitudes that have been influenced in a story-consistent fashion. For example, readers of Steinbeck's *The Grapes of Wrath* are likely to become more sensitive to the plight of the working man, and perhaps also more skeptical about motives of big business.

Mechanisms of Narrative Persuasion

We Laughed, We Cried: Emotions and Persuasion

As avid readers are well aware, the portrayals, actions, and outcomes of story characters can create lasting impacts on our beliefs and opinions. Famously, Abraham Lincoln credited Harriet Beecher Stowe with arousing popular opposition to slavery through her vivid portrayal of slaves and slave-masters in *Uncle Tom's Cabin*. Consistent with Lincoln's supposition, previous studies have shown that narratives influence beliefs and attitudes in part by encouraging empathetic and emotional connections with story characters (Heath, Bell, & Sternberg, 2001; Oatley, 1999). The power of narratives to influence emotion relates to basic research within social psychology that shows that opinions and beliefs typically have both emotional and rational bases (Chaiken, Pomerantz, & Giner-Sorolla, 1994; Crites, Fabrigar, & Petty, 1994). Some opinions and beliefs are primarily emotional in nature (e.g., ice cream), whereas others are primarily rational (e.g., vacuum cleaners). Further research has demonstrated that it is often difficult to influence attitudes that are held emotionally using rationalistic, rhetorical arguments (e.g., Fabrigar & Petty, 1999). Narratives then, appear to be uniquely suited to changing opinions and beliefs which are held emotionally, and which may be resistant to other forms of persuasion.

It is worth noting that emotional reactions to characters can form regardless of whether the narrative in question is fictional or factual. Furthermore, stories can create emotional responses regardless of whether the involved characters are friends, strangers, or simply products of an author's imagination; indeed, one of the great benefits of literature is the way that it allows us to connect with and experience other lives that may be very different from our own. In any case, the formation of real-world emotional reactions to characters can influence the degree and manner to which narratives are persuasive.

You Can't Argue With That: Stories Reduce Resistance

Another important property of narratives is that they appear to reduce skepticism and counterarguing (Green & Brock, 2000; Slater & Rouner, 2002). Such scrutiny, typically involving a comparison of communication claims with preexisting beliefs and attitudes, is a natural response to rhetorical persuasion (Petty & Cacioppo, 1986). However, given that narrative recipients are immersed in the world of the story, their own preexisting beliefs and opinions should be relatively inaccessible. Furthermore, time spent scrutinizing the relevance and validity of the arguments presented is instead likely to be dedicated to building and maintaining the narrative world. Hence, narratives, relative to rhetoric, are more likely to produce persuasive traction in situations where recipients hold prior beliefs and attitudes that may be inconsistent with the communication stance.

What Makes a Story Transporting?

In general, narrative persuasion should be optimal when the communication succeeds in immersing the recipient in the flow of the story. Under this condition, reduction of counterarguing and emotional connections with characters should be maximized. Prior research has indeed shown that individuals who are more transported do exhibit greater attitude and belief change in response to stories (e.g., Escalas, 2004; Green, 2004; Green & Brock, 2000; Wang & Calder, 2006). However, there are a number of factors that can theoretically make narrative transportation more or less likely.

Good Storytellers

Regarding the source of the narrative, transportation should be facilitated by an adept storyteller. Clearly, the same story can be told in very different ways by different storytellers. Master storytellers, such as public radio's Garrison Keillor, can make even trivial tales seem like epic masterpieces. Some storytellers are simply more capable of evoking immersive imagery, pacing a story for dramatic effect, and describing characters and events in a way that creates an emotional impact, and these storytellers are likely to achieve maximum persuasive impact.

Immersive Imagery

Narratives containing immersive imagery should elicit greater transportation. If listeners can easily picture the characters and scene of the events described, they are more likely to become fully engaged with the narrative world. Furthermore, the creation of these mental images should lead to lasting persuasion that is difficult to counter with less vivid facts.

Realism

In addition to immersive imagery, some degree of realism is necessary for optimal narrative transportation. In other words, recipients will have an easier time constructing the narrative world to the extent that the details of said world are at least somewhat familiar to them. Even in fantastical scenarios, it is still important that recipients are familiar with the basic human elements of the story (social interactive themes, basic human motives, etc.). The narrative should also be presented in terms that are understandable to recipients. For example, as immersive as Shakespeare can be, it would be lost on most young children merely due to language difficulties.

