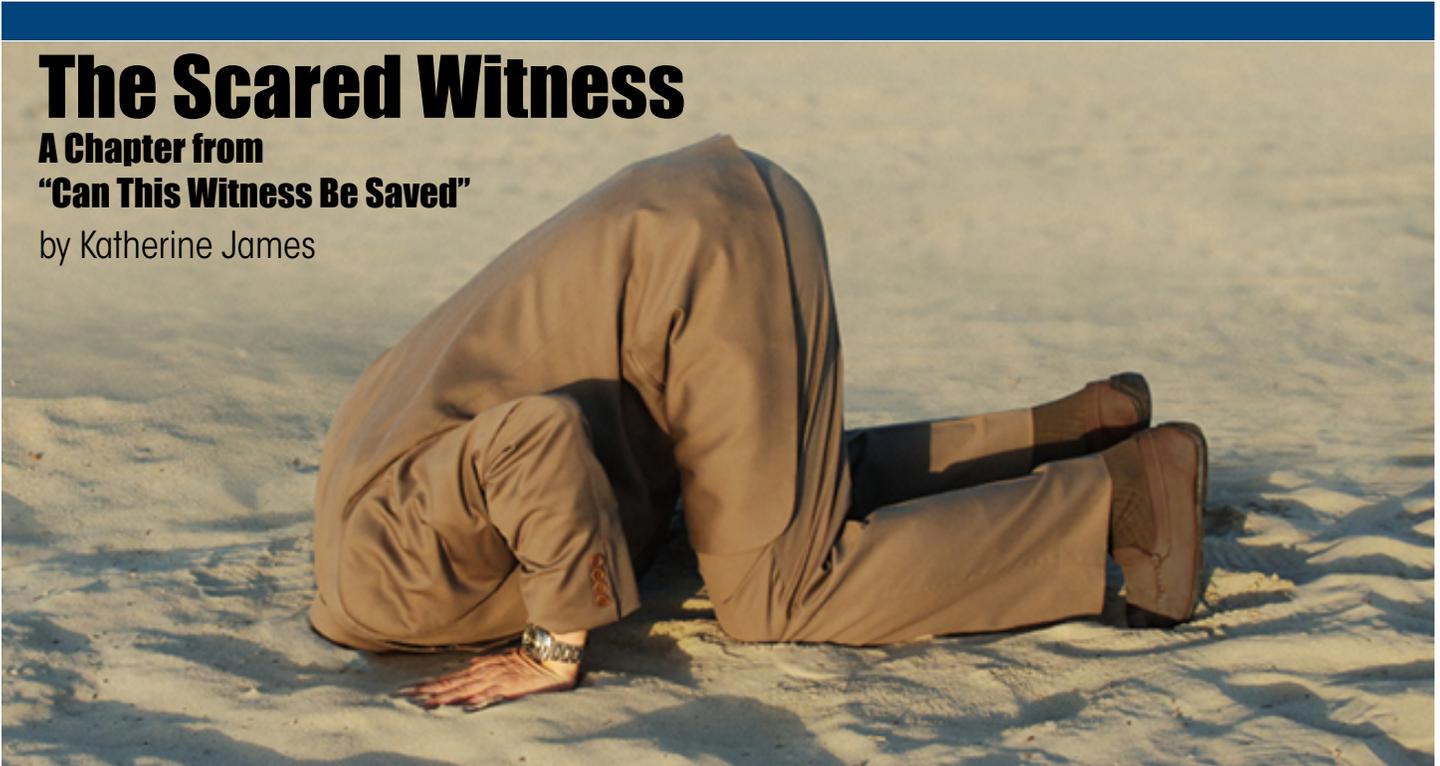




The Scared Witness

A Chapter from
"Can This Witness Be Saved"

by Katherine James



"I'm Truly Terrified."

*The Phone Call I've Had Lots Of Times

Lawyer

She's scared.

Me

That's okay. I've done "scared" before.

Lawyer

Not like this.

Me

Okay...what's the problem? Why is she so scared?

Lawyer

What happened to her was pretty scary – but – I don't think that is it.

Me

What is "it"?

Lawyer

She won't tell me.

Me

What makes you think she'll tell me?

Lawyer

I don't. You are my "leave no stone unturned" move for the company she works for.

Me

That makes me feel all warm and fuzzy. See you Thursday.

