

## USE OF FIGURATIVE LANGUAGE TO CREATE MEANING IN JURY TRIALS

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### Introduction

The ability to use figurative language to describe, and create dramatic impact and favorable juror impressions is one of the hallmarks of successful trial lawyers. It can be argued that the ability of the trial lawyer to use figurative language to describe and shape juror impressions is what turns a routine case into a great case or a \$100,000 case into a million-dollar case. Successful trial lawyers rely heavily on the use of figurative language to infuse their cases with importance and meaning and to maximize the impact of their damage claims. To be clear, when I speak of shaping juror perceptions or impressions, I do not mean manipulation, trickery or deceit. When a jury trial begins, theoretically the jurors know nothing about the facts and the law, and each side of the case presents their view of the facts and then seeks to convince the jury that their view of reality is the correct or just view. When we present facts about the case we are shaping jury perceptions. We are shaping juror impressions when we get up and introduce our clients as the plaintiffs and explain their claims. This is not an issue of manipulation, but rather enhancing our ability to make a forceful presentation, to create dramatic impact, and to keep the jury's attention. One way to do this is through the creative use of figurative language. The following article will explain and define the various figures of speech and explain how and why they work, and provide illustrations of how they may be used to shape juror impressions.

## **Labels And Descriptive Words**

Labels are simply descriptive words used to describe something. In a sense all words are labels, but some words are more descriptive than others and some words and labels have more dramatic impact than others. An early communication study demonstrated that when two identical boxes of handkerchiefs were placed on different sides of a retail store, one with a sign that said Nose Rags \$1.00, and the other with a sign that said Fine Linen Handkerchiefs \$1.00, that customers purchased significantly more of the handkerchiefs labeled as fine linen.<sup>1</sup> In jury trials, as in the above retail setting, certain labels and descriptive words may be used to increase dramatic impact and persuasive power.

## **Understanding Examples, Analogies, Metaphors, And Allusions**

Examples, analogies, and metaphors are powerful forms of speech. They have the capacity to name the unnamed; to draw our attention to things; to nudge us into noting relationships; to communicate new insights; to focus thought and emotion in an intense way; and to communicate on a subconscious level. Examples, analogies, and metaphors work in a seemingly magical way to shape the impression formation process. However, like most magic, figurative language has a structure that can be understood, learned, and used. Below, we will examine the structure of figurative language so we may learn how to effectively use it.

## **Definitions Of Examples, Analogies, And Metaphors**

Examples are figures of speech that illustrate the working of a general rule or principle and help clarify meaning. An example is a real or hypothetical instance or case used to illustrate or prove a point. They have great psychological power because they invite identification and they prompt inferential leaps from a single clear case to a generalization. Analogies are extended examples that compare two or more things. Analogies are comparisons between things, persons, or events. They are used for evaluation and prediction, and, if differences are taken into account and enough cases are compared, they can be sound bases for conclusions. Such comparisons psychologically move audiences from the familiar and known to the unfamiliar and unknown, permitting generalizations and allowing them to feel confident about judgments they make in areas outside their own experiences.

Metaphors are figurative analogies, comparing items not obviously alike in terms of some principle of similarity.

Allusions are comparisons made through references to a common body of cultural knowledge, such as historical events.

Entire books have been written about the ways that examples, analogies, and metaphors differ and how they function. For our purposes, we can view them all in the same way, that is, as figures of speech that mirror the basic way humans think and that have great psychological impact. Thus, rather than concern ourselves with how they are different, it is more important for our purposes to view them as being similar and focus on how they function.

### **How Examples, Analogies, Metaphors And Allusions Work**

Examples, analogies, and metaphors are powerful forms of speech for several reasons. Figures of speech mirror human thought; become symbols for

experience; contain emotional components; contain compacted lines of reasoning; involve condensation; and have archetypal roots.