Structure

Even young children know that the hallmark of a good story is that it has a beginning, middle, and end. A story with a clear causal structure is more transporting than one that has inconsistencies in plot. Suspense can also help increase immersion into stories; when a story starts with an attention-grabbing question or situation, individuals want to find out what happened or how it happened.

Surroundings and Context

The context in which a story is heard is likely to play an important role as well. First, narratives should be less persuasive to the extent that other elements of the context disrupt transportation. For example, attempting to become immersed in a novel can be difficult when the TV is on, or others in the vicinity are having a loud conversation.

In addition, certain contexts highlight the persuasive nature of communication. In some situations, recipients might become aware that the purpose of a narrative communication is to influence their own attitudes. Such a realization may limit the story's effectiveness. However, this may depend on whether recipients believe that the persuasive attempt is appropriate in the given context. Recipients might resent emotional stories out of the mouths of politicians (particularly those from the opposing political party), who clearly harbor ulterior motives, while allowing persuasive stories in a courtroom scenario where persuasive attempts by litigators are more likely to be anticipated and accepted. However, even in the courtroom, negative stereotypes regarding lawyers in general, or a particular lawyer, would be expected to reduce the willingness of jurors to be persuaded by stories.

The Audience

Finally, characteristics of the recipients themselves can facilitate or limit persuasion. Recipients who have better imaginative abilities should be more capable of constructing detailed and compelling narrative worlds than their less imaginative counterparts. In addition, certain individuals are more willing and able to become transported into narrative worlds. For instance, some people are emotionally moved by a story as minimal as a thirty-second Hallmark commercial, whereas others remain impassive even when watching an amazing film or reading a great novel. Green (1996; see also Dal Cin, Zanna, & Fong, 2004) developed the nineteen-item transportability scale to measure these kinds of individual differences in the likelihood of becoming transported.

Transportability and Narrative Persuasion

Working with colleagues Jo Sasota and Norman Jones (2010), we recently examined the role of transportability in facilitating narrative persuasion. Across two studies, we examined the role of individual differences in transportability, i.e., the tendency to become transported into narratives, in predicting the degree of attitude change resulting from persuasive narratives. As discussed above, narratives should be uniquely persuasive for issues in which people have strong, preexisting, and emotional counter-beliefs and opinions. Hence, the communications used in our studies took a positive stance on homosexual relationships and race-based affirmative action, two topics for which negative and emotionally-held attitudes are common.

In Study 1, 137 college-aged participants read a story detailing a conversation between two high school age friends, one of whom had recently come out as a homosexual. Generally, the story promoted tolerance towards homosexuals. This theme was conveyed by both the positive characterization of the homosexual teen, as well as the accepting stance of the heterosexual friend. Results indicated that participants were persuaded by the story (i.e., exhibited more positive attitudes towards homosexuality) only to the extent that they self-rated as highly transportable as measured by Green's (1996) transportability scale. (Example items from the scale are provided below.) Additional

analyses confirmed that the persuasive narrative influenced transportable recipients by increasing empathy for homosexuals (an emotional response) as opposed to changing their rational perceptions (measured by asking participants what they were thinking while reading the narrative).

In Study 2, comprising 298 White participants, this general finding was replicated using the topic of race-based affirmative action. One goal of Study 2 was to demonstrate that highly transportable individuals were not more persuadable in general (as might have been the case in Study 1), but instead were specifically more likely to be persuaded by stories. To test this proposition, the study included sets of rhetorical arguments that echoed the themes of the analogous persuasive narratives. For example, in one condition, participants read a story about a particular African-American man who could trace his history back to slavery. Although this impoverished lineage limited his opportunities, he was able to take advantage of affirmative action to better his situation in life. The analogous rhetorical communication merely discussed how the residue of slavery still exists among the African-American population, and that race-based affirmative action is a justifiable remedial action. All participants were assigned to read either a story or an analogous list of arguments, and, once again, level of transportability was assessed.

In addition, we measured individual differences in the *need for cognition* (Cacioppo & Petty, 1982), a personality difference in the extent to which individuals enjoy effortful thought, such as debating issues, solving puzzles, or considering complex problems. (An example item for the low end of this scale is, "Thinking is not my idea of fun.") In persuasion contexts, this scale predicts the likelihood of effortful scrutiny of persuasive communications.