"I'm Truly Terrified" – Part One

I always love the drive from the airport to this attorney's office. Jazz music on the rental car radio, colorful fall woods whooshing by my window as I climb up the foothill where the small city is nestled – no traffic. The city is a little sleepy, always tranquil and makes me relaxed and happy. This is due in no small part to the wonderful attorney with whom I work here. He is super bright, loads of fun, has great cases to work on, and his clients like him and trust him. And the town – the town itself just makes me kick back and relax. "How could anyone live here and not just glide through their day?" I think.

I arrive at his office. It is late afternoon. Beautiful leaves are gently falling from the trees. I sing a little jazz tune in my head as I walk up to the front door. It is "The Autumn Leaves" – but I am singing it in broken French. Just like Jessie and Lois and I used to do in the 7th grade in our best Charles Aznavour impersonations. The great attorney's receptionist greets me like a long lost relative – how can you not love working in The South? "Miss Katherine!" she crows. She then whispers, "Sit down. He's going to come out and explain everything." The door to the conference room opens. The great attorney greets me loudly from the open doorway with the kind of bravado that his receptionist did. "Katherine! It is so good to see you!" He then carefully closes the door and crosses to me. He looks apologetic. He whispers, "I'm going to have to ask you to turn around and fly home. Julia refuses to work with you. She is terrified."

The first task: Finding the "Why?"

In my experience there is only one reason not to be fearful of facing a legal event as a witness: questionable mental health.

The first question I ask in a preparation session is almost always, "What questions or concerns do you have about having your deposition taken (or whatever legal event this witness is facing)?" When the witness says, "Why should I have any concerns? I can't wait!" my antennae go up. "Danger, Will Robinson," I think, quoting the old television show **Lost In Space** to myself. "We might have a crazy one on our hands."

Let's face it. What sane adult wants to sit in a room with a lawyer who doesn't have his or her best interest at heart but who is allowed to ask him or her questions for six hours? Or in a courtroom being examined by that person in public for all the world to see?

I have met a handful of them and they were all nuts. Totally bonkers. One of them was a major executive in an energy company, another was high up in the banking industry, another was in the middle of a messy 900 million dollar divorce and a couple were accused of crimes, in jail, and awaiting trial.

However, most of the people who answer the question saying that they have "no concerns" actually do upon further reflection. Or if they don't realize it immediately, at some point during our witness preparation sessions they fess up to the inner turmoil they have been experiencing for weeks. This is one of the first things that distinguishes "normally" scared witnesses from "truly terrified" witnesses. The "normally" scared don't live and breathe deep seated terror from deep within that is triggered by the process of preparing for, say, having a deposition taken.

The truly terrified witnesses know they are truly terrified. What's more, they tell you that they are scared immediately.

Again, I am not talking about "normally" scared witnesses. They are, for the most part, scared for good reason. They can, with good reason, be scared of the process ("I can't stand not being in control!" for example). Also, with good reason, they can be scared about a particular issue or fact in this case (the contract wasn't signed, the light was changing from green to red, they had already been warned about that SEC rule before, they don't want to go to prison). Those are all "normal" fears.

The truly terrified are scared for no material or logical reason that you can necessarily associate with the facts of this case. Here's the tricky part – on first blush, the words they use may seem like they are "normally" scared to you. Here are four examples (from the many I have heard) in a chart of what truly terrified witnesses have answered to the question "What questions or concerns do you have about having your deposition taken?" See how the words to these answers don't give you a clue as to whether or not

they are “truly terrified” or just “normally” scared?:

What Four Different Potentially Truly Terrified Witnesses Say:
1. “I’m scared.”
2. “I’m anxious.”
3. “I’m terrified.”
4. “I’m paralyzed with fear.”

Here is the part where many attorneys screw up. Not because they are bad attorneys, but because they don’t understand that their next job is to find out why the witness is scared. They believe that their job is to “reassure” a scared witness. They are operating under the delusion that all scared witnesses are created equal. They are unaware that these answers point to the potential that this witness is truly terrified. Here are four of the unsuccessful rejoinders I have heard attorneys intone in response to the fear witnesses have expressed. I have added them to the chart:

What Potentially Truly Terrified Witnesses Say:	What Well Meaning Attorneys Say Back:
1. “I’m scared.”	“Don’t be scared. I’ll be sitting right next to you.”
2. “I’m anxious.”	“That’s a perfectly understandable and common response.”
3. “I’m terrified.”	“Me, too.”
4. “I’m paralyzed with fear.”	“No one’s ever died from having her deposition taken.”

