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Effective Witness Preparation, Miss America, and the Essence of Communication

When talking to witnesses at the start of our witness preparation sessions, we always tell them that the lessons learned in the process will help them communicate beyond the courtroom and into their everyday and business lives. That is, the themes and strategies necessary to be an effective witness translate directly into the workplace, in both making presentations and simply talking with a colleague or boss. We had never considered until this year, however, that the lessons learned could also help a state pageant winner on the road to Miss America.

This exact opportunity came to us in the form of a favor requested by a valued client. The conversation went something like this:

“Merrie Jo and Liz,” he said, “my wife and I have been involved in the Miss Missouri Organization and our current state winner is a wonderful woman who needs your help.”

We say, “Sounds interesting, Lou. How can we help her?”

“She needs some help with her interview skills. She is a bit stiff and needs to learn to relax.”

And off we went – to put our skills in preparing witnesses for the courtroom in the “spotlight.” There was a root cause for her stiffness and we needed to identify what that was. Below, we discuss the cause and review some of the top witness preparation techniques that helped Miss Missouri prepare for her preliminary interviews as she competed for the Miss America crown.



THE BARRIERS TO EFFECTIVE WITNESS COMMUNICATION

The role of each witness is a puzzle piece of the bigger case picture that requires communicating specific themes so the larger case story comes together. A large portion of our witness prep is helping witnesses develop their core themes. The same was true for Miss Missouri too, but at a much broader scale.

The anxiety most witnesses experience is typically due to the fact they don't know how to handle the seemingly broad task in front of them. This **anxiety** manifests itself in many forms and is usually what prompts our clients to call for assistance. We help each witness develop case themes for his specific puzzle piece, making the task of testifying much more manageable and, in turn, reducing his anxiety and subsequent "poker tells."

Turns out Miss Missouri was also experiencing the stress of trying to know everything, which manifested itself in a stiff and robotic appearance. She needed to be familiar with current events that encompassed politics, world issues, local issues, women's issues and pop culture, to name a few. Unfortunately, unlike a witness, the scope of what her interview would cover was much larger than a specific puzzle piece, or what anyone could be expected to handle on a regular day.

But this was no regular day. This was the Miss America pageant.

HOW THEMES CAN GO BEYOND THE COURTROOM

Working with a pageant contestant was something new even to us. So, we did our research. We learned about the Miss. America Organization, its values and its interview process. It was clear that, to help Miss Missouri to relax, we needed to help her develop themes for all the different content "buckets" she could possibly face in her interview. So, as we would do with our witnesses, we developed a list of these "theme buckets." For Miss Missouri, she needed themes that would address freedom issues; discrimination issues; women's issues; immigration issues; Ferguson, Missouri, issues; internet privacy issues; etc. So, our first session with Miss Missouri was working with her to develop the core themes within these buckets.

WHY OWNERSHIP IMPROVES PERFORMANCE

Now, the psychology behind any successful witness prep is to ensure your witnesses are engaged and take ownership of their themes. That is, the least successful witnesses are the ones where the attorney develops the themes and tells the witness what they are. With no ownership comes no ownership. The key is to ensure the witness has had a hand in preparing her themes.

The same was true of Miss Missouri. She wouldn't perform at her best if we developed her themes for her; the themes needed to be consistent with her beliefs about the issues in each "issue bucket." For example, growing up on a ranch, Miss Missouri had considerable experience with immigration issues, particularly with regard to the issues of employing migrant workers. With this foundation in place, we addressed her beliefs on immigration and helped her translate her views into themes that fit into the immigration "issue bucket." She needed to develop her themes in order to assimilate them. Once she developed and practiced her themes, her stress about trying to know everything was reduced considerably. She felt prepared, could now think on her feet and know how to address virtually any question that came her way.

WHY IT IS IMPORTANT WITNESSES LEARN TO KEEP ANSWERS SHORT

Studies in psychology and other social sciences have shown that people, including juries, judges and TV viewing audiences suffer from listening fatigue. That is, there is only a limited window during which a speaker can hold an audience's attention. This is why it is important to

keep answers short and consider how question-response construction *should* look.

WHY PUTTING THE HEADLINE FIRST IS IMPORTANT

Certainly, when given 20 seconds (like the timing for the onstage interview) to answer a question, it is critical to get one's headline (aka theme) out first to ensure the audience hears the witness's/contestant's answer. Unfortunately, constructing question responses in this way is counter to how we, as humans, are taught to think. Getting the punchline out first is not the way we are taught to tell a joke, just like telling the conclusion of a story first is not how we tell stories. This is where themes are so important – they are the focal point and need to be put first to ensure jurors will hear them amidst their short attention spans. The more we have witnesses practice their themes, the more they become second nature and the easier they are to get out first.

For the Miss America pageant, the contestants have a longer 10-minute panel interview with the judges a week before the TV special. This is the critical time for contestants to show off their agility in handling the tough questions with grace and ease. With several mock Q&A panel sessions before she arrived in Atlantic City, Miss Missouri was able to practice putting her headlines first and keeping her answers short, which helped when the pressure was on (and kept her off the blooper reel).

WHY AUDIENCE ANALYSIS MATTERS TO A WITNESS

In the courtroom, witnesses deliver messages to the finder(s) of fact, and one of the lessons we instill in witnesses is how the construction of themes and messages can connect with the sensibilities of judges and juries. All people are susceptible to their existing schema when it comes to evaluating information. That is, information that is consistent with our existing attitudes, experiences and beliefs tends to be assimilated and evaluated, while information that is inconsistent with those sensibilities tends to be ignored.

In performing audience analysis, two things we can do in the courtroom are 1) look at the way a judge has ruled in other cases, or 2) conduct online **social networking searches** of jurors. In discovering the underlying salient issues for our audience, we can take the cold out of cold calling. We can create connections faster and send targeted messages we know will appeal to

a person's sensibilities.

For Miss America, we were able to apply audience analysis principles to the judging panel – all but two of whom were active on Twitter and all of whom publicly appeared on behalf of a variety of charities. Not only did this help us to better understand what questions the judging panel might ask of our Miss Missouri, but it helped us create connections for her by knowing what was important to them. For example, one of the judges on this year's panel was Donald Driver, the Green Bay Packer's all-time leading receiver and former Dancing with the Stars winner. Our internet search of Mr. Driver revealed that he grew up homeless, that he had established the Donald Driver Foundation to help underprivileged children and families, and his intense family-first values. Based on this information, Miss Missouri was able to think through messages that she could incorporate in her answers to better connect with Mr. Driver's interests and sensibilities.

KEY TAKEAWAYS

Our big takeaway during this process was that witness prep isn't just for witnesses. Certainly, these skills apply to many different facets of life, including a pageant stage. Whether being a witness at trial, a contestant for Miss America, or a person seeking a job, the same principles in the toolkit for good interview skills apply. We were grateful for this experience to apply our everyday litigation skills beyond the courtroom, and will remember Miss Missouri the next time we discuss the value, breadth and depth of witness prep.



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If you're looking for perspective, insight and ideas for building your best case, we know how to uncover significant findings and turn them into powerful themes and arguments

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