Results indicated that narratives were more persuasive than arguments, but only for individuals who were highly transportable. As in Study 1, the link between transportability and attitudes in the narrative condition was found to be mediated by emotional, empathic responses as opposed to rationalistic appraisals. Additional analyses indicated that the participants' level of need for cognition had no relation to narrative persuasion, suggesting that the process of transportation in the narrative condition may have been inhibiting more rational and logical thought processes.

Two Ways of Thinking

This final finding is the basis of emerging research and theory in the domain of narrative persuasion. It is generally believed that humans respond to communications in one of two ways (e.g., Bruner, 1986). The first involves rational appraisal. Related processes include abstract generalizing; matching information with previous stores of beliefs, attitudes, and values; and effortful scrutiny. Rational processing is more likely given a higher need for cognition, or in response to rhetorical communications. The second response type is experiential in nature, and involves the construction of an imaginary world filled with quasi-experiences. The experiential response type is consistent with transportation, and is more likely given higher levels of transportability, or in response to narrative communications.

To elucidate the difference between these two modes of processing, consider two different persuasive communications. First, in response to a list of arguments in favor of buying a new cleaning product, a consumer may either rationally scrutinize the arguments being presented or they may imagine themselves actually using the product in their own home. Second, in response to a story about the effects of rain forest destruction on local tribes, recipients may either consider whether the story presents a good argument in favor of environmental protection, or they may imagine themselves in the position of the individuals being portrayed in the story.

Because human mental processing resources are fundamentally limited (e.g., Shiffrin, 1988), we propose individuals can only engage in one processing mode at a time. Hence, when deeply immersed in a story, recipients are less likely to scrutinize relating themes and claims. Similarly, when in scrutiny mode, narrative transportation should be either impossible or at least greatly limited. We are currently in the process of testing this framework, but we foresee important practical implications. For a given issue, there may be arguments that are better conveyed by rhetorical propositions, as well as arguments that are better conveyed by stories. Depending on the issue, one class of arguments may be stronger than the other. Would-be persuaders, then, can take advantage of the processing limitation described above to craft communications that shift between narrative and rhetoric as the topic requires, focusing on rhetoric to influence rationally held beliefs, and narrative when attempting to influence emotionally held attitudes that may be more resistant to change.

Practical Applications in the Legal Domain

So when should litigators use narratives as opposed to arguments? Considering the theory and research summarized in this article, we can make several concrete recommendations to litigators. We focus on three key factors: jury characteristics, case characteristics, and presenter characteristics.

Jury Characteristics

The most straightforward implication of the results of Mazzocco *et al.* (2010) is that stories will be more effective given highly transportable jurors. This tendency can be measured during the *voir dire* process. Because the 19-item scale described above is likely too unwieldy for the typical *voir dire* proceeding, a shorter version of the scale may be used. Combining the data from Studies 1 and 2 from Mazzocco *et al.* (2010) allowed us to analyze the transportability data from 435 participants. It turns out that four particular items from the scale accounted for approximately 85% of the variance in the overall scale. Hence these four items can function as a reasonable substitute for the full 19-item scale. These four items are as follows:

1. "I am mentally involved in stories while reading them.";
2. "Stories affect me emotionally.";
3. "I can become so absorbed in a story that I forget the world around me."; and
4. "Characters in stories can seem real to me."

These items can be accompanied with a 1-10 scale (1 = "not at all true of me", 10 = "very true of me"). If even four questions would require too much time, it is possible that asking a single question ("do you become very absorbed into stories?") with a simple "yes" or "no" may have reasonable predictive ability, although we have not tested this possibility empirically.

Of course, in some situations, jurors may need to be selected based on characteristics other than transportability. If it is clear that a given jury is low in transportability, it is possible that using stories might actually backfire. This supposition is based on emerging evidence from recent studies in our lab showing that individuals low in transportability seem to prefer to be persuaded by arguments as opposed to stories. In a jury where some jurors are highly transportable but others are not, a mixture of stories and arguments might be ideal.