I find that the attorneys are not making these responses to be un-reassuring. On the contrary, they are each saying the exact thing that would assure that attorney if the attorney were afraid. Let’s look at that in a chart:

What Potentially Truly Terrified Witnesses Say:	What Well Meaning Attorneys Say Back:	What Well Meaning Attorneys Are Thinking:
1. “I’m scared.”	“Don’t be scared. I’ll be sitting right next to you.”	“It would scare me to death to think that I could be facing that idiot on the other side alone if I were the witness.”
2. “I’m anxious.”	“That’s a perfectly understandable and common response.”	“I find it so reassuring that modern psychology has a good explanation for the phenomenon of fear.”
3. “I’m terrified.”	“Me, too.”	“She might as well know now that we only have a 50/50 shot at winning this thing.”
4. “I’m paralyzed with fear.”	“No one’s ever died from having her deposition taken.”	“If you tell me I have to man up, then by golly I man up and you will, too.”

Of course if the shoe were on the other foot, the attorney would be assured by the rejoinder. However, often times this rejoinder has the opposite affect. Let’s add to our chart what the witness is thinking while the well meaning attorney has just happily

reassured himself or herself:

What Potentially Truly Terrified Witnesses Say:	What Well Meaning Attorneys Say Back:	What Well Meaning Attorneys Are Thinking:	What Potentially Truly Terrified Witnesses Now Think:
1. "I'm scared."	"Don't be scared. I'll be sitting right next to you."	"It would scare me to death to think that I could be facing that idiot on the other side alone if I were the witness."	"Like when my mother sat there when I got my wisdom teeth extracted? I'm so screwed."
2. "I'm anxious."	"That's a perfectly understandable and common response."	"I find it so reassuring that modern psychology has a good explanation for the phenomenon of fear."	"Oh my God. I need Dr. Phil and I got one of those laboratory psychologists who chops the heads off of rats."
3. "I'm terrified."	"Me, too."	"She might as well know now that we only have a 50/50 shot at winning this thing."	"Now I totally don't trust anything you are ever going to say to me about anything ever again."
4. "I'm paralyzed with fear."	"No one's ever died from having her deposition taken."	"If you tell me I have to man up, then by golly I man up and you will, too."	"There's a first time for everything. No matter what, we are settling this thing before my depo is taken. Period."

But do the witnesses say that? Rarely. Here's what they say in the room with their out loud voices:

What Potentially Truly Terrified Witnesses Say:	What Well Meaning Attorneys Say Back:	What Well Meaning Attorneys Are Thinking:	What Potentially Truly Terrified Witnesses Now Think:	What Potentially Truly Terrified Witnesses Say in Response:
1. "I'm scared."	"Don't be scared. I'll be sitting right next to you."	"It would scare me to death to think that I could be facing that idiot on the other side alone if I were the witness."	"Like when my mother sat there when I got my wisdom teeth extracted? I'm so screwed."	"Oh. Good."
2. "I'm anxious."	"That's a perfectly understandable and common response."	"I find it so reassuring that modern psychology has a good explanation for the phenomenon of fear."	"Oh my God. I need Dr. Phil and I got one of those laboratory psychologists who chops the heads off of rats."	"Great."
3. "I'm terrified."	"Me, too."	"She might as well know now that we only have a 50/50 shot at winning this thing."	"Now I totally don't trust anything you are ever going to say to me about anything ever again."	"Oh."
4. "I'm paralyzed with fear."	"No one's ever died from having her deposition taken."	"If you tell me I have to man up, then by golly I man up and you will, too."	"There's a first time for everything. No matter what, we are settling this thing before my depo is taken. Period."	"Huh."

Here is what is devastatingly bad about the last column. The attorney may never recover. I'm not just talking about this preparation session. I'm talking about the entire relationship with this witness and the success and failure of whatever the legal event is at hand. The attorney will "go on" to the next "step" in his or her witness preparation list. There will be a giant check mark next to "fix scared" in the legal pad that lives in the attorney's mind, the title of which is "witness preparation". But it is an illusion the attorney has in thinking that he or she "fixed" a "normally" scared witness. And if the witness is "normally" scared, maybe it worked or maybe not. But if instead of a "normally" scared witness you have a "truly terrified" one, you are in big trouble. Like the iceberg, the abject terror is 90% hidden...waiting to sink the Titanic of the case.

