



**Develop Mastery of Essential Skills for Your Legal Practice Series**  
**Story: Storytelling for Persuasion**  
**(EDU220330)**

**Wednesday, March 30, 2022**

**5:00 p.m. to 6:30 p.m.**

**Webinar**

**CT Bar Institute, Inc.**

CT: 1.5 CLE Credits (General)

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## **LAWYERS' PRINCIPLES OF PROFESSIONALISM**

As a lawyer, I have dedicated myself to making our system of justice work fairly and efficiently for all. I am an officer of this Court and recognize the obligation I have to advance the rule of law and preserve and foster the integrity of the legal system. To this end, I commit myself not only to observe the Connecticut Rules of Professional Conduct, but also conduct myself in accordance with the following Principles of Professionalism when dealing with my clients, opposing parties, fellow counsel, self-represented parties, the Courts, and the general public.

### **Civility:**

Civility and courtesy are the hallmarks of professionalism. As such,

- I will be courteous, polite, respectful, and civil, both in oral and in written communications;
- I will refrain from using litigation or any other legal procedure to harass an opposing party;
- I will not impute improper motives to my adversary unless clearly justified by the facts and essential to resolution of the issue;
- I will treat the representation of a client as the client's transaction or dispute and not as a dispute with my adversary;
- I will respond to all communications timely and respectfully and allow my adversary a reasonable time to respond;
- I will avoid making groundless objections in the discovery process and work cooperatively to resolve those that are asserted with merit;
- I will agree to reasonable requests for extensions of time and for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;
- I will try to consult with my adversary before scheduling depositions, meetings, or hearings, and I will cooperate with her when schedule changes are requested;
- When scheduled meetings, hearings, or depositions have to be canceled, I will notify my adversary and, if appropriate, the Court (or other tribunal) as early as possible and enlist their involvement in rescheduling; and
- I will not serve motions and pleadings at such time or in such manner as will unfairly limit the other party's opportunity to respond.

### **Honesty:**

Honesty and truthfulness are critical to the integrity of the legal profession – they are core values that must be observed at all times and they go hand in hand with my fiduciary duty. As such,

- I will not knowingly make untrue statements of fact or of law to my client, adversary or the Court;
- I will honor my word;
- I will not maintain or assist in maintaining any cause of action or advancing any position that is false or unlawful;

- I will withdraw voluntarily claims, defenses, or arguments when it becomes apparent that they do not have merit or are superfluous;
- I will not file frivolous motions or advance frivolous positions;
- When engaged in a transaction, I will make sure all involved are aware of changes I make to documents and not conceal changes.

**Competency:**

Having the necessary ability, knowledge, and skill to effectively advise and advocate for a client's interests is critical to the lawyer's function in their community. As such,

- I will keep myself current in the areas in which I practice, and, will associate with, or refer my client to, counsel knowledgeable in another field of practice when necessary;
- I will maintain proficiency in those technological advances that are necessary for me to competently represent my clients.
- I will seek mentoring and guidance throughout my career in order to ensure that I act with diligence and competency.

**Responsibility:**

I recognize that my client's interests and the administration of justice in general are best served when I work responsibly, effectively, and cooperatively with those with whom I interact. As such,

- Before dates for hearings or trials are set, or if that is not feasible, immediately after such dates have been set, I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the Court (or other tribunal) and my adversary of any likely problem;
- I will make every effort to agree with my adversary, as early as possible, on a voluntary exchange of information and on a plan for discovery;
- I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;
- I will be punctual in attending Court hearings, conferences, meetings, and depositions;
- I will refrain from excessive and abusive discovery, and I will comply with all reasonable discovery requests;
- In civil matters, I will stipulate to facts as to which there is no genuine dispute;
- I will refrain from causing unreasonable delays;
- Where consistent with my client's interests, I will communicate with my adversary in an effort to avoid needless controversial litigation and to resolve litigation that has actually commenced;
- While I must consider my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation.

