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Campfires, Car Accidents, and the Cosmos: Persuasive Appeals to Jurors Through the Human Appetite for Wonder

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I. Introduction

54. Trial lawyers practice their craft before juries within certain well-established constraints: A juror's attention is naturally limited, and many necessary components of a trial are tedious enough to tax the concentration of the most diligent jurors. Yet without a juror's attention, trial lawyers have no fertile ground in which to plant their case. Trial lawyers sense that storytelling in trials can help in the struggle to capture a juror's attention, but the impediments to good storytelling are many, from the time constraints a lawyer faces while preparing the case to the limits of the lawyer's own imagination. This article will suggest ways to expand that imagination

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by encouraging trial attorneys to think a little differently about how they envision the power of the story in their cases. In so doing, this article will identify ways to help trial lawyers grab a jury's attention and persuade them by appealing to a most natural human appetite — the appetite for wonder.

55. Too often trial lawyers see a case as a mere chronology of facts. This article will argue that the stories embedded in every case can illuminate far more than simple chronology and cause and effect. These stories can catch a juror's attention by calling out to the human need and capacity for wonder. As trial lawyers, we present our cases before jurors as stories with conflict and drama because we know that stories are persuasive. Can we improve our storytelling? Can we identify simple ways to find wonder in our stories and use it to hold the jurors' attention and persuade them? I will argue that we can improve our storytelling and find wonder in our case if we expand our definition of wonder and expand the metric by which we try to identify it in the facts of our case.

56. For the sake of usable, memorable shorthand, I propose three measurements to help us find wonder in our cases as we prepare them: campfires, car accidents, and the cosmos. Are there facts that can mesmerize our jury like a campfire mesmerizes those who sit around it? Are there facts that reveal the morbid nature of the injustice done to our client — facts our jurors cannot seem to look away from in the same way people can't look away from a car accident? Finally, are there facts or arguments that invoke such lofty or grand sentiments that we begin to sense the magnificence of justice, like we sense the magnificence of the cosmos when looking at the night sky?

II. The Distractions of Inattention

57. Before engaging in a quest to capture a juror's attention, it will help to understand the problem of attention modern trial lawyers now face. Every trial lawyer has seen an inattentive juror. Jurors' faces, gestures, and posture can reveal their attention and inattention and provide usable feedback. If a trial lawyer senses he's losing his jury, he can try to gain back their attention. But do we understand precisely what it means for a juror to pay attention in trial? Researchers argue that attention is more than just sustained concentration.² Rather, attention is the way the brain allocates its limited processing resources.³ In other words, the brain can only do so much at one time, and attention is the sorting machine that prioritizes

2 TOM STAFFORD & MATT WEBB, [MIND HACKS](#), 113 (2005).

3 TOM STAFFORD & MATT WEBB, [MIND HACKS](#), 113 (2005).

the work. When the brain is working too hard, as it might while someone is focusing on a task like listening and learning, small distractions that are irrelevant to the main activity can actually be more distracting to one's attention.⁴ Thus, a juror who is mentally drained after hours of testimony might be more easily distracted by irrelevant environmental stimuli in the courtroom.

58. This deficit in human attention is apparently magnified in the modern brain which has become accustomed to multitasking among a flood of 21st-century stimuli. Professor and author Sven Birkerts says that “[in] our own inevitable adjustments to the stimulus barrage of modern life — all the editing, skimming, compartmentalizing, accelerating — and the increasing psychological assault of others using their devices, we find it ever harder to generate and then sustain a level of attention — focus — that full involvement . . . requires.”⁵ In the context of the “digital” brain’s dwindling attention span, a trial lawyer has to capture jurors’ attentions and work a case into their memories. Author and technology critic Nicholas Carr argues that attentiveness is the key to making memories and that the sharper one’s attention is on a task, the sharper his memory will be.⁶ But how can a trial lawyer compete against all the stimuli in the courtroom and gain sharp, focused attention from his jurors?

III. The Attractions of Wonder

59. Before addressing practical ways to find wonder in the story of a case, it is first necessary to define the concept of wonder. The subject has received scant attention from scholars but steady popular treatment from naturalists, scientists, and theologians.⁷ In a speech to The Aristotelean Society, R. W. Hepburn noted that ancient philosophers arrived generally at a belief that wonder was something more persistent than an “emotional response to some baffling phenomenon or disturbing discontinuity in experience.”⁸ Hepburn nicely distilled Kant’s view of wonder as

4 NICHOLAS CARR, [THE SHALLOWS: WHAT THE INTERNET IS DOING TO OUR BRAINS](#) 125, 141 (2011).

5 SVEN BIRKERTS, [CHANGE THE SUBJECT: ART AND ATTENTION IN THE INTERNET AGE](#) 7 (2015).

6 NICHOLAS CARR, [THE SHALLOWS: WHAT THE INTERNET IS DOING TO OUR BRAINS](#) 125, 141 (2011).

7 See generally RACHEL CARSON, [THE SENSE OF WONDER](#) (1998); RICHARD DAWKINS, [AN APPETITE FOR WONDER: THE MAKING OF A SCIENTIST](#) (2013); RICHARD DAWKINS, [UNWEAVING THE RAINBOW: SCIENCE, DELUION, AND THE APPETITE FOR WONDER](#) (2000); RAVI ZACHARIAS, [RECAPTURE THE WONDER](#) (2005).

8 R.W. Hepburn, [The Inaugural Address: Wonder](#), 54 PROCEEDINGS OF THE ARISTOTELIAN SOCIETY 1, 3 (1980).

something more than a plain feeling of enchantment, noting Kant's qualitative distinction "between astonishment (*Verwunderung*) which fades as a sense of novelty diminishes, and wonderment that is steady and unthreatened (*Bewunderung*)."⁹ Just as Plato saw wonder as the beginning of philosophical discovery, the eminent conservationist Rachel Carson wrote about wonder as the necessary fuel for a child's quest for knowledge about the world and her place in nature. She described a child's spark of wonder as "that clear-eyed vision, that true instinct for what is beautiful and awe-inspiring."¹⁰

60. In *The Sense of Wonder* Carson lamented that the sense of wonder is "dimmed and even lost before we reach adulthood." This thought is shared by the modern theologian, Ravi Zacharias, in his book *Recapture the Wonder*.¹¹ He adds his own definition of wonder:

Wonder is that possession of the mind that enchants the emotions while never surrendering reason. It is a grasp on reality that does not need constant high points in order to be maintained, nor is it made vulnerable by the low points of life's struggle. It sees in the ordinary the extraordinary, and it finds in the extraordinary the reaffirmations for what it already knows.¹²