There is one and only one response that has a prayer of beginning to be successful with every "normally" scared witness you meet...and is the only hope you have of starting to figure out if this witness is "truly terrified". It is a three-letter word with a question mark at the end of it and it goes like this:

What Potentially Truly Terrified Witnesses Say:	Only Attorney Response:
1. "I'm scared."	"Why?"
2. "I'm anxious."	"Why?"
3. "I'm terrified."	"Why?"
4. "I'm paralyzed with fear."	"Why?"

There will be an initial answer to this "Why?" It needs to be explored. It needs to be followed up. It needs a series of follow up questions that exhaust it more thoroughly than you have ever exhausted a witness you were deposing about a subject matter in a deposition.

How come? Let's start with the obvious - because there are millions of reasons to be scared. You need to figure out which one belongs to this witness. You need to deal with a specific fear that is showing up in the legal setting for which you are preparing this witness. And, ultimately, you need to determine is it "normal"? Or is it "truly terrified"?

Think of it as a differential diagnosis in Western Medicine. If you went to your doctor and said, "My head has hurt for three days," you would not expect your doctor to say, "So does mine. See ya." Nor would you expect your doctor to say, "Here, take two of these. You'll be fine." No - your doctor needs to figure out if you are allergic to dust, your new hat is too tight, you are getting hereditary migraines like your Aunt Sal or if you have a brain tumor.

You are the witness preparation doctor for your witness. Fear in a witness is a symptom - it is not a disease. It is up to you to figure out what disease is being signaled by the symptom. Only then, like a good doctor, can you begin to develop a cure or way of dealing with the disease - be it "normal" fear or "true terror" and hopefully control the symptom.

What are the diseases that are heralded by fear?

Let's look at four of the many possibilities in our chart following the attorney's asking "Why?" to our four witnesses.

What Potentially Truly Terrified Witnesses Say:	Only Attorney Response:	Potentially Truly Terrified Witness Insight:
1. "I'm scared."	"Why?"	"I'm never going to remember everything you want me to remember."
2. "I'm anxious."	"Why?"	"This reminds me of school."

3. "I'm terrified."	"Why?"	"What if I get emotional?"
4. "I'm paralyzed with fear."	"Why?"	"I don't know."

Now, again, it is very tempting for an attorney to reassure the fear with what the attorney thinks will "solve". It works sometimes on "normally" scared people, but it often acts as the equivalent of a doctor sending a patient home with "take two of these" when that patient turns out to have a brain tumor (is a "truly terrified" witness):

What Potentially Truly Terrified Witnesses Say:	Only Attorney Response:	Potentially Truly Terrified Witness Insight:	Mistaken Attorney "Solve"
1. "I'm scared."	"Why?"	"I'm never going to remember everything you want me to remember."	"Did I give you the impression that you have to remember everything? I'm sorry!"
2. "I'm anxious."	"Why?"	"This reminds me of school."	"This isn't like school at all. All your answers to all the questions will be right."
3. "I'm terrified."	"Why?"	"What if I get emotional?"	"That's okay. I expect you to get emotional. That's a good thing."
4. "I'm paralyzed with fear."	"Why?"	"I don't know."	"Well...free floating anxiety is pretty common for witnesses. You aren't alone."

What is the problem with the fourth column? On the one hand, absolutely nothing. These responses are "just fine" if, indeed, that's exactly the disease that is causing the fear in the witness. And that is exactly "the" solve for many "normally" scared witnesses with whom you are dealing.

I think of it as a "Lucky Guess" of what the disease is that is causing a "normal" fear. Here they are:

What Potentially Truly Terrified Witnesses Say:	Only Attorney Response:	Potentially Truly Terrified Witness Insight:	Mistaken Attorney "Solve"	Lucky Guess Disease
1. "I'm scared."	"Why?"	"I'm never going to remember everything you want me to remember."	"Did I give you the impression that you have to remember everything? I'm sorry!"	Witness mistakenly believes that the deposition is a "memory contest".
2. "I'm anxious."	"Why?"	"This reminds me of school."	"This isn't like school at all. All your answers to all the questions will be right."	Witness mistakenly believes that all deposition questions have perfect answers that aren't already in the witness' head.

