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### An“Astonishingly Excellent” Solution to Super-Fake Narratives

Cathren Page

Mercer University School of Law, [page\\_c@law.mercer.edu](mailto:page_c@law.mercer.edu)

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## An “Astonishingly Excellent” Solution to Super-Fake Narratives

Cathren Page<sup>†</sup>

*When George Washington was a boy, he chopped down his father’s cherry tree.<sup>1</sup> His father confronted him about it, and he said, “I cannot tell a lie.”<sup>2</sup>*

*Ironically, this famous story about the honesty of America’s first president is most likely “fake news.”<sup>3</sup> Yet, it’s part of the myth of the American superhero.*

*Fake news is old news, and studies on persuasion now show that people have likely always been more persuaded by story than they have been persuaded by facts and logic. People more typically reach conclusions first, and then use facts and logic to justify their stance.*

*However, fake news stories now spread further and wider due to the widespread production of fake news, widespread dissemination of fake news via bots, search engine algorithm manipulation, social media, and effective superhero narrative techniques.*

*In particular, President Donald Trump has benefitted from these techniques. He and his supporters have effectively identified his audience and spread his message. This message winds up being particularly effective with his base due to the storytelling style his*

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1. Jay Richardson, *Cherry Tree Myth*, MOUNT VERNON, <http://www.mountvernon.org/digital-encyclopedia/article/cherry-tree-myth/> [<https://perma.cc/8ECK-RKE7>] (last visited May 14, 2019).

2. *Id.*

3. *Id.*

*administration uses. His storytelling techniques follow the pattern of superhero fiction, an extremely popular and effective storytelling mode. Political campaigners, advocates for social causes, and even lawyers can learn from these techniques and turn them on their heads. First, they can use more ethical means of identifying the audience and disseminating the message. Further, they can apply the same superhero storytelling mode to true stories while still maintaining accuracy. Even with a good narrative, a truth-telling advocate may still face unethical tactics from the opposition, such as personal threats and the magician's trick of misdirection. Naming these tactics and calling them out rather than "going low" is the best way to overcome these tactics. In the end, honest superheroes can win the day in the war for the truth.*

## I. INTRODUCTION

"There has been more new error propagated by the press in the last ten years than in an hundred years."<sup>4</sup> An American president wrote these words. He did not tweet this statement or utter it in a television press conference. His campaign manager did not send the statement in a press release. He scribbled the words in the margins of his copy of Condorcet's treatise, *Outlines of an Historical View of the Progress of the Human Mind*.<sup>5</sup>

President John Adams wrote these words in 1798.<sup>6</sup>

Although the proliferation and widespread dissemination of "fake" news is new,<sup>7</sup> fake news is old news.<sup>8</sup> Fake news has spread since at least 1798 or earlier.<sup>9</sup> In fact, when people extend the "fake news" definition to gossip, it's easy to imagine that fake news may be as old as communication itself.<sup>10</sup>

Persuasion studies indicate that facts and logic have likely never persuaded people.<sup>11</sup> Rather, people typically hold "deep frame"

4. Jackie Mansy, *The Age Old Problem of Fake News*, SMITHSONIAN MAG. (May 7, 2018), <https://www.smithsonianmag.com/history/age-old-problem-fake-news-180968945/#E0ubE0GHCIgOMBG4.99> [<https://perma.cc/VR62-DJTT>] (quoting President John Adams).

5. *Id.*

6. *Id.*

7. See Allison Orr Larsen, *Constitutional Law in an Age of Alternative Facts*, 93 N.Y.U. L. REV. 175, 177 (2018) (discussing how quickly fake news can spread); Atiba R. Ellis, *The Meme of Voter Fraud*, 63 CATH. U.L. REV. 879, 882–83, 888 (2014) (discussing the spread of untrue notions via memes).

8. Larsen, *supra* note 7, at 177; Ellis, *supra* note 7, at 882–83.

9. Larsen, *supra* note 7, at 177; Ellis, *supra* note 7, at 882–83.

10. Cf. Todd A. Berger, *A Trial Attorney's Dilemma: How Storytelling As A Trial Strategy Can Impact A Criminal Defendant's Successful Appellate Review*, 4 DREXEL L. REV. 297, 299 (2012) (indicating that storytelling may have begun 100,000 years ago); Kendall Haven, *STORY PROOF: THE SCIENCE BEHIND THE STARTLING POWER OF STORY* 3–4 (2007) (setting forth evidence that storytelling predates language and has long been the preferred mode of communication).

11. Anne E. Mullins, *Subtly Selling the System: Where Psychological Influence Tactics Lurk in Judicial Writing*, 48 U. RICH. L. REV. 1111, 1112–13 (2014) (examining persuasion in judicial writing)

beliefs,<sup>12</sup> and story persuades them.<sup>13</sup> People then use facts and logic to justify their beliefs.<sup>14</sup>

While this potentially persuasive “fake news” itself is old, the widespread dissemination of fake news via bots is new.<sup>15</sup> Donald Trump’s campaign benefitted from these bots<sup>16</sup> and from an electoral college map more favorable to Republicans.<sup>17</sup> But these super-powers were not his

through a cognitive theoretical framework); Anne E. Mullins, *Jedi or Judge: How the Human Mind Redefines Judicial Opinions*, 16 WYO. L. REV. 325, 334 (2016) (arguing that effective persuasion necessarily appeals to the reader’s unconscious mind through information collateral to or even substantively irrelevant to the actual dispute); Linda Edwards, *Where Do the Prophets Stand? Hamdi, Myth and the Master’s Tools*, 13 CONN. PUB. INT. L.J. 43, 70–71 (2013) (indicating that strong merits-based arguments likely push those with strongly held values to generate counter-arguments); Kathryn M. Stanchi, *The Science of Persuasion: An Initial Exploration*, 2006 MICH. ST. L. REV. 411, 440–42 (2006); cf. GEORGE LAKOFF, *THE ALL NEW DON’T THINK OF AN ELEPHANT! KNOW YOUR VALUES AND FRAME THE DEBATE* xiv, 15–16 (2014) (explaining that facts do not matter in a debate unless they are reframed); Carolyn O’Hara, *How to Tell a Great Story*, HARV. BUS. REV. (July 30, 2014), <https://hbr.org/2014/07/how-to-tell-a-great-story> [<https://perma.cc/C29U-GQQV>]; see generally Nick Brown, *Expert Storytelling & Storytelling Experts: Why You Should Use Scientific Stories in the Courtroom*, 5 HOUS. L. REV. 157, 157–58 (2015) (discussing how long storytelling has been used to persuade); Jennifer Sheppard, *What If the Big Bad Wolf in All Those Fairy Tales Was Just Misunderstood?: Techniques for Maintaining Narrative Rationality While Altering Stock Stories That Are Harmful to Your Client’s Case*, 34 HASTINGS COMM. & ENT. L.J. 187, 232 (2012) (regarding people understanding experiences in narrative form); Jennifer Sheppard, *Once Upon a Time, Happily Ever After, and in a Galaxy Far, Far Away: Using Narrative to Fill the Cognitive Gap Left by Overreliance on Pure Logic in Appellate Briefs and Motion Memoranda*, 46 WILLAMETTE L. REV. 255, 257 (2009) (regarding people understanding experiences in narrative form); Richard K. Sherwin, *The Narrative Construction of Legal Reality*, 18 VT. L. REV. 681, 717 (1994); Gerald P. Lopez, *Lay Lawyering*, 32 UCLA L. REV. 1, 3 (1984); Brian J. Foley, *Applied Legal Storytelling, Politics, and Factual Realism*, 14 LEGAL WRITING: J. LEGAL WRITING INST. 17, 40–41 (2008).

12. See LAKOFF, *supra* note 11 at 15–16 (discussing “frames,” language frames that capture the deeply held philosophies).

13. O’Hara, *supra* note 11; cf. Lorie M. Graham & Stephen M. McJohn, *Cognition, Law, Stories*, 10 MINN. J.L. SCI. & TECH. 255, 258 (2009) (discussing how story forms the basis of legal reasoning); Nancy Levit, *Reshaping the Narrative Debate*, 34 SEATTLE U. L. REV. 751, 758 (2011) (discussing how story shapes thoughts); Bret Rappaport, *Tapping the Human Adaptive Origins of Storytelling by Requiring Legal Writing Students to Read a Novel in Order to Appreciate How Character, Setting, Plot, Theme, and Tone (CSPTT) Are as Important as IRAC*, 25 T.M. COOLEY L. REV. 267, 268 n.2 (2008) (discussing how story shapes thoughts and decisions); Stanchi, *supra* note 11, at 440–42; see generally Kimberly Y.W. Holst, *What Is Legal Writing? The Tale of A Discipline*, 22 LEGAL WRITING: J. LEGAL WRITING INST. 33, 35 (2018) (mentioning how narrative is included in the study of legal writing); J. Christopher Rideout, *Applied Legal Storytelling: A Bibliography*, 12 LEGAL COMM. & RHETORIC: JALWD 247, 247–64 (2015) (cataloguing and describing articles regarding applied legal storytelling).

14. Monica Prasad et al., “*There Must Be a Reason*”: *Osama, Saddam, and Inferred Justification*, 79 SOC. INQUIRY 142, 143 (2009).

15. Jonah Engel Bromwich, *Bots of the Internet, Reveal Yourselves!*, N.Y. TIMES (July 16, 2018), <https://www.nytimes.com/2018/07/16/style/how-to-regulate-bots.html> [<https://perma.cc/JSH7-8552>]; cf. Jeanne Kaiser & Scott Brown, *When the Story Is Too Good to Be True: A Lawyer’s Role in Resisting the Lure of Narrative*, 37 W. NEW ENG. L. REV. 233, 242 (2015) (discussing how quickly social media can spread false stories).

16. Jeanna Smialek, *Twitter Bots Helped Trump and Brexit Win, Economic Study Says*, BLOOMBERG (May 21, 2018), <https://www.bloomberg.com/news/articles/2018-05-21/twitter-bots-helped-trump-and-brexit-win-economic-study-says> [<https://perma.cc/H8Y9-DBHA>].

17. Jay Cost, *The Electoral College Favors Republicans*, NAT’L REV. (May 14, 2018), <https://www.nationalreview.com/2018/05/electoral-college-favors-republicans-democrats-geographically-concentrated/> [<https://perma.cc/7TH7-6N5C>].

only strengths, the Trump campaign wielded the power of superhero storytelling techniques.

So, faced with an army of bots, a superhero story, and an unfavorably weighted election system, what is a truth-teller to do? Go ask the Wizard of Oz.<sup>18</sup> In the Wizard of Oz, Dorothy and her allies dress as the witch's guards to sneak inside the witch's castle.<sup>19</sup> They get inside the enemy's skin.<sup>20</sup>

By getting inside the antagonist's skin, the protagonist truth-teller learns from the antagonist's strengths while rejecting the antagonist's weaknesses, such as dishonesty or lack of ethics.

Truth-tellers can defeat Trump-like styles of superhero fiction and other fake-news campaigns if truth-tellers widely disseminate superhero nonfiction.

Part Two of this Article briefly outlines the Trump network's storytelling techniques and explains why his often-fictional narrative still succeeds. Part Three shows how these kinds of fictional narratives can be turned on their heads by using the same narrative techniques to tell true stories. Part Four of this Article discusses why legal and political storytellers should tell the truth regardless of whether someone else wins with lies. Part Five outlines some of the more unethical techniques used to intimidate truth-tellers or to quash true stories and shows how to overcome them with meta-communication, labeling the technique itself.

## II. THE STORY OF "GREAT-MAN" AND HIS SECRET IDENTITY, DONALD TRUMP

In 2017, the *Wonder Woman* movie rated number three at the box office.<sup>21</sup> The movie made over \$412 million.<sup>22</sup> Some super friends joined *Wonder Woman* at the box office that year.<sup>23</sup> *Spiderman* rated number five.<sup>24</sup> *Thor* rated number seven.<sup>25</sup> *Logan* rated number nine.<sup>26</sup> These

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18. THE WIZARD OF OZ (Metro-Goldwyn-Mayer Studios Inc. 1939).

19. *Id.*

20. See CHRISTOPHER VOGLER, THE WRITER'S JOURNEY (2nd ed., Michael Wiese Productions 1998). Vogler explains that getting inside the antagonist's skin as in the Wizard of Oz, is common in the hero's journey. *Id.*

21. 2017 Domestic Grosses, BOX OFF. MOJO, <https://www.boxofficemojo.com/yearly/chart/?yr=2017> [<https://perma.cc/R5N2-XRSC>] (last visited July 30, 2018).

22. Annual Movie Chart – 2017, NUMBERS, <https://www.the-numbers.com/market/2017/top-grossing-movies> [<https://perma.cc/H6QW-CF8S>] (last visited Aug. 1, 2018).