61. Among scientists, one can find similarly lofty language about the power of wonder to capture our thoughts. Even the often sharp-tongued atheist Richard Dawkins softens when speaking about wonder. In his autobiography, Dawkins says:

The feeling of awed wonder that science can give us is one of the highest experiences of which the human psyche is capable. It is a deep aesthetic passion to rank with the finest that music and poetry can deliver. It is truly one of the things that make life worth living¹³

62. These definitions seem to suggest that a person's capacity for wonder is always reaching toward the magnificent or awe-inspiring. Zacharias seems to be the lone exception, willing to embrace wonder as a range of feelings that might also include astonishment. In this, I agree. I think there are many kinds of feelings or sensations we have which fall on the continuum of emotions and which we would describe as wonder. If these different levels of intensity of wonder are not on the continuum of

9 R.W. Hepburn, *The Inaugural Address: Wonder*, 54 PROCEEDINGS OF THE ARISTOTELIAN SOCIETY 1, 3 (1980). See also IMMANUEL KANT, *CRITIQUE OF AESTHETIC JUDGMENT* 125 (1911).

10 RACHEL CARSON, *THE SENSE OF WONDER* 56 (1998).

11 RACHEL CARSON, *THE SENSE OF WONDER* 56 (1998).

12 RACHEL CARSON, *THE SENSE OF WONDER* (1998).

13 RICHARD DAWKINS, *UNWEAVING THE RAINBOW: SCIENCE, DELUION, AND THE APPETITE FOR WONDER* (2000).

human emotions and feelings, then perhaps they should be. Why? It seems to me that, unlike Kant, people usually think of wonder in a broad way. We don't immediately think of wonder as something that only happens to us when we consider the vastness of space or look at images from the Hubble telescope. We don't usually share our emotional states with each other by parsing them out philosophically. How often have you watched a child breathing in the spray of Niagara Falls say, "Wow!" only to see her parent follow up that exclamation by enquiring whether she is merely astonished or experiencing the something-more we might label "wonder"? I doubt such an interaction has ever happened between parent and child. We just don't make these distinctions when we think about wonder and, therefore, we don't see others making them. So, for the sake of good storytelling in a trial, we should aim for the whole continuum of wonder and not merely try to reach past some dividing line where Kant imagines wonderment begins. Before thinking about appealing to a juror's sense of wonder in trial, we need to answer a foundational question first: If wonder can be found or felt in the crush of Niagara Falls, can it be found or felt as a result of hearing a story?

A. What does it mean to be "transported" by a narrative?

63. We have all experienced becoming so engrossed in a story — perhaps a favorite novel or an absorbing movie — that we lose our sense of time or the immediate awareness of our environment. It's even possible to be pulled in to such an extent that we lose the sense of being outside of the story. In 2010, CNN reported that fans of the popular movie *Avatar* were generating hundreds of posts on a fan-based internet forum describing their depression and withdrawal-like symptoms after watching the movie. These fans struggled to come to grips with the fact that the fictional world in the movie was not real or attainable. One contributor to the discussion thread said, "[w]hen I woke up this morning after watching *Avatar* for the first time yesterday, the world seemed . . . gray. It was like my whole life, everything I've done and worked for, lost its meaning." He had felt transported to this alien world, and CNN confirmed he had been emotionally struggling since he left that world behind at the darkened theater.¹⁴

64. Though the magnitude of this kind of depression might seem foreign to us, this feeling of having been somewhere else as a result of being engrossed in a story is scientifically well-established.¹⁵ Researchers call this level of engagement with a

14 Jo Piazza, *Audiences Experience 'Avatar' Blues*, CNN (Jan. 11, 2010).

15 See generally Markus Appel & Tobias Richter, *Transportation and Need for Affect in Narrative Persuasion: A Mediated Moderation Model*, 13 MEDIA PSYCHOL. 101 (2010); Melanie C. Green & Timothy C. Brock, *The Role of Transportation in the Persuasiveness of Public Narratives*, 79 J. OF PERSONALITY AND SOC. PSYCHOL. 701 (2000); Philip J. Mazzocco, Melanie C. Green, Jo A.

narrative “transportation.” Transportation into a narrative world is a “distinct mental process, an integrative melding of attention, imagery, and feelings . . . where all mental systems and capacities become focused on events occurring in the narrative.”¹⁶ If the term “wonder” describes the sense of rapture we feel when we have profound encounters with the natural world, and “transportation” describes the rapture we experience in profound encounters with the narrative world, then perhaps transportation and wonder are descriptive twins — identical in the genes, but occupying two distinct phenomenological spaces. This is my contention — that transportation into a narrative is how we experience wonder when we hear good stories. Thus, when a trial lawyer tells a story to a jury, her goal should be for each juror to be transported by her tale. As we will see, transportation into a narrative does not simply absorb the reader or listener’s attention, it can significantly affect what they believe. What follows will not be an exhaustive study of transportation theory but a summary of some of the research to demonstrate the persuasive effects of transportation by narrative.

B. What effects correlate to transportation from a narrative?

65. One of the most commonly cited studies on transportation was published in 2000, conducted by Melanie Green and Timothy Brock of Ohio State University. In brief, the study tested whether subjects could be persuaded to hold general beliefs about the world and particular beliefs about truths in the story simply through exposure to a narrative. The study attempted to correlate the strength of the subject’s feeling of transportation into the narrative with the strength of the beliefs the subject generated as a result of the narrative. To test this query, the authors instructed numerous subjects to read various kinds of stories. Some of the stories contained dramatic narratives — tales of murder and woe — and others did not. The most dramatic story concerned a psychiatric patient, freed by the courts, who brutally stabs a young girl while she innocently shops at the local mall with her college-aged sister. After reading or hearing the story, subjects were surveyed about the degree to which they felt transported into the narrative and whether some of their beliefs, implicated in the narrative, had changed as a result. Some of the beliefs tested related specifically to the story, such as whether psychiatric patients should enjoy certain freedoms in society and whether violent attacks are likely to occur in public places. However, more nebulous beliefs were also tested, such as the subjects’ belief in a just world. Control groups read a story in which the young girl was not murdered

Sasota, Norman W. Jones, *This Story is Not for Everyone: Transportability and Narrative Persuasion*, SOC. PSYCHOL. AND PERSONALITY SCI. (2010).