3. "I'm terrified."	"Why?"	"What if I get emotional?"	"That's okay. I expect you to get emotional. That's a good thing."	Witness mistakenly believes that crying during the deposition is going to lose the case OR that the witness should cry constantly through the deposition.
4. "I'm paralyzed with fear."	"Why?"	"I don't know."	"Well...free floating anxiety is pretty common for witnesses. You aren't alone."	Witness is nervous just like every sane witness is nervous.

BUT – none of these witnesses have been diagnosed yet. In fact, these very well intentioned attorney responses might have the same “iceberg” effect that the totally “self assuring” attorney comments made before. You are going to need a minimum of one more round of digging deeper to get an idea of where this disease that is showing up with the “fear” symptom might lie:

What Potentially Truly Terrified Witnesses Say:	Only Attorney Response:	Potentially Truly Terrified Witness Insight:	Attorney “Digging Deeper”
1. "I'm scared."	"Why?"	"I'm never going to remember everything you want me to remember."	"What's going to happen if you don't remember?"
2. "I'm anxious."	"Why?"	"This reminds me of school."	"What about this reminds you of school?"
3. "I'm terrified."	"Why?"	"What if I get emotional?"	"What about expressing your emotions is...wow...what's the word for it?"
4. "I'm paralyzed with fear."	"Why?"	"I don't know."	"Ever felt this way before?"

Look what you might discover by “Digging Deeper”:

What Potentially Truly Terrified Witnesses Say:	Only Attorney Response:	Potentially Truly Terrified Witness Insight:	Attorney “Digging Deeper”	Potentially Truly Terrified Witness Insight:
1. "I'm scared."	"Why?"	"I'm never going to remember everything you want me to remember."	"What's going to happen if you don't remember?"	"Everyone's going to know that I've got a little bit of dementia starting."

2. "I'm anxious."	"Why?"	"This reminds me of school."	"What about this reminds you of school?"	"The part where I had to repeat the second grade."
3. "I'm terrified."	"Why?"	"What if I get emotional?"	"What about expressing your emotions is...wow... what's the word for it?"	"Weak."
4. "I'm paralyzed with fear."	"Why?"	"I don't know."	"Ever felt this way before?"	"All the time."

Do you see how we are only beginning to scratch the surface with each of these four witnesses of what disease is presenting the symptom of fear? And even if all four of them turn out to be "normally" scared, look at the great insight you have into the potential fear-based pitfalls they might have as you prepare them for what lies ahead.

"Call Me Terrified" – Part Two

If I am going to drive back to the airport I am going to need to pee. That's a lie. If I am going to do anything at all, including taking a deep breath, I am going to need to pee. I walk back toward the ladies' room very, very slowly so as not to have an "accident". But the ladies room is locked. Running into the empty men's room and locking that door is a "no brainer" for me. I make it. One good hand scrubbing and I am ready to hit the road. As I open the door to the men's room, I poke my head out, checking to see that it is "safe" and that no one has seen me. For some reason, explaining to genteel Southerners why I liberate men's rooms under duress is always awkward for me, so I find it best to not come out until the coast is clear.