### **Figures Of Speech Mirror Human Thought**

Figures of speech represent microcosms of how humans think. The example functions as an inductive and deductive process in which a general proposition is induced, then applied deductively to reach a specific conclusion. This type of thought process is how humans come to understand and order the world. For example, in growing up, children learn that if they follow rules they get rewards, whereas if they break rules, they get punishments. When children are faced with a situation that will involve the breaking of a rule, in deciding whether to break the rule or follow the rule, they will first identify that they are faced with a rule. They will then survey other instances in the past in which they have followed or broken rules. If following rules has been rewarded and breaking rules has been punished, they then will likely induce the proposition that rule following is good and rule breaking is bad. They then deductively work to determine that if they follow the rule they will be rewarded and if they break the rule they will be punished. This is of course, all being done in seconds on a partly subconscious and partly conscious level. Examples function in this same inductive deductive way. When we use an example to illustrate a point, the example causes us to inductively survey an area and induce a general rule that we then apply deductively to the situation we are examining. As an illustration, in a medical negligence case Mel Block tried against a New York City hospital for failing to diagnose a broken hip, Block skillfully used several examples to support his argument that the hospital was negligent in taking only one x-ray view of the plaintiff's hip:

"I told you that I don't think I had to call a doctor in this case, and here is why: The care they gave Katherine Tompkins was less than they would give in selecting a five-cent apple. When you and I buy an apple from a fruit peddler or in a fruit store, do we plunk down the nickel right away and accept or grab any

apple? No, we turn it around and we look at it at all angles and from perspectives and make sure it doesn't have a bad portion or a blemish or a rotten part that is visible. Only a nickel--we make a bad purchase, we can buy another one for another nickel. In a hip joint, you can't get another hip, you can't make whole that which is crippled. And yet, they only took an A-P view, which you know is a front to back view. They couldn't tell whether it was cracked on the side or cracked at an angle. And yet this is what they try to tell you is the proper thing to do. Proper for a hip, improper for an apple? You go into a store to buy a suit, or a jacket, or a coat. You stand before three-way mirrors, and looking into it [sic] becomes a complete hall of mirrors, each mirror reflecting the images in the other mirrors. I remember, when for a few bucks I would purchase a suit with two pairs of pants, and judging from what clothes cost these days the price was cheap and inexpensive indeed. But yet I would turn and turn and turn to make sure that each crease, each seam was in place; that there were no bulges or puffs. I didn't expect the suit to make me an Adonis, and I didn't expect to look like a movie star. Why I looked was to see that what I was paying for at least was presentable. And I turned and the tailor would come over and he would look. And perhaps a relative along with me would look, and if we made a mistake we could always buy another suit. Not so with a hip, ladies and gentlemen. And yet they say taking one view of a hip is proper. Proper for a hip, improper for a suit? I ask you. Those of you who are vain enough to worry about which side of your face photographs better know what I mean. If the two views were as good as one, why worry? Two views proper for vanity, improper for function and livability as a pain-free human being? I ask you. That was act of malpractice number two."<sup>2</sup>

Block used the examples of how prospective purchasers inspected products from several views in order to discover defects, even when the purchase was as insignificant as an apple. He added the example of selecting photographs from views taken of both sides of the face in order to select the photograph taken of one's "best" side. From these examples, the jurors could have been expected to inductively arrive at the proposition or rule that when attempting to determine whether something is in good condition, even when dealing with mundane products, it is both reasonable and prudent to inspect the product in question from several views. The jurors could then deductively apply this proposition to the facts of Block's case to conclude that, if it is reasonable and prudent to inspect things as insignificant as apples, suits, and photographs

from several views, it was certainly reasonable and prudent for physicians at a hospital to inspect a potentially broken hip of an elderly lady particularly when an untreated fracture would have catastrophic results.

Metaphors function in the same way as examples, except that instead of offering the example as a comparison, the speaker simply speaks of one thing in terms of another. That is, the lawyer speaks of the doctor as being the captain of the ship, quarterback of the team, or lifeguard of the hospital, and then discusses the functioning of the captain, quarterback, or lifeguard with both the lawyer and the jury knowing that the doctor is being discussed. On a subconscious level, metaphors cause listeners to make inferential leaps about things being compared.

### **Figures Of Speech Become Symbols For Experience**

Examples, analogies, and metaphors are powerful because they become symbols for experience. In growing up, when children have an experience, a symbol is given to the experience. The symbol, in the form of an example, metaphor, or analogy then comes to represent the experience. The symbol becomes a metaphoric representation of reality that comes to represent the experience, separate and apart from itself. The symbol then becomes reality for the children, determining how they perceive reality. As an illustration, in growing up, children experience their mother. These experiences may be good or bad, pleasurable or unpleasurable. They attach the symbol woman to their own experiences of their own mother. To the children, the term woman comes to mean their own personal experiences with their mother. The children's own experience with their mothers comes to affect how the children perceive all other women when they grow up. Adults then perceive women, not fully in terms of the real and discrete qualities of each woman, but in terms of their own metaphoric representations of women based on their own experiences with their mothers, sisters, or other women they have been close to in growing up. If the children's mothers were loving and caring, then as grownups they may view women as being potentially loving and caring. However, if the

childrens' mothers were manipulative and vengeful, then all women may be viewed as potentially manipulative and vengeful. Thus, in growing up, humans mentally store metaphorical meanings for things in the world.