16 Melanie C. Green & Timothy C. Brock, *The Role of Transportation in the Persuasiveness of Public Narratives*, 79 J. OF PERSONALITY AND SOC. PSYCHOL. 701, 701 (2000).

but was simply overcome with giggles after encountering a playful clown blowing bubbles.¹⁷

66. What is fascinating about this study is not simply its demonstration of the persuasive power of storytelling, but its finding that the magnitude of transportation into the narrative affects the strengths of beliefs coming out the narrative. Highly transported subjects showed significant effects upon both their story-specific and general-world beliefs. For example, highly transported subjects more frequently stated that violence was likely to occur in public places, and they were more likely to conclude that the world was less just. Highly transported subjects were also more likely to endorse restrictions on the freedoms of psychiatric patients. The study revealed that higher-quality, compelling stories were more likely to achieve higher levels of transportation — perfect motivation for the trial lawyer to tell a more compelling story in trial.¹⁸

67. Perhaps here the reader might draw upon her own experience reading rich narratives and protest that written narratives seem to be naturally transporting, whereas a trial lawyer must tell the client's story orally without the benefit of imagery-filled prose on a page. Green and Brock argue that subjects experience transportation regardless of how they interact with a narrative, whether it be written, oral, or visual.¹⁹ The reader might further protest that subjects in the study were likely to be transported by the story and moved in their beliefs about the world because the story bore the hallmarks of a news story and was therefore construed as nonfiction. However, Green and Brock found that even when subjects confirmed before testing that they *knew* the story to be fictional, high levels of transportation still occurred and beliefs were affected as a result.²⁰ In a related study, Appel and Richter confirmed the transportation and persuasive power of fictional narratives and enumerated other studies that prove fiction's power to transport and persuade.²¹

17 Melanie C. Green & Timothy C. Brock, *The Role of Transportation in the Persuasiveness of Public Narratives*, 79 J. OF PERSONALITY AND SOC. PSYCHOL. 701, 701, 705 (2000).

18 Melanie C. Green & Timothy C. Brock, *The Role of Transportation in the Persuasiveness of Public Narratives*, 79 J. OF PERSONALITY AND SOC. PSYCHOL. 701, 706, 713, 718-19 (2000).

19 Melanie C. Green & Timothy C. Brock, *The Role of Transportation in the Persuasiveness of Public Narratives*, 79 J. OF PERSONALITY AND SOC. PSYCHOL. 701, 702 (2000); See e.g. Markus Appel & Tobias Richter, *Transportation and Need for Affect in Narrative Persuasion: A Mediated Moderation Model*, 13 MEDIA PSYCHOL. 101, 104 (2010).

20 Melanie C. Green & Timothy C. Brock, *The Role of Transportation in the Persuasiveness of Public Narratives*, 79 J. OF PERSONALITY AND SOC. PSYCHOL. 701, 707 (2000).

21 Markus Appel & Tobias Richter, *Transportation and Need for Affect in Narrative Persuasion: A Mediated Moderation Model*, 13 MEDIA PSYCHOL. 101, 112, 119 (2010).

68. Finally, a trial attorney thinking how he might use a rich story to transport jurors and persuade them to his cause might rightfully ask about the extent of the benefit. In other words, is a transported juror affected at an emotional level only by the narrative, or is he actually more inclined to accept the *facts* in the narrative as true? Green and Brock found that subjects reporting high transportation were more likely to accept the story they read and were “less likely to doubt, to question, or to engage in disbelieving processing.”²² There are other cognitive influences that can serve to moderate the feeling of transportation as well as the effects of transportation which the reader may choose to study for a deeper understanding of narrative persuasion generally.²³ However, a thorough explanation and analysis of each of these moderators reaches beyond the framework of this article.

C. Concluding thoughts on defining wonder

69. Wonder seems to be a rather slippery concept. Each of us probably supposes that we know wonder when we feel it, though we might struggle to describe the feeling in greater detail than using apparent synonyms like “awe,” “rapture,” or “transport.” Though none of the researchers of persuasion cited above have stated definitively that good stories create wonder, or that transportation into a narrative is a way of experiencing wonder, this article contends that one can feel wonder after absorbing a rich or mysterious story. After all, the scientist who argues that people ought to feel a sense of wonder in their *sensory* interaction with the universe can hardly maintain that origin stories of singularities and big bangs are not also wonder-inducing. Similarly, the theologian who asserts that humans find wonder in God’s creation would be hard-pressed to argue that wonder cannot also be found by immersing oneself in the creation story of Genesis.

IV. Intermezzo

70. I pause here to share my own views of wonder, because unlike philosophers, scientists, and theologians, I think of wonder as a feeling that is broader than the sensations we experience when encountering the wondrous in nature or in higher truth. If we believe wonder is within the continuum of human emotions, and if we accept human emotions as a real force in persuasion and belief, then wonder *should*

22 Melanie C. Green & Timothy C. Brock, *The Role of Transportation in the Persuasiveness of Public Narratives*, 79 J. OF PERSONALITY AND SOC. PSYCHOL. 701, 711 (2000).

23 See generally Markus Appel & Tobias Richter, *Transportation and Need for Affect in Narrative Persuasion: A Mediated Moderation Model*, 13 MEDIA PSYCHOL. 101 (2010); Melanie C. Green & Timothy C. Brock, *The Role of Transportation in the Persuasiveness of Public Narratives*, 79 J. OF PERSONALITY AND SOC. PSYCHOL. 701, 707 (2000).

be achievable in a courtroom — where the cognitive, the spiritual, and the personal are all engaged to varying degrees. I wish to make wonder useful to the trial lawyer, because I think it is useful to a juror. What a juror conceives as wondrous will, by definition, hold his attention, which helps him fulfill his service. A trial lawyer with wonder in her toolbox should, at the very least, aspire to use wonder to help keep her jury attentive.

71. I do not wish to make wonder a small or lowly concept by suggesting it can be something other than the grandest awe we might experience. On the contrary, I want to make wonder large — large enough that trial lawyers can imagine more ways in which jurors are able to engage with testimony and storytelling in trial. I believe jurors are drawn to wonder, which works its way into their attention and imagination through the mesmerizing, the morbid, and the magnificent. So, I turn to my three shorthand indicators for wonder: the campfire, the car accident, and the cosmos.

V. The Mesmerizing Campfire

72. Have you ever sat around a fire, large or small, with a group of people? What did you notice about yourself as you sat in its warmth and glow? What did you see in the faces of those who watched the flames dance off the embers and hungrily lap at the stacked wood? If experience is any teacher, you saw people lit up like a movie-theater crowd and mesmerized by the fire. You felt yourself staring into the flames, watching their movement, and you became so engrossed in them that they filled your consciousness, leaving little room in your thoughts beyond the bursts of their oranges, yellows, and reds. You listened attentively to the crackling and snapping of the fuel, and you traced the rising ash as it shot up from the fire and fizzled into the darkness of night. As you readied for bed, even the scent of the fire on your discarded clothes brought back the same feelings and images.