Case Characteristics

Based on the summarized research and theory, we propose that stories may be especially effective when jurors are believed to have preexisting negative reactions that are counter to the to-be-argued stance. To the extent that such resistance is based on rational factors, stories are likely to reduce juror scrutiny. And to the extent that the resistance is based on emotional factors, stories are uniquely positioned to actually influence such emotions in a story-consistent fashion.

It is important, however, that the characters in the story can be portrayed in a way that is designed to elicit the desired emotional reactions. For example, it may be challenging to tell a persuasive story highlighting the positive aspects of an extremely unlikable defendant. However, a cleverly crafted story is often an ideal method of focusing juries on the more positive aspects of the characters in question, while distracting attention from less desirable attributes.

Finally, in situations where the evidentiary case is weak or tenuous, stories may be the only way to go. In most cases, though, portions of the evidence will be strong, and portions will be weaker. In such instances, litigators can strategically switch between rhetoric (when the evidence is strong) and narratives (when the evidence is weak). To the extent that jurors are confined to processing either rationally or experientially, the net perception given such a strategy should be of a consistently strong case.

Presenter Characteristics

Of course, a story tends to be only as compelling as the individual telling it. Some people are naturally good storytellers. This applies not only to litigators, but also to anyone called to the stand. If a particular witness is a very poor storyteller, questioning them in a way that encourages them to present a narrative may be counterproductive. In such cases, asking simple questions relating to the facts might be preferable. Given the importance of being able to tell gripping stories, litigators would likely benefit from taking story-telling or acting classes.

Conclusion

In this article, we summarize some of the relevant research on narrative persuasion, with a focus on theory and findings likely to be relevant in legal settings. In particular, we present evidence that stories are more persuasive for some people (those who have a natural tendency to become absorbed in narratives) than others. A case presentation that relies on narratives would benefit from attempting to select these individuals as jurors. We further suggest that given these individual differences, presenting a mix of stories and arguments may be an ideal strategy. Furthermore, efforts to increase narrative quality (for example, through coherence or strong storytelling skills) will likely have benefits in both transporting and persuading an audience.

We hope that in addition to suggesting a number of practical applications, this article will encourage psychological researchers and legal practitioners to work together in future studies of narratives in the legal setting. With the dual emphasis on the presentation of sound and coherent arguments as well as the weaving of compelling and gripping stories, the legal domain may provide an ideal context for future testing of propositions relating to narrative persuasion. To the extent that this testing was informed by the real world knowledge of legal practitioners, it would provide both basic and applied benefits.

Don't miss the trial consultant responses following the references!

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***We asked two trial consultants to respond to Mazzocco & Green's research.
On the following pages, Benson Green and Glenn Kuper offer their thoughts.***

Response to Narrative Persuasion in Legal Settings: What's the Story?

Authored by Philip J. Mazzocco and Melanie C. Green

BY BENSON GREEN

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Narrative Persuasion in Legal Settings: What's the Story? is an interesting, well-written article based on some very compelling research that provides a theoretical insight into the mechanisms behind narrative persuasion and its potential impact on trial strategy. Our firm has been investigating this issue on a more practical level for some time now. Much of our current practice involves intellectual property litigation and we regularly face cases where we believe the facts are objectively strong for our client, but the jurors just do not seem to get it. The reason, we have concluded, is lack of a narrative to go along with the facts.

The challenge we face is that attorneys are well schooled in rhetoric, but often have no practical experience in narrative. Moreover, trial lawyers spend the majority of their time on a case speaking to and arguing with others schooled in the law. So, when it comes time to try the case to a jury, many attorneys continue with what they know. Compound the problem with the rich panoply of biases today and the complicated nature of the technology we usually deal with and the situation becomes very challenging.

As the authors suggest, we find that many jurors are naturally predisposed to respond favorably to compelling narratives. More significantly, the authors argue that a strong emotional response, or a pre-existing emotionally based bias on the part of a juror, may be extremely difficult to overcome with a rhetorical argument. Thus, narrative is a potentially more successful means of persuasion. Indeed, in some cases it may be the only means to persuasion. These conclusions are consistent with our experience that jurors with strong biases are difficult to persuade with a purely rhetorical argument. When a juror believes that "All big companies are liars," there's little room for rhetoric to overcome such a strong bias. This is why narrative is a critical aspect of trial preparation. But, where does it fit in and how should it be used?