Part of the power of examples, analogies, and metaphors comes from the fact that when we use them, they evoke this vast past experience that we have had and stored metaphorically. Thus, as trial lawyers, we can select examples, analogies, and metaphors that will evoke the past experiences of the jurors that will be used to assess the case.

### **Figures Of Speech Contain Emotional Components**

Some examples, analogies, and metaphors have an impact on the impression formation process because they contain emotional components. Langer and Cassirer noted the hypostatic function of symbols.<sup>3</sup> Most experiences are, to some extent, emotional experiences. The symbol which denotes the thought is not just a symbol for the event, but rather, the symbol, including the emotional component, becomes merged with the object or event in an indissolvable unity. If children first experience fire by sticking their hands into a flame and burning them, they experience fear and pain, and the memory or symbol of fire contains an emotional and feeling component of pain and fear. Thus, the symbol or metaphor comes to have an emotional charge. In the future, these children will automatically pull back from fire because of their previous experiences and the emotional charge contained in their symbolic representations of the concept of fire.

Since many examples, analogies, and metaphors have an emotional charge, when jurors are presented with these figures of speech, they can be expected to react with emotion. George Washington once wrote, "The truth is that people must feel before they will see."<sup>4</sup> If this is true, then emotionally experiencing an idea or argument will facilitate or hasten an understanding of the idea or argument. If we use examples, analogies, and metaphors that

contain emotional components, then we will have a greater impact on creating understanding.

### **Figures Of Speech Contain Compacted Lines Of Reasoning**

Examples, analogies, and metaphors contain compacted lines of reasoning. The phrase that "old men are like babies" contains several lines of reasoning. When most people get older, they become physically weak, unsure, unsteady, and prone to falling. Their mental faculties deteriorate and they become unsure, naive, and forgetful. In extreme cases they cannot even go to the bathroom without assistance. On the other hand, many older people become naive and playful. The simple analogy that "old men are like babies" has great power because it expeditiously presents these lines of argument in a compelling and clear way; the analogy illustrates itself.

### **Figures Of Speech Involve Condensation**

In a similar way, examples, analogies, and metaphors involve condensation in that many thoughts and feelings are contained in a single, example, analogy, or metaphor. This condensation is similar to the Freudian concept.<sup>5</sup> For example, as children develop, there will be both positive and negative thoughts and feelings attached to the concept of "mother." Depending on the children's pattern of storing and processing examples, these, many components may be stored in one symbol. The children, based on past experiences, inductively develop a complex example of a mother that both nurtures and disciplines. Thus, the term mother evokes both positive and negative feelings.

In the same way, some examples, analogies and metaphors have many different emotions, feelings, and lines of reasoning packed into them. If we return to the analogy examined above that "old men are like babies," we can see both positive and negative feelings associated with this analogy. Old



people, like babies, can be happy, playful, and spontaneous in that they are living in the now. On the other hand, old people, like babies can also be whiney and prone to soiling themselves and drooling. Some of the emotional lines of reasoning condensed into examples, analogies, and metaphors are consciously obvious and some are not. This is part of the magic and allure of figurative language. As with the analogy that "old men are like babies," it takes awhile for all of the nuances of the analogy to surface. Some may not even register on a conscious level but, rather, may only register on a subconscious level. This subconscious component can be very powerful in the area of persuasion.

### **Some Figures Of Speech Have Archetypal Roots**

Some examples, analogies, and metaphors are more powerful and persuasive than others because they have archetypal roots that are somehow intricately involved with the human condition. An archetype is the original model or pattern from which all copies are made. An archetype represents the nature of something in its original form. Archetypal figures of speech are those figures of speech that spring from the original nature of people and things that has been passed down through the ages. It is the primal concept. It can be argued that the reason that great works of literature and art have survived as great works for all these years is that they deal with themes and subjects so common to the human condition and existence that they will always have relevance to human life. The Bible, for example, deals with issues and thoughts with which humankind has been concerned since the beginning of time--those being the existence of a higher being, the existence of an afterlife, and the purpose of humankind on the earth. The Bible was written using figures of speech that have endured over the years because they express thoughts and emotions that are a common part of human existence. In the same way, the Beatles' music, although once considered blasphemous, is now an integral part of the fabric of the world society because the lyrics, themes, and language used in their music speaks in a special way about the human existence. Their lyrics deal with recurrent problems and situations that humans have been concerned with throughout time, and are sprinkled with examples, analogies and metaphors central to human experience. Their songs "I Want to Hold Your Hand" and "I Saw Her Standing There" are metaphoric expressions of love and situations that every person has felt at some time in their lives. If the metaphors we select

