Proskauer

Crafting the Compelling Narrative

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A compelling narrative serves as the framework through which we shape perception, execute strategy, and help clients achieve their goals. Partner Grant Esposito underscores that the most persuasive arguments are informed by holistically assessing the client's needs and then meticulously crafting a discrete set of unassailable points — capable of neutralizing opposition, focusing the jurors' attention, and driving toward the desired outcome.

Transcript

Grant Esposito: The importance of constructing a compelling narrative is that it becomes the prism through which the finder of fact not only thinks about, but more importantly, feels about your case. So, one of the things I like to do at the very beginning is called an initial strategic review, and that's bringing together all the stakeholders who could be affected by what's going on in this case.

"The initial strategic review is before and separate from the Early Case Assessment, which tends to focus just on the litigation."

Grant Esposito, Partner, Litigation

So imagine a mass tort, product liability or an environmental release. Those types of cases impact the company in myriad ways. It's important to understand what's going on in this case. Does it affect the brand, the reputation of the company that they want to defend at all possible costs? Do the positions you might take in this lawsuit affect positions you want to take, either in other cases or possibly in areas completely unrelated to the litigation?

"The initial presentation of your case sets the tone for the entire proceeding."

You need to bring together all the stakeholders who could be impacted to understand how this case fits into the wider goals of the client in order to shape and craft the narrative. So we apply a three point test. We make sure that the arguments that we land on, the points we want to stress can survive any attack from the other side such that no matter what the other side says, it's either irrelevant, false, or it supports our narrative and our themes. Now that's hard to do. Very few points will survive that type of analysis, but that's the point. You can only have a discrete number of key points in order to hold the jury's attention and make sure your message is clear and being heard.

"A compelling narrative builds momentum throughout the litigation process, influencing decisions from discovery to final judgment."

Grant Esposito, Partner, Litigation

Most people think of litigation as a ping pong match, and they just keep volleying back and forth, hoping eventually to make a point. I tend to think of it more as kind of three-dimensional water balloon fight. You want to take consistent messages. Have them travel unscathed to their target land and make a big splash. But if the other side can poke holes in it, dilute the impact, then your message has been lost. So once you've distilled the case to its key elements and weave that into your compelling narrative, you will have set yourself up for success. Because then the jury will be viewing the case through the prism of your client's point of view.

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