Let's start with the authors' suggestions regarding jury selection. When narrative is likely to be a significant part of the trial, measuring transportability in some way during jury selection makes good sense. The authors' transportability scale contains 19 items, but only four capture 85 percent of the variance in the measure. In other words, these four items are doing most of the work and if asked of jurors should give a good indication on individual juror's transportability and thus susceptibility to narrative persuasion. Notwithstanding the appeal of this approach, we believe it will prove impractical in application. A juror questionnaire would be necessary to gather the data. In civil litigation, we have not found juror questionnaires very common. When they are used, many courts will require the parties to agree on the questionnaire. One side or the other, in our opinion, is likely to object to these questions. If the court is then asked to consider whether to include them, it will be hard for the

proffering attorney to argue their relevance to the case. However, we plan to use these questions experimentally in our jury research over a period of time to determine how they interact with decision making. If they prove useful, a more practical approach might be to look for more factors that correlate with transportability that can more easily be used in jury selection. Without thinking about it in these terms, I have no doubt that we have been working on this issue for quite some time. The attractiveness of this article is that it provides a theoretical framework to consider the question.

Turning now to the notion of incorporating narrative into the case presentation, the authors correctly surmise that in “most cases...portions of the evidence will be strong, and portions will be weaker,” but they suggest that, “In such instances, litigators can strategically switch between rhetoric... and narratives...” Given their conclusions that individuals are likely able to process information either experientially or rationally at any given time, the authors believe that this strategy will cause jurors to view the entire case as strong. This strategic switching is problematic on a practical level. Moreover, the authors also found that “individuals low in transportability seem to prefer to be persuaded by arguments as opposed to stories,” and thus strategic switching could “backfire” both with jurors that are low in transportability and those that are high in transportability.

In our experience, the most effective way to incorporate narrative into trial preparation is to fold rhetoric into a narrative framework. This method not only takes advantage of an attorney’s existing strength in rhetoric, it also allows jurors to preferentially engage with the rhetoric or the narrative over the course of a trial. This process involves creating what we refer to as an Organizational Narrative: an overall narrative of the case that is used to inform the selection and arrangement of facts and arguments in a way that reinforces the narrative and themes of the case. For example, an organizational narrative can be used to simplify difficult technological concepts by identifying which concepts are necessary to support the narrative.

The process of creating an Organizational Narrative should ideally begin early in the process of trial preparation. It starts with performing limited research, such as focus groups, to test narrative concepts. Once an effective narrative is established, more substantial research, such as a mock trial, is used to test the rhetorical arguments of the case within this narrative framework. We’ve found that given this layered approach to mixing narrative and rhetoric, some jurors will respond well to the broad themes of the case whereas others respond well to the specific rhetorical arguments. In our experience, more biased or emotional jurors respond well to the narrative, shutting off or ignoring the rhetorical arguments, whereas less obviously biased jurors tend to ignore the more emotional aspect of the narrative and focus on the evidence and rhetoric.

Finally, the authors suggest, briefly and perhaps tongue in cheek, that attorneys consider training in story telling or acting. We quite agree. The ability to construct a narrative as part of the overall trial strategy is an essential tool for every trial lawyer.

Continued study of transportability and its impact on narrative persuasion could greatly enhance our understanding of how jurors respond to arguments and in what ways that knowledge can be practically applied to trial preparation. We look forward to updates on the authors’ work.

Review of “Narrative Persuasion in Legal Settings: What’s the Story”

BY GLENN KUPER

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The article “Narrative Persuasion in Legal Settings: What’s the Story” provides some constructive advice to help attorneys evaluate the usefulness of narratives and incorporate this strategy into their practice. As useful as it is, I believe the authors’ analysis would benefit from widening their focus to include the rhetorical perspective on narratives and by providing a more developed and practical set of prescriptions for their use.

The authors hail from the social psychology perspective and are therefore understandably focusing on the literature from that field, but the contributions from rhetoricians should be acknowledged. For example, Walter Fisher has developed a comprehensive theory of human communication as narration. Fisher “offer[s] an approach to the interpretation and assessment of human communication [that] assume[s] that all forms of human communication can be seen fundamentally as stories, as interpretations of aspects of the world occurring in time and shaped by history, culture and character.”