73. But this kind of experience is not unique to the fireside, is it? You sensed that same wonder and absorption for a moment when you sat on your grandparents' porch and listened to a long, loud roll of thunder from an approaching storm. When the sky stopped grumbling, your grandfather leaned in close and told you that lightning itself only creates one sound when it snaps down from the heavens but that the drawn-out bellow of thunder was caused by the march of sound across the sky and into your ears. The bit of lightning closest to you is what you heard first and the distant branch of the lightning furthest from you was the final rattle before silence. That long roll of thunder you heard was the whole width of a branching bolt —

the sound of lightning tendrils a mile wide!²⁴ Undoubtedly, your grandparents spun other tales for you on that porch that gripped your thinking and held your mind briefly in a kind of low-flying wonder. You punctuated their stories with wide eyes and a whimsical, “Huh! How about that.”

74. So it can be for a trial lawyer armed with some interesting facts. For example, imagine you are a prosecutor who needs to prove that the defendant in your case was with the murder victim’s body and that he was undoubtedly the one that drove it 600 miles, two states away from his own residence, to dump it in a piney woods. The defendant was a careful criminal who claims he has never even been in the same state as that piney forest, and you only have other small bits of circumstantial evidence to prove your case. You have a forensic expert who found a tiny fungus spore on a speck of dust lifted randomly from the seat of the defendant’s car. Your expert shares with you that the DNA from the fungus spore can be matched to a database of fungi spores collected off of 928 separate bits of dust from around the country.²⁵ The database is so accurate, it has the capacity to pinpoint the genetic origin of the fungus within 230 kilometers or 142 miles. In pretrial, the judge permits the testimony. Your expert will testify that the fungus riding on the dust, which rode in the defendant’s car, originated in the area of the piney forest 600 miles away.

75. Immediately, you can sense the persuasive appeal of the testimony: Match the fungus to the location of the body, prove the defendant lied in his jailhouse interview, and argue on close that he lied to police and was almost certainly the one who dumped the body. But is *this* enough to grip the jury and persuade them? How should the lawyer introduce the evidence to the jury during opening statements to grab their attention and capture their thinking? Let us consider one possible snippet of opening statement; one we might consider typically pedestrian for this kind of evidence:

Members of the jury, you will hear that the Anytown investigators found a speck of dust in the defendant’s car. Based on the fact the victim was dumped in the woods, they relied on their knowledge of DNA technology and decided to see if this dust carried any fungi spores on it. This new technology, as you will hear, can trace the DNA in a fungus spore to its location of origin by comparing that DNA to a giant database of DNA that comes from fungi samples collected from all over the United States. You will hear from Dr. Tyson DeGrasse, our forensic science expert in this case. Dr. DeGrasse will explain to you how accurate this method of DNA testing is. He will tell you that it can pinpoint the origin of a

24 BOB BERMAN, [ZOOM: HOW EVERYTHING MOVES: FROM ATOMS AND GALAXIES TO BLIZZARDS AND BEES](#) (2014).

25 Meghan Rosen, [Wanted Crime-solving bacteria and body odor](#), SCIENCE NEWS 26 (Sept. 5, 2015).

fungus spore to within 142 miles. Dr. DeGrasse will tell you that he personally received the fungus sample from the defendant's car, that he then extracted the DNA from the fungus, and that he matched the DNA in that fungus to the DNA of the fungi found in the region of the piney forest. Thus, members of the jury, we will prove to you that the dust in the defendant's car came from that piney forest, and therefore places the defendant's car in that piney forest where the victim's lifeless body was dumped.

76. You might say to yourself, "Yes, I have heard opening statements like that before." Perhaps you might even admit to giving an opening statement like this before. Where does it go wrong? It goes wrong by merely verbalizing the way the mind of the trial lawyer works when her mind is on task. It connects what *needs* to be known to that which *is* known and it does it quickly enough that the jury will hear both in just a few breaths. There is no time between the unknown and the known for wonder to germinate. Our hypothetical attorney has not taken the time to eliminate the repetitions of "you will hear" and "we will prove" to mesmerize the jury with the wonder of what is *actually* happening in this case: The fungal backpack on a traveling piece of dust has been upended by the inquisitive Dr. DeGrasse, and its contents are spilled out for all to see. The contents of the fungal backpack tell a tale about the long road that the dust has traveled. It is a blood-covered road that winds and twists its way through a piney forest, over the bumps and boundary lines of two states, and ends at the defendant's driveway. So in the opening statement, for the sake of creating some wonder, the prosecutor should not present Dr. DeGrasse to the jury merely as an expert but rather as the author of a small story of large justice. It is really the story of a piece of dust that drove 600 miles to tattletale on a murderer.

77. Finding that mesmerizing wonder in a case is often a process of finding the story *within* the evidence, not merely the story created *by* the evidence. The story created *by* the evidence is the theory of the case, and of course that theory must be made plain to the jury. However, the story *within* the evidence is the kind of narrative that can captivate. It offers us the opportunity to be creative storytellers and to make something really special happen in the courtroom, something the jury will really remember. We can seize upon these moments for use in the larger story of opening statement or as part of the story which pours out during a well-prepared direct examination which shows how our expert uncovered a damning truth. We can also use mesmerizing wonder during closing arguments by telling a rich personal story that illustrates, by analogy, a high truth to our jury.

78. One of the best examples of a mesmerizing personal story is one I might have expected the former trial lawyer and Cook County Circuit Court Judge Eugene Pincham to tell around a campfire. The story is recounted by James McElhaney in a

chapter of his textbook dedicated to using analogies in closing argument.²⁶ The story is about a young Mr. Pincham stealing small spoonfuls of sugar out of his mother's large sugar barrel in order to make a big, sweet treat — modest by the standards of desserts today. Mr. Pincham grew up in the poor, rural South, and sugar was extremely important in his mother's kitchen because it had so many uses. It was so important that they bought sugar by the barrel and not by the bag. Mr. Pincham's mother would occasionally make a milkshake for him, a little concoction of nothing more than milk, vanilla, and a spoonful of sugar. Pincham says, "We didn't like to wait [to have the milkshake]. Sometimes we would fix one when we came home from school — and that was against [my mother's] rule: 'Stay out of my sugar!'" Pincham describes the great care he took to cover his tracks when he stole sugar: putting the spoon back just the way he had found it, smoothing over the surface of the remaining sugar, and washing up the "evidence" — the dirty glass — after guzzling the treat. But his mother always knew he took the sugar, and no matter how careful he was, he always got caught. *How* did he get caught? It has you wondering, doesn't it? The story has you intrigued.

