

Actors Help Trial Lawyers Find Their Range

By Sylvia Hsieh

Trial lawyers may not realize it, but what they do in the courtroom every day is very similar to what actors do on stage.

A small band of actors and theater professionals have discovered this connection and built a cottage industry consulting attorneys on how to strengthen their voice, breathing, movement and focus, and – more important – how to shed their lawyerly personas and find their own natural way of connecting with the jury.

The exercises they teach are the same methods of communication used in the theater – finding a compelling point of view for the narrative; building the plot; using vocal intonation, inflection and hand gestures to punctuate a story, and capturing the audience's emotions.

But they don't call it acting.

"Are these the same techniques actors use? Yes, in some instances. But is it pretending? No," said Ed Stein, an attorney who incorporates theater drills into his course on trial advocacy at the University of Michigan Law School.

"We're not telling somebody to be fake. We're not making lawyers flashy or theatrical or star-struck. It's about truth and clarity of presentation," said David Ball, a trial consultant, director and playwright in Durham, N.C., and author of *Theater Tips And Strategies For Jury Trials*.

Katherine James, an actress and trial consultant in Culver City, Calif., added that "teaching people to be theatrical isn't teaching people how to lie."

She said that what she teaches is similar to the type of acting most people are familiar with these days – highly naturalistic method acting in which the actor gets into the skin of the character, as opposed to hand-on-the-bread declaratory acting, in which the actor just pretends to be someone else.

James and her husband, Alan Blumenfeld, also an actor, co-founded Act of Communication, a company that teaches lawyers the same tools that actors, directors and playwrights use to draw in audiences.

Gillian Drake, a theater director and trial consultant in Washington, D.C., teaches lawyers how to "get out of their heads and into their hearts and bodies."

Drake began the first acting-for-lawyers class in the country in 1985 in the basement of the Arena Stage in Washington, D.C., to supplement her income while working in the theater's casting office.

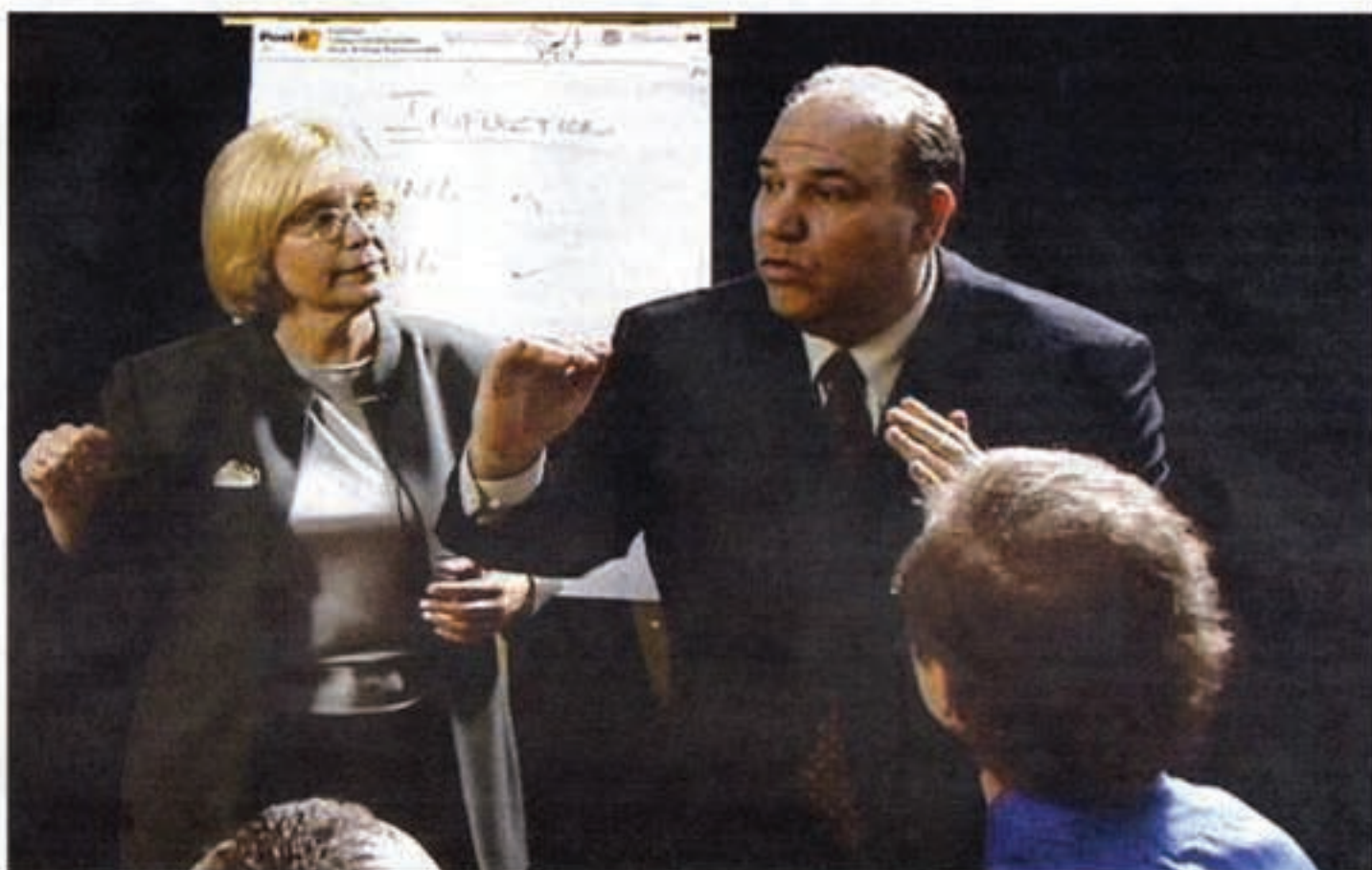
"I started these classes downstairs and put a little, teeny ad in the local bar rag. I got seven or nine lawyers, threw them in a room and did a lot of acting exercises. It was the right time and place, and it became a huge success," said Drake, who continues to teach regular workshops for attorneys.

