

Acting For Trial Lawyers: Finding The Theme Of Your Case

By Michael DeBlis III

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Just in time for film award season, actor and trial lawyer Michael DeBlis discusses [in this weekly column](#) how some of the tools and techniques of the stage can be used by lawyers in the courtroom.

A theme is a concise statement, repeated throughout the trial, that serves as an anchor to help distill and summarize what the case is about. But it is not only an intellectual idea. The theme also provides the emotional appeal — i.e., why it is morally right that you should win.

Good themes are based on universal truths about the human condition. Good sources of themes are often found in great works of literature, songs, folklore and popular sayings. For me, the theme is like the heartbeat of a case. When it is present, the case comes to life. When it is absent, the case is as lifeless as a bug sprayed with Raid.

Minor Themes

Some themes are minor and not central to the main thrust of the story. But as ideas or associations, they ground us along the way like touchstones. These minor themes can be found in symbols, metaphors and phrases that pop up once or echo throughout a story, giving it memorable resonance.

In "The Wizard of Oz," a minor theme is that in order to get to the Emerald City from Munchkinland, you "follow the Yellow Brick Road." It's a memorable phrase. What makes this theme minor is that it isn't essential to understanding the overall idea of "The Wizard of Oz." But it is memorable and serves a purpose nevertheless. It is a reminder throughout the story that the protagonist should be smart and strategize. Whenever Dorothy and the gang are on the Yellow Brick Road, they are relatively safe. When they get sidetracked from the Yellow Brick Road, they are relatively unsafe.

Whenever you happen upon an element in your story that seems slightly more significant than others, slightly more loaded somehow, toy with it. It could be a favorite saying between you and another person. It could be something you saw or heard or smelled more than once that feels poignant. It could be a little daydream or memory or association that you revisit from different angles as the circumstances shift.

If this little idea you repeat twice or three times during the course of the story could be thought of as having a second meaning, maybe that can be exploited too. For example, if your story involves a fluke (the fish) and a fluke (an accident), you could play with that double-meaning in subtle and not so subtle ways. See if it connects to other ideas in the story in ways you hadn't thought of before.

Major Themes

Certain themes are major. They are essential to understanding the essence of the story. By the time you are telling a story a second time or writing a second draft, you should have a firm grasp of your major themes.

In "The Wizard of Oz," one major theme is that our hearts yearn for a more ideal place — a place where dreams really do come true. Dorothy makes a metaphor for this place, calling it "somewhere over the rainbow." Dorothy brings the "over the rainbow" idea up throughout the story — when she thinks she has found that place, when she becomes disillusioned about that place, and so on.

Another major theme in "The Wizard of Oz" is that your heart's desire is actually right where you are — in other words, that you make your home where your heart is. This theme also pops up throughout the story, but the clearest mention of it is in the very end of the story, when Dorothy tells Glinda (the Good Witch of the South) what she has learned. Glinda provides a memorable phrase to stand for this idea: "There's no place like home."

Notice that each of these major themes is a completely valid idea in and of itself, but in the context of this particular story they seem at odds with one other. And indeed, in the end of "The Wizard of Oz," one of these two themes has gained much more traction and eclipsed the other. From that, we get a "controlling idea."

Controlling Idea

A story often features tension between two themes — a tug of war between two or more opposing values.

A "controlling idea," according to Robert McKee — author of "Story: Substance, Structure, Style and the Principles of Screenwriting" — is a sentence that illustrates how the main tug of war in your story plays out. The sentence should describe how and why life changes from one condition of existence (or one perception of the truth) at the beginning of your story to another at

the end. Thus, controlling ideas are often worded something like this: "When X happens, it's natural for Y to follow." Or "Because life is this way, it's best to react that way." Or "You may feel X is true, but taking Y steps could prove things are different."

The controlling idea of "The Wizard of Oz" might be expressed as: "When you search for your heart's desire, you might find that your heart's desire was with you all along."

Circling back to the courtroom, I like to begin my opening statement with a theme statement. I start by saying, "This is a case about ..." and add a short description of the overall theme. An example of a theme statement in a breach of contract case might be, "This is a case about a broken promise and all the trouble that breaking that promise caused."

Parting Thoughts

In closing, I'd like to paraphrase a story within a story that describes the sheer pleasure that results from discovering the theme of your case.

Let's climb into our DeLorean and time travel back to 1997, the year that Dustin Hoffman won a lifetime achievement award at the Golden Globes.

After thanking everyone who helped him during his career, he told a story that has a great deal of relevance to this topic. The story went something like this:

"When I was doing a promotional tour for 'The Graduate,' I found myself flipping the dials in my hotel room one night. I came upon an interview of the great Russian-American composer, Igor Stravinsky. It caught my eye and after listening to it for a few minutes, I became spell-bound.

The interviewer asked Stravinsky:

'Sir, what is the best moment for you as a composer? Is it when you have finished a newly completed work?'

Stravinsky pondered the question and answered: 'No, no, no. It's not then.'

'Then, is it when your agent informs you that the piece will be performed at one of the concert halls of the world?'

'No, no, no. It is not then either.'

'Then is it on opening night at Carnegie Hall or [The Kennedy Center](#), when the last note has been played and the audience erupts into a standing ovation? Is that the best moment?'

'No, no, no. Not then either.'

'Well, sir,' the interviewer said, 'What *is* the greatest moment for you?'

'Well, I will tell you. When I'm working on my piano in a composition, looking for the melodic phrase that will carry the movement forward. I will be sitting at the piano, going: bee-bum, bee-bum, bee-bum.'

'This goes on for hours, days, sometimes even weeks. Bee-bum, bee-bum, bee-bum. Then miraculously, it happens: I find the note! That, for me is the moment.'

Hoffman then turns to the audience and says:

"My fellow actors, for me 'the moment' is not when I get cast in a major role in a blockbuster movie. The moment is not when I stand before you accepting a lifetime achievement award or even an Oscar. But when I am doing my 'bee-bums' to find the inner soul of the person I am portraying. Whether it be Benjamin in 'The Graduate' or Ratso Rizzo in 'Midnight Cowboy' or 'Papillion', when I come upon the 'bee-bum' that makes that character work, that for me 'is the moment.'"

For me, the “bee-bums” in the legal profession are when we discover the theme of our case.

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