

# Practical Magic

## How the Ancient Art of Storytelling Can Make Us Better Lawyers

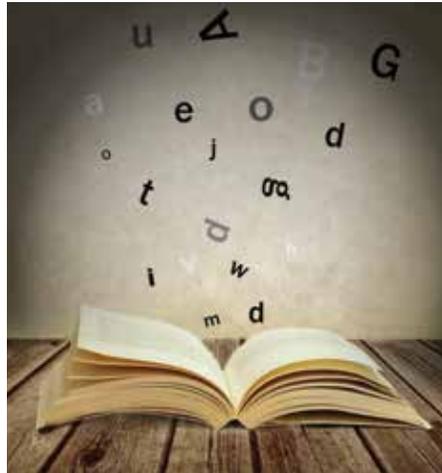
By Heather J. E. Simmons

“In a courtroom, whoever tells the best story wins.”<sup>1</sup>

**S**torytelling has many legal applications. Practicing law is grounded in the ability to communicate effectively. Stories are an excellent way to focus and direct thought. The most successful trial lawyers are storytellers,<sup>2</sup> who use stories to create a connection with their audiences. This idea was recently validated by scientists who demonstrated that reading fiction increases empathy.<sup>3</sup> Storytelling improves appellate briefs, and the best appellate opinions tell stories.<sup>4</sup> The story form makes dry and dull facts come alive in the courtroom.

Storytelling is as old as human culture, and written stories are almost as old as writing itself. Archaeologists tell us that a civilization’s first written documents are typically inventories,<sup>5</sup> but stories soon follow: *The Iliad* and *The Odyssey* in ancient Greek, *Beowulf* in Old English. These works had a long oral tradition before being written down.<sup>6</sup> A shared mythology and folklore provide humans with a common framework to communicate as well as a basis for morality. Every ancient Greek knew the stories of the heroes of the Trojan War as related in the works of Homer. These stories continue to influence language millennia later. The modern English euphemism “to bite the dust” sounds like a term coined by cowboys in the Old West, but this phrase is at least as old as *The Iliad*.<sup>7</sup>

A childhood love of stories read aloud is something many of us never outgrow. The lasting legacies of Oxford professors J. R. R. Tolkien and C. S. Lewis, despite their many academic accomplishments, are their stories. “For in Calormen, story-telling (whether the stories are true or made up) is a thing you’re taught, just as English boys and girls



are taught essay-writing. The difference is that people want to hear the stories, whereas I never heard of anyone who wanted to read the essays.”<sup>8</sup>

Stories are a simple and effective way to teach.<sup>9</sup> A favorite law school memory is the late Professor Steven H. Schulman saying, “Put down your pencils, I’m going to tell you a story.” Teaching via stories, fables, and parables helps listeners remember the lesson. Aesop is believed to have lived in Greece from around 620–560 B.C.E. The Perry Index<sup>10</sup> lists more than 500 Aesop’s fables, although not all of them can be traced back to the 5th century B.C.E. One of the most enduring of these is number 226, *The Tortoise and the Hare*,<sup>11</sup> the moral of which is “slow but steady wins the race.” This fable takes many modern forms, from

Bugs Bunny<sup>12</sup> to a commercial airing during the most recent Super Bowl.<sup>13</sup>

Stories foster creativity and nurture imagination. The brain is just like any other muscle: without exercise it will atrophy. “If you want your children to be intelligent, read them fairy tales. If you want them to be more intelligent, read them more fairy tales,” is a quotation attributed to Albert Einstein. It’s unlikely he said these exact words. What he may have said is that science requires a creative imagination, and fairy tales are the best way to stimulate imagination in children.<sup>14</sup>

Stories help people to communicate. “Darmok” is one of the most popular episodes of *Star Trek: The Next Generation*.<sup>15</sup> The language of the Tamarian people is completely unintelligible. No one from the Federation has been able to figure out how to talk to them. The reason the universal translator utterly fails is because the Tamarians speak in mythological and historical metaphor, and most of their words are proper nouns. They communicate entirely by references to stories—“Darmok and Jalad at Tanagra,” for example. Captain Picard finally figures it out; he is an amateur archaeologist, after all. He successfully communicates with the Tamarian ship’s captain, Dathon, by relating a story from the ancient Sumerian epic *Gilgamesh*. By the end of the episode, a new story has been added to the lexicon: “Picard and Dathon at El-Adrel.”