Lisa Dicaro and Len Matteo, another married acting couple, began Courtroom Performance outside of Denver, Colo., to teach lawyers better communication skills.

"It begins by being comfortable being yourself in front of a group of people. Nobody should be trying to look like Gerry Spence, except Gerry Spence. What we're trying to teach is to stop watching yourself and start building relationships with the people you're talking to," Dicaro said.

Dropping The Facade

After seven years at a big New York firm where he had just become a partner, it dawned on Greg Dovel that although he had mastered how to write briefs and take



Katherine James and her husband, Alan Blumenfeld, help attorneys get beyond the persona of "lawyer man" and address juries in a more natural story-telling fashion.

depositions, he knew virtually nothing about trying a case before a jury.

"I needed trial skills, and there was no culture or mechanism for big-firm litigators to improve," he said.

For the past several years, Dovel has been on a quest to learn how to tell his clients' stories and persuade juries.

"I read every book; I took every seminar; I volunteered at the city attorney's office to prosecute misdemeanors," he recalled.

He also stumbled upon James' and Blumenfeld's acting workshop and, from there, discovered what actors and lawyers have in common.

"Good acting is not about acting – it's about telling the truth. And good trial lawyering is the same thing," he said.

Dovel has since started his own firm in Santa Monica, Calif., litigating high-stakes trials in commercial litigation and intellectual property disputes. He has repeated the Act of Communication course several times and views gaining trial skills as a lifelong challenge.

"It's not a trick you learn overnight. Like any good skill worth learning, you've got to work at it," he said.

The process has transformed Dovel's view of his role in a trial.

"When I go into a courtroom now, I drop the facade in every way. I have a whole new way of thinking that is grounded in wanting to connect openly and honestly with the jury and trust the jury to make the right decision," he said.

This new vision might sound lofty, but it demands practical changes.

"Truth has warts. My clients are not perfect people, but that's OK. If we have any problems, we're not going to try to hide it," he said.

Dovel now "goes with the truth no matter what" – a big change from the way he used to handle cases by coming up with a theory of the case and spinning the facts to fit the theory, obscuring bad facts along the way.

Bill Farley, a Washington, D.C., attorney, experienced a similar discovery after recently enrolling in Gillian Drake's Acting For Lawyers class to sharpen skills that grew rusty during a two-year break from practicing law. The normally soft-spoken Farley no-

ticed in a recent oral argument that some of the techniques he learned in class made him feel more confident and less self-conscious.

Even small adjustments – such as finding a comfortable pitch, projecting his voice, making eye contact and assuming a more open stance – has made all the difference.

"I was focused more on what I was saying and who I was saying it to than on myself. I was projecting out and better able to communicate," he said.

This feeling has spilled over into his other relationships, such as his interactions with clients, judges and other lawyers in his firm. Now, for example, he is less likely to feel like a judge or partner is trying to put him on the spot when they ask him a question.

"It's much different than being a lawyer where everything is focused on you and the Socratic method and questions are coming at you like bullets," he said.

Farley also senses a healthier approach to the opposing attorney.

"I have a story to tell and the other side does as well. You're doing what you do and they're doing what they do. It's less adversarial because we are each playing our part," he added.

Farley wishes he had taken acting classes years ago.

"It would have changed my concept of the practice" from the beginning, he added.

Class Begins

Although some people are natural storytellers, most of what it takes to weave a compelling narrative – such as sequence, plot, point of view, conflict and action – can be taught.

"Some people use these techniques instinctively; others need to see it demonstrated or have it taught to them," said Donald Beskind, who teaches trial advocacy at Duke University Law School.

Most lawyers have covered up their human story-telling instincts with a kind of armor of an authoritative air, threatening hand gestures (such as pointing), and a monotone delivered in legalese.