In other words, rather than viewing narrative as a subset of communication, Fisher suggests that all of our interactions can be assessed in the context of stories. This broader perspective can be useful in the courtroom as attorneys think about their overall case and the perceptions of the key actors and actions being portrayed during the trial.

Fisher’s perspective also calls into question the dichotomy forwarded by the authors that rhetorical communication presents logical, cogent arguments and narratives primarily influence receivers on a more emotional level. Although stories are less likely to appeal to more formal argument schemes, they can persuade through what Fisher calls a “logic of good reasons.” These good reasons are based on values that guide an audience’s evaluation of a story. Fisher also explains that “narrative rationality” intuitively leads audience members to a conclusion about which stories make sense. Narrative rationality primarily considers whether a story is coherent (narrative *probability*) and whether it is consistent with the listeners past experiences (narrative *fidelity*).

Expanding their application of narrative theory beyond just discrete stories designed to appeal to listeners’ emotions would widen the applicability of this strategy. I am not certain how often a lawyer or witness has the opportunity to develop such a detailed story that a juror would be able to transport out of the courtroom and into the alternative reality of the narrative. The authors argue that narrative persuasion is optimal “when the communication succeeds in immersing the recipient in the flow of the story.” I would think it is easier to do this when the recipient is watching a movie in a dark theater where their critical judgment is suspended or in reading in their quiet living room than in a stressful courtroom, where they are expected to be critical consumers of communication.

The authors address this concern to some extent by presenting advice for how to increase the likelihood of constructing a narrative more likely to induce “transportation.” These characteristics of a strong narrative can help an attorney to develop more compelling stories, regardless of whether total

immersion is attainable. This section is very useful for individuals with a more limited experience in storytelling theory and practice.

The practical advice for when narratives might be useful is helpful for attorneys wishing to employ this strategy. It would be constructive to provide some additional advice about how to employ this strategy in the flow of a typical trial. Would it be possible to elicit such stories from a witness? Or is it more useful in opening and or closing? Also, it would be interesting to know if fictional stories would play as well in a legal setting (where relevance is of greater value) as they do in other contexts.

Relating to another practical suggestion made by the authors, I am not sure how practical or wise it would be to choose a jury based on their susceptibility to transportation. Voir dire allows for more of a “de-selection” process where troublesome jurors are struck rather than a “selection” process where amenable individuals are chosen. Using a precious peremptory challenge to eliminate a juror who is not highly transportable might be difficult when more troublesome characteristics are exhibited by other members of the venire. It might be more useful to use jurors’ past experiences and attitudes to determine which potential panelists might be adverse to the story you want to tell.

The use of stories to affect the emotions of a jury can be an effective strategy. The authors’ recommendation to employ a mix of logical and emotional appeals is sound, and reflects a strategic approach that dates back to Aristotle. There is great potential to view narratives in a larger context and to consider the ability to combine appeals to both logic and emotion in an overarching story that encapsulates one’s case.

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A Note From the Editor

Race, gender, tears, rage, damages, communication, economy and emotion!

You cannot run the gamut of topics anymore than that! And that's what we have for you in the May 2011 issue of The Jury Expert! As trial consultants, we see the good, the bad, and the ugly. We are privy to the secrets, the dysfunction, the illicit wishes and wants of the parties and the anger and frustration of both litigants and lawyers. And that results in work that is sometimes exhausting but always invigorating and interesting.

You may have expected a piece in this issue about the way our heroes fall and how jurors [and the general public] respond. We think that topic is way too predictable for The Jury Expert. So instead, what you will see is emerging work on how the race and gender of the trial lawyer is related to the ultimate verdict for criminal defendants. (It isn't pretty.) And then you'll find lots more including some original research on damages and entitlement, product liability, juror emotions, and finally, narrative persuasion.

We are, naturally, attuned to the economy and your desires to save some money. So we have two pieces on how to save money on pre-trial research and on witness preparation. Why? Why, because we care about you and want to help.

You could help us too! Our authors work hard on their articles for The Jury Expert! You like reading them. So read. Enjoy. Gather nuggets. AND then become real—by writing a comment on our website or on your own blog so our authors know you are out there appreciating their hard work.

Next time you see us it will be in the dog days of summer. So enjoy this breath of spring and know that, before too long at all, "we'll be back".

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A M E R I C A N S O C I E T Y O F T R I A L C O N S U L T A N T S



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