**Mentoring:**

I owe a duty to the legal profession to counsel less experienced lawyers on the practice of the law and these Principles, and to seek mentoring myself. As such:

- I will exemplify through my behavior and teach through my words the importance of collegiality and ethical and civil behavior;
- I will emphasize the importance of providing clients with a high standard of representation through competency and the exercise of sound judgment;
- I will stress the role of our profession as a public service, to building and fostering the rule of law;
- I will welcome requests for guidance and advice.

**Honor:**

I recognize the honor of the legal profession and will always act in a manner consistent with the respect, courtesy, and weight that it deserves. As such,

- I will be guided by what is best for my client and the interests of justice, not what advances my own financial interests;
- I will be a vigorous and zealous advocate on behalf of my client, but I recognize that, as an officer of the Court, excessive zeal may be detrimental to the interests of a properly functioning system of justice;
- I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;
- I will, as a member of a self-regulating profession, report violations of the Rules of Professional Conduct as required by those rules;
- I will protect the image of the legal profession in my daily activities and in the ways I communicate with the public;
- I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement of administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance; and
- I will support and advocate for fair and equal treatment under the law for all persons, regardless of race, color, ancestry, sex, pregnancy, religion, national origin, ethnicity, disability, status as a veteran, age, gender identity, gender expression or marital status, sexual orientation, or creed and will always conduct myself in such a way as to promote equality and justice for all.

Nothing in these Principles shall supersede, supplement, or in any way amend the Rules of Professional Conduct, alter existing standards of conduct against which a lawyer's conduct might be judged, or become a basis for the imposition of any civil, criminal, or professional liability.

# Faculty Biography

## Christopher P. Kriesen

**Attorney Christopher P. Kriesen** is the founder and principal of the Kalon Law Firm, LLC. Attorney Kriesen has handled cases in State and Federal Court, has argued appeals before Connecticut's Appellate and Supreme Courts, and has helped prepare amicus briefs on cases raising issues of first impression before the Supreme Court.

He is a trained mediator (Harvard Law School, Advanced Mediation Workshop, Program on Negotiation and the Quinnipiac School of Law Center on Dispute Resolution). He serves as an Attorney Trial Referee, Fact Finder, and Arbitrator in the Hartford Superior Court And a Special Master at the District Court, Connecticut.

He completed a six class program in Strategic Decision Making and Risk Management offered by Stanford University's Center for Professional Development.

STORY:

STORYTELLING FOR PERSUASION

CBA SEMINAR  
MARCH 30, 2022  
5:00 P.M.

Presented by:  
Christopher P. Kriesen

**THE PSYCHOLOGY OF STORY**

Once, at a trial practice seminar, I asked the group of lawyers, “What is the meaning of the following word sequence: Dog, Boy, Cat, Chase?”

The first to answer said, “A boy was walking his dog and the dog chased a cat.”

The second said, “A boy watched a dog chase his cat.”

The third: “Nothing. It’s just a sequence of words, with no meaning at all.”

Correct. The sequence means nothing. But, when a person hears the sequence, she creates a pattern, which becomes the narrative of a story, and from the story she creates a meaning. In this very human habit of storytelling, we have an essential method of winning a trial, far more important than any trial tactic, strategy, or theory of the case.

The problem is most lawyers don’t understand how to tell a legal story. I will show you how.

## **DISCOVER THE STORY MODEL**

First, you need to understand why stories matter.

When presented with a series of random facts, people immediately look for, find, and create patterns. From these patterns we create narratives, and from these narratives, stories. Through these stories, we understand the world, create meaning, and decide how to live our lives.

You of course are familiar with the question, “What is the moral of the story?” Most stories hold a moral for the audience. The moral is a universal truth, one that we already accept as true, and the story is a striking example of that universal truth applied to a specific fact pattern.

Every dispute is built upon a series of facts. The decision-maker listens to those facts and naturally begins to form a pattern. From that pattern, she builds a narrative, a story, and a meaning for the dispute. She will rely upon that meaning to decide the case.

Every story about a dispute has the same moral - a universal truth that the decision-maker already accepts as true. It is, “Justice shall be done.” The dispute is simply a specific fact pattern to which that universal truth is applied.