"When an attorney gets in court, they often become entrapped by formality and encumbered by the very real requirements of trial and start to dissociate from themselves.

We teach them how to relax and find their own natural style – the way they were before law school," said Blumenfeld.

Some lawyers don't even realize it. In one case, a lawyer rehearsed a canned and stiff opening statement in Blumenfeld and James' class.

"We showed him the videotape and told him it didn't even look like him. But he thought he looked fine," James recalled.

By the next day, he had changed his mind after going home to practice his opening and seeing his 2-year-old son run into the room, crying and grabbing his leg, screaming, "What did you do with my real Daddy?"

The following are just a handful of exercises theater people are now training lawyers to adopt to improve their presentation.

• Stop talking like a lawyer.

On the first day of a workshop in Richmond, Va., Dicaro and Matteo asked lawyers what they wanted to get out of the acting class. Some said they wanted to be better storytellers, others wanted to improve their voices or structure their opening statements better.

Then a lawyer stood up and said "I want to kill 'lawyer man'" – his name for the pretentious, stilted imposter he becomes in front of a jury.

His problem is what plagues many trial lawyers: when he told his client's story to a friend at a dinner party or over a cup of coffee, it was clear, concise, passionate. When he stood up in front of a jury, he turned into "lawyer man."

James and Blumenfeld use an old actor's technique to help solve this problem.

The exercise starts with a lawyer giving an opening or closing statement. The lawyer is suddenly stopped and asked to switch into talking about a personal topic such as when they fell in love with their spouse. The lawyer has to keep switching back and forth until all the pretenses of "lawyer man" are gone.

"When people talk about something emotionally significant, such as when they first met their wife or the birth of their child, their faces light up. Then when they switch back to their opening statement, they turn

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into this weird person again," James said.

At the magic moment, the lawyer is almost unable to switch back to the opening statement because they're "incapable of turning into that weird person," she said.

• Vocal expression.

One exercise Ed Stein uses in his trial advocacy class encourages students to stop speaking in a monotone.

"When people get nervous they grab hold of the lectern and talk in a monotone. Even though they may be saying the right things, they're not saying it in the right way," he said.

In the exercise, Stein gives students several short sentences, all starting with the same word.

For example:

'Ed, you're fired.'

'Ed, the house is on fire.'

'Ed, have I told you how much I like older men?'

'Ed, are you listening?'

'Ed, I'm not in the mood tonight.'

Each student must choose a sentence but say only the first word in that sentence.

The drill develops the students' range of expression through a one-syllable word.

"Each one has a completely different sound to it," Stein said.

An exercise that Drake uses in her acting-for-lawyers class has a similar goal.

She gives attorneys a nonsense sentence such as "Danny didn't do the dangerous, difficult deed David did," and then tells each student to say it from a different point of view.

One person might be asked to defend Danny. Another student might be told to celebrate it as good news. Another might be assigned to portray David's brother.

"With nonsense you can create meaning, just with your voice and your eyes," said



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Drake.

She then repeats the same exercise, replacing the nonsense sentence with real text from a lawyer's case.

• Finding emotional truth.

The best actors and trial lawyers connect with their audiences by finding a common emotional truth.

"You have to get them emotionally involved somehow, so they want to jump into the facts with you," said Drake.

One exercise she uses is to ask lawyers to attach a verb to each part of a story. She sometimes assigns a Shakespearean sonnet and asks lawyers to put the story in the context of a present-day scenario.

"Instead of just speaking with the same intention to cajole, evoke and convince, you become aware of the different emotional range you have. The first line might be to plead or mourn, the next to declare or avow, the next to threaten, then to beg," said Phil Zipin, an attorney in Silver Springs, Md.,

who has taken Drake's course.

In another exercise, attorneys must find something in their own lives in which they felt each of the emotions.

Zipin, for example, who was preparing for a trial in a case where his clients weren't paid overtime, reached back to his teens when he worked as a summer counselor and the camp director refused to pay him what he thought he deserved.

"I thought about that time when I felt I was not treated fairly and I felt hurt and angry. You recreated it in your mind, so when you're speaking you can draw on that to communicate on a deeper realm than just words," he said.

Dovel used a personal story in a commercial contract case involving a client who had an exclusive marketing contract with a software company, but after doing all the work to start selling, the company pulled out of the agreement.

Dovel, who grew up on an apple orchard, told the jury that his client's story was like planting an apple orchard. The trees are tiny the first year, and you have no apples, but you spend the time and money taking care of them so that each year they get bigger and bigger.

He compared this to the hard work his clients put into their marketing plan, deferring profits because they were counting on future rewards. But because of the defendants, the pay-off never came.

The story worked, he said, because it drew from his own personal experience.

"If I gave that story to someone from Manhattan, they could act it, but it just wouldn't sell," recalled Dovel, adding that the story had such an impact that he saw jurors openly nodding their heads in agreement.

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