

Client as Character:

Soliloquy, Vulnerability, Skill and Morality

BY MARK KITRICK AND MARK LEWIS



Legal writing often privileges ideas over people. It presents clients as mere plaintiffs and defendants cast in an abstract world of legal definitions and concepts. In this way, legal writing tends to focus more on summarizing legal research than portraying the people whose lives and interests are at stake. While analytical rigor is necessary to legal writing, it tends to dry out our prose, making it abstract, bloated and even boring.

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Can we enliven our legal writing without sacrificing our intellectual precision and professional obligation to truth? Can we envision our writing not merely as conceptual or legal problem solving, but also as rich character drama in which people struggle to overcome real life obstacles? In other words, can we effectively combine storytelling with legal writing?

In answering these questions, we look first to what stories and legal problems commonly share – people

in trouble. Someone has been arrested, someone hurt or someone cheated. Even when none of these harms have befallen the participants, the underlying facts in most legal and story contexts involve people trying to overcome obstacles on the way to their goals, needs or ambitions. The law wraps these human needs and troubles in its conceptual blanket, a cloth of definitional abstraction and social control. This conceptual fabric is necessary, to be sure. It is partly how the law operates. But it need not also delimit the legal writer's craft in weaving those same human troubles into the stuff of story with richly drawn characters who drive our emotional interest.

Storytellers have developed time-tested methods to create interesting people in their writing. Those methods can help legal writers engage their readers' moral imagination and emotional connection. Drawing on four such techniques, we have created the following law-lit principles for us legal writers.

First, soliloquy brings intimacy: let your client speak for themselves.

Second, vulnerability invites rescue: show your client's unique vulnerability.

Third, skill evokes admiration: reveal your clients' special talent.

Fourth, moral cause makes right: signify your client's virtue.

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We'll take each in turn, providing examples for how you might incorporate these principles in your next legal writing.

1. Let your client speak for themselves.

Lawyers love words. Maybe too much. We spill words onto the page. Most of those words come straight from the lawyer's mouth, arguing or explaining or describing the case. Among all those words, we rarely hear first and directly from the client themselves. This is a fault of legal writing, because most readers relate better to those whom they can hear, even if only from the printed page. Think, for example, about the difference between a description of a conversation and the actual conversation itself. Do you prefer to read a summary or the words themselves? The summary lies flat on the page, whereas the dialogue lifts the reader into the conversation, hearing the words spoken and seeing the participants in their mind's eye. The same is true of soliloquy. Hamlet's famous "To be or not to be" soliloquy earns our emotional engagement not simply because of its life-or-death content, but also because it lets us into the young prince's mind and



heart. It is intimate. It is direct. It is personal. And it is the most honest interaction with the person. This interaction builds empathy.

For these reasons, consider starting your next legal writing with a verbatim quotation from your client or the person around whom the case revolves. Likewise, consider a snippet of dialogue to frame the issues through the spoken words of those whose lives will be affected by the outcome. Existing deposition testimony is usual for this purpose, and you can always generate an affidavit for cases outside of litigation. It might even serve the case to link audio files to the first-person voice on the page, which will enhance both credibility and emotional valence.

2. Show your client's vulnerability.

It is a favorite of Hollywood screenwriters to begin movies with the main character in jeopardy. The most famous example unveils the victim tied to the railroad tracks as the train fast approaches. While hackneyed in its presentation, this image still evokes immediate concern for the victim's safety. Our collective impulse steers us toward empathy and the innate desire to rescue. It is no accident that the movies begin with Princess Leia literally running from Darth Vader, or Indiana Jones dodging poisonous darts as he scrambles from the cave, or the hapless swimmer thrashing in the waves as Jaws drags her down.

Consider beginning your legal writing by showing someone in danger, someone whose protection and rescue requires our overriding attention. This vulnerability might be crucial to the underlying facts or the consequences of the wrong legal outcome. For example, if one undesired outcome in the case leads to disaster, perhaps show the result to be avoided. Be

mindful that we all relate to vulnerability if we also feel its grip in our own lives. The most emotionally reverberating vulnerability comes in the form of communal and individual threats to wellbeing. You will draw your reader's empathy more convincingly if you point toward common vulnerabilities, ones that bring to mind health, family or personal wellbeing.

3. Reveal your client's special talent

We like people who are good at what they do. Skillful doctors, caring mothers and tuneful musicians all garner our admiration. We naturally admire the skilled and consummate practitioner of their respective art. This admiration stems in part from the aesthetic joy we feel in the presence of virtuosity. But it also derives from our attribution of praise-worthy and sometimes moral qualities to skillful people. Those qualities are not always deserved, but this usually doesn't stop us from elevating the person's perceived character as a result of their special talent or skill. Psychologists often call this the "halo effect."

In your next legal writing, think about adorning your client or witness with a similar skillful "halo" by mentioning their professional expertise, personal talent or adroit interest. Even a simple, short mention of skill or talent can enhance your reader's moral engagement by creating the virtuous image in their mind's eye. This same engagement leads us to our last character-building technique: that characters with unstated moral causes evoke the most empathy.

4. Signify your client's virtue

Heraclitus famously said, "Character is fate." This notion that our personal values and worldview likely determine how we fare in this life still resonates thousands of years later. It resonates because we all tend to want good things to happen to good people. Nevertheless, when expressing a person's moral virtue in writing, we often serve our readers best by suggestion, implication or understatement. None of us likes to be told how to think or feel about other people's virtue or the righteousness of their cause, at least not without ample context from which to judge. This is why we propose that you "signify" your client's moral cause as opposed to announcing or trumpeting it.

How might you signify moral cause? We suggest that you set forth the ways others will be harmed if your



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client's case fails. In other words, tie the unwanted outcome in the case to societal or universal moral harm, such that your reader will want the result that requires acting properly toward others in society. This method requires that you show, not tell, your reader how the bad outcome will manifest itself. You might accomplish this by drawing a line in the sand between the opposing outcomes.

We hope these law-lit principles help you enliven the characters in your legal writing, leading to greater emotional connection for your readers.

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