

Imagine that you are driving down the road at high speed. You come to a sharp curve in the road. You have a choice. You can slow down and properly execute the turn, or you can continue at your speed and crash. Logic says you will slow down to execute the turn. The same logic applies when writing features such as a lower loop in a letter **f** or **j**. You will write the straight part faster than the curved part. This is an example of using stories and analogies that makes sense to judges and juries. we need to testify in language that is relatable by the trier of fact.

Several years ago when testifying in trial I used an analogy from rowing. Often I will use analogies to make a point. The judge turned and asked, "were you a rower?" I replied that I was a rower in college. The judge told the court reporter to go off the record. He and I then engaged in a 10 or 15 minute conversation about rowing. The point is, using analogy and telling stories can lead to strongly connecting with the trier of fact.

Another method I have used during a jury trial is to explain differences in writing by pointing to differences among jurors. "Are jurors 5 and 7 the same person? They are both women. They both have long brown hair." I mention several similarities between the two jurors. Then I point to differences between them. Perhaps one is white and the others black. One is young and the other is old. One has brown eyes the other has green eyes. There are consistent differences between them. They cannot be the same person. This method has been used successfully in some courts while in other courts the judge told me not to use the jury as a method of making a point.

When we testify we want to be certain not to speak in technical language that may not be understood by the trier of fact. We may not be understood by our retaining attorney or the attorney's client. The result might be a perception we are trying to be disingenuous or appear superior to other people in the courtroom. The result maybe for the judge and or jury to question our credibility or feel a disdain for us as a witness because we were trying to talk down to them.

When you are in deposition or trial be aware of the demeanor of the judge and or the jury. Are they leaning forward as you speak? Are they taking notes as you speak? Is the judge asking you questions? You want to ensure you are keeping them engaged while you explainin your work as stories and analogies in their language.