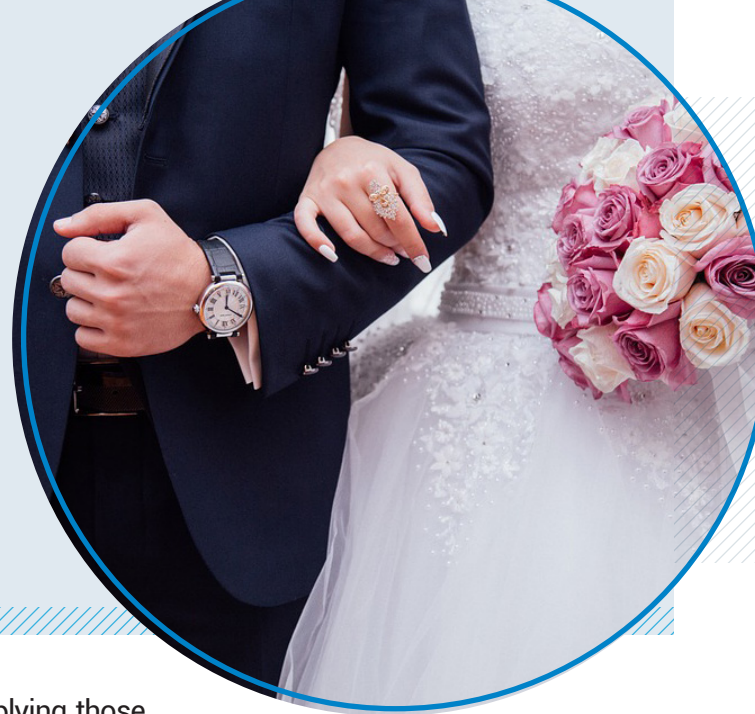


The Magic of *Marrying*

Legal Logic and Storytelling

BY MARK KITRICK AND MARK LEWIS



In our last Law-Lit essay, we sought to bridge the gap between storytelling and legal reasoning. We argued that reason and narrative are two sides of the same rhetorical coin, each building upon and supporting the other to achieve persuasive efficacy. Logic gives us coherence and consistency, while storytelling captures the emotion and verisimilitude of lived experience. Together they capture the most complete and useful legal meaning.

In this essay, we carry on our Law-Lit mission by proposing a practical method of combining legal reason and storytelling in your writing. This marriage of logic and story will refine your legal voice and style, while also allowing you to enjoy the writing process itself. Through your enjoyment, you will find creative and artistic inspiration in your legal work.

Before turning to this creative magic, let's begin with more mundane territory—legal logic. What makes for good legal argument? Many things, to be sure, but two primary ingredients are essential. First, only the legally-relevant facts matter. The law defines what facts are relevant to the legal problem at hand. Those are the legally relevant facts. All the other facts, strictly speaking, don't matter to the legal analysis. In short, we have two kinds of facts—legal facts and non-legal facts. It is the legal facts that we apply to the law, and vice versa.

When applying those legal facts, we must use logic. This is our second ingredient to good legal argument. Most effective legal arguments take the form of the syllogism. This requires a major premise, a minor premise and your conclusion. We all know the most basic example: to be enforceable, contracts must be supported by consideration. The contract between Tim and Mary is supported by consideration. Therefore, the contract is enforceable. In this example, the law is our major premise. The relevant facts serve as the minor premise. Apply the minor premise to the major, and we reach our necessary logical conclusion. You'll no doubt note the circular nature of both legal logic and factual relevance. The substantive law suggests what facts will be relevant, while the available facts steer toward the law that might apply to your legal situation. This circular flight between law and relevance shapes much of legal problem solving.

But there is a complementary path for legal problem solving, one that avoids the somewhat closed loop of legal analysis. That other path is storytelling. Storytelling lives by different facts and logic than legal reason. Understanding those differences allows us to marry the two disciplines—legal logic and storytelling—in our legal work.

In storytelling, the facts and logic that matter most concentrate on character, conflict and arc. You might recall these three narrative fundamentals from our previous essays. In those earlier writings, we shared principles and techniques to help you create empathetic, likeable character-clients. We proposed

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ways to shape the underlying conflict between legal parties into suggestive and memorable plot lines. And we revealed some of the ways in which story structure or “logic” can propel your legal audience to keep reading with interest.

Whereas legal reason depends on legally relevant facts, storytelling relies on facts that fit character, conflict and arc. Whereas law depends on logic, storytelling needs narrative structure. Yet good stories often meld with the facts and logic that underlie legal reasoning. Of course, the most compelling and evocative facts don't necessarily link to the legal elements of the at issue claim or defense at issue. Legally relevant facts can be boring and even lead to narrative dead ends. On the other hand, narrative facts and story structures trigger emotional investment, empathy and understanding.

As one crucial example, think of the age-old story structure that pits the hero against an obstacle they must overcome. The character finds themselves in a problematic situation. They try repeatedly to solve the problem but repeatedly fail. Then, in a climactic struggle, they either fail or succeed, bringing the story to its end. In the related and equally common “good guy vs. bad guy” story structure, we find a good character is in a fix caused by the bad guy. The good character tries to work their way out of the fix, but fails over and over again. After a great contest or battle, the good guy finally succeeds, and the positive values underlying his behavior are affirmed. The good wins, and the bad guy gets their comeuppance. We find these structures in nearly all great stories, whether we think of Homer's *Odyssey* or Disney's *Dumbo*.



We recognize these story structures in our favorite movies, TV series, and books. How do we incorporate them into our legal writing? How do we marry the different logic and factual resonance of story and law? We've developed the following "Law-Lit Principles" for writers looking to marry law and literature.

LAW-LIT PRINCIPLE 1: In most legal writing, legally-relevant facts and logic should guide you first. Make sure your syllogistic legal reasoning is airtight by applying only the legally-relevant facts to the controlling premise. But realize that legal logic is not the end point of your writing and problem solving. It is just the beginning.

LAW-LIT PRINCIPLE 2: Once you've locked down your legal logic, look for places where narrative facts and story structure align or cohere with their legal counterparts. In other words, which facts are both legally and narratively relevant? Can your best facts support both legal reason through syllogism and effective storytelling through character, conflict and arc? If so, put them in service of both, using the law-lit techniques we endorse here.

LAW-LIT PRINCIPLE 3: If your best facts do not allow for such alignment between logic and story, consider the following additional precepts to marry the two. First, storytelling should predominate in factual sections, while legal logic should hold sway in argument sections. When drafting your facts, think not merely about the legally relevant facts, but also about (1) how to truthfully shape the parties as characters whose motives, personalities and actions evoke empathy or disdain, (2) what underlying human, value or moral conflict drives those characters and would resolve the dispute in non-legal terms, and (3) whether the "good guy vs bad guy" or similar story arc would provide the right narrative context to convey the facts. Always keep in mind that your factual storytelling must imply, if not highlight, the legally relevant facts whenever possible.

We hope this summary helps you see from yet another vantage point the important goal of marrying



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law and literature. In further essays, we'll offer further explanation and examples of these principles in legal writing from practicing lawyers and judges. From U.S. Supreme Court Justices to local practitioners, those who have grasped these principles can help show us the way toward unifying legal logic and storytelling in our own writing. We will all know the magic of marrying law and literature.

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