79. What makes the story mesmerizing? The same factor that unites almost everything that intrigues us: an encounter with something outside of our element, our experience, or our knowledge. In short, it is wonder. You likely had no barrel of sugar in your kitchen growing up, and the size and temptation of it to your long-gone adolescent mind is interesting to you even now. You were probably never so poor that sugared milk was a treat for which you would risk limitless spankings from your angry mother. The story also carries within it a secret — how his mother knew he was stealing — and it sustains that mystery over the course of the story, carefully using that mystery to keep the listener wondering.

VI. The Morbid Car Accident

80. We have all been stuck in slow traffic on the highway. If we have all been stuck in traffic, there is a very good chance that the cause of the slowdown was an accident. Often the accident is on your side of the highway, and one or more lanes are blocked by the wreck itself and by the sprawl of first responders. However, the wreck *isn't* always on your side of the highway, and the thing that is actually affecting your commute is the line of motorists in front of you who are braking to take a look at the wreckage. If you're anything like me, you promise yourself you won't look once your car pulls up to the scene. We aren't the kind of people who slow down and hold others up. Nonetheless, there is something that draws our eye as we pass. Our brain registers and processes something off in the periphery over

26 JAMES W. MCELHANEY, [MCELHANEY'S TRIAL NOTEBOOK](#) 683 (2006).

the median to our left: a hunk, a mass, a mass of metal. No, it's a mash of twisted metal! Then, we look. We've joined the long line of voyeurs who are now lurching away into the distance, gradually regaining highway speed.

81. It is difficult to find authors who have treated this subject at length, but Eric Wilson, a professor of English at Wake Forest, devoted an entire book to the subject of the human desire to stare at the morbid, the train wreck, the tragic.²⁷ Of the rubbernecking commuter passing the scene of an accident, Wilson says:

I imagine we've all felt that kind of guilty rush before the morbid. The exploitation of a suicidal starlet, the assassination of a world leader; the hypnotic crush of a hurricane, the lion exploding into the antelope; the wreckage and the rapture, the profane and the sacred: whatever our attraction, we are drawn to doom.²⁸

A. Clarifications for the purposeful use of the morbid or the tragic

82. I wish to first make clear how I use the words "car accident" and "morbid" in the discussion to follow. "Car accident" serves as shorthand for a family of cases in which there is some sort of injury to person, property, or law. I conceive it broadly because I think of court-case injuries as injustices inflicted upon one by another. Thus, the divorce of a cheating spouse, the murder of an individual, and the ruthlessly efficient breach of a contract all resemble a "car accident" at which jurors can slow down to gawk — all while serving their duty in the jury box. "Morbid" is used as a categorical heading to describe the tragic, horrific, eye-opening facts of these various car accidents and their legal kin. Thus, in a contract breach, the morbid facts might be testimony or corporate memos that demonstrate the ugliness or impurity of the breaching party's motives. In a murder case, sadly, morbid facts may be exactly what we would imagine such facts to be. Murder cases are usually full of them, and attorneys probably do not have to stretch to find ugliness or tragedy to include in a powerful, transporting narrative.

83. The reader might protest here that there is something itself ugly about trial lawyering if we start actively thinking of ways to use morbidity as a manipulative tool — flaunting the morbid in the belief that jurors will be compelled to look. Before that thought takes hold, a few truths about trials should be acknowledged: First, trial lawyers deal in catastrophes of greater and lesser degree, and they have

²⁷ See generally ERIC G. WILSON, [EVERYONE LOVES A GOOD TRAINWRECK: WHY WE CAN'T LOOK AWAY](#) (2012).

²⁸ ERIC G. WILSON, [EVERYONE LOVES A GOOD TRAINWRECK: WHY WE CAN'T LOOK AWAY](#) 8 (2012).

an obligation to reveal the tragedy to the jury because the tragedy is a symptom of the injustice the jury will be asked to address.²⁹ Second, meditating on the power of the morbid or the tragic in a case does not necessarily mean that we must seek out ways to splash horrifying images across the courtroom or recount for the jury the seediest, ugliest details of the case. Professor and ABA Journal contributor Phillip Meyer demonstrates this truth through his treatment of W. G. Sebald's story, *The Emigrants*, in his popular book about legal storytelling, *Storytelling for Lawyers*. Sebald's story lets the reader see the horrors of electroshock therapy treatments upon a patient in a sanitarium, not by describing the procedure itself, but by artfully and carefully describing how the patient looked and acted afterward.³⁰ The story loses no power by omitting the horrific acts themselves and likely finds its real power in what the reader imagines about the undescribed treatments.

84. Our purposes in examining the car-accident qualities of a case, to keep the specter of the morbid before us as we prepare for trial, are threefold: First, we have to keep our eyes on the real harm resulting from the injustice to our client. Through the voice of his infinitely wise trial guru, Angus, James McElhaney says that to get a jury to focus their judgment on the opposing side is to “focus your side of the trial — and all of its individual parts — on the moral imperative, the wrong that needs to be set right.”³¹ How can we get the jury to fully absorb our client's harm and imagine it as their own? We have to focus on that harm ourselves and find out how we can reveal it to the jurors as that moral imperative.

85. Second, our failure to reveal the magnitude of the injustice might mean that the jury will not appreciate how far they must go in their verdict to right the wrong. In many ways, the magnitude of the ugliness, injury, or horror within a case helps the jury gauge the magnitude of the injury. For Gerry Spence, it apparently was not enough to simply point out to the jury that radiation exposure can cause cancer and that the defendant in the Silkwood case (a plutonium processing corporation) was careless with its radioactive materials. Doing only that is like drawing a sketch by simply connecting factual and legal dots.³² By contrast, here is a portion of Spence's closing argument in which he builds the horror of the case to reveal to his jury the magnitude of the defendant's injustice:

Maybe you get so numb after a while — I guess people just stand and say, “Exposure, exposure, exposure, exposure, exposure — cancer, cancer, cancer, cancer, cancer, cancer, cancer, cancer, cancer, cancer,

29 See, e.g. MICHAEL S. LIEF, H. MITCHELL CALDWELL, & BENJAMIN BYCEL, [LADIES AND GENTLEMEN OF THE JURY](#) 153-56 (1998).