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.*

superhero movies scored in the top ten at the box office along with similar movies like *Star Wars* and *Guardians of the Galaxy*.<sup>27</sup>

In contrast, *I, Tonya*, the complex feminist exploration of Tonya Harding came in at number 203.<sup>28</sup> While *I, Tonya* received some Oscar love and critical acclaim,<sup>29</sup> it was less popular than superhero fiction.

Speaking of 2017 and numbers, here are some other numbers from both 2016 and 2017: (1) 45,993,691; (2) 252,133;<sup>30</sup> and (3) 62,984,828.<sup>31</sup>

The first number is the number of people who saw *Wonder Woman* in 2017.<sup>32</sup> The second is the number of people who saw *I, Tonya* in 2017.<sup>33</sup> The last number is the number of people who voted for Donald Trump in 2016.<sup>34</sup>

More people either filled out a mail-in ballot or got off of the couch that one day of the year to vote for Donald Trump than saw the *Wonder Woman* movie in all of 2017. Children and non-citizens can view the *Wonder Woman* movie,<sup>35</sup> but they cannot vote in a U.S. presidential election.<sup>36</sup>

Moreover, at the time of the writing of this article, Trump’s approval rating, according to the aggregate website *FiveThirtyEight*, held steady at 42.2%.<sup>37</sup> Since there are over 250 million adults in the United States, that percentage represents a sampling of an extremely large number of people.<sup>38</sup>

Popularity is not the only thing that Donald Trump’s campaign has in common with superhero fiction. Donald Trump’s story employs some of the same approaches as superhero fiction. Superhero fiction falls

27. *Id.* But see Lucille A. Jewel, *The Bramble Bush of Forking Paths: Digital Narrative, Procedural Rhetoric, and the Law*, 14 YALE J. L. & TECH. 66, 69 (2011) (indicating that computer games routinely outsell movies).

28. *Annual Movie Chart – 2017*, *supra* note 22.

29. Nick Zaccardi, ‘*I, Tonya*,’ *Receives Three Oscar Nominations*, NBC SPORTS (Jan. 23, 2018), <https://olympics.nbcsports.com/tag/academy-awards/> [https://perma.cc/K9RA-GNUG].

30. *Annual Movie Chart – 2017*, *supra* note 22.

31. FED. ELECTION COMM’N, FEDERAL ELECTIONS 2016: ELECTION RESULTS FOR THE U.S. PRESIDENT, THE U.S. SENATE AND THE U.S. HOUSE OF REPRESENTATIVES 5 (2017), <https://transition.fec.gov/pubrec/fe2016/federaelections2016.pdf> [https://perma.cc/EBA7-LX8B].

32. *Annual Movie Chart – 2017*, *supra* note 22.

33. *Id.*

34. FED. ELECTION COMM’N, *supra* note 31, at 5.

35. Rob Cain, ‘*Wonder Woman*’ *Around the World: Where It’s Hot, Where It’s Not*, FORBES (July 5, 2017), <https://www.forbes.com/sites/robcaain/2017/07/05/wonder-woman-around-the-world-where-its-hot-where-its-not/#60c9a5872417> [https://perma.cc/H5TN-WVGZ].

36. U.S. CONST. amend. XXVI, § 1.

37. *How Unpopular is Donald Trump?*, FIVETHIRTYEIGHT, [https://projects.fivethirtyeight.com/trump-approval-ratings/?ex\\_cid=rrpromo](https://projects.fivethirtyeight.com/trump-approval-ratings/?ex_cid=rrpromo) [https://perma.cc/Q8NP-2KJ5] (last visited Aug. 1, 2018).

38. *United States Population*, CENSUS REPORTER, <https://censusreporter.org/profiles/01000US-united-states/> [https://perma.cc/GGY5-BUJ8] (last visited Sept. 27, 2018).

within the larger category of melodrama,<sup>39</sup> which includes anything from soap operas, to morality plays, to pulp spy thrillers.<sup>40</sup> Thus, readers may notice similarities with some of these genres in the discussion below.

Whether Trump made conscious narrative choices or his narrative choices spring from his innate personality, he has used many techniques that have proved effective. By encapsulating a sometimes fictional, or post-truth, story into such a persuasive narrative style, prevaricators more easily convince people of falsehoods.

First, in crafting a narrative, the storyteller must consider the audience.<sup>41</sup> Audience plays a key role in Donald Trump's narrative. Not only does he cater to his audience, but he also ensures that he has one.

If a campaign tweets in an empty forest, no one hears a sound. The widespread bot dissemination of Trump's message ensures that his forest is full. An estimated four million Trump Twitter followers are actually bots, sometimes even bots that have stolen real people's identities.<sup>42</sup> Trump has re-tweeted bot tweets,<sup>43</sup> and over 50,000 Trump-supporting bot accounts are Russian-linked.<sup>44</sup> In the 2016 presidential campaign, social media bots played a disproportionate role in spreading 400,000 articles on Twitter and amplifying low credibility content.<sup>45</sup>

While this dissemination ensures that the audience receives the story, the audience must also identify with the story.<sup>46</sup> In most good

39. Jason Bainbridge, *Spider-Man, the Question and the Meta-zone: Exception, Objectivism and the Comics of Steve Ditko*, 16 L. TEXT CULTURE 217, 222 (2012).

40. See generally *Melodrama*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/melodrama> [<https://perma.cc/RW8S-TKWZ>] (last visited May 14, 2019).

41. Sherri Lee Keene, *Standing in the Judge's Shoes: Exploring Techniques to Help Legal Writers More Fully Address the Needs of Their Audience*, 50 U.S.F. L. REV. 479, 480 (2016); Jonathan K. Van Patten, *Storytelling for Lawyers*, 57 S.D. L. REV. 239, 252 (2012); see also Atiba R. Ellis, *Normalizing Domination*, 20 CUNY L. REV. 493, 494 (2017) (analyzing Trump's audience).

42. Scott Shane, *The Fake Americans Russia Created to Influence the Election*, N.Y. TIMES, at A1, Sept. 8, 2017; Patricia Garcia, *Trump's Twitter Following Might Include More Than 4 Million Bots*, VOGUE (Aug. 7, 2017), <https://www.vogue.com/article/trump-twitter-bots-fake-accounts-nicole-mincey> [<https://perma.cc/D9TU-ELNJ>]; Ryan Bort, *Nearly Half of Donald Trump's Twitter Followers are Fake Accounts and Bots*, NEWSWEEK (May 30, 2017), <http://www.newsweek.com/donald-trump-twitter-followers-fake-617873> [<https://perma.cc/F9UR-YP4R>].

43. See Garcia, *supra* note 42.

44. Bryan Logan, *Twitter Found More Than 50,000 Russia-Linked Accounts That Actively Shared Election-Related Material – and Trump Interacted with Them Hundreds of Times*, BUS. INSIDER (Jan. 19, 2018), <http://www.businessinsider.com/twitter-found-more-russian-bots-trump-interacted-with-many-2018-1> [<https://perma.cc/M5YE-YH3K>]. One source believes that the Russians employ the bots to sow divisiveness among Americans and destabilize the country. Tom McCarthy, *How Russia Used Social Media to Divide Americans*, GUARDIAN (Oct. 14, 2017), <https://www.theguardian.com/us-news/2017/oct/14/russia-us-politics-social-media-facebook> [<https://perma.cc/D34L-HSC4>].

45. Chengcheng Shao et al., *The Spread of Low Credibility Content by Social Bots*, NATURE COMM. (May 24, 2018), <https://arxiv.org/abs/1707.07592> [<https://perma.cc/Q283-CJM4>].

46. See also LAKOFF, *supra* note 11, at 17–18 (stating that people vote their identity rather than their interest); Veerle Baetens, “*The Audience Must Identify With a Character, They Have to Recognize Themselves*,” FILM TALK (Sept. 15, 2015), <https://filmtalk.org/2015/09/15/veerle-baetens->

stories, the protagonist appears first.<sup>47</sup> The more the audience identifies with the protagonist, the more they empathize with the protagonist and forgive the protagonist’s flaws.<sup>48</sup>

Such protagonists coded as the audience members themselves can be seen in early superhero stories. Early superhero stories evolved in response to a building aggression that eventually became a war-time era.<sup>49</sup> The protagonists in these stories, such as Superman, Wonder Woman, and Captain America, wore colors similar to those of the red, white, and blue American flag.<sup>50</sup> Wonder Woman and Captain America even wore white stars.<sup>51</sup> This visual coding told American audience members, “I am one of you. I am on team America.”<sup>52</sup>

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the-audience-must-identify-with-a-character-they-have-to-recognize-themselves [https://perma.cc/W43D-QR9V]; Teri A. McMurtry-Chubb, *The Rhetoric of Race, Redemption, and Will Contests: Inheritance as Reparations in John Grisham’s Sycamore Row*, 48 U. MEM. L. REV. 889, 947 (2018) (explaining that narrative is also a means of building identity).

47. Jami Gold, *Should Our Protagonist Be in the First Scene?*, JAMIGOLD (Feb. 17, 2015), <https://jamigold.com/2015/02/should-our-protagonist-be-in-the-first-scene/> [https://perma.cc/JDF5-JJ9Z?type=image].

48. Cf. Amy McQueen & Matthew W. Kreuter, *Women’s Cognitive and Affective Reactions to Breast Cancer Survivor Stories: A Structural Equation Analysis*, 815 PATIENT EDUC. & COUNSELING 516 (2010) (stating that a study showed that women engaged more with a message when they identified with a message source); see also LAKOFF, *supra* note 11 at 17–18 (stating that people vote their identity rather than their interest); PHILIP N. MYER, STORYTELLING FOR LAWYERS 74 (2014) (“[I]t often behooves legal storytellers to create sympathetic protagonists with whom the audience can at least identify.”). Regarding the nefarious side of identity, see Sherri Lee Keene, *Stories That Swim Upstream: Uncovering the Influence of Stereotypes and Stock Stories in Fourth Amendment Reasonable Suspicion Analysis*, 76 MD. L. REV. 747, 750 (2017) (discussing how police often make racial identity remarks in their testimony).

49. Superman and Batman evolved during the period of Nazi aggression. Will Self, *Will Self on the Return of the Big Blue Boy Scout*, TIMES (June 15, 2013) <https://www.thetimes.co.uk/article/will-self-on-the-return-of-superman-the-big-blue-boy-scout-qtmqrbhgcc9> [https://perma.cc/TD49-Q47Y]; Douglas Hyde, *Superheroes Rise in Tough Times*, CNN (Mar. 20, 2009), <http://edition.cnn.com/2009/SHOWBIZ/books/03/18/superhero.history/index.html> [https://perma.cc/TB9N-Z73Y?type=image]. Then Wonder Woman and Captain America arose during the World War II era. Maureen Callahan, *Why “Wonder Woman” is Less American Than Ever*, N.Y. POST (June 1, 2017), <https://nypost.com/2017/06/01/why-wonder-woman-is-less-american-than-ever/> [https://perma.cc/T2EE-FTTD]; *The Golden Age of Comics*, PBS, <http://www.pbs.org/opb/historydetectives/feature/the-golden-age-of-comics/> [https://perma.cc/UMB6-8GHE] (last visited Mar. 23, 2019).

50. Katherine G. Aiken, *Superhero History: Using Comic Books to Teach U.S. History*, OAH MAG. HIST. 41, 47, (Apr. 2010), <https://www.lrhds.org/cms/lib05/nj01000316/centricity/domain/164/superhero-story-of-history.pdf> [https://perma.cc/4PXD-TE3W].

51. *Id.*

52. Cf. Keene, *supra* note 48, at 757 (discussing how people fill in information gaps based on a small amount of information); Michael D. Murray, *Visual Rhetoric: Topics of Invention and Arrangement and Tropes of Style*, 21 LEGAL WRITING: J. LEGAL WRITING INST. 185, 194 (2016) (discussing how much more quickly and symbolically people process visual information); Lucille A. Jewel, *Through a Glass Darkly: Using Brain Science and Visual Rhetoric to Gain a Professional Perspective on Visual Advocacy*, 19 S. CAL INTERDISC. L.J. 237, 237, 252 (2010) (discussing how instantly people receive a visual message); Steve Johansen & Ruth Anne Robbins, *Art-iculating the Analysis: Systemizing the Decision to Use Visuals as Legal Reasoning*, 20 LEGAL WRITING 57, 86–93 (2015); Lenora Ledwon, *Understanding Visual Metaphors: What Graphic Novels Can Teach Lawyers About Visual Storytelling*, 63 DRAKE L. REV. 193, 195 (2015). Ledwon refers to Superman as one of



Trump likewise visually coded himself as his audience. Not only did he surround himself with red, white, and blue pageantry at his rallies,<sup>53</sup> but for his superhero costume, he donned a red and white “Make America Great Again” workman’s cap.<sup>54</sup> Then he repeated the word “jobs” over and over again.<sup>55</sup> Linguistics scholar George Lakoff says that such repetition trains the human mind to center on the repeated words.<sup>56</sup> Thus, Donald Trump signaled to the working-class portion of his base, “I am one of you. I have joined team American jobs.”

