

Writing Better Beginnings:

Law & Literature Series, Part 2

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We see the cityscape as a window explodes atop one of the high-rise buildings. Inside the building, a clown bandit reloads his shotgun before firing the zip line through the shattered window to the adjacent roof. Cut to the city streets below, where an anonymous man slumps at the corner.

The camera zooms in on the mask dangling from his fingertips. Drawing closer to the mask, we see its hollow red-rimmed eyes and mottled nose above the painted blue scowl. Just then a car screeches to the corner as the man slips on the mask and slinks into the backseat. Tires squeal again as the car races toward the unsuspecting bank.

So starts the first scene of *The Dark Knight*, and we have just been hooked by its most unforgettable character – The Joker. The opening seconds reveal the antagonist in grave conflict with the world, as he takes actions that leave us eager to know what happens next.

You might think that this snippet of a movie scene has nothing to teach us about legal writing. But, in this installment to our Law & Literature series, we hope to show that those few seconds hold a crucial key to effective writing.

Like our last Law-Lit article in the Summer issue, we return to the three storytelling principles: character, conflict and arc. We now deploy those ingredients to help you draft the most important part of your next legal writing – the [beginning](#).

At best, we have seconds to show our readers that they can both trust and follow us. This requires immediately demonstrating our credibility and intellectual honesty as writers while also engaging our reader's intuitive grasp of storytelling principles. To do so, we must satisfy their desire for vivid characters, conflict between those characters and narrative cause-and-effect that leads to meaningful consequences.





Each of the three storytelling principles – character, conflict and arc – weave their way through the whole narrative. They form the woven strand along which the beads of storytelling are drawn.

Yet so much legal writing begins with dry chronological or procedural recitation that, at best, arouses our intellect but leaves our imagination cold. Consider, for example, this rote opening to a motion for summary judgment:

"This case arises from a vehicular accident that occurred on October 6, 2017 on W. Spring St. in Oxford, Ohio. Plaintiff filed his complaint on July 8, 2017, alleging Defendant recklessly operated a motor vehicle in such a manner as to cause a collision with Plaintiff. The complaint alleges Defendant was operating a police cruiser in the course and scope of his employment with Defendant Police Department at the time of the accident. This motion for summary judgment is directed to all claims set forth in Plaintiff's complaint. Defendants are immune from liability in connection with Plaintiff's claims. Consequently, there is no genuine issue of material fact and these moving Defendants are entitled to judgment in their favor on all claims as a matter of law."

Now compare this rival introduction that maintains intellectual focus on the controlling issues without sacrificing storytelling:

"Defendant Sgt. Smith moves for summary judgment on immunity. He claims he was not reckless when he drove his police SUV into Johnny Jones, a Miami University student walking in a crosswalk on campus. At the time of the collision, Johnny carried a large pink umbrella as he and a fellow student huddled together through the rainy crosswalk. The students were more than eight feet into the roadway, nearly halfway across the street, when Sgt. Smith ran them down. Despite that he knew to expect students walking in the campus crosswalk on a Friday night, Sgt. Smith raced into the intersection at twice the posted speed limit without activating his police lights or siren, failing to warn the boys of his high-speed approach. Sgt. Smith admits he did not see the boys until the moment of impact, slamming into Johnny and throwing him more than 175 feet across the intersection."

Like the opening scene of *The Dark Knight*, what separates these two legal writings is character, conflict and arc. Let's briefly examine each in the legal examples above.

The first example makes no mention of any characters, except for the lifeless and vague titles of plaintiff and defendant. The responsive writing, on the other hand, breathes life into the parties with real names, background and context. Even more importantly, the characters come to life through their vivid and specific actions. We envision the young students huddling under a pink umbrella in the rain. We see the police sergeant silently speeding toward them under the cover of night. This mixture of vivid action and motivation as they carry out goals makes them memorable. They become "round" instead of "flat" characters, to use E.M. Forster's famous distinction.

Furthermore, their specific actions and goals drive the emerging conflict, which is the engine of all good narrative. Conflict is the factual and moral tension that motivates readers to identify with one character over another. It is the same tension that should also lead a character to change over the course of the story. It is, in a word, the story conflict. This is often different than the legal conflict. In our examples, there is an obvious legal outcome that each side desires, but their competing positions do not, in fact, drive the story conflict. Rather, their contrasting physical, emotional and value-laden goals define the story conflict. The first example fails even to hint at what those conflicting goals might be. The second example quickly conveys those opposing goals in concrete detail. We see innocent college students who expect to cross the street in safety set against the seemingly heedless police officer who silently races toward the same intersection as he responds to a possible crime elsewhere on campus. Those two aims directly conflict; one will destroy the other. Therein lies the moral or thematic fulcrum on which this particular story – and the reader's identification with character – turns.

Those same conflicting goals track the narrative arc, our third ingredient of storytelling. Readers depend on cause-and-effect in storytelling to provide for satisfying, meaningful endings. Another E.M. Forster observation springs to mind: "The king died and then the queen died is a story. The king died, and then the queen died of grief is a plot." This same principle applies to legal writing, where our readers demand that our factual accounts obey common sense and experience with human behavior. The character's motivations help to explain their actions. Those actions, in turn, imply consequences. Adhering to this basic sense of plot in the beginning of our writing provides coherence and context. Again, comparing the two examples above, we see how the first gives no sense of cause-and-effect, let alone what happened in the story, while the second prompts the reader to ask, "What happens next?" or, better still, "Now I understand why it happened that way."

Each of the three storytelling principles – character, conflict and arc – weave their way through the whole narrative. They form the woven strand along which the beads of storytelling are drawn. We should introduce the three strands in our opening paragraphs. We might do even better to include character, conflict and arc in our very first sentences.

We encourage you to try your hand at such a sentence in your next legal writing, keeping your reader's natural appetite for stories in mind. Let character, conflict and arc inspire your legal writing. Of course, keep candor and truth foremost in your mind. Our legal stories must always be truthful. You will find that stock-in-trade legal writing approaches often work well alongside storytelling techniques. You might also find your next legal writing project imbued with story and, yes, even fun, for both you and your readers.

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