30 PHILIP N. MEYER, [STORYTELLING FOR LAWYERS](#) 164-69 (2014).

31 JAMES W. MCELHANEY, [MCELHANEY'S TRIAL NOTEBOOK](#) 46 (2006).

32 MICHAEL S. LIEF, H. MITCHELL CALDWELL, & BENJAMIN BYCEL, [LADIES AND GENTLEMEN OF THE JURY](#) 127-57 (1998).

cancer, cancer, cancer, cancer, cancer, cancer, cancer,” until you don’t hear it anymore. Maybe that is what happens to us. I tell you, if it is throbbing in your breast — if cancer is eating at your guts, or it’s eating at your lungs, or it’s gnawing away at your gonads, and you’re losing your life, and your manhood, and your womanhood, and your child, or your children, it then has meaning — they are not just words. You multiply it by hundreds of workers, and thousands of workers, that is why this case is the most important case, maybe, in the history of man.³³

86. Our final purpose for thinking about how we might use the wonder-power of the morbid elements of our case is that, like all the other kinds of wonder we discussed, it has an attention-grabbing effect on the mind.³⁴ We must first have the jury’s attention before we can tell them a story, offer them evidence, and persuade them. Wilson reports on a study of morbid curiosity and attention spans that concluded that morbid curiosity causes a physical arousal and that humans are drawn to negative news stories out of a desire for stimulation.³⁵ I would never argue that we should find deviant enjoyment in the morbid or tragic elements of a case, but it is useless to deny that such facts have power in vivid storytelling.

B. Use of the morbid in legal storytelling

87. Three days before Christmas in 1984, an unassuming electrical engineer by the name of Bernhard Goetz pulled out a concealed pistol and shot four African-American males on a New York City subway. At the scene, Goetz told a subway conductor that the four wounded men had tried to rob him. The ensuing media swarm painted the shooter as an innocent victim of subway bullying who refused to become another statistic of the rampant crime in New York City.³⁶ Tabloids nicknamed him the “Subway Vigilante.”³⁷ However, the picture of Goetz as David fighting against the Goliath of subway criminals began to fade as testimony from his police interrogation leaked into the press. Goetz himself championed his own cause with public appearances and interviews, but the additional attention brought more

33 MICHAEL S. LIEF, H. MITCHELL CALDWELL, & BENJAMIN BYCEL, [LADIES AND GENTLEMEN OF THE JURY](#) 135-36 (1998).

34 See generally ERIC G. WILSON, [EVERYONE LOVES A GOOD TRAINWRECK: WHY WE CAN’T LOOK AWAY](#) (2012).

35 ERIC G. WILSON, [EVERYONE LOVES A GOOD TRAINWRECK: WHY WE CAN’T LOOK AWAY](#) (2012) (citing Kevin Pinkerton & Shuhua Zhou, Ph. D., *Effects of Morbid Curiosity on Perception, Attention, and Reaction to Bad News*, 7 THE UNIV. OF ALA. MCNAIR J. 129 (2007)).

36 Richard Stengel, [A Troubled and Troubling Life](#), TIME (Apr. 8, 1985).

37 JOEL J. SEIDEMANN, [IN THE INTEREST OF JUSTICE: GREAT OPENING AND CLOSING ARGUMENTS OF THE LAST 100 YEARS](#) 164 (2005).

calls to reopen the failed prosecution for attempted murder.³⁸ Goetz was indicted with new evidence on this second attempt and went to trial for unlawful possession of a firearm and the attempted murder of the four men he shot. Goetz pled self-defense, and the prosecution faced the uphill battle of convincing a jury that the young men, three of whom had criminal records, did not deserve the rough justice Goetz had meted out on the subway.³⁹

88. Gregory Waples gave the opening statement for the prosecution and turned immediately to the callous facts of the shooting. Waples used the disturbing facts to slowly build to a horrific admission — a confession of callousness given to the police by Goetz himself. Here is Waples recounting the events in the subway car:

Most of the passengers in that car were preoccupied with their own affairs, minding an infant child, reading, dozing, or contemplating a holiday season. Suddenly, however, that day that had begun so ordinarily turned into a nightmare. Suddenly every passenger on that train was jolted by the electrifying and terrifying spectacle of Bernhard Goetz standing on his feet, firing shots in every direction from a gun he was holding in his hand.

In a brief convulsion of violence, the defendant deliberately shot and seriously wounded four young men who had been riding on that train long before he boarded that car. He also fired a fifth shot, which missed its intended human target, struck the metal wall of the subway car, and then ricocheted about the car's interior. Providence alone prevented any of the many innocent men, women, and children from being killed or seriously injured by the defendant's wild shooting.

By the defendant's own admission, tape-recorded admissions that will be played for you at this trial, at least two of the four young men shot were trying to run away when he gunned them down. In fact, you will hear from medical evidence in this case that two of the four young men whom the defendant shot were shot in their backs, one squarely in the center of the back as he tried to flee, another shot under the shoulder blade by a shot that traveled laterally across his body.

By far the most severely injured of all of the four wounded youths was a 19-year-old by the name of Darrell Cabey. The evidence will show that the defendant fired two separate shots at Darrell Cabey that same evidence will show, beyond the slightest shadow of a doubt, that when the defendant fired the second of these shots at Cabey, Darrell Cabey was

38 Richard Stengel, *A Troubled and Troubling Life*, TIME (Apr. 8, 1985).

39 JOEL J. SEIDEMANN, *IN THE INTEREST OF JUSTICE: GREAT OPENING AND CLOSING ARGUMENTS OF THE LAST 100 YEARS* 164-65 (2005).

sitting down on the subway seat, much like you are sitting in your jury seats now, absolutely helpless and doing absolutely nothing to threaten Bernhard Goetz.

Shockingly you will hear the defendant admit [that] before this last shot was fired at the seated and helpless Darrell Cabey, the defendant advanced on him as he was sitting in the seat and said, “You look all right, here’s another.”