Opposite me, peering out of the women's room, seeing if the coast is clear, is another woman. She is clearly the occupant of the ladies' room whose presence didn't allow me in. Our eyes meet. She looks shocked to see me. Of course I know why. Would Scarlett O'Hara pee in the same place as Rhett Butler? I say, "I'm sorry! I couldn't help it. I had to pee so badly and you were in the ladies' room." She trembles. Words come out of her mouth one at a time. They seem to shake as she timidly gets out each one. She painfully pushes them out of her quivering mouth one at a time, "You... scared... me... to... death." I pour out, "I am so sorry! I didn't mean to! Please forgive me!" She looks as if she might start to cry. Instead she kind of smiles in a bizarre way. "Not... now... before... the... idea ... of... you... scared... me." Now I'm confused. "You mean women who use men's bathrooms?" I ask. "No... you... the... witness... coach. When he told me you were here I sneaked out of the back door of the conference room so you wouldn't see me." It is my turn to be stunned into silence. "Julia?" I inquire softly. She nods her head. "Still scared of me?" I ask. She shakes her head "no". It is really crazy. I don't want to blow it with her. And here we are having this conversation with our heads still sticking out of the bathroom doors. But clearly if we are going to work together or if I am going to go back to The City of Angels I am going to have to get more than my head out of this bathroom. I get an idea. "How about if we both come out at the same time?" I say softly. She laughs a funny little laugh at the absurdity of it all and we open our doors simultaneously and come out. "Randy says I should go home. And I'm willing to go home... but... can I try to help you first?" She looks sad and lost. The smile and laugh are gone. She shakes and steels herself. She nods her head. Together, silently, we walk back down the hallway and to the conference room. I open the door for Julia, and we both go in. Randy is gathering up notebooks and papers and yellow pads. I know these are his well-researched and organized materials for our preparation session. No one is ever better prepped for prep than he is. He looks up, completely startled to see us. "I thought you both went home!" he exclaims. The effect of an even slightly raised voice on Julia is like that of a blistering desert wind on a hothouse flower. "Julia decided it would be okay to give me a shot at helping her."

I ask Julia, "Why are you afraid?" She says, "Because of what they did to me." "Which they?" I ask. She trembles and shakes and blinks back tears. "Is it too hard to say?" I ask. She nods. "Should Randy tell me?" I ask. She nods. Randy says, "Julia is in charge of sending out shipments for her company. Her company has a contract with a delivery service. The contract says that the delivery service is to charge her company on a per package basis. Every day there are a different number of packages that her company sends out – sometimes as few as one, never more than ten. Every day, the same two men from the delivery service –" I can see that Julia is shaking even harder. "Are you okay, Julia?" I ask. She shakes her head "no." "Should Randy stop telling me the story?" I ask. She looks at me, trembling. She pauses. She shakes her head "no". "Okay, then – go ahead, Randy." I say. I turn my eyes to her. I will listen to him, but I am looking at her. I

want to make sure that “keep talking” is what she was really telling me with the trembling and the head shaking. Randy looks at her and gently asks, “Are you sure? I’m going to tell her what you told me. Stop me if I get anything wrong. . .okay?” Julia looks at him, trembling, and nods. She then turns to me and our eyeballs are locked. We listen to Randy’s words together. I am saying to her with my eyes, “I am here for you.” Randy continues the tale. “Then, one day, the men from the delivery service come into the her office without knocking. They say that from now on no matter how few or how many packages they are picking up, there is a new deal that trumps the contract her company had yesterday, and thought was in effect for two more years. Instead of a per package charge, there will be a flat monthly charge. They hand her a new contract and tell her to sign it. She looks at the bottom line and sees that the monthly amount is three times the amount she has ever paid on a per package basis. She calls the delivery service office and asks to speak with the person in charge. The person in charge tells her that she had better just accept the changes, sign the new contract, ‘Or Else’ and hangs up on her. The delivery service men start moving toward her—“ Julia’s eyes drop from mine and she starts to cry. I look at Randy and he looks at me. Fighting our instincts to bathe her in reassuring words we are silent. She cries, trembles, and finally looks up at me where my eyes are waiting for hers. “Just like my dad and my brothers, “ she whispers.

Once you have an understanding of the nature of the “why” of the “truly terrified”, you need to be willing to center the prep around the way the terror manifests itself. In this case, Julia had been traumatized as a child and then re-traumatized in the same way as an adult. It was truly terrifying. And this means that you may very well have to change up the order and methodology of how you are going to conduct this session.

I remind myself of this all the time. I am a big believer in learning by doing – that is, role-playing. With the terrified, I curb my tendency to jump to teaching through role-playing as soon as possible. Some “truly terrified” people need to “talk things out” more than they need to role-play. Some need to role-play more than they need to “talk things out”. Some need demonstration of how to act. Some need constant reassurance. Just because I like to prepare witnesses by launching into role-playing within a short time of meeting them doesn’t mean that is right for every witness. Especially those who are “truly terrified”.

Even when role-playing, the rules change with the terrified witness. Often times with other witnesses, a segment of role-playing will involve a subject matter or a document or some other content related way of determining content. For example, when dealing with deposition preparation, the attorney will question the witness thoroughly on one topic, let’s say the document marked “39” and the events that lead up to that document, and the events that came out of that document. I think of it as a perfect “bite” of a case in which a witness can learn both form and content. Most attorneys think in terms of a document, or an event, or a troubling fact in the case. Most attorneys are very content driven.