A second aspect of his long-worn costume appeals to a more traditional Republican base. He typically wears either designer suits, preppy blazers, or golf wear.<sup>57</sup> This costume signals, “I am on team business, team money.”

While these two generic aspects of Trump’s costume cater to two wide swaths of his base, Donald Trump did not stop there at profiling and catering to his audience. After Ted Cruz dropped out of the Republican primaries, the Trump campaign hired the firm, Cambridge Analytica, which profiles people based on their likes and purchases.<sup>58</sup> After profiling people, the firm sent people ads based on their profiles.<sup>59</sup> The

the most American of superheroes. *Id.* Yet, he is from another planet. The visual coding tells the audience that he’s an American anyway.

53. Phillip Ruck, *A ‘There-It-Is’ Moment: Trump Wows Fans by Using Air Force One as a Campaign Prop*, WASH. POST (Nov. 4, 2018), [https://www.washingtonpost.com/politics/a-there-it-is-moment-trump-wows-fans-by-using-air-force-one-as-a-campaign-prop/2018/11/04/4c36f61e-e043-11e8-b759-3d88a5ce9e19\\_story.html?utm\\_term=.4946418c5d0b](https://www.washingtonpost.com/politics/a-there-it-is-moment-trump-wows-fans-by-using-air-force-one-as-a-campaign-prop/2018/11/04/4c36f61e-e043-11e8-b759-3d88a5ce9e19_story.html?utm_term=.4946418c5d0b) [https://perma.cc/BF62-ZBCF]; *USA Freedom Kids Sing at Trump Rally*, CHI. TRIBUNE (Jan. 13, 2016), <https://www.chicagotribune.com/87971007-157.html> [https://perma.cc/S9AB-DBX6?type=image].

54. Ryan Teague Beckwith, *How Donald Trump’s Clothes Reinforce His Campaign*, TIME (Aug. 4, 2016), <http://time.com/4439204/donald-trump-fashion/> [https://perma.cc/MQ3E-GQXA]; see also Lucy Jewel, *Neuroretoric, Race, and the Law: Toxic Neural Pathways and Healing Alternatives*, 76 MD. L. REV. 663, 667 (2017) (discussing metonymy, a racial or social stereotyping process whereby one thing stands for the whole).

55. *President Trump Ranted For 77 Minutes in Phoenix. Here’s What He Said*, TIME (Aug. 23, 2017), <http://time.com/4912055/donald-trump-phoenix-arizona-transcript/> [https://perma.cc/XHG8-PUYX].

56. Sean Rossman, *Trump’s Repetitive Rhetoric is a Trick Used in Advertising*, USA TODAY (Feb. 16, 2017), <https://www.usatoday.com/story/news/politics/onpolitics/2017/02/16/mess-fake-news-disaster-trumps-repetition-advertising-tactic/98014444/> [https://perma.cc/GKC4-F62Q].

57. Robin Givhan, *Trump’s Fashion Look: Frozen in the ‘80s*, WASH. POST (July 16, 2016), [https://www.washingtonpost.com/lifestyle/style/trumps-fashion-look-frozen-in-the-80s/2016/07/15/4beed1bc-38a3-11e6-9ccd-d6005beac8b3\\_story.html?utm\\_term=.4c754881801a](https://www.washingtonpost.com/lifestyle/style/trumps-fashion-look-frozen-in-the-80s/2016/07/15/4beed1bc-38a3-11e6-9ccd-d6005beac8b3_story.html?utm_term=.4c754881801a) [https://perma.cc/4P9P-3WQZ]; Cassie Spodak, *How the Trump Hat Became an Icon*, CNN (Feb. 17, 2017), <https://www.cnn.com/2017/02/17/politics/donald-trump-make-america-great-again-ionic-hat/index.html> [https://perma.cc/K7WH-K3S5]; Beckwith, *supra* note 54.

58. Matthew Rosenberg, Nicholas Confessore & Carole Cadwalladr, *How Trump Consultants Exploited the Facebook Data of Millions*, N.Y. TIMES (Mar. 17, 2018), <https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump-campaign.html> [https://perma.cc/U75U-UAL4].

59. Kevin Granville, *Facebook and Cambridge Analytica: What You Need to Know as Fallout Widens*, N.Y. TIMES (Mar. 19, 2018), <https://www.nytimes.com/2018/03/19/technology/facebook-cambridge-analytica-explained.html> [https://perma.cc/639L-A3KA].

Mueller investigation looked into the company,<sup>60</sup> and now some people dispute the extent to which the company aided Trump or Cruz.<sup>61</sup> Nonetheless, original interviews with the company stated that when promoting gun rights, the company might send ads with storm clouds to users who rank high for neuroticism.<sup>62</sup> In contrast, they might send ads with a traditional family scene with a father and son hunting together to users who tested as pro-gun, introverted, and agreeable.<sup>63</sup> Thus, Trump may be more uniquely “one of you” for the portion of his base receiving the ads.

Superheroes are not just one of the audience members, they are the audience members as they would be in their dreams.<sup>64</sup> They are us, hyper-realized, larger than life.<sup>65</sup> Superman, for instance, has bulging muscles, incredible strength and speed, x-ray vision, and flying ability.<sup>66</sup> Wonder Woman has an hourglass figure, super agility, a lie-detecting lasso, and an invisible plane.<sup>67</sup>

Physical prowess, however, is not the only American dream. John Steinbeck is often paraphrased or misquoted as saying, “Americans see themselves not as downtrodden proletariats, but as temporarily embarrassed millionaires.”<sup>68</sup> America is nation of would-be lottery winners.

60. James Hohmann, *Democrats Risk Overplaying Their Hand by Pushing for Trump’s Resignation*, WASH. POST (Dec. 15, 2017), [https://www.washingtonpost.com/news/powerpost/paloma/daily-202/2017/12/15/daily-202-democrats-risk-overplaying-their-hand-by-pushing-for-trump-s-resignation/5a3343ee30fb0469e883fbd6/?utm\\_term=.373a3efc8eee](https://www.washingtonpost.com/news/powerpost/paloma/daily-202/2017/12/15/daily-202-democrats-risk-overplaying-their-hand-by-pushing-for-trump-s-resignation/5a3343ee30fb0469e883fbd6/?utm_term=.373a3efc8eee) [https://perma.cc/9Q9N-LB86].

61. Compare Rosenberg, *supra* note 58 (offering statements that Cambridge did not use psychographics on the Trump campaign, but that the campaign did hire the company), with Anderson Cooper360 Degrees, *Trump Campaign Distances from Data Group, Executive Says Otherwise; Interview with Senator Richard Blumenthal of Connecticut*, CNN (Oct. 26, 2017), <http://transcripts.cnn.com/TRANSCRIPTS/171026/acd.01.html> [https://perma.cc/YL4L-Y46P].

62. See McKenzie Funk, *Cambridge Analytica and The Secret Agenda of a Facebook Quiz*, N.Y. TIMES (Nov. 19, 2016), <https://www.nytimes.com/2016/11/20/opinion/cambridge-analytica-facebook-quiz.html> [https://perma.cc/8BN6-6Y6S].

63. *See id.*

64. Robert Emmons, *Why Audiences Identify with Movie Superheroes*, RUTGERS TODAY (June 10, 2011), [https://news.rutgers.edu/news-release/why-audiences-identify-movie-superheroes/20110610#.XE5\\_Cc9Kh8d](https://news.rutgers.edu/news-release/why-audiences-identify-movie-superheroes/20110610#.XE5_Cc9Kh8d) [https://perma.cc/KN88-FR3S].

65. *Cf.* Siegel v. Warner Bros. Entm’t Inc., 542 F. Supp. 2d 1098, 1104 (C.D. Cal. 2008) (discussing how Siegel gave Superman incredible strength yet humanized him with an ordinary person alter ego); *see generally* Joy Kanwar, *Avatars, Acting, and the Imagination: Bringing New Techniques Into the Classroom*, 43 J. LEGAL PROF. 1, 12–13 (discussing how students can choose hyper-realized avatars of themselves to project confidence).

66. Jeremy Greenberg, *Batman v. Superman: Let the Courts Decide*, 33 QUINNIAC L. REV. 127, 136, 139, 142 (2014).

67. Aiken, *supra* note 50, at 41, 46–47.

68. RONALD WRIGHT, A SHORT HISTORY OF PROGRESS 124 (2004) (explaining that the quote is often attributed to Steinbeck but that it’s a paraphrase or misquote); Caleb Reading, *Guess How Much Money It Takes To Be Batman and Iron Man*, UPROXX (July 30, 2012), <https://uproxx.com/viral/batman-and-iron-man-infographics/> [https://perma.cc/9DBA-XFUQ].

Thus, many American superheroes enjoy larger-than-life wealth.<sup>69</sup> Symbols of extreme wealth surround Tony Stark (Iron Man), and Bruce Wayne (Batman). For instance, sports cars fill Tony Stark's garage,<sup>70</sup> and Bruce Wayne owns an array of vehicles including boats, a batmobile, a batpod, a batcopter, and a batwing.<sup>71</sup> He also owns a Lamborghini.<sup>72</sup> Both live in mansions,<sup>73</sup> and Bruce Wayne has a butler.<sup>74</sup>

Likewise, Trump has long surrounded himself with symbols of wealth:<sup>75</sup> gold plated fixtures,<sup>76</sup> towers,<sup>77</sup> and even a historically-inaccurate Civil War monument.<sup>78</sup> In one recent photo, he posed with his wife, Melania, in their gold-plated penthouse, both in designer clothes alongside their suited son, Barron, who was seated upon a stuffed lion.<sup>79</sup> Note, whether Trump actually might have had financial failures is

69. Jacob Davidson, *These Are the Five Richest Superheroes*, TIME (July 9, 2015), <http://time.com/money/3950362/richest-superheroes-comic-con/> [https://perma.cc/7F9M-NZVH]; Reading, *supra* note 68.

70. Edward Jones, *Tony Stark and Iron Man's Car Collection Over the Years*, DUPONT REGISTRY (April 27, 2016), <https://blog.dupontregistry.com/celebrity-cars/tony-stark-iron-mans-car-collection/> [https://perma.cc/WEH7-KWDU].

71. Thomas Delatte, *The Ultimate Guide to Batman's Vehicles*, GUNAXIN, (Mar. 22, 2016), <https://gunaxin.com/ultimate-guide-batmans-vehicles> [https://perma.cc/8J4D-58AU].

72. K.S. Lang, *Batman's Lambo: "Dark Knight" Production Designer Talks About Lamborghini's Role in New Film, How Tumblr was Created*, MOTORTREND (July 17, 2008), <https://www.motortrend.com/news/batman-the-dark-knight/> [https://perma.cc/W5JZ-4MAS].

73. Brian Truitt, *DC Comics Unlock Dark Doors of "Arkham:" Batman's Lair Begins Life as Gotham City's Crazy Mental Asylum*, USA TODAY (Oct. 22, 2014); see also David Denby, *Unsafe: "Iron Man" and "Then She Found Me,"* NEW YORKER (Apr. 28, 2008), <https://www.newyorker.com/magazine/2008/05/05/unsafe> [https://perma.cc/EW8B-FXSE].

74. Brian Steinberg, *Holy Bats in the Belfry, Batman!: Nowadays, Bruce Wayne's Alter-Ego Borders on the Psychopathic*, WALL ST. J. (Apr. 5, 2008), <https://www.wsj.com/articles/SB120734582068290951> [https://perma.cc/4XVB-BRD7].

75. Michael Kranz & Mariana Alfaro, *Trump is Returning to Mar-a-Lago For the First Time Since Thanksgiving. Take a Look Inside the Exclusive Club that the Public Doesn't Get To See*, BUS. INSIDER (Feb. 1, 2019), <https://www.businessinsider.com/inside-trump-mar-a-lago-club-photos-2018-1> [https://perma.cc/35QK-ELAG]; Talia Avakian, *The \$100-Million Penthouse Where Donald Trump's Family Lives in New York City*, TRAVEL & LEISURE (Dec. 2, 2016), <https://www.travelandleisure.com/culture-design/architecture-design/trump-tower-donald-trump-penthouse> [https://perma.cc/M66U-446B].

76. S.V. Date, *Trump Flies with Gold-Plated Bathroom Fixtures, and You're Paying Millions for It*, HUFFINGTON POST (Sept. 24, 2016), [https://www.huffpost.com/entry/trump-luxury-jet\\_n\\_57e6bc0ee4b08d73b8319f15](https://www.huffpost.com/entry/trump-luxury-jet_n_57e6bc0ee4b08d73b8319f15) [https://perma.cc/4PNH-4ABB].