An advocate who understands this story model realizes she must present the dispute to the decision-maker as a story. The story she tells must hold the universal

truth that “justice shall be done.” And the story must be told in a way that compels the decision-maker to decide that justice is done in favor of her client, not her opponent’s client. If the advocate does not tell a story, the jury will find one to tell themselves, and the advocate may not like the way it ends.

### **DISCOVER THE UNIVERSAL STORY STRUCTURE**

A popular definition of a story is: a beginning, a middle, and an end.

Aristotle came up with that and published it in *Poetics*. It’s a nearly useless definition, repeated for centuries, and rarely explained. Most things have a beginning, middle, and end. How is a story different?

Here is my definition: A story is about a hero with a desire, an obstacle to fulfilling that desire, and an outcome in her pursuit of that desire (success or failure).

The great mythologist, Joseph Campbell, in *The Hero with a Thousand Faces*, calls this structure the “Hero’s Journey,” a mono-myth, arguably the structure of every popular story ever told.

For the needs of the story model, I have simplified the structure. The essential elements of the Hero’s Journey are: 1. The Hero’s Ordinary World; 2. The Inciting Incident; 3. The Hero’s Quest, with her allies, mentor, and antagonist; 4. Crisis; 5. Success.

The journey of the hero begins in the ordinary world, where everything seems fine, until there is an inciting incident, which damages her world. The hero sets off on a

quest to repair the damage. She has allies and a mentor to help her on her quest and an antagonist to block her. She reaches a crisis stage, where it is uncertain whether she will be able to repair the damage, but she succeeds, and returns home for a happy ending.

This structure inherently compels the audience to identify with the hero, cheer for her success, and root against the antagonist. The structure also has an inherent, universal moral: justice shall be done.

### **HOW YOU CAN USE THE STORY MODEL**

How does an advocate use this structure to persuade? She lines the facts of her case into a pattern that forms the narrative of the Hero's Journey. The advocate is the teller of this story, not the hero. I have seen vanity overcome some lawyers who turn the closing argument into a story about themselves, wearing outfits to draw attention to themselves, and reveling in the attention of the jury. Remember, it's not about you: it's about your client. You are just the storyteller.

To demonstrate how to use the Story Model, I will use the example of a personal injury claim arising from a motor vehicle accident, first from the plaintiff's perspective.

1. The plaintiff (the hero) is safe in her ordinary world; 2. The plaintiff is in a car accident with the defendant (the antagonist) and is injured; 3. The plaintiff begins a quest to hold the defendant accountable and return to health, with family, friends, and doctors (as allies and mentors) to help her recover. Opposing counsel (also an

antagonist) is trying to block her.

In the context of a trial, the decision-maker (judge or jury) enters the story at the Crisis step. Will the defendant be held accountable and will the plaintiff repair her damage? It is out of her hands. The decision-maker decides. If the decision-maker decides in her favor, holds the defendant accountable, and makes her whole, she succeeds. Justice is done.

What of the advocate for the defendant?

A trial is a presentation by advocates to the decision-maker of competing narratives drawn from the same set of evidence. The decision-maker will adopt the narrative supported by the evidence and will form a story that is consistent with the universal truth of “justice shall be done.”

The advocate for the defendant must first dismantle the evidence relied upon by the plaintiff to form her narrative. Without facts to support her narrative, her story crumbles.

But that is not enough. The defendant must also tell a more compelling story. As the advocate for the plaintiff is telling the story of the Hero's Journey, the advocate for the defendant is telling what is, from the plaintiff's perspective, the antagonist's story. But from the defendant's perspective, he is telling the story of a protagonist, with his own Hero's Journey. Who is the real hero of a story depends on perspective: one man's hero is another man's villain.

The defendant's story is as follows:

1. The defendant (the hero) is safe in his ordinary world; 2. The defendant is sued by the plaintiff (the antagonist); 3. The defendant begins a quest to defend himself, through cross examination of the plaintiff's allies and experts, and by the testimony of his own experts (allies and mentors). Opposing counsel (also an antagonist) is trying to block him.