for use in our trials have this archetypal connection with the human condition, they will resonate more deeply with the jurors.

## **The Use Of Figurative Language In Jury Trials**

### **The Use Of Labels To Create Impact And Meaning**

At the outset of each case, in voir dire and opening statement, you should tell the jurors that the case is an "important" case for your client. In voir dire, when questioning prospective jurors about the various issues, jurors may be told: "You understand that this is an important case for Mr. Conway, and it is important to him that he have jurors who will be fair with him, and I think that all of you would agree that if this were your important case, you would want to have fair jurors to decide your case." If you feel a sense of importance with the case, you should communicate that to the jury. If jurors believe the case is important in some way they will be more attentive. Jurors may be told jurors in closing:

"This is an important case. In a sense, I feel like this is what I have been working towards, my whole life as a lawyer. To be here and to talk for Mary Smith. I proud to be here on her behalf, but I'm also frightened. Last night I was thinking about my closing and I became frightened that I would not be able to do my job, which is to stand up here before you and somehow have you understand what needs to be understood. I thought I might get here and open my mouth and the words would not come out. But, here I am, and the words are coming out and I am alright."<sup>6</sup>

Jurors should be told the issues in the case are simple. Jurors may be told in the opening that the "case is simple if they don't go chaaing jack rabbits." The case may be described as emotional, sad, or tragic. A case involving punitive damages may be described as "a case having significance beyond just this case." In opening and closing, injuries may be described as crippling, tragic, or

horrendous. The jury may be told that the plaintiff's injuries have robbed her of her life. Describing an injured hand as now being a "claw" creates a mental image and creates more dramatic impact than simply saying, "he has lost the use of his hand." Jurors may be told that the injuries have rendered the plaintiff a hopeless cripple. Surgery or injuries that makes a man impotent or a woman unable to bear children may be described as castration.

Words and labels should be used to bring parties to life and to personalize them for the jury. The plaintiffs may be described as noble, vibrant, energetic, or decent, or they may be describe them as humble, unassuming, or ordinary people. The defendant's actions may be described as, "knowing and cunning." When arguing for the appropriateness of a large verdict against a defendant corporation that is only concerned with profits, the jury could be told that the defendant is a corporation that only speaks the language of money, and therefore, the best way for the jury to communicate with the defendant is with a money verdict.

You may link yourselves in interest with jurors by referring to yourselves and the jury as we by stating, "I told you on Monday that I thought this trial would be a search for the truth. I hope you feel that we have found the truth and that we have done it together." Or, you could say, "finding the truth involves our ability to turn the coin over and show the truth and what's on the other side. I hope you think we did it--that we did it together."

### **Use Of Examples Analogies and Metaphors**

Examples, analogies and metaphors may be used to illustrate and explain concepts. A herniated disc could be likened to a "jelly doughnut." When the doughnut is crushed the jelly squirts out. Rendering a jury verdict may be likened to writing a check in order to diffuse the anxiety a juror might feel about rendering a verdict. Sitting on a jury is the "rent we pay for living in a democracy."

Examples, analogies and metaphors may be used to explain and provide meaning to abstract concepts. Figurative language makes abstract concepts seem more concrete. In illustrating the idea of a fair verdict for punitive damages to punish the defendant, you could use the analogy of punishing your son. If your son had an allowance of \$10.00 a week, punishing him with a fine of a penny or five cents would have an impact on him and would not deter his behavior. However, punishing your son by taking away \$5.00 would have an impact and would be more likely to deter future bad behavior. In the same way, it can be argued that if a corporation makes \$10,000,000.00 every week, a punitive damage verdict of \$10,000.00 or even \$100,000.00 will not have any impact on future behavior, and that like your son, an amount such as \$10,000,000.00 must be rendered in order to have an impact on the corporation in order to deter future bad behavior.