77. Max Abelson et al., *Inside Trump Tower*, BLOOMBERG (Oct. 25, 2016), <https://www.bloomberg.com/features/2016-trump-tower/> [https://perma.cc/ME34-YL5T].

78. Nicholas Fandos, *In Renovation of Golf Club, Donald Trump Also Dressed Up History*, N.Y. TIMES (Nov. 25, 2015), <https://www.nytimes.com/2015/11/25/us/politics/in-renovation-of-golf-club-donald-trump-also-dressed-up-history.html> [https://perma.cc/C4BU-ZKVS].

79. Boer Deng, *Melania Trump Made \$100K Picture Deal for Good News Stories*, AUSTRALIAN (July 4, 2018), <https://www.theaustralian.com.au/world/the-times/melania-trump-made-100k-picture-deal-for-good-news-stories/f32478ca41aaff600901bb3fb6e11778> [https://perma.cc/33M6-5ZJG?type=image].

irrelevant from a persuasive standpoint. His symbolic coding sends subconscious messages that stick inside people’s brains.<sup>80</sup>

In addition to coding himself as wealthy, Trump also attempted to code himself as enjoying larger-than-life physical abilities. In December 2015, during his campaign, Trump’s doctor released a statement saying that his blood pressure was “astonishingly excellent.”<sup>81</sup> He further stated, “If elected, Mr. Trump, I can state unequivocally, will be the healthiest individual ever elected to the presidency.”<sup>82</sup> Though in May 2018, the doctor retracted the statement,<sup>83</sup> proving that it is difficult to un-ring a bell.<sup>84</sup> It is easier to convince someone to form a belief for the first time than it is to convince someone to change a belief.<sup>85</sup>

After convincing the audience of a larger than life protagonist, superhero fiction gives the audience an antagonist to hate. In superhero fiction, the superhero typically fights a recurring cast of super-villains, and the drawings and names leave little doubt regarding whom the bad guy is.<sup>86</sup> For instance, Batman regularly fights villains such as the Riddler, the Joker, and the Penguin.<sup>87</sup>

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80. Cf. Murray, *supra* note 52, at 186, 194–95, 198 (discussing how rapidly people process visual information and how people may defer to visual information); Jewel *supra* note 52, at 255, 263 (discussing how people rapidly process visual information and tend not to change their minds after having made rapid conclusions); Michael D. Murray, *Leaping Language and Cultural Barriers with Visual Legal Rhetoric*, 49 U.S.F. L. REV. F. 61, 69 (2015) (discussing how often people retain and comprehend visual information more than other information); Sheppard, *Once Upon A Time*, *supra* note 11, at 262 (discussing how narrative operates on a subconscious level); Berger, *supra* note 10, at 268.

81. Scott Neuman, *Doctor: Trump Dictated Letter Attesting to His ‘Extraordinary’ Health*, NPR (May 2, 2018), <https://www.npr.org/sections/thetwo-way/2018/05/02/607638733/doctor-trump-dictated-letter-attesting-to-his-extraordinary-health> [<https://perma.cc/8C4V-RWR8>].

82. *Id.*

83. Alex Marquardt & Lawrence Crook III, *Exclusive: Bornstein Claims Trump Dictated the Glowing Health Letter*, CNN (May 2, 2018), <https://www.cnn.com/2018/05/01/politics/harold-bornstein-trump-letter/index.html> [<https://perma.cc/Z563-CCDX>].

84. PAUL BERGMAN & SARA J. BERMAN, *THE CRIMINAL LAW HANDBOOK: KNOW YOUR RIGHTS, SURVIVE THE SYSTEM* 422 (15th ed. 2018); Kaiser & Brown, *supra* note 15, at 241–42 (explaining how people often continue to believe a false story after the truth is revealed); cf. Ellis, *supra* note 7, at 888 (discussing how the false allegation of voter fraud grew roots due to memes); Kathryn Stanchi, *What Cognitive Dissonance Tells Us About Tone in Persuasion*, 22 J.L. & POL’Y 93, 97 (2013) (explaining that when confronted with reality that clashes with their beliefs most people will rationalize and alter the reality).

85. David Ropeik, *Why Changing Somebody’s Mind, or Yours, Is Hard to Do*, PSYCHOL. TODAY (July 13, 2010), <https://www.psychologytoday.com/us/blog/how-risky-is-it-really/201007/why-changing-somebody-s-mind-or-yours-is-hard-to-do> [<https://perma.cc/7X9E-NCA2>].

86. Tim Robey, *The Face of Evil? Why It’s Time to Heal the Scars of Hollywood Villains*, TELEGRAPH (Nov. 16, 2018), <https://www.telegraph.co.uk/films/0/face-evil-time-heal-scars-hollywood-villains/> [<https://perma.cc/3AYX-KKU3>] (discussing the use of scars and disfigurement in Hollywood villains).

87. John Beifuss, *Real Batman Leaps to DVD; This Latest Caper Suits Adam West*, COM. APPEAL (Aug. 28, 2001).

Likewise, Trump coins super-villain names for his recurring cast of foes.<sup>88</sup> Crooked Hillary,<sup>89</sup> Bad Hombre,<sup>90</sup> Rocket Man,<sup>91</sup> and Radical Islamic Terrorist<sup>92</sup> include just a few of his foes. When he fell out with Steve Bannon, Steve Bannon became “Sloppy Steve.”<sup>93</sup>

From there, the Trump movement plasters memes and tweets about these foes across the internet. Again, according to Professor Lakoff, repetition teaches the human brain to focus on the repeated terms.<sup>94</sup> The American who reads or watches the news only a few times a week might have seen “Crooked Hillary” memes plastered across social media or even featured on tabloids in the check-out lane. That priming leads to people associating her with under-handedness, and leads people to look skeptically at her long, complicated explanations regarding her emails or Benghazi.<sup>95</sup>

Once a super villain has suffered such infamy, people love to hate them. So, they get resurrected. For instance, at least fifteen different versions of the Joker have existed.<sup>96</sup> He was killed in the electric chair, nearly fatally stabbed, and has fallen to his death, and, yet, he returns to life.<sup>97</sup>

Likewise, Trump resurrects his foes to deflect blame and detract attention.<sup>98</sup> Hillary Clinton conceded the presidential election early in the morning after the results came in.<sup>99</sup> However, when the Russia

88. Matt Flegenheimer, *Band of the Insulted: The Nicknames of Trump's Adversaries*, N.Y. TIMES (Jan. 5, 2018), <https://www.nytimes.com/2018/01/05/us/politics/trump-nicknames.html> [<https://perma.cc/FU69-KR3P>].

89. *Id.*

90. Erin McCann & Jonah Engel Bromwich, *'Nasty Woman' and 'Bad Hombres': The Real Debate Winners?*, N.Y. TIMES (Oct. 20, 2016), <https://www.nytimes.com/2016/10/21/us/politics/nasty-woman-and-bad-hombres-the-real-debate-winners.html> [<https://perma.cc/48CV-KJL4>].

91. Flegenheimer, *supra* note 88.

92. Kristine Phillips, *'Radical Islamic Terrorism' Trump Said Over and Over. But Not in Saudi Arabia*, WASH. POST (May 22, 2017), [https://www.washingtonpost.com/news/the-fix/wp/2017/05/22/radical-islamic-terrorism-trump-said-over-and-over-but-not-in-saudi-arabia/?utm\\_term=.096675927f81](https://www.washingtonpost.com/news/the-fix/wp/2017/05/22/radical-islamic-terrorism-trump-said-over-and-over-but-not-in-saudi-arabia/?utm_term=.096675927f81) [<https://perma.cc/9VA6-HE7N>]; see generally Jewel, *supra* note 54, at 664 (discussing how racially coded categories create entrenched neural networks).

93. Flegenheimer, *supra* note 88.

94. Rossman, *supra* note 56.

95. Nicolas Kristof, *Is Hillary Clinton Dishonest?*, N.Y. TIMES (APR. 23, 2016), <https://www.nytimes.com/2016/04/24/opinion/sunday/is-hillary-clinton-dishonest.html> [<https://perma.cc/MW53-J49P?type=image>].

96. See James Whitbrook, *The Complete History of the Joker's Many, Many Incarnations*, GIZMODO (Apr. 27, 2015), <https://io9.gizmodo.com/the-complete-history-of-the-jokers-many-many-incarnati-1700471066> [<https://perma.cc/SUJY-Q5LG>] (discussing the many versions of the Joker).

97. Ben Browne, *15 Most Resurrected Characters in Comic Book History*, SCREENRANT, (Oct. 11, 2016), <https://screenrant.com/most-resurrected-superheroes-back-from-the-dead-comic-book-characters-ever-all-time/> [<https://perma.cc/4S8Y-KRV2>].

98. *Donald Trump's Art of Deflection*, BBC NEWS (Nov. 20, 2016), <https://www.bbc.com/news/world-us-canada-38045852> [<https://perma.cc/2RTS-T24Y?type=image>].

99. Jacob Pramuk, *Clinton Calls Trump to Concede Election*, CNBC (Nov. 9, 2016), <https://www.cnn.com/2016/11/09/clinton-calls-trump-to-concede-election-nbc-reports.html>

investigation heated up, Trump often tweeted about Clinton’s emails.<sup>100</sup> Although Barack Obama can no longer be president having served two terms,<sup>101</sup> photographs of Obama vacationing with billionaire Sir Richard Branson temporarily flooded the internet.<sup>102</sup> Yet, again, when the Russia investigation escalated,<sup>103</sup> Donald Trump tweeted, “Terrible! Just found out that Obama had my ‘wires tapped’ in Trump Tower just before the victory. Nothing found. This is McCarthyism!”<sup>104</sup> In a later tweet, he stated, “This is Nixon/Watergate. Bad (or sick) guy!”<sup>105</sup>

However, Barack Obama and Hillary Clinton may play the role of lesser villains in Trump’s narrative compared to perhaps his biggest foe, Radical Islamic Terrorist. Media has primed Trump’s base to fear Radical Islamic Terrorist.<sup>106</sup> Outlets like Fox and Breitbart include stereotypical portrayals of Muslim terrorists and report more often on terrorism.<sup>107</sup> Similarly, most fictional television depictions of Muslims

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[<https://perma.cc/8K75-S8ZJ>]; Jessica Taylor & Tamara Keith, *WATCH: Hillary Clinton Concedes Presidential Race to Donald Trump*, NPR (Nov. 9, 2016), <https://www.npr.org/2016/11/09/501425243/watch-live-hillary-clinton-concedes-presidential-race-to-donald-trump> [<https://perma.cc/MR3W-C38L>].

100. Zach Schonfeld, *Every Time Trump Tweeted About Hillary Clinton During the First Year of His Presidency*, NEWSWEEK (Jan. 19, 2018), <https://www.newsweek.com/donald-trump-hillary-clinton-tweets-presidency-first-year-783843> [<https://perma.cc/J738-EGSX>].

101. U.S. CONST. amend. XXII, § 1.

102. Deena Zaru, *Barack Obama’s Kitesurfing Adventure with Richard Branson*, CNN (Aug. 16, 2017), <https://www.cnn.com/2017/02/07/politics/barack-obama-kitesurfing-richard-branson/index.html> [<https://perma.cc/6CCG-88VK>].

103. See David Leonhardt, *Decoding the Wiretapping Allegations*, N.Y. TIMES (March 6, 2017), <https://www.nytimes.com/2017/03/06/opinion/decoding-the-wiretapping-claims.html>

[<https://perma.cc/TYP3-VX9F>]; Editorial Board, *When One President Smears Another*, N.Y. TIMES (Mar. 5, 2017), <https://www.nytimes.com/2017/03/05/opinion/when-one-president-smears-another.html> [<https://perma.cc/8HQX-GP8F>].

104. Michael D. Shear & Michael S. Schmidt, *Trump Offering No Evidence, Says Obama Tapped His Phones*, N.Y. TIMES (Mar. 4, 2017), <https://www.nytimes.com/2017/03/04/us/politics/trump-obama-tap-phones.html> [<https://perma.cc/H5PL-YNVE>]; Donald J. Trump (@realDonaldTrump), TWITTER (Mar. 4, 2017), <https://twitter.com/realdonaldtrump/status/837989835818287106?lang=en> [<https://perma.cc/X7XM-GMGM>].

105. Jana Heigl, *A Timeline of Donald Trump’s False Wiretapping Charge*, POLITIFACT (Mar. 21, 2017), <http://www.politifact.com/truth-o-meter/article/2017/mar/21/timeline-donald-trumps-false-wiretapping-charge> [<https://perma.cc/F29A-QTQ6>]; Donald J. Trump (@realDonaldTrump), TWITTER (Mar. 4, 2017), <https://twitter.com/realdonaldtrump/status/837996746236182529> [<https://perma.cc/3X84-RWQX>].

