

Getting the Themes for Your Case

I. Introduction

- a. From the moment you speak with a potential client you should be looking for ways on how you would present this potential case to the jury and what the theme of your case may be.
 - i. Is there anything that immediately jumps out at you?
 1. Do they have young children?
 2. Do they lead a highly active lifestyle?
 3. Do they take care of/provide for another?
- b. Being aware of this information will help you in building themes on how to best present your client to everyone that is going to become a juror in your case.
 - i. A juror can be someone other than those sitting on the jury such as an adjuster or defense counsel. These individuals, who are an important aspect of your case, will also be evaluating the case's value. Their role in your initial analysis should not be downplayed.
- c. Most of the time we are not formulating a theme for our client's cases until we start thinking about trial. Using these tools early on may help motivate an earlier, more valuable settlement saving your client from the anguish of the full litigation process.

II. Building Your Themes

- a. Take Thorough Notes
 - i. Every interaction you have with a client should be followed up with a detailed note. In order to be able to build a theme you should keep track of the nuggets of information you client is feeding you along the way.
 - ii. One way of doing this just for the purpose of themes is having a separate document just for this information separated by dates of interaction.

b. Listen to Your Client

i. Many times we are focused on getting specific details from the client: how did it happen, what are your injuries, etc. These are details you must have, but in focusing on them you could miss small details that lead to valuable information.

1. For example, a client may tell you they were on home from church when the accident happened. If there is no follow up you may never find out what activities they are involved in with the church or potential witnesses who may speak to their involvement pre and post-accident.

c. Get Photos

i. You only have a short amount of time to convey who your client is and how this has affected their lives. If a picture is worth a thousand words, use them!

ii. If your client talks about their beautiful garden they used to have every summer or a vintage car they can no longer work on, get photos of it.

iii. If you can get video of them coaching their son's football game, playing an instrument, or parasailing on vacation to help demonstrate activities they are no longer able to do, get them.

1. These can simply be included on a thumb drive with a demand. It alerts the other side right away that you are serious about your client's case and will be well prepared for trial.

d. See Your Client in Their Environment

i. You can never get the full sense of who your client is until you see them in their environment. Go to their home, spend some time with them. You cannot get the sense of how their everyday life is affected, if you do not take the time to see them in it.

ii. Many attorneys shy away from this because it is time consuming and they believe it will be fruitless. This is exactly the opposite. There is a whole treasure trove of information that can be discovered from spending a couple hours in a client's home.

e. Speak to Their Family and Friends

- i. This is something you can accomplish when doing a home visit as well.
- ii. Reach out to potential fact witnesses early on. Listen to them with the same ear you should be giving your clients. One small anecdote can help you frame your entire case.
- iii. Hearing similar stories from family, friends, and coworkers is a simple way to be able to formulate your theme for the case.

f. Make it Palatable

- i. The final aspect to consider is how you want to present your theme using the information you have gathered to: the adjuster, defense counsel, an arbitrator, mediator, and/or the jury.
- ii. You want to present the information like a story, not just hand over everything expecting the other side to figure out what you are trying to say.
- iii. This can be accomplished several mediums. One way that is very effective is using a PowerPoint presentation with videos of your client and fact witnesses interspersed with the medicals.