Being content driven in witness preparation for a “truly terrified” witness can be lethal. Instead, looking for the visible and auditory outward signs of the terror, at whatever point it comes in the questioning process is vital. It doesn’t matter if you have one more question on this topic or a dozen. Some visible and auditory outward signs of terror are obvious to anyone. For example, the witness has a look of abject terror on his or her face. But there are visible and auditory outward signs of fear that are not necessarily obvious:

- the witness stops breathing after what you think is an “easy” content question.
- the witness stops answering questions.
- the witness starts to shake slightly.
- the witness just sits there as if in another world.
- the witness’ voice changes pitch.
- the witness’ voice sounds detached
- you can see on the witness’ face that he or she literally didn’t hear your voice – has tuned not only you, but the whole room out.
- the witness’ posture sinks down further and further and they start looking at their hands.

Stop the role-play cold. Sometimes it is just to check in to see if further exploration is needed at this moment to figure out if this is “truly terrified” or “normal” scared behavior or something else – like the need to use the restroom. I say, “Hey – are you okay?” The witness will either say “Yes” or “No”. If the witness says “Yes” but continue to manifest either the verbal or non-verbal signs of terror it is time to stop and talk about it. If the witness says “No”, it is time to test to the heart of the fear to find out if it is

“normal” or “truly terrified”. I say, “You’re scared right now, aren’t you? I can see it. What’s going through your mind?” This is another step in the process of “centering the prep around the ‘why’ of the fear”.

Lets take some concrete examples of the manifestation of fear that completely interfere with a witness’ ability to truthfully answer a question in deposition I’ve heard over the years. Think about three standard answers that you expect your witness to say as truthful responses to at least some of the questions posed by opposing counsel:

“I don’t understand the question.”

“I don’t know that answer.”

“I don’t remember right now.”

The craziest things pop out of the “normally” scared on occasion, but often from the “truly terrified” witness’ mouth. Answers that have nothing to do with the truth when one of the above answers is the truth to the question posed. Many attorneys will concentrate on how the answer is wrong from the point of view of content:

The Answer You Expect the Witness to Give to the Question Posed:	An Example of an Untruthful Answer to the Question Posed Instead:	A Content-based Critique By the Attorney:
“I don’t understand the question.”	“I guess so.”	“Wait – I used three vocabulary words you couldn’t possibly understand and I asked at least three questions instead of only one. My question wasn’t understandable. That’s why the answer is ‘I don’t understand the question.’”
“I don’t know that answer.”	“Possibly.”	“Hey – you couldn’t possibly know because you weren’t there. That’s why the answer is ‘I don’t know.’”
“I don’t remember right now.”	“That sounds right.”	“You don’t remember. So when you don’t remember, just say that you don’t remember. Got it?”

Now, here are those same three examples, but handled with the “fear” as the center point of the preparation rather than the “content”.

The Answer You Expect the Witness to Give to the Question Posed:	On the Visible or Auditory Manifest of Terror, You Might Say:	The Potentially Truly Terrified Witness’ Answer: the “Why”:
“I don’t understand the question.”	“Uh-oh. You’ve stopped breathing. How come?”	“Just before I flunked second grade, I got more and more scared because I didn’t understand the questions. Every time I don’t understand one of the questions I get scared.”
“I don’t know that answer.”	“You have that look on your face again – the one when you told me it’s like you can see the lawyer’s lips moving but you can’t hear the words. What’s going on?”	“My dad would ask me a question that I didn’t know the answer to and when I said, ‘I don’t know’ he’d hit me.”
“I don’t remember right now.”	“I can see on your face that you don’t remember. Why are you afraid to say it?”	“I’ve lost my words. That’s what happens with the dementia. I can’t remember and I get so scared that someone is going to find out and I’ll lose everything.”