The bullet which actually did strike Darrell Cabey caused massive injuries to his body; it severed his spinal cord. As a consequence, since December 22, 1984, Darrell Cabey has been paralyzed from above his waist down and can look forward to the rest of his life, if that’s the best way to characterize it, living in a wheelchair.⁴⁰

89. It is not difficult to see what Waples does well in recreating this scene. The passengers are serene and unsuspecting, perhaps dreaming about Christmas Day; the invocation of the approaching holiday evokes childhood and innocence. The serenity is shattered with the “spectacle” of Goetz shooting “in every direction” in the cramped space of the subway car. Waples punctuates the change in the scene by starting two consecutive sentences with the always-active, sometimes-tragic word “suddenly.” Waples’s word choice is vivid. This was not a man just shooting a gun, it was his “convulsion of violence.” The story clearly describes the horror of victims in retreat, and the classic action of a coward, shooting a man in the back, is recounted for the jury three times. This leads to the most cowardly action of all: shooting a seated man and suggesting to him before the shot that he wasn’t injured enough. Waples ends this portion of his opening statement by describing the most devastating injury suffered by the four victims: Cabey would have to live out the rest of his days in a wheelchair.⁴¹

C. Is there a redeemable use of the morbid?

90. At the end of his book, Eric Wilson discusses the surprisingly profitable business of “dark tourism.”⁴² Dark tourism describes the industry that gives money-paying

40 JOEL J. SEIDEMANN, [IN THE INTEREST OF JUSTICE: GREAT OPENING AND CLOSING ARGUMENTS OF THE LAST 100 YEARS](#) 165-66 (2005).

41 Waples’s transporting narrative was not enough to get a conviction on any charge except one: possessing an unlicensed firearm. “Though he used ingenious strategies, Mr. Waples was pitted against what proved to be the insurmountable hurdle of public sentiment.” JOEL J. SEIDEMANN, [IN THE INTEREST OF JUSTICE: GREAT OPENING AND CLOSING ARGUMENTS OF THE LAST 100 YEARS](#) 178 (2005).

42 See, e.g., ERIC G. WILSON, [EVERYONE LOVES A GOOD TRAINWRECK: WHY WE CAN’T LOOK AWAY](#) 154-56 (2012).

customers guided tours around sites of tragedy. The industry is not merely confined to sites of sensational violence. We might expect dark tourism to consist largely of tours to places like the infamous murder scenes of Sharon Tate, or Nicole Brown Simpson and Ronald Goldman.⁴³ If you, like me, have ever toured the thoughtful and heartbreaking National September 11 Memorial and Museum in New York City, you might be surprised to find out that you are also a paying contributor to dark tourism.⁴⁴

91. As part of his quest to discover why humans are drawn to the tragic, Wilson went on a paid tour of the most devastated areas of New Orleans after Hurricane Katrina. Wilson's guide on the tour, a New Orleans native who fled before Katrina hit, stopped a few times during the tour to weep for his own city. Wilson's wife, who joined him on the tour, could not keep herself from being overcome by the stories of suffering and tragedy that had taken place on the streets the tour bus traveled. Wilson says, "Near the end of the [tour], exhausted and raw and tender, she found herself tearing up when the guide wept. The tragedy of New Orleans had come to harrowing life for her, and she was transformed" They talked about their experience on the tour with the guide, and when Wilson's wife confessed that they had taken the tour as part of their research for a book, the guide responded with understanding, saying that the only negative review he had ever had for the tour was from a customer who had desired to see more devastation and gore.⁴⁵

92. Wilson contrasts his wife's deeply emotional response to the tour with that of the disappointed tourist:

But ultimately, I can't figure out why one person's transformation is another's disappointment. What I can say is this: the fact that multitudes are now touring morbid New Orleans and other grim destinations suggests that humans are drawn to witness the worst, and that one powerful source of this attraction, hidden in some people and overt in others, is the hunger for truth (we all die), beauty (we had all better appreciate living things while they last), and goodness (we all suffer, so let's comfort one another).⁴⁶

43 Tate and her unborn child were murdered by followers of Charles Manson. See Lily Rothman, *Read TIME's Report of the Grisly Sharon Tate Murder*, TIME (Aug. 9, 2015); Simpson and Goldman were allegedly murdered by professional football star O.J. Simpson who was famously acquitted of both murders. See *Full Coverage: The O.J. Simpson Case*, LA TIMES (Mar. 4, 2016).

44 ERIC G. WILSON, *EVERYONE LOVES A GOOD TRAINWRECK: WHY WE CAN'T LOOK AWAY* 154-56 (2012).

45 ERIC G. WILSON, *EVERYONE LOVES A GOOD TRAINWRECK: WHY WE CAN'T LOOK AWAY* 155 (2012).

46 ERIC G. WILSON, *EVERYONE LOVES A GOOD TRAINWRECK: WHY WE CAN'T LOOK AWAY* 165 (2012).

93. Here, Wilson hints at the goal of every trial lawyer working to win a jury: We have to get jurors to empathize with our clients in the hope that they will comfort our clients with their verdict and, in so doing, help our clients to live good lives while they can. My hope is that trial lawyers make appeals with the sordid wonders of their case because justice and empathy are their goals. With that in mind, a juror's captivated attention represents a step toward the worthy goal of a just verdict.

VII. The Magnificent Cosmos

94. I will never forget the first time I saw the aurora borealis. Taking advantage of cheap wintertime flights, my wife and I flew to Iceland with the hope of seeing green, magical curtains materialize from the dark ether of the midnight sky. On our first cloudless night, we could see the slow encroach of green light on the north horizon. We watched it creep closer. It was dim but lovely. I worked the shutter of my camera, preparing to get the best images I could. And then it happened: a large green spike formed in the distance; tall and completely different in character from anything we had seen up to that moment. It seemed to reproduce itself over and over in a steady march toward our location. In a matter of moments, a bright towering curtain of light danced overhead, and a second materialized next to it. My wife burst into tears. One need not travel to Iceland to experience cosmic wonder. On a clear night, we look into the sky knowing the window of our atmosphere provides a living-room view of hundreds of thousands of suns. We gape at the thought that some of the stars we see overhead are not stars at all but are swirling galaxies comprised of billions of suns. Even Presidents are not immune:

President Theodore Roosevelt had a routine habit, almost a ritual. Every now and then, along with the naturalist William Beebe, he would step outside at dark, look into the night sky, find the faint spot of light at the lower left-hand corner of Pegasus, and one of them would recite: "That is the Spiral Galaxy of Andromeda. It is as large as our Milky Way. It is one of a hundred million galaxies. It is seven hundred and fifty thousand lights years away. It consists of one hundred billion suns, each larger than our own sun." There would be a pause and then Roosevelt would grin and say, "Now I think we feel small enough! Let's go to bed."⁴⁷

⁴⁷ RAVI ZACHARIAS, [RECAPTURE THE WONDER](#) 16 (2005) (quoting HENRY SLOAN COFFIN, COMMUNION THROUGH PREACHING 16-17 (1952)).