106. Tara Boyle et al., *When Is It ‘Terrorism’? How The Media Cover Attacks By Muslim Perpetrators*, NPR (June 19, 2017) <https://www.npr.org/2017/06/19/532963059/when-is-it-terrorism-how-the-media-covers-attacks-by-muslim-perpetrators> [<https://perma.cc/X8UR-6RV2>].

107. Taylor Markey, *Westernized Women?: The Construction of Muslim Women’s Dissent in U.S. Asylum Law*, 64 UCLA L. REV. 1302, 1312 (2017); Ian S. Lustick, *Fractured Fairy Tale: The War on Terror and the Emperor’s New Clothes*, 16 MINN. J. INT’L L. 335, 335–40 (2007); Joe Mulhall, *Breitbart’s Click-Hate Echo Chamber is a Threat to Europe. Here’s Why*, GUARDIAN (Mar. 7, 2017), <https://www.theguardian.com/commentisfree/2017/mar/07/breitbart-threat-to-europe-postwar-liberal-consensus> [<https://perma.cc/NQ43-RQ48>]; Brian Stelter, *Fox News Apologizes 4 Times for Inaccurate Comments About Muslims in Europe*, CNN (Jan. 18, 2015), <http://money.cnn.com/2015/01/18/media/fox-apologizes-for-anti-islam-comments/index.html> [<https://perma.cc/S8YY-AY23>]; Ed Mazza, *Fox News Host Lectures Muslims: ‘Don’t Burn People*

link to terrorist or terrorist adjacent storylines.<sup>108</sup> Moreover, media covers terrorism perpetrated by Muslims 449 percent more than other terrorism.<sup>109</sup> These media outlets do not frequently show, if at all, portrayals of a woman wearing a head scarf or a Middle Eastern man out doing charity work, parenting their children, giving intellectual presentations, and so on.<sup>110</sup> Trump relies on his audience's preconceptions, based on the priming his audience has already received, when he says things like, "Well, there is a Muslim problem. Absolutely. You just have to turn on your television set."<sup>111</sup>

Super-villains like "Radical Islamic Terrorist" pose a greater threat in the narrative when high stakes drive the plot. Thus, writing experts often advise writers to "raise the stakes."<sup>112</sup> Superhero fiction often raises the stakes to apocalyptic or genocidal levels. For instance, in the first *X-Men* movie, the super-villain Magneto developed a weapon that would turn all non-mutants to mutants.<sup>113</sup> Likewise, typically, every season of *Buffy the Vampire Slayer* would end with Buffy defeating an apocalyptic

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*Alive And Set Off Bombs*, HUFFINGTON POST (Apr. 16, 2017), [https://www.huffingtonpost.com/entry/fox-news-muslim-community\\_us\\_58f4202de4b0b9e9848cbf37](https://www.huffingtonpost.com/entry/fox-news-muslim-community_us_58f4202de4b0b9e9848cbf37) [<https://perma.cc/7PAL-9TR2>]; Michael Crowley & Nahal Toosi, *Trump Appointees Endorsed Link Between Islam and Radicalism*, POLITICO (Nov. 18, 2016), <https://www.politico.com/story/2016/11/trump-appointees-islam-radicalism-231647> [<https://perma.cc/RCX9-5J8R>]; see also, e.g., Thomas D. Williams, *Jesuit Scholar: Islamic Extremists Are the True Muslims*, BREITBART (June 16, 2017), <http://www.breitbart.com/national-security/2017/06/16/jesuit-scholar-islamic-extremists-are-the-true-muslims/> [<https://perma.cc/25G3-8E6U>]; Max Fisher, *It's Not Just Fox News: Islamophobia on Cable News is Out of Control*, VOX (Jan. 13, 2015), <https://www.vox.com/2014/10/8/6918485/the-overt-islamophobia-on-american-tv-news-is-out-of-control> [<https://perma.cc/KU9K-QEFJ>]; Nathan Lean, *Fox News War on Muslims*, SALON (Sept. 11, 2012), [https://www.salon.com/2012/09/11/fox\\_news\\_war\\_on\\_muslims/](https://www.salon.com/2012/09/11/fox_news_war_on_muslims/) [<https://perma.cc/5FVW-RED3>].

108. See Caroline Mala Corbin, *Terrorists Are Always Muslim But Never White: At the Intersection of Critical Race Theory and Propaganda*, 86 FORDHAM L. REV. 455 (2017); Melena Ryzik, *Can Television Be Fair to Muslims?*, N.Y. TIMES (Nov. 30, 2016), <https://www.nytimes.com/2016/11/30/arts/television/can-television-be-fair-to-muslims.html> [<https://perma.cc/YJ8B-82SM>].

109. See Corbin, *supra* note 108, at 460.

110. Meighan Stone, *Snake and Stranger: Media Coverage of Muslims and Refugee Policy*, SHORENSTEIN CTR. MEDIA, POL. & PUB. POL'Y (June 22, 2017), <https://shorensteincenter.org/media-coverage-muslims-refugee-policy/> [<https://perma.cc/D4G4-UNUD>]; Noah Smith, *Middle Eastern Immigrants Make the U.S. Stronger*, BLOOMBERG (July 24, 2017), <https://www.bloomberg.com/view/articles/2017-07-24/middle-eastern-immigrants-make-the-u-s-stronger> [<https://perma.cc/DC5S-86KW>].

111. See *Aziz v. Trump*, 234 F. Supp. 3d 724, 730 (E.D. Va. 2017); see also Corbin, *supra* note 109 (indicating people's preconceptions based on this archetype); see also Linda H. Edwards, *Once Upon A Time in Law: Myth, Metaphor, and Authority*, 77 TENN. L. REV. 883, 890 (2010) (discussing how stories often have preconceived archetypes).

112. Jae Watson, *What Advice Would you Give to a New Writer Starting Out?*, WRITWORDS <http://www.writewords.org.uk/interviews/answers.asp?qid=8> [<https://perma.cc/4YFX-89EN>] (last visited Feb. 23, 2019) (advice to new writers including to "raise the stakes"); see also Edwards, *supra* note 111, at 886 (stating that the protagonist must have a difficult challenge to overcome).

113. X-MEN (Twentieth Century Fox 2000).

threat.<sup>114</sup> In fact, a couple of superhero movies include the term “apocalypse” in the title.<sup>115</sup>

Donald Trump similarly raises the stakes in his narrative. For example, Trump has said, “We’re up against an enemy that celebrates death and totally worships destruction. . . . ISIS is on a campaign of genocide committing atrocities across the world. Radical Islamic Terrorists are determined to strike our homeland.”<sup>116</sup> When he issued a formal statement preceding the first travel ban, he stated, “our country cannot be the victims of the horrendous attacks by people that believe only in Jihad, and have no sense of reason or respect of human life.”<sup>117</sup>

These genocidally or apocalyptically high stakes stick to the audience’s psyche. Law Professor Ken Chestek explains that fear typically adheres to the human brain and becomes amplified more so than positive messages.<sup>118</sup> Evolution shaped people to fear death and guard against it.<sup>119</sup> Thus, genocidal or apocalyptic stakes might easily sway an audience already primed to fear Radical Islamic Terrorists.

Superhero fiction typically offers simple solutions for these apocalyptic and genocidal stakes. Violence solves the problems.<sup>120</sup> The

114. T.L. Kinney, *Paradoxically Spike*, BAKERSFIELD C. (2015), <http://www2.bakersfieldcollege.edu/roughneck/4-1/TabithaKinney.html> [<https://perma.cc/DK8C-BSC7>] (essay including analysis on how Buffy defeats apocalyptic threats in each season).

115. X-MEN APOCALYPSE (Twentieth Century Fox 2016); SUPERMAN/BATMAN: APOCALYPSE (Warner Bros. Animation 2010).

116. *President Trump: ISIS is on a Campaign of Genocide Across the World*, CNBC (Feb. 6, 2017), <https://www.cnn.com/video/2017/02/06/trump-isis-is-on-a-campaign-of-genocide-across-world.html> [<https://perma.cc/47XA-ZAVF>].

117. See *Trump v. Hawaii*, 138 S. Ct. 2392, 2435 (2018) (Ginsburg, J., dissenting).

118. Professor Chestek not only examined studies on fears and negativity, but he also tested negative narratives in briefs and discovered negative approaches work in underdog stories and stories focused on facts, whereas positive approaches work well for powerful parties and stories about the law. See Ken Chestek, *Fear and Loathing in Persuasive Writing*, 14 LEGAL COMM. & RHETORIC: JALWD 1 (2017); Ken Chestek, *Of Reptiles and Velcro: The Brain’s Negativity Bias and Persuasion*, 15 NEVADA L.J. 605 (2015); RICK HANSON WITH RICHARD MENDIUS, BUDDHA’S BRAIN: THE PRACTICAL NEUROSCIENCE OF HAPPINESS, LOVE & WISDOM 41 (2009); Roy F. Baumeister et al., *Bad Is Stronger Than Good*, 5 REV. GEN. PSYCHOL. 323 (2001).

119. ROB DUNN, THE WILD LIFE OF OUR BODIES: PREDATORS, PARASITES, AND PARTNERS THAT SHAPE WHO WE ARE TODAY 147 (2011).

120. Troy Campbell, *The Morals We Should But Don’t Take From Superhero Movies*, HUFFINGTON POST (June 11, 2013), [https://www.huffingtonpost.com/troy-campbell/the-questionable-morality\\_b\\_3421503.html](https://www.huffingtonpost.com/troy-campbell/the-questionable-morality_b_3421503.html) [<https://perma.cc/B4MQ-JLBD>]; CAPTAIN AMERICA: CIVIL WAR (Marvel Studios 2016). When Iron Man’s team squares off against Captain America’s team, Falcon asks, “What do we do, Captain?” *Id.* Captain America responds, “We fight.” *Id.*; see also Edwards, *supra* note 11, at 49–60 (discussing the redemptive violence myth that such stories are rooted in).



superhero fights the super-villain in a big battle.<sup>121</sup> The superhero then often jails the “bad guy” in the end.<sup>122</sup>

Likewise, Trump offers simple solutions. These work, in part, because first he plays on people’s fears, and then offers up protection with his threats. He tweeted about crime in Chicago and threatened to send federal troops into the city.<sup>123</sup> Similarly, to address immigration, Trump sent 5200 troops to the border.<sup>124</sup> Moreover, in an escalating scenario, he has threatened Kim Jong Un by saying, “[m]y nuclear button is much bigger than yours.”<sup>125</sup> He stated that if he had to defend the U.S. from North Korea, “[w]e will have no choice but to totally destroy North Korea,”<sup>126</sup> and has threatened to rain down, “fire and fury.”<sup>127</sup>

In addition to offering violence as a solution, Trump also offers incarceration as a solution. Under his executive order, 746 immigrants were detained at the airport under the travel ban.<sup>128</sup> Since then, his administration has separated over 1000 immigrant children from their parents and held them captive until being ordered to release them.<sup>129</sup> Trump advocates not only for detention of immigrants, but his campaign rally-cry against his opponent was “lock her up.”<sup>130</sup>

121. MAN OF STEEL (Warner Bros. 2013); THE AVENGERS (Paramount Pictures 2012); X-MEN: THE LAST STAND (Twentieth Century Fox 2006).

122. Graeme McMillan, ‘Gotham’: A Peek at the History (and Future) of Arkham Asylum, HOLLYWOOD REP. (Jan. 4, 2015), <https://www.hollywoodreporter.com/live-feed/gotham-arkham-asylum-history-future-760523> [https://perma.cc/P5YE-D62H].

123. Ryan Young & Eugene Scott, *Trump Threatens to the Send the “Feds” into Chicago*, CNN (June 30, 2017), <https://www.cnn.com/2017/06/30/politics/trump-chicago-federal-help/index.html> [https://perma.cc/586R-3VWE].

124. Michael D. Shear & Thomas Gibbons-Neff, *Trump Sending in 5,200 Troops to the Border in an Election-Season Response to Migrants*, N.Y. TIMES (Oct. 29, 2018), <https://www.nytimes.com/2018/10/29/us/politics/border-security-troops-trump.html> [https://perma.cc/SJW7-79AX].

125. *Trump Taunts Kim Jong-Un in Nuclear Tweet*, CNN (January 3, 2018), <http://www.cnn.com/TRANSCRIPTS/1801/03/cnr.17.html> [https://perma.cc/KS6P-FQS7?type=image].

126. *Donald Trump Threatens to ‘Totally Destroy’ North Korea in UN Speech*, GUARDIAN (Sept. 19, 2017), <https://www.theguardian.com/us-news/2017/sep/19/donald-trump-threatens-totally-destroy-north-korea-un-speech> [https://perma.cc/KLM3-4CJF].