We have talked about Julia's terror of being raised by a father and two older brothers who used her as a punching bag. We have talked about the story of how the men from the delivery service literally forced her to sign the contract. She is clearly manifesting all kinds of PTSD symptoms. I ask, "Randy – what is our demand for emotional distress in this one?" At this point I have completely forgotten that this is a business dispute over a contract. She looks up at me. She is shaking and her voice is trembling and she is barely speaking over a whisper. But she says, "No. This isn't about what they did to me. This is about them honoring the real contract." Brilliant. Randy and I are both blown away. I take a deep breath. I say, "You know you are going to be scared the whole time. Every minute of your deposition you will be terrified." She says, "Yes, I know." "Want me to show you how to get through it?" I ask. Randy and I both wait as she considers. It takes a long time. She is shaky. She is scared. She looks at me and in a quivering whisper says, "Yes." I say, "We are going to role-play. Randy is going to play the lawyer taking your deposition. Whenever I see you get scared you and I are going to pause and figure out what to do next." She nods. I gather up my wits and my intuition. I say to Randy "Go!" and he asks, "Did you read the contract before you signed it?" She is frozen, trembling. I say, "Why did you freeze?" She says, "Because something popped into my head." I ask, "What popped into your head?" She says, "If I say what pops into my head, something bad will happen to me." I say, "Why?" She says, "Every time I did that with my dad and brothers they... they..." I gently turn her and have her look in my eyes. "Just tell me. Tell me what popped into your head. Not your dad and brothers, not the lawyer who represents the delivery service guys – just me." She nods. I tell Randy, "Ask her again!" Randy asks in a really mean tone, "Did you read the contract before you signed it?" She looks into my eyes. I say, "Inhale, exhale, inhale and tell me." She inhales and exhales shaking. She inhales and in an unsteady whisper stutters, "Wh-i-ich contract?" Eureka! Randy and I are thrilled. "Perfect!" I say to her. I am smiling and nodding and reassuring her. "Ready for another one?" She nods. Randy switches up his demeanor, thinking that being "nice" might throw her off. "The one you signed this past March." She looks at me. I say, "Inhale, exhale, inhale and..." She says, "One what?" Wow! Her instincts aren't going to let her answer a question that isn't complete! "Good girl!" I exclaim. Randy, adopting yet another attitude seen in some lawyers, that of intellectual superiority says, "Did you read the most recent contract you signed with the Delivery Service this past March?" She looks at me. I nod, and inhale. She joins me – she inhales and exhales. We then inhale and she says to me, "I couldn't. No time." Randy then follows up with something he is convinced her father might have said, "What do you mean you didn't have time?" She looks at me. She inhales and exhales all on her own and starts to shake like crazy. I just look at her, steady as a rock. She inhales, and whispers

in a terrified rasp, "He said if I didn't sign it by the time he counted to ten I'd be sorry." "Julia," I say, "Are you willing to breathe and speak the words that pop into your head just like you are doing right now no matter what?" She blinks at me and nods. "You know I won't be there," I say. "Instead of me I want you to talk to the court reporter." "Will she look at me like you are looking at me?" she inquires. My heart sinks. Dang it, of course she won't. Will that throw the whole thing off? "No, she won't," I say hesitantly. "That's a relief," Julia sighs. "It's harder when you look right at me like that." Randy and I have to giggle at me for just one moment. "Julia!" I say, "I thought it was all about me!" "No," she whispers. "It's about them. Because what they did isn't right." I knew she "had" it. "That's it," I said to Randy. "We don't have to torture her by practicing any more."

It is the evening of the day on which Julia's depo is taken. I, of course, am second guessing myself about our "lack" of rehearsing and role-playing for more than like five minutes. The phone rings. It's Randy. I ask him all the burning questions in my head:

"Did Julia ever get her voice above a rasp-y whisper?"

"No".

"Did she ever stop shaking?"

"Absolutely not."

"Did she ever look less than completely terrified?"

"Never."

There is a pause. Somehow until that moment I thought that if she did the routine over and over again for the six hours of the depo she would magically conquer fear. Randy can barely contain his glee as he chortles, "Was she able to breathe, trust her inner voice, turn to the court reporter and answer every question asked of her by the turkey who represented the Delivery Service? Did she do it over and over again despite the fact that everyone in the room knew she was truly terrified? God love her, she sure did. There is very little in life that is as compelling as watching someone who is truly terrified speak truth to an oppressor." He sighs, "She would have been great in front of a jury."

"Would have been?" I ask.

"Apparently the Delivery Service felt the same way," Randy crows. "They settled for everything we had asked for and then some as soon as her depo was over."

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