The decision-maker enters the story at the Crisis step. Will the defendant be protected? It is out of his hands. The decision-maker decides. If the decision-maker decides in his favor, he succeeds. Justice is done.

Many lawyers try their cases approximating the story model, unaware they are following the steps of a fundamental narrative, and without the master's touch because they are unaware of the elements of the structure. Once you understand the structure, you will develop a master's touch for presenting your case, no matter what the issues. The story model applies equally to any case seeking damages, whether it be a personal injury claim, a professional liability claim, or even breach of contract case.

### **STORY X-FACTORS**

Advanced storytelling uses x-factors - theme, tropes, and tactics - to make a story more compelling. In the context of a trial, a more compelling story is a more persuasive story.

#### **Theme**

A theme in a story is a universal message that a story advocates for. In *The Wizard of Oz*, the theme is, “There’s no place like home,” which Dorothy states explicitly. Every popular story has a theme. In *Finding Nemo*, it’s “trust”; in *The Godfather*, it’s “family comes first”; in *Star Wars*, it’s “use the force”.

In a trial, the story you present to the jury must have a theme which compels the jury to reach a decision in favor of your client. Furthermore, unlike a story, where the theme is often debateable, the theme of your trial story must be absolutely clear so the jury understands exactly what result you seek.

The judge will instruct the jury on the law they must follow to reach their decision. Your theme must therefore be built upon the rule of law that governs your case.

For example, in a simple negligence case, with the elements of duty, breach, causation, and damages, you want to build your theme upon the element where your case is strongest. For a plaintiff with clear liability, the case theme is duty. For the defendant with a causation defense, the theme is responsibility.

### Tropes

In storytelling, a trope is a kind of cliché, something we all immediately recognize, usually in the form of a character, or relationship, or situation. For example, the knight in shining armor saving a fair maiden from a dragon holds tropes in the characters, relationships, and situation. Tropes immediately convey information which people accept as true. The knight in shining armor is good, the maiden is a victim who

deserves to be saved, the dragon is bad and deserves to be slayed.

People - and jurors - naturally use tropes to make sense of the world. They will seek to assign your client, your opponent, and the situation tropes to help them understand what they see and how to decide your case. Better to select those tropes for them, leading them to favor your client and not favor your opponent.

Select the favorable trope that fits your client: the innocent, the underdog, the falsely accused. Select the unfavorable trope that fits your opposing party: the grifter, the bully, the charlatan. Find a trope for the situation that favors the outcome you seek, such as 'David versus Goliath.'

### Story Tactics

Framing the issue is a way of controlling how the jury sees the situation and controls how they decided the case. Framing works with a theme. For a plaintiff with clear liability, the frame should be, "This is a case about the duty to drive with due care - the defendant failed to do so and must be held accountable." For the defendant with a causation defense, the frame should be, "This is a case about not being made to pay for a problem you didn't cause."

### Making Your Client Likable

Once you have a trope for your client, you should enhance that trope with elements to make her even more likable. If you can, weave into the narrative instances of your client doing good deeds, being humble, and being funny, all qualities that will

lead the jury to like her more. If you represent the Plaintiff, remember to emphasize her undeserved misfortune.

### Making Your Opposing party Unlikeable

Similarly, once you have a trope for your opposing party, you should enhance that trope with elements to make her even more unlikable. If you can, weave into the narrative instances of her doing bad deeds, being arrogant, and being borish, all qualities that will lead the jury to like her even less. If you represent the Defendant, look for ways to show the Plaintiff seeks underserved good fortune in her claim.

### A Clear Choice

You don't want the jury thinking, "This one is a close call." You want them walking into the deliberation room thinking this is an easy call in your favor. Your entire presentation should be building toward a clear choice in your favor.

### An Outcome in Your Favor is Good; An Outcome in Her Favor is Bad

Although the jury is not deciding a moral question, while they decide what outcome is required by law based upon the facts they find (a process that is new to them), informing their decision process will be their sense of what is right, what is wrong, and what is a fair outcome (a process that has been a part of their whole lives). You should subtly address their sense of justice throughout the case.