127. Noah Bierman, *Trump Warns North Korea of ‘Fire and Fury’*, L.A. TIMES (Aug. 8, 2017), <https://www.latimes.com/politics/washington/la-na-essential-washington-updates-trump-warns-north-korea-of-fire-and-1502220642-htmlstory.html> [https://perma.cc/C9JX-RPHL].

128. Larry Neumeister, *746 People Subjected to Travel Ban Jan. 28–29*, BOSTON GLOBE (Feb. 24, 2017) <https://www.bostonglobe.com/news/politics/2017/02/24/people-subjected-travel-ban-jan/1HgC9z2B9UjFBymKweInAP/story.html>; see also Glenn Kessler, *The Number of People Affected by Trump’s Travel Ban: About 90,000*, WASH. POST (Jan. 30, 2017), [https://www.washingtonpost.com/news/fact-checker/wp/2017/01/30/the-number-of-people-affected-by-trumps-travel-ban-about-90000/?utm\\_term=.354f12d299ed](https://www.washingtonpost.com/news/fact-checker/wp/2017/01/30/the-number-of-people-affected-by-trumps-travel-ban-about-90000/?utm_term=.354f12d299ed) [https://perma.cc/N853-R22W].

129. Philip Bump, *The Children Separated from Their Parents by the Numbers*, WASH. POST (July 9, 2018), [https://www.washingtonpost.com/news/politics/wp/2018/07/09/the-children-separated-from-their-parents-by-the-numbers/?utm\\_term=.1cf83d063edb](https://www.washingtonpost.com/news/politics/wp/2018/07/09/the-children-separated-from-their-parents-by-the-numbers/?utm_term=.1cf83d063edb) [https://perma.cc/AW6R-KBVL].

130. Peter W. Stevenson, *A Brief History of the ‘Lock her up!’ Chant by Trump Supporters Against Clinton*, WASH. POST (Nov. 22, 2016), <https://www.washingtonpost.com/news/the->

These solutions are not only simple, they are also symbolic. Enormous border walls and prisons symbolize safety and protection.<sup>131</sup> For thousands of years, people have been building walls and fences to protect themselves.<sup>132</sup> They have fortified castles.<sup>133</sup> Even still, we live inside walls for protection. Those protective walls hold so much significance for people that the English language has a term for those who lack them, “homeless.”

Such symbols and visuals permeate superhero fiction.<sup>134</sup> In fact, since superhero fiction began as comics, everything had to be portrayed visually.<sup>135</sup> Visual symbols captured even the superheroes’ strengths and weaknesses.<sup>136</sup> For instance, a green glowing rock, kryptonite, symbolized Superman’s weakness.<sup>137</sup> Glowing purple vibranium symbolizes Black Panther’s strength.<sup>138</sup> An invisible plane symbolized one of Wonder Woman’s strengths.<sup>139</sup>

Donald Trump likewise surrounds himself with symbols of his strengths. He even claims that his stealth plane, which is invisible to radar, is an “invisible plane.”<sup>140</sup> He similarly erects other strength

fix/wp/2016/11/22/a-brief-history-of-the-lock-her-up-chant-as-it-looks-like-trump-might-not-even-try/?utm\_term=.b2cd80a9d407 [https://perma.cc/3HP3-L5NQ].

131. Charles F. Saylor, *Belli Spes Inproba: The Theme Of Walls In Lucan, Pharsalia VI*, 108 TRANSACTION AM. PHILOLOGICAL ASS’N 243 (1978); *see also* Jewel, *supra* note 54, at 666 (explaining how a metaphor enables the human mind to automatically connect more than one piece of information); Graham & McJohn, *supra* note 13, at 268 (2009) (discussing how the mind operates in metaphors); GEORGE LAKOFF & MARK JOHNSON, METAPHORS WE LIVE BY (1980).

132. Olivia B. Waxman, *The History of Walls Is Long. Here’s Where Donald Trump Fits In*, TIME (Jan. 30, 2017), <http://time.com/4652770/donald-trump-immigration-walls-history/> [https://perma.cc/AU7G-34W6].

133. REGINALD ALLEN BROWN, ALLEN BROWN’S ENGLISH CASTLES 6–8 (1976).

134. Travis Langley, *Symbolic Power Among Marvels*, PSYCHOL. TODAY (July 1, 2018), <https://www.psychologytoday.com/us/blog/beyond-heroes-and-villains/201807/symbolic-power-among-marvels> [https://perma.cc/N2VW-Y9BF] (discusses super-hero symbolism); Ledwon, *supra* note 52, at 195, 212.

135. *Cf.* Ledwon, *supra* note 52, at 195, 212.

136. *Cf. id.*

137. D.C. Comics v. Kryptonite Corp., 336 F. Supp. 2d 324, 327 (S.D.N.Y. 2004) (“Superman’s sole weakness is his vulnerability to several forms of Kryptonite, an element from Superman’s home planet.”).

138. Andy McDonald, *Black Panther’s Powerful Vibranium Suit Explained with Real Science*, HUFFINGTON POST (Feb. 17, 2018), [https://www.huffingtonpost.com/entry/black-panthers-powerful-vibranium-suit-explained-with-real-science\\_us\\_5a8872f2e4b00bc49f44ac22?ncid=txtlnkusaolp00000603](https://www.huffingtonpost.com/entry/black-panthers-powerful-vibranium-suit-explained-with-real-science_us_5a8872f2e4b00bc49f44ac22?ncid=txtlnkusaolp00000603) [https://perma.cc/47D8-MEMR]; *cf.* Jamal Khashoggi, *What Saudi Arabia Can Learn From ‘Black Panther’*, WASH. POST (Apr. 17, 2018), [https://www.washingtonpost.com/news/global-opinions/wp/2018/04/17/what-saudi-arabia-can-learn-from-black-panther/?utm\\_term=.6c2adcb5b1ca](https://www.washingtonpost.com/news/global-opinions/wp/2018/04/17/what-saudi-arabia-can-learn-from-black-panther/?utm_term=.6c2adcb5b1ca) [https://perma.cc/UN3W-GCSZ] (mentioning vibranium’s strength).

139. Gabriella Geisinger, *Wonder Woman vs. Superman: Who Would Win in a Fight? Wonder Woman Powers Listed*, EXPRESS (June 4, 2018) (listing Wonder Woman’s invisible plane as an asset).

140. *Donald Trump’s Invisible Plane*, MSNBC (Mar. 23, 2018), <https://www.msnbc.com/all-in/watch/donald-trump-s-invisible-plane-1193909827736> [https://perma.cc/H4W8-LYYH]; *Donald Trump’s Bizarre Comments About Invisible Planes to the U.S. Coast Guard*, INDEPENDENT (Nov. 23, 2017), <https://www.independent.co.uk/news/world/americas/us-politics/trump-planes-invisible-full->

symbols: giant towers, gold plated fixtures, and a giant mock-up of the border wall.<sup>141</sup> Regardless of whether the border wall is a foolish idea, on a symbolic level the idea resonates, an enormous wall that will protect people from Bad Hombre and Radical Islamic Terrorist.

Finally, in superhero fiction, the storyteller tells these symbolic stories using simple language. Comics typically are easier for readers who read at a lower reading level.<sup>142</sup> In *Batman*, the words may sometimes be as simple as “bam” or “pow.”<sup>143</sup>

Trump likewise uses simple language in relaying his story. An analysis of his speeches reveals that they are at a fifth to seventh grade reading level.<sup>144</sup> Even the words are simple: “Bad Hombre,”<sup>145</sup> rather than “nefarious,” “malicious,” or even “terrible.” His sentences are similarly simple. For instance, in one Republican debate he said, “We pay more business tax. We pay more personal tax. We have the highest taxes in the world.”<sup>146</sup> Each sentence has a single clause with one short prepositional phrase.

This simple language accomplishes two things. First, it makes his narrative accessible to a wider range of people.<sup>147</sup> They can understand it. Second, for some portion of his base, his low reading level and even his typos may make him seem more relatable; more like the kind of person they could kick back and have a beer with.<sup>148</sup>

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transcript-thanksgiving-coastguard-jets-comments-read-a8072761.html [https://perma.cc/64UT-QJ8F].

141. BLACK PANTHER (Marvel Studios 2018).

142. Melanie English, *Raising Super Readers: Benefits of Comic Books and Graphic Novels*, SCHOLASTIC (last visited Feb. 23, 2019), <https://www.scholastic.com/parents/books-and-reading/raise-a-reader-blog/raising-super-readers-benefits-comic-books-and-graphic-novels.html> [https://perma.cc/B8QY-R7MF] (discusses how comics are at a lower reading level and can therefore encourage children to read more).

143. Denny O’Neill et al., *Night of the Shadow*, BATMAN 259, at 4, 16: NIGHT OF THE SHADOW at 4, 16 (DC Comics 1974).

144. Justin W. Moyer, *Trump’s Grammar in Speeches ‘Just Below 6th Grade Level,’ Study Finds*, WASH. POST (Mar. 18, 2016), [https://www.washingtonpost.com/news/morning-mix/wp/2016/03/18/trumps-grammar-in-speeches-just-below-6th-grade-level-study-finds/?utm\\_term=.ac9dc99db50f](https://www.washingtonpost.com/news/morning-mix/wp/2016/03/18/trumps-grammar-in-speeches-just-below-6th-grade-level-study-finds/?utm_term=.ac9dc99db50f) [https://perma.cc/CFD3-53ZL].

145. Erin McCann & Jonah Engel Bromwich, *‘Nasty Woman’ and ‘Bad Hombres’: The Real Debate Winners?*, N.Y. TIMES (Oct. 20, 2016), <https://www.nytimes.com/2016/10/21/us/politics/nasty-woman-and-bad-hombres-the-real-debate-winners.html> [https://perma.cc/RVD7-F8UJ].

146. Danny Westneat, *At a Fourth Grade Reading Level, Trump Connects to Voters*, SEATTLE TIMES (Feb. 26, 2016), <https://www.seattletimes.com/seattle-news/donald-trump-connects-at-a-new-level-a-fourth-grade-level/> [https://perma.cc/C53H-PZ2L].

147. Orly Kayam, *The Readability and Simplicity of Donald Trump’s Language*, 16 POL. STUDIES REV. 73, 74 (2018).

148. *Id.*; see also Eliza Relman, *Trump’s Staff Ghostwrites Some of His Tweets and Inserts Grammatical Errors to Make Them Seem Authentic*, BUS. INSIDER (May 22, 2018), <https://www.businessinsider.com/trump-staff-inserts-grammatical-errors-into-tweets-2018-5> [https://perma.cc/RL83-448E].

Regarding accessibility, though people may poke fun at his reading level, legal writing professors and legal writing experts have long advocated for using plain English.<sup>149</sup> In fact, in an egalitarian democracy, I would argue that lawyers, judges, politicians, and political leaders have a duty to make their legal narratives accessible to all of the voting public. The Supreme Court of the United States has affirmed the prohibition on reading tests for voters.<sup>150</sup> Moreover, a reading test penalizes people who have socioeconomic barriers to developing reading skills and penalizes people with disabilities.<sup>151</sup>

In contrast to Donald Trump’s speeches, Hillary Clinton’s speeches are on a seventh to tenth grade level.<sup>152</sup> No matter how brilliant her statements may seem, to those below her reading level, she may sound like a Charlie Brown teacher.<sup>153</sup> When a teacher speaks in Charlie Brown, the kids just hear, “wah wa wah-wa wrah wrah wrah wrah wrah wa-wah.”<sup>154</sup> By the time Hillary Clinton has finished her explanation, some portion of the audience has likely zoned out or changed the channel to watch wrestling.<sup>155</sup>

Another thing that Donald Trump’s narratives have in common with superhero fiction is that they are both fiction. According to *The Washington Post*, Donald Trump lied more than 3000 times in 466 days.<sup>156</sup>

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149. Cynthia Adams, *The Move Toward Using Plain Legal Language*, ABA (Aug. 9, 2017), [https://www.americanbar.org/groups/young\\_lawyers/publications/tyl/topics/writing/the\\_move\\_toward\\_using\\_plain\\_legal\\_language/](https://www.americanbar.org/groups/young_lawyers/publications/tyl/topics/writing/the_move_toward_using_plain_legal_language/) [<https://perma.cc/NR2V-ZW6E>]; Van Patten *supra* note 41, at 274 (advocating for simple, declarative sentences); Julie A. Baker, *And the Winner Is: How Principles of Cognitive Science Resolve the Plain Language Debate*, 80 UMKC L. REV. 287, 294–301 (2011) (discussing how plain English by and large is more persuasive and has largely been endorsed in the legal field); *cf.* Julie A. Oseid, *What Lawyers Can Learn from Edgar Allan Poe*, 15 LEGAL COMM. & RHETORIC: JALWD 233, 236–40 (2018) (discussing the persuasive power of brevity); Judith D. Fischer, *Got Issues? An Empirical Study About Framing Them*, LEGAL COMM. & RHETORIC 1, 10 (Fall 2009) (explaining that diction can impact clarity). *But see* Lance N. Long & William F. Christensen, *Does the Readability of Your Brief Affect Your Chance of Winning an Appeal?*, 12 J. APP. PRAC. & PROCESS J. 145, 159 (2011) (finding no correlation between readability and success before judges).