All jurors can understand the idea that you cannot drive through a red light or stop sign without stopping, and that if you do so and cause damage you should be held liable. In a medical malpractice case the doctor's deviation from the standard of care may be analogized to the doctor running a medical stop sign or a medical red light. This will immediately simplify a situation that the defense will try to characterize as complicated. .

Analogies and examples may be used to talk to jurors about how to arrive at a fair verdict. Jurors may be told that a fair verdict is a full verdict:

"Our, jury instructions state, and the judge has told you that you must award Mrs. Jones the amount of money that will reasonably compensate her for her injuries and losses and that you should allow a sum that will fairly and adequately compensate her. This issue is not how big or little the verdict is, but whether it is fair and adequate. You should not arrive at your verdict and then say, this is too much or this is too little. Rather, you should look at whether it is full and adequate. If I damaged my brief case and the judge said, that you had to return the full value of my brief case and it cost \$50.00, then that is what I should get. You should not look at it and say it is too small, but rather, you

should say that is what it is worth and that is it will take to compensate him so that is what we should return. On the other hand, if I had a car that cost \$50,000.00 and it was brand new and just purchased and we all agreed that it would take \$50,000.00 to replace it, and the Judge told you that you had to award me a verdict that would compensate me for my car, then the verdict should be \$50,000.00. You should not look at that and say, well that is too much, that is too large a verdict, because that would not be fair. Rather you should say, that is what it is worth and that is a fair and just verdict, and that is what my client is entitled to. It is not a question of whether it is large or small, but the question is: Is it a fair and reasonable verdict? The same is true for the verdict we are asking for Mrs. Jones."

Allusions are comparisons made through references to other common bodies of cultural knowledge, in order to bolster our arguments. In Mel Block's case in which the doctors failed to diagnose his client's fractured hip, he argued that the fracture was made worse because, due to the misdiagnosis, she was allowed to walk on the hip causing further damage. The Defense argued that the fracture had already occurred and that the misdiagnosis and continued walking on the hip could not cause any additional damage. Mr. Block countered this argument by simply alluding to Boy Scout common knowledge by telling the jury, "you are taught in the Boy Scouts, and every Boy Scout knows that you do not allow someone with a broken hip or leg to walk." The defense objected to his reference to the Boy Scouts, and Mr. Block with his quick and subtle wit, responded, "you object to the Boy Scouts?"

There are certain common bodies of knowledge which "we all know to be true." If you are able to link your arguments to such common bodies of knowledge which we all know to be true, your argument will be hard to refute. The example of Boy Scout lore is but one of these common bodies of knowledge. In hunting cases, all experienced hunters should be familiar with the ten commandments of hunting, and if someone who injured your client failed to follow these commandments they may be alluded to bolster your case. In a case involving the failure to timely diagnose cancer, one thing we all know to be true is that the sooner the cancer is diagnosed, the better the chances for a cure. The Plaintiff may allude to this common knowledge about the timely diagnosis of cancer and it will be futile for the Defendant to dispute it. In most fields of learning or activity common bodies of knowledge that we all believe

to be true exist. If you can identify these common bodies of knowledge that we all know to be true and link your arguments to them they will be difficult to rebut.

Allusion may be used to invoke images of the founders of our country and our great justice system. Allusion to the historical roots of the justice system can infuse the jurors with a sense of importance and purpose. I have heard many allusions to the history of the justice system by various trial lawyers. One possible synthesis is as follows:

"In 1215 the Magna Carta was created, which contained two great principles. First, the law is above the king; and second, the King can be compelled by force to obey the law of the land. It was also at this time that the jury system was born. The first jury system provided that the people came together to determine the facts to the dispute. No longer could the King or people of wealth and power decide what was right or wrong. But rather, the citizens, just like you, came together to decide the facts and render a decision. These principles have become the cornerstone of our system of justice. It is this system that forces people and corporations to take responsibility for their actions. And this system has worked because people like you have come together over the years to hear the facts and render justice. And the only way it works is if each jury each time renders a fair and just verdict. And if we here do not do our duty then our system fails. Throughout the history of this system of justice, history has reached down at crucial times and gathered ordinary people together and given them extraordinary power, the power to determine the facts of a case and to render justice, and I have no reason to believe that it will be any different now. I trust this system and I trust you."