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Most importantly, stories provide options and choices, and even an alternative to prison. Robert P. Waxler, a professor of English at the University of Massachusetts Dartmouth, together with a judge and a probation officer, has designed a program in which recidivist criminals can elect to attend a Great Books discussion group instead of returning to prison.<sup>16</sup> The program has only two requirements: the ability to read and perfect attendance. The results are remarkable,<sup>17</sup> and the program model is spreading. It has recently been extended to juvenile probationers. Waxler describes the program:

By discussing books, such as James Dickey's *Deliverance* and Jack London's *Sea Wolf*, the men began to investigate and explore aspects of themselves, to listen to their peers, to increase their ability to communicate ideas and feelings to men of authority who they thought would never listen to them, and to engage in dialogue in a democratic classroom where all ideas were valid. Instead of seeing their world from one angle, they began opening up to new perspectives and started realizing that they had choices in life. Thus, literature became a road to insight.<sup>18</sup>

The moral of the story? Storytelling can change your life. ■



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## ENDNOTES

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4. Stockmeyer, *Beloved Are the Storytellers*, 81 *Mich B J* 54 (Jan 2002) <[http://www.michbar.org/file/generalinfo/plainenglish/pdfs/O2\\_jan.pdf](http://www.michbar.org/file/generalinfo/plainenglish/pdfs/O2_jan.pdf)>. All websites cited in this article were accessed July 14, 2015.
5. Houston, ed, *The First Writing: Script Invention as History and Process* (Cambridge: Cambridge University Press, 2004), p 72, "The bureaucratic origins of writing."
6. See Sorrell, *Oral Poetry and the World of Beowulf*, 7 *Oral Tradition* 28 (March 1992) <<http://journal.oraltradition.org/issues/7i/sorrell>>.
7. See Lattimore, trans, *The Iliad of Homer* (Chicago: University of Chicago Press, 1956), Book II, line 418, p 87.
8. Lewis, *The Horse and His Boy* (New York: Macmillan, 1954), p 28.
9. See DeVito, *The Power of Stories and Images in Law School Teaching*, 53 *Washburn LJ* 51 (2013).
10. Perry, *Aesopica* (Urbana: University of Illinois Press, 1952).
11. *Id.* at 409.
12. *Tortoise Wins by a Hare* (Leon Schlesinger Studios 1943).
13. Mercedes-Benz (Super Bowl television broadcast February 1, 2015) <<https://www.youtube.com/watch?v=LQvdlGeUUVo>>.
14. See Stephen Winick, *Folklife Today*, *Einstein's Folklore* <<http://blogs.loc.gov/folklife/2013/12/einsteins-folklore/>> (posted December 18, 2013).
15. See generally Ian Bogost, *The Atlantic*, *Shaka, When the Walls Fell* <<http://xkcd.com/902/> <<http://www.theatlantic.com/entertainment/archive/2014/06/star-trek-ting-and-the-limits-of-language-shaka-when-the-walls-fell/372107/>> (posted June 18, 2014).
16. Changing Lives Through Literature: An Alternative Sentencing Program <<http://cltl.umassd.edu/home-html.cfm>>; see also Waxler, *Changing Lives Through Literature*, 123 *Publications of the Modern Language Association of America* 678-682 (May 2008).
17. See Jarjoura & Krumholz, *Combining Bibliotherapy and Positive Role Modeling as an Alternative to Incarceration*, 28 *J of Offender Rehabilitation* 127 (1998); Colvin, *Why should criminology care about literary fiction? Literature, life narratives and telling untellable stories*, 17 *Punishment & Society* 211 (April 2015).
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