



How Strong Trial Themes Shape Jury Decisions

By Hon. Kristi Harrington (Ret.), Jury Consultant Affiliate

In a previous article, we discussed “how to place a value on a life” from Robert Tyson’s *Nuclear Verdicts: Defending Justice for All*. One of the suggestions, “get to know the decedent,” also applies to trial theme development.

A trial theme tells a larger tale, going “beyond the facts and witnesses to paint a story of what really matters.”¹ It serves as the framework through which jurors interpret evidence and shapes their overall perception. As IMS colleagues wrote, “Jurors are always going to develop a case story of ‘what happened here.’ Your job as an attorney is to give them the tools to understand, remember, and argue that your explanation of what occurred is the right one.”²

Benefits of Using Trial Themes

Below are five reasons for counsel to establish a strong trial theme (or two).³

1) Keep Your Case Presentation Organized

A trial theme provides a clear structure for organizing your evidence and arguments around a central idea, making it easier for the jury to follow your presentation and understand the key points of your case.

Tyson’s book gives the example of using “home” as a theme, highlighting that a home is a different working environment than an office or a warehouse. Asking jurors during voir dire to describe what a home means to them, and then using those words repeatedly throughout the trial, is a successful strategy to reinforce your theme.⁴

2) Make the Case More Memorable

A well-crafted trial theme can make your case more memorable to the jury. By tying the evidence and arguments together in a way that resonates with jurors, you can help them remember the points you are trying to make.

Think about the theme of your favorite movie. Strong movie themes are “what make a film stick with you long after the initial viewing.”⁵ That is what you want in the jury room: jurors being engaged with your case presentation long after your closing argument.

3) Help the Jury Understand Case Details

Trial themes simplify complex case facts, giving jurors a clear decision-making framework. By presenting the evidence and arguments in a way that is easy to understand and relates to the jurors’ own experiences, you can help them connect with your case. Get to know jurors in voir dire and use that learned information to emphasize the points that will resonate, thereby enabling them to be more receptive to your arguments.



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4) Add Emotional Impact

A trial theme can also add emotional impact to your case. By framing your arguments and evidence in a way that resonates with the jurors’ emotions, you can make a more compelling case and increase the likelihood of a favorable outcome for your client.

A strong trial theme should reach beyond the technical facts of the case and connect to broader values, such as home, justice, or the basic sense of right and wrong. Even if the trial does not unfold as planned, a well-crafted case theme can still guide the jury’s understanding and support a successful outcome.⁶ As an ABA publication noted, “Emotionally based themes often serve as anchors, creating impressions for the jury that linger until the time the verdict is decided.”⁷

5) Bring Focus to the Presentation

A trial theme ensures that important arguments remain central. By identifying the key points you want to make and structuring your presentation around them, you can make a more effective case and avoid getting sidetracked by irrelevant details. You should incorporate your trial theme with every witness and every piece of evidence.

Tips for Putting Trial Themes into Practice

Here are three suggestions for implementing trial themes in your upcoming cases.

1) Have a Theme for Damages

In personal injury cases, attorneys often rely on damage themes that emphasize accountability and fair compensation, such as “taking full responsibility” and “making up for the harm caused.” From the outset, particularly during voir dire, counsel should frame damages in a way that helps jurors understand their role in aligning the award with the actual harm suffered by the plaintiff. The goal is to guide jurors toward a verdict that reflects an amount that appropriately matches the injury itself: “nothing more and nothing less.”⁸



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2) Tie Evidence to Your Theme

Jurors need help connecting each piece of evidence to the larger themes that define your case, so it is important to clearly explain how evidence fits into the story you are telling. While trial teams understand the purpose behind every exhibit and testimony, jurors do not automatically see those connections unless they are made explicit. By deliberately tying evidence back to your core themes and reinforcing those links through visuals or other demonstratives, you make it easier for jurors to understand why each point matters and how it supports your overall narrative.⁹

3) Use Your Witnesses to Highlight Your Theme

Witnesses should understand the overarching thematic framework of the case and recognize which part of the overall puzzle their testimony is meant to deliver.¹⁰

Effective witness preparation allows counsel to translate testimony themes into short, repeatable phrases that can be consistently reinforced, especially during cross-examination. For example, counsel could emphasize concepts like conducting a thorough investigation or following the rules. Attorneys can further support their witnesses by weaving trial themes into their questions and connecting each witness’s testimony back to the core points of the case.¹¹

In Conclusion

Every advocacy tool a trial lawyer uses is aimed at ensuring jurors clearly receive, comprehend, and retain the most important information in the case. A strong trial theme serves this purpose particularly well because, much like a catchy song hook, it continually brings jurors back.”¹²

Incorporating a theme into your trial presentation enables you to organize evidence and arguments, makes your case more understandable and memorable, adds emotional impact, keeps jurors focused on the core ideas as they reach a decision, and supports favorable client outcomes.

As stated in Tyson's book, "Ultimately, jurors want to do the right thing. You just need to give them the justification."¹³ Your theme should be that justification.

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References

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- ³ Having trouble coming up with your own theme? Here are some great ideas from movie taglines: [Million Dollar Jury Trial Case Themes You Can Steal | Trial Theater | Secrets for Courtroom Success](#). For the importance of using the Rule of Three in your theme: [TRIAL THEMES AND THE RULE OF THREE | Plaintiff Trial Lawyer Tips](#).
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- ¹³ Tyson Jr., Robert F. *Nuclear Verdicts: Defending Justice for All* (Law Dog Publishing, LLC., 2020), 106.

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