You could use any of the various portions of the above example to create in the jurors a sense of importance in the jury process. The above comment to the effect that "throughout the history of this system of justice, history has reached down at crucial times and gathered ordinary people together and given them extraordinary power, the power to determine the facts of a case and to render justice, and I have no reason to believe that it will be any different now. I trust this system and I trust you," is a good example of allusion. You are alluding to past times in history where people like the jurors sitting on your present jury

have come together in order to do extraordinary things. I can be very empowering.

When I tried criminal cases early in my career I always stressed that the jury system only works if each jury renders justice, and if individual juries fail to render justice, then the entire justice system fails. For that reason, it is important that justice be done in the present case. It is placing the jurors in the overall system of justice and placing them in the role of protectors of the justice system.

Metaphors like lifeguards or the captain of the ship may be used to describe doctors in malpractice cases. If the lifeguard sees a young swimmer going down and screaming for help, he or she must take action. The captain of the ship is the one in charge who coordinates the action and is accountable if something goes wrong.

Pain, suffering, grief, and disability are subjective concepts. It can be argued that the amount of any damage verdict in a personal injury action is dependent on the extent to which the plaintiff's lawyer is able to convey to the jury the nature and extent of pain suffering, grief and disability. When talking about the amounts of damages, and whether what you are asking for is excessive, you can allude to other things of value:

"We hear about works of art, great masterpieces. A Monet sells for ten million dollars. A painting of a woman walking in a field sells for forty million dollars. If the Nelson Art Gallery had a fire or if someone destroyed some of their paintings, everyone would be shocked that such treasures and masterpieces were lost. An appraiser would come in and the value would be set and everyone would agree that they should be compensated. Isn't Heather, a living breathing person, as important as a painting on a wall. We should not look at her losses and say they are too big or too much."

The same argument could be made using, a professional athlete's contract, the price of a race horse, or the concert fee of a rock star. The jury could be told, "Singers are paid millions of dollars to strut around a stage for a few minutes. Certainly the loss of Jim's life is just as important as these things. Please don't say what we're asking is too much. Jim's life is entitled to the same consideration as is given to paint on a canvas or a singer on a stage."

For a man with disfiguring scars on his face, you could tell the jury that the plaintiff will never again walk through a crowd without wondering if people are thinking he is the town freak. Whenever he meets people he will see their eyes looking at his face, then trying to look away, and then trying to hide their shock, and then trying to find a reason to move on to talk to someone else.

For someone with paralysis and a loss of ability to walk the jury could be told:

"Jim will never go for a walk in the rain, he will never again jog through the park. He will never sit at the head of his dinner table with a sense of pride that he has provided for his family with the money he earned from work. He will never again feel proud about the remodeling job he did on his house. He will never earn a day's pay for a day's work. He loved to play catch with his kids in the front yard, he loved to hike and camp. He will never do these things again. He will never enjoy standing up straight and tall. He will never again enjoy romping around and rolling around with his grandchildren. He will never again be just a person in the crowd. He will always stand out. He will have a life of ill health and ill feeling. He will never again have the pleasure of dancing close to his wife on the dance floor. He will not walk down the aisle with his daughter to give her away at her wedding. He will never be able to enjoy the ultimate act of love with his wife, and this is an extraordinary loss for Jim."

A man who has lost his sense of smell will never smell bacon frying in the frying pan, will never smell his wife's perfume, will never smell coffee brewing in the morning, and will never smell the rain just before it begins to fall. A man who has lost the ability to hear will never hear the sound of the rain, will never



hear his daughter say, "I love you" at bedtime, will not hear his daughters wedding vows, and will not hear his boss say, "Job well done."

## Conclusion

The above suggestions as to how figurative language may be used are but a few of the many possibilities. Before each trial, careful consideration should be given to the words, labels and figurative language that may be used during the course of the trial to enhance our ability to shape how jurors perceive our clients and our cases.

## Footnotes

1. W. Haney, *Communication and Interpersonal Relations* (1979).
  2. M. Block, *Malpractice in X-Ray Diagnosis*, in *The Art of Summation*, (M. Block ed 1964).
  3. S. Langer, *On Cassirer's Theory of Language and Myth*, *The Philosophy of Ernst Cassirer*, p. 386 (1949).
  4. K. Campbell, *The Rhetorical Act*, p. 9 (1982).
  5. Freud, *Dictionary of Psychoanalysis*, p. 51 (N. Fodor.& F. Gaynor eds 1950).
- R. Wells, *Successful Trial Techniques Of Expert Practitioners*, Clark Boardman Callaghan 1988, 2005); some of the examples used have been taken from this book.