A. All things great and small

95. You have undoubtedly been in small courtrooms before. Even with a good case to make, perhaps you and your voice still felt small within them. However, the laws you invoke and the principles that undergird a court of justice float above the heads of the judge and jury as lofty and directional as the constellations. The grand notion of justice is one aspect of wonder that is always in the mind of a trial lawyer. Lawyers do not have to be told to make pleas to the jury to do what is fair, lawful, and just. Thus, I purpose this section as a clarion call for trial lawyers to reach even higher than a small plea. Have you seen a small plea for justice? “Members of the jury, it is for these reasons that we ask you, that we implore you, to do what justice demands, and return a verdict for our client. Thank you.” With the guidance of some good examples, we can strive to do better to reach toward cosmos-sized wonder and invoke something magnificent.

B. The murder of innocents in the fog of war

96. In March of 1968, hundreds of men, women, and children in a tiny Vietnamese village called My Lai were viciously gunned down — or summarily executed — by a small Army brigade led by Lieutenant William Calley, Jr. The number of dead civilians remains uncertain and conflicting reports about how many civilians were killed exist to this day. Regardless of the precise number of dead civilians, a massacre on this scale was bound to leak out from the ranks of soldiers. Some of the troops shared details of Calley’s gruesome actions that day, though word of the slaughter largely stayed inside Army ranks for a full year. A year after the massacre, photos taken during the raid on My Lai began to trickle into newspapers in the States. Surprisingly, public sentiment in the States was mixed, with many expressing outrage and many considering the killings a necessary feature of war against an often unknowable enemy. Shortly after the news hit newspapers in the U.S., Calley was charged in a military court with the premeditated murder of 102 Vietnamese citizens.⁴⁸

97. The weight of prosecuting Calley fell upon the shoulders of twenty-nine-year-old J.A.G. officer, Aubrey M. Daniel III. The defense in the case suggested Calley was following orders from above and was being prosecuted as a scapegoat to deflect attention from the Army and the Nixon administration.⁴⁹ The facts and evidence produced by the prosecution were so gruesome that I will refrain from even

48 MICHAEL S. LIEF, H. MITCHELL CALDWELL, & BENJAMIN BYCEL, [LADIES AND GENTLEMEN OF THE JURY](#) 346-48, 350, 352 (1998).

49 MICHAEL S. LIEF, H. MITCHELL CALDWELL, & BENJAMIN BYCEL, [LADIES AND GENTLEMEN OF THE JURY](#) 350, 352 (1998).

summarizing them here. Such heinous acts of inhumanity demanded a strong call to the highest articulable principles of justice. The young prosecutor was up to the task, issuing a resounding plea — vast enough to embrace the international scope of the case. Shortly before concluding his rebuttal, Daniel said:

The laws of this country are only as effective as they are enforced. Without enforcement, they have no meaning, for justice, like discipline, requires that the innocent be recognized and the guilty condemned. Discipline is the backbone of the military. The government and the law also recognize that when the law is disobeyed, it must be exposed and it must be condemned without remorse, without hesitation. It must be quick and it must be sure. The accused was a commissioned officer of the Armed Forces of this United States when he slaughtered his innocent victims in My Lai. He has attempted to absolve himself of responsibility by saying that he had his duty there, that he acted in the name of this country and the law of this nation, and I submit to you and the government submits to you that he did not and upon that question there can be no doubt. To make that assertion is to prostitute all of the humanitarian principles for which this nation stands. It is to prostitute the true mission of the United States soldier. It has been said that the soldier, be he friendly or foe, is charged with protection of the weak and unarmed. It is the very essence and reason for his being. When he violates this sacred trust, he not only profanes his entire cult but threatens the very fabric of international society.⁵⁰

98. What might we as trial lawyers learn from Daniel's profound comments about duty, honor, and a country's noblest moral principles? Notice how Daniel pits the defendant's claims against the country's highest morals. Magnificence — here, the moral status of our country's humanitarian principles — is always transcendent. It is beyond a person's reasons and volitional acts. To highlight how far Calley's choices were from the transcendent ideals of the country prosecuting him, Daniel suggests that trying to drag these ideals down to the level of his acts is tantamount to selling those ideals off as prostitutes. Finally, he positions Calley's acts as not merely violative of his own country's ideals, but threatening to the transcendent goals of international stability. For Daniel to merely call Calley's actions unjust would have missed the awe-inspiring wonder of Calley's own nation of origin, and the entire world, aligning to hold him in contempt.

99. Here, the reader might wonder how they can reach for the magnificent in their case when their own cases do not involve the import of the international drama of war. I offer Gerry Spence's admonition about casting a vision in trial. He says:

50 MICHAEL S. LIEF, H. MITCHELL CALDWELL, & BENJAMIN BYCEL, [LADIES AND GENTLEMEN OF THE JURY](#) 399 (1998).

Every case is more than a case. Most judges and jurors are at least subliminally aware of their need to make things better It is we who provide the vision of a better tomorrow. It is we who empower the jury and the judge The talent of a true leader is to create the visions that empower us. Their dreams, their visions of a better time to come become ours. Without such visions the history of the human race would be locked in stagnation. So we must provide a vision for the jury.⁵¹

100. Finally, the reader might ask how thinking about the magnificence of the justice within our cause might relate to narrative and good storytelling. The reader might find Daniel's rebuttal ennobling or even transporting, but it is still only an argument and not a story. One of my trial mentors once suggested to me that my client's story does not end with the event that necessitated a trial, nor does it end with his bones, muscles, and bruises healing with time. The story ends when the jury writes the final chapter with their verdict and justice is done. Thinking cosmically and trying to find the magnificent wonder of the justice in your case, so that you may share that wonder with the jury, is one strong way to encourage the jury to finish your client's story well.

VIII. Conclusion

101. If a trial lawyer wishes to gain their jury's attention and try to hold it, it behooves the lawyer to conceive of wonder as a part of, and a byproduct of, good storytelling. Wonder should be defined broadly for the sake of good, transportive storytelling. In campfires, car accidents, and the cosmos we find three guideposts pointing the trial lawyer toward the wonder of that which is mesmerizing, morbid, and magnificent. The trial lawyer should aim for these three broadly-conceived levels of wonder with the goal of better, immersive storytelling for transportation and persuasion. The most important trial you have is the one for which you are currently preparing. You should prepare for it believing the story within it possesses the capacity to capture the jury's attention with something more than the mere intersection of fact and law. If we open our minds to that which grips and engrosses us all, we can see that wonders great and small abound in these stories we are privileged to tell in our courts of law.

⁵¹ GERRY SPENCE, [WIN YOUR CASE](#) 247 (2005).