150. *Katzenbach v. Morgan*, 384 U.S. 641, 647 (1966).

151. Eben Moglen & Pamela S. Karlan, *The Soul of a New Political Machine: The Online, the Color Line and Electronic Democracy*, 34 LOY. L.A. L. REV. 1089, 1089–90 (2001); *cf.* David Gespass, *Warning: Detours and Roadblocks Ahead—the Bumpy Road from Selma to Shelby County*, 73 NAT’L LAW. GUILD REV. 109, 115 (2016).

152. Moyer, *supra* note 144.

153. *See* Kayam, *supra* note 147, at 74; *see also* LAKOFF, *supra* note 11, at 21 (discussing how conservatives have two words to explain proposals whereas progressives have a paragraph long discussion).

154. *A BOY NAMED CHARLIE BROWN* (Cinema Center Films 1969).

155. *Cf.* Baker, *supra* note 149 at 302–04 (discussing how presenting the opponent’s counterargument in less “fluent” language while presenting one’s own case in more fluent language has proven to be more persuasive).

156. Glenn Kessler, Salvador Rizzo, & Meg Kelly, *President Trump has Made 3,001 False or Misleading Claims so Far*, WASH. POST (May 1, 2008), <https://www.washingtonpost.com/news/fact-checker/wp/2018/05/01/president-trump-has-made-3001-false-or-misleading-claims-so->

This fact may leave Trump opponents aghast that anyone could still follow him. However, while ethics require truth in narrative, persuasion sometimes only requires “truthiness.”<sup>157</sup> Most good fiction includes concrete details to establish verisimilitude, a sense of reality.<sup>158</sup> These details do not have to be 100% accurate.<sup>159</sup> They just need to be “truthy” enough for the audience to suspend their disbelief.<sup>160</sup> It is enough that fiction has mythic truth or thematic truth.<sup>161</sup>

So, Donald Trump attributed the shootings in Orlando and San Bernadino to terrorism and indicated that the press does not even report on all of the terrorism.<sup>162</sup> Similarly, Kellyanne Conway went on *Hardball with Chris Matthews* and referenced a “Bowling Green Massacre” that never happened.<sup>163</sup> In both narratives, Conway and Trump weaved in concrete details.<sup>164</sup> Trump made specific references to cities such as Orlando, San Bernadino, and Nice.<sup>165</sup> Likewise, Conway stated, “President Obama had a six month ban on the Iraqi refugee program after two Iraqis came here, were radicalized and they were the masterminds behind the Bowling Green Massacre.”<sup>166</sup> By giving details

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far/?utm\_term=.0d0013313599 [https://perma.cc/X3ZC-GXYR]; Gregory Krieg, *How Can Trump Lie So Much and Be ‘Authentic’ at the Same Time? Here’s One Explanation*, CNN (May 5, 2018), <https://www.cnn.com/2018/05/05/politics/trumps-lies-authentic-to-his-supporters/index.html> [https://perma.cc/F57C-GB4W].

157. Cathren Page, *Stranger Than Fiction: How Lawyers Can Accurately and Realistically Tell a True Story by Using Fiction Writer’s Techniques that Make Fiction Seem More Realistic Than Reality*, 78 LA. L. REV. 907, 913 (2018) [hereinafter Page, *Stranger Than Fiction*]; See *The Colbert Report: Super Show* (Comedy Central television broadcast Oct. 17, 2005) (introducing the word “truthiness” in a segment called “The Word”).

158. Page, *Stranger Than Fiction*, *supra* note 157, at 913; J.A. CUDDON, *DICTIONARY OF LITERARY TERMS & LITERARY THEORY* 755 (5th ed. 2013); see also Sheppard, *What If the Big Bad Wolf*, *supra* note 11, at 196 (2012) (discussing how stories must contain details that establish credibility).

159. See Page, *Stranger Than Fiction*, *supra* note 157; Michaela Roessner, Instructor, *Gotham Writers’ Workshop, Online World-Building Lecture in Advanced Science Fiction Writing* (Aug. 8, 2012) (on file with author) (discussing how a good science-fiction story provides a few key details so that the reader envisions the setting and has a sense of verisimilitude).

160. See Page, *Stranger Than Fiction*, *supra* note 157, at 921.

161. *Id.*

162. *Trump: Isis is on a Campaign of Genocide Across World*, CNBC (Feb. 16, 2017), <https://www.cnbc.com/video/2017/02/06/trump-isis-is-on-a-campaign-of-genocide-across-world.html> [https://perma.cc/F2DN-2LYA]; Julie Hirschfeld Davis, *Trump Says Journalists ‘Have Their Reasons’ to Play Down Terror Threat*, N.Y. TIMES (Feb. 6, 2017), <https://www.nytimes.com/2017/02/06/us/politics/donald-trump-centcom.html> [https://perma.cc/D8EU-K35B].

163. *Conway Cites ‘Bowling Green Massacre’ to Defend Refugee Ban*, MSNBC (Feb. 2, 2017), <https://www.msnbc.com/hardball/watch/matthews-pushes-conway-on-use-of-executive-power-868952643695> [https://perma.cc/6QJJ-KJCL].

164. *Hardball College Tour Event ‘Power and Presidency’*, FED. NEWS SERV. (Feb. 3, 2017).

165. See *Trump: Isis is on a Campaign of Genocide Across the World*, *supra* note 162.

166. *Conway Cites ‘Bowling Green Massacre’*, *supra* note 163; see also Aaron Blake, *Kellyanne Conway’s ‘Bowling Green Massacre’ Wasn’t a Slip of the Tongue. She Has Said it Before*, WASH. POST (Feb. 6, 2017), <https://www.washingtonpost.com/news/the-fix/wp/2017/02/06/kellyanne-conways->

like specific locations, specific time frames, a specific program name, and a specific event, they breathed a sense of reality into their lies.<sup>167</sup> It is enough that it could have happened.<sup>168</sup> The fear-primed base hears the story and thinks, “So they got the details a little wrong. It could have happened. That’s what matters.”<sup>169</sup>

Thus, whether intentionally or inadvertently, Donald Trump has identified his audience’s wants, spread his message far and wide, and persuaded pre-primed voters using superhero fiction techniques. This approach had subconscious persuasive sticking power regardless of the falsities in the narrative.<sup>170</sup>

### III. THE STORY OF A SUPER-TRUTHERS’ PLAN TO DEFEAT NOT-SO GREAT FABRICATORS

In the face of such a super-powered foe, what is a truth-teller to do? Tell the truth, but tell it using some of the superhero techniques,<sup>171</sup> and spread it far and wide. These same techniques can be adapted to be used honestly and ethically in a political campaign, in advocating for an issue, or in litigation.

Some aspects of the approach may vary depending on the forum. For instance, in a political campaign, a candidate only needs enough votes in the right district to win and need not court the other side’s base.<sup>172</sup> Thus, a candidate’s strategy will be to: (1) motivate the base to vote; (2) win over swing-voters or stay-at-homers; and (3) encourage the more

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bowling-green-massacre-wasnt-a-slip-of-the-tongue-shes-said-it-before/?utm\_term=.e0dbf6546c23 [https://perma.cc/VG7M-9V9F].

167. See Cathren Page, *Astonishingly Excellent Success or Sad! Loser! Failure: Why President Trump’s Legal Narratives “Win” with Some Audiences and Lose with Others*, 18 CONN. PUB. INT. L.J. 41 (2018); Page, *Stranger than Fiction*, *supra* note 157, at 909–10; see also JOHN GARDNER, *THE ART OF FICTION* 22–23 (1991) (discussing how including concrete details establishes verisimilitude).

168. *Id.*; Cathren Page, *Stranger than Fiction*, *supra* note 157.

169. See Jewel, *supra* note 54, at 673 (discussing a study where people viewed a political candidate saying something inconsistent and then rationalized the statement); see also Sheppard, *supra* note 11, at 199 (discussing how people must believe that a story event “could happen”); Kaiser & Brown, *supra* note 15, at 241 (2015) (explaining how people often continue to believe a false story after the truth is revealed).

170. *Cf.* Sheppard, *Once Upon a Time*, *supra* note 11, at 262 (discussing the subconscious power of story); Linda L. Berger, *How Embedded Knowledge Structures Affect Judicial Decision Making: A Rhetorical Analysis of Metaphor, Narrative, and Imagination in Child Custody Disputes*, 18 S. CAL. INTERDISC. L.J. 259, 268 (2009) (discussing the subconscious power of story).

171. *Cf.* Edwards, *supra* note 11, at 66; Levit, *supra* note 13, at 756 (discussing how stories have led to legal reform); Sheppard, *What if the Big Bad Wolf*, *supra* note 11, at 202 (explaining that opponents must have a counter-story); Sheppard, *Once Upon A Time*, *supra* note 11, at 267 (same).

172. *A Practical Guide for Winning Elections*, INDIVISIBLE, <https://indivisible.org/resource/practical-guide-winning-elections> [https://perma.cc/G4VZ-RPV4?type=image] (last visited Feb. 25, 2019).

reluctant members of the opponent's team to vote for anyone other than the most formidable opponent.

In contrast, in a jury trial, an attorney must first win all of the jury, and then must win the majority of judges on appeal. Thus, the attorney may have to overcome deeply-held beliefs and has less ability to ignore portions of the audience.

In campaigns on other issues, an advocate may need a majority of congresspersons, a majority of councilpersons, a set number of petition-signers, a set number of boycotters, and so on. Again, depending on the scenario, the advocate may or may not need to overcome deep-frame beliefs.

Regardless, the approach described below is generally good strategy in any situation, keeping in mind that some adaptation is necessary to overcome deep frames. In particular, the approach described below works well for overcoming dishonest political opponents in a run for office.

This approach involves using similar superhero techniques but in a more ethical, truthful, and non-violent fashion. First, campaigns or causes crafting the narrative can more accurately and ethically use techniques to reach target audiences and honor their needs. Thus, these narrative crafters can: (1) ensure accurate, fair, and widespread dissemination of the message; and (2) identify audience needs with technology assessment if they provide informed consent.

Second, the campaign can more accurately, ethically, and peacefully employ some of the superhero narrative approaches above.

#### *A. Disseminating the Message and Targeting Audiences*

First, regarding dissemination of the message, advocates can use technology to spread their messages further and more quickly.<sup>173</sup> Bots, AI, and automated programs can fuel a campaign with super-strength and are ethically neutral.<sup>174</sup> They only become ethically wrong when someone deceives people into believing the programs are real people,<sup>175</sup> and it is wrong to steal the identities or photos of real people for these

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173. Mei Fong, *Technology Helped News Spread Quickly*, WALL ST. J., <https://www.wsj.com/articles/SB121061880355685847> [<https://perma.cc/5K2H-9QEY>] (last updated May 13, 2008).

174. Jay Van Blaricum, *Opinion: Impersonation Bots and Kansas Law*, 87 J. KAN. B. ASS'N. 20 (May 2018).

175. Ben Popken & Jo Ling Kent, *Twitter Bots Are Stealing Social Media Identities For Profit*, NBC NEWS, (Jan. 29, 2018), <https://www.nbcnews.com/tech/social-media/twitter-bots-are-stealing-social-media-identities-profit-n841951> [<https://perma.cc/SG3G-HG9F>].

programs.<sup>176</sup> When full disclosure is used, an advocate can fairly use this technology.<sup>177</sup> Likewise, a campaign can fairly use digital advertising to reach its target audience. During Alabama Senator Doug Jones’ successful 2017 special election race in Alabama, a couple of Political Action Committees (“PACs”) partnered on a \$1.5 million digital advertising campaign that they say reached 1.4 million Alabama voters.<sup>178</sup> According to a source, \$1 million of that digital ad campaign was specifically allotted to energizing the black vote.<sup>179</sup>

Second, advocates and campaigners can ethically use technology to identify audience needs; identifying such needs is ethically imperative in a democracy. Rather than spying on the audience or invading their privacy, advocates and campaigners can simply ask the audience to participate. In a sense, the Doug Jones Senate campaign invited such audience participation by asking black leaders what the community needed.<sup>180</sup> Leaders in a democracy should be doing this sort of active listening in order to meet constituent needs. Moreover, leaders in an egalitarian society should be actively listening to oppressed and underrepresented persons’ needs.

The Doug Jones Senate campaign effectively identified his audience and disseminated his message to them. Democrats and their allies concentrated and organized their efforts to increase black Alabama voter turnout.<sup>181</sup> For example, two national PACs partnered and proclaimed that their activists knocked on more than 520,000 doors, 200,000 of which occurred in the campaign’s last four days.<sup>182</sup> The night before the election, reports state that former President Barack Obama sent an automated phone call to Alabama households, telling them, “This one’s serious . . . you can’t sit it out.”<sup>183</sup>

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176. *Id.*

177. Jonah Engel Bromwich, *Bots of the Internet, Reveal Yourselves!*, N.Y. TIMES (July 16, 2018), <https://www.nytimes.com/2018/07/16/style/how-to-regulate-bots.html> [https://perma.cc/CFX6-4XJG].

178. Juana Summers, *How Black Voters Boosted Doug Jones to a Win in Alabama*, CNN (Dec. 14, 2017), <https://www.cnn.com/2017/12/13/politics/black-voters-boosted-doug-jones/index.html> [https://perma.cc/DR8P-SPD9].

179. *Id.*

180. *Id.*

181. Richard Fausset & Campbell Robertson, *Black Voters in Alabama Push Back Against the Past*, N.Y. TIMES, (Dec. 13, 2017), <https://www.nytimes.com/2017/12/13/us/doug-jones-alabama-black-voters.html> [https://perma.cc/S2VX-H4ZL].

182. *Id.*

183. *Doug Jones: The Democrat Who Upset the Senate Race*, BBC (Dec. 13, 2017), <https://www.bbc.com/news/world-us-canada-42321396> [https://perma.cc/4WP2-4TB3].



### *B. Telling Super-Truthful Super-Stories*

The superhero approaches above can be borrowed from in some ways to tell a more peaceful and accurate story. These approaches include: (1) showing the audience the actual ways that the protagonist has joined the audience's team; (2) showing true strengths that make the protagonist an extraordinary or super person as a leader; (3) creating instant association with the antagonists' most serious actual flaws; (4) portraying true threats of the antagonists' resurrection; (5) providing visual portrayals of actual high stakes threats; (6) portraying the strength and courage of peaceful solutions visually and symbolically; and (7) using concise and simple language to tell the story.

#### 1. Identifying Super-Protagonists as Having Joined Team You

After identifying the audience and disseminating the message, the storyteller must determine how the protagonist resembles the audience in a meaningful way and give showing details that establish that resemblance. For example, in *Brown v. Illinois*,<sup>184</sup> the Court tells the following story:

As petitioner Richard Brown was climbing the last of the stairs leading to the rear entrance of his Chicago apartment in the early evening of May 13, 1968, he happened to glance at the window near the door. He saw, pointed at him through the window, a revolver held by a stranger who was inside the apartment. The man said: "Don't move, you are under arrest."<sup>185</sup>

In the beginning of this story, Richard Brown is any of us coming home. All can identify with his routine, as he comes home to find a stranger has broken in.<sup>186</sup> By opening with a scene widely universal to the human experience and tapping into a fairly universal human fear, Justice Blackmun creates a largely universal identity, Richard Brown, coding Richard Brown as the audience so that most of the audience identifies with him.

Alabama Senate candidate Doug Jones similarly showed how he had joined his audience's team. He did so by showing what he had actually done for his audience rather than simply telling his audience that he had joined team equality. Campaign ads proclaimed that Doug Jones had successfully prosecuted the Ku Klux Klan ("KKK"),<sup>187</sup> and some ads featured pictures of the murdered black girls whose killers Jones had

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184. 422 U.S. 590 (1975).

185. *Brown v. Illinois*, 422 U.S. 590, 592 (1975).

186. *Id.*

187. Doug Jones for Senate, *Unity*, YOUTUBE (Oct. 23, 2017), [https://www.youtube.com/watch?v=\\_Fdhd1UqvrM](https://www.youtube.com/watch?v=_Fdhd1UqvrM) [<https://perma.cc/3C5R-SGXL>].

prosecuted.<sup>188</sup> In a close-cut Senate race against Roy Moore, Doug Jones became the first democratic candidate to win a Senate election in Alabama in twenty-five years.<sup>189</sup> Jones did not win the majority of white voters or even white women voters.<sup>190</sup> However, ninety-eight percent of black women voted for Doug Jones,<sup>191</sup> and voter turnout among black voters was higher than in the 2012 Obama presidential election.<sup>192</sup>

Doug Jones succeeded as presenting himself as part of the audience’s team because he showed rather than told.<sup>193</sup> The storyteller must actually work for the team and provide actual examples regarding how the protagonist is genuinely like the audience. They should do so as opposed to telling the audience, “Hillary Clinton is just like your abuela.” In fact, Hillary Clinton’s campaign attempted to do just that.<sup>194</sup> The move appeared disingenuous and pandering,<sup>195</sup> and it likely hurt her campaign.<sup>196</sup> Instead, the storyteller should provide real examples or accurate symbolic visual clues and let the audience reach the conclusion about the similarity for themselves.<sup>197</sup> These examples or visual clues should be genuine and truthful. For instance, Doug Jones had actually fought for equality, and his campaign simply reported his successful

188. See *Case Studies: Doug Jones for U.S. Senate*, RESONANCE CAMPAIGNS, <https://resonancecampaigns.com/our-work/doug-jones/> [<https://perma.cc/4W9Z-9AQ8>] (last visited Feb. 23, 2019).

189. Ella Nilsen, *Doug Jones is the First Democrat to Win an Alabama Senate Seat in 25 Years*, VOX (Dec. 13, 2017), <https://www.vox.com/policy-and-politics/2017/12/13/16770668/doug-jones-roy-moore-alabama-senate> [<https://perma.cc/VV4Y-BXKZ>]; see also Alexander Burns & Jonathan Martin, *Once a Long Shot, Democrat Doug Jones Wins Alabama Senate Race*, N.Y. TIMES (Dec. 12, 2017), <https://www.nytimes.com/2017/12/12/us/politics/alabama-senate-race-winner.html> [<https://perma.cc/MVZ8-R3RS>]; *Alabama Senate Election Results*, WASH. POST, [https://www.washingtonpost.com/special-election-results/alabama/?utm\\_term=.d280185a45c9](https://www.washingtonpost.com/special-election-results/alabama/?utm_term=.d280185a45c9) [<https://perma.cc/RL25-HZTN>] (last visited Feb. 22, 2019).

190. See Burns & Martin, *supra* note 189; *Alabama Senate Election Results*, *supra* note 189.

191. Brian Naylor, ‘Black Votes Matter’: African-Americans Propel Jones to Alabama Win, NPR (Dec. 13, 2017), <https://www.npr.org/2017/12/13/570531505/black-votes-matter-african-americans-propel-jones-to-alabama-win> [<https://perma.cc/AY2W-WCLF>].

192. Fausset & Robertson, *supra* note 181.

193. Cf. Daniel S. Severson, *The Court and the World: An Interview with Associate Justice Stephen G. Breyer*, 57 HARV. INT’L L.J. 253, 258 (2016) (instructing lawyers to show rather than tell); Jim McElhane, *Stuck in the Rut: It’s Time to Stop Handling Cases As If You’re in Law School*, 94 ABA J. 24, 25 (Mar. 2008) (admonishing lawyers to show rather than tell); Gerald Lebovits, *Fact vs. Fiction: Writing the Facts-Part II*, 80 N.Y. ST. B.J. 58, 64–65 (Oct. 2008).

194. Katie Rogers, *Hillary Clinton Is ‘Not My Abuela,’ Critics Say*, N.Y. TIMES (Dec. 23, 2015), <https://www.nytimes.com/2015/12/24/us/politics/hillary-clinton-is-not-my-abuela-critics-say.html> [<https://perma.cc/X4HV-CXWS>].

195. *Id.*

196. Mason Krohn, *Taco Bowls and #NotMyAbuela: Lessons in the Failures of Hispandering*, RIDGE POL. REV. (Feb. 17, 2018), <http://www.ridgepoliticalreviews.com/all-articles/taco-bowls-and-notmyabuela-lessons-in-the-failures-of-hispandering> [<https://perma.cc/VDG8-MQB5>].

197. Cf. Scott DeVito, *The Power of Stories and Images in Law School Teaching*, 53 WASHBURN L.J. 51, 52–53 (2013) (explaining how a cartoon strip story helped law students in their first year to have better learning outcomes); Johansen & Robbins, *Art-iculating*, *supra* note 52, at 60 (discussing the power of visuals).

prosecution of the KKK instead of saying, “Doug Jones is on team equality.”

## 2. Showing Actual Super-Strengths

Not only should leaders be on the audience’s team, but they must also be extraordinary enough to lead the team. Whether it is the local high school football star or Lance Armstrong, Americans often celebrate athletes as the real-life embodiment of super-strength.<sup>198</sup> Thus, it likely helped both Barack Obama and Bill Clinton to be portrayed engaging in athleticism. Frequently, photographs portrayed Clinton running, and likewise, photographs frequently portrayed Obama on the basketball court making a basket.<sup>199</sup>

While symbolic athletic strength might seem to pose a problem for the disabled, superhero stories also sometimes symbolize triumph for those with disabilities. The superhero world does feature superheroes with disabilities who accomplish incredible feats. The disabilities in these stories catalyze the super-abilities in some way: either the super-abilities originate due to the disabling event or become alternate strengths that develop. This ability to thrive through disability makes these superheroes larger than life. In fact, superhero origin stories sometimes involve an accident or disability.<sup>200</sup>

For instance, Matt Murdock, Daredevil, obtained his super-powers when he jumped in front of a radioactive waste truck to save a blind man.<sup>201</sup> He became blind but acquired superpowers.<sup>202</sup> Even if the superpowers did not spring from a disability, superheroes with disabilities still sometimes develop alternate strengths and triumph. For example, Professor Charles Xavier, who puts the “X” in X-Men, is paralyzed and in a wheelchair, yet he still leads the X-Men to victory with his telepathic

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198. See, e.g., *Lance Armstrong Has Something to Get Off His Chest*, TEX. MONTHLY (July 2001), <https://www.texasmonthly.com/articles/lance-armstrong-has-something-to-get-off-his-chest/> [<https://perma.cc/842D-Z5E9>] (referring to Armstrong as resembling a “superhero” or performing superhuman feats).

199. *Iconic Presidential Campaign Moments*, CBS NEWS, <https://www.cbsnews.com/pictures/memorable-presidential-campaign-moments-through-the-years/17/> [<https://perma.cc/Z7TJ-YVLM>] (last visited Aug. 6, 2018); *Barack Obama and Basketball*, SPORTS ILLUSTRATED (Aug. 4, 2016), <https://www.si.com/nba/photo/2016/08/04/barack-obama-basketball-nba-lebron-james-stephen-curry#2> [<https://perma.cc/5MQG-7ZDK>].

200. *Matt Murdock: DareDevil*, MARVEL, <https://www.marvel.com/characters/daredevil-matthew-murdock/in-comics> [<https://perma.cc/E7XB-DPC8>] (last visited Aug. 6, 2018); *Charles Francis Xavier: Professor X*, MARVEL, <https://www.marvel.com/characters/professor-x> [<https://perma.cc/799V-JJSZ>] (last visited Aug. 6, 2018).

201. *Id.*

202. *Id.*

powers.<sup>203</sup> In these narratives, the super-ability symbolizes the real-life strengths people often develop in the face of disability.

In the real world, the late Senator John McCain exemplifies the narrative of a superhero disability origin story. During the war, the North Vietnamese captured McCain and held him prisoner for over five years.<sup>204</sup> He returned home a war hero who thrived in part because he met great challenges and exhibited incredible strength in the face of those challenges.<sup>205</sup> His admiring public ultimately elected him to the Senate, where he served for thirty-one years.<sup>206</sup>

Senator Tammy Duckworth’s origin story also strongly resembles McCain’s. She overcame poverty and served in the Army National Guard.<sup>207</sup> She was deployed to Iraq, and a rocket-propelled grenade felled her helicopter.<sup>208</sup> Although Duckworth lost her legs, she triumphed by successfully winning a seat in the House of Representatives in 2012.<sup>209</sup> Thus, her challenge may appear to some as a catalyst in her narrative for this great feat. Even now, her military service continues to play role in her narrative.<sup>210</sup>

In these narratives, the story-crafter would want to feature photos and stories showing the protagonist overcoming or thriving. For instance, pictures of athletes with disabilities engaged in adapted skiing, cycling, or running appear super-heroic.<sup>211</sup> Similarly, lawyers can use the idea of an

203. Charles Francis Xavier, *Professor X*, *supra* note 200.

204. Michael E. Ruane, *Sen. John McCain Faced Death Twice as a Navy Pilot and Survived Brutal Years as a POW*, WASH. POST (Aug. 26, 2018), [https://www.washingtonpost.com/news/retropