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PERSPECTIVE

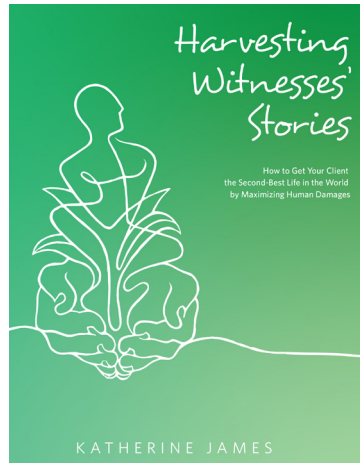
Harvest witnesses' stories for maximum impact at trial

By Sidney Kanazawa

I was curious. I had little respect for actors. I was a defense trial lawyer. Dealing with logical matters. Getting the facts straight. But I was curious. So I signed up for a course called "Acting for Lawyers" that was presented at the University of Southern California, my alma mater, by dramatic and comedic actors, Katherine James and Alan Blumenfeld, founders of ACT of Communication. The course changed my life. It opened my eyes to the craft of acting and how actors consciously coordinate their body, voice and eyes to interact with their audience in a manner that transforms hearts, minds and perspectives. A craft that, in an instant, makes us laugh and cry and rethink what we believed before. A craft that transforms words on a page into something far more powerful when we see those words come alive with people and movement on stage and on screen. A craft that has moved generations and continues to be at the spearhead of any movement for change.

Kathrine James has now written a book on preparing witnesses, "Harvesting Witnesses' Stories: How to Get Your Client the Second-Best Life in the World by Maximizing Human Damages" that is again opening my eyes with stunning clarity. This book calls upon her years of training in the theatre and how actors translate written words into dramatic presentations that rivet us and reach into our hearts and minds.

While the book is ostensibly about preparing plaintiff witnesses to tell their stories about their damages and losses, I would highly recommend this book to anyone interested in learning how to draw



out the hidden stories that people have difficulty telling, to anyone preparing a witness or a spokesperson to tell their own or the stories of others, and to anyone involved in changing hearts and minds with authenticity and emotional power.

The book begins with illustrations of the real challenges to uncovering the stories witnesses hold within themselves, the real dangers of not drawing out these stories, and why the different learning styles of witnesses dictate different approaches to helping them tell their best stories. It highlights how our lawyer preoccupation with law, causes of action, and elements of proof, sometimes cloud our vision and blind us to a witnesses' best and worst facts.

The book begins with an excellent liability case and a sullen family. To the lawyer and most outsiders, the family's reluctance to talk about the decedent seems to scream sadness and loss. But using her open non-judgmental style and appreciation for the different ways to identify with witnesses and help them open up, Katherine gets the family to start talking about the person who passed. With persistence, the bowed heads slow-

ly lift up and horrific stories of the physical, psychological and emotional abusiveness of the decedent begin to trickle and then gush out with laughter and relief. While this absence of a redeeming story about the decedent does not bode well for a jury trial, this advance notice alerts the attorney to the need for a settlement before these negative stories swamp his excellent liability case. In this and other examples, Katherine also demonstrates how our lawyer mindset and our common approach for gathering facts can actually deter people from revealing their fears, concerns, and truth.

In other tales, Katherine shows us how she helps witnesses open up and become excellent witnesses on their own behalf by appreciating the witnesses' different learning styles. Some are conceptual learners who listen and want to understand the big picture. Some are detail oriented and learn best when given an opportunity to get comfortable with all of the facts and how they fit together. Others learn best when they are engaged in the process of the deposition and trial and the agenda to be followed. And still others cannot suppress their creativity and ability to make connections and are best engaged by making them feel like partners in the development of the overall case story.

In the second half of the book, Katherine succinctly lays out her approach and methodology for helping witnesses tell their story and how she determines the learning style of each witness with a single question. She then lays out a simple straightforward approach to helping witnesses become comfortable with the dynamics of telling their stories in depositions and

at trial. But these lessons could be equally applied to press conferences and public appearances.

In short, this book presents fascinating stories and practical advice on how theatre techniques for moving us from the stage and screen can be applied to the preparation of witnesses. How actors sensitize us and evoke all of our seeing, hearing, smelling, touching and tasting senses as they tell their stories. How actors use substitution techniques to evoke appropriate responses in themselves and their audiences. How visuals, dress and backgrounds can make all the difference in the story being told, especially in today's online deposition, mediation, arbitration, and trial settings. And how non-professional witnesses can learn to be extremely powerful and authentic tellers of their own truth with performance art techniques that are intuitive to actors but completely foreign to attorneys. An eye-opening read. ■

Sidney Kanazawa is a full-time mediator/arbitrator at ARC (Alternative Resolution Centers) LLC and a former trial lawyer. skanazawa@arc4adr.com. https://www.arc4adr.com/sidney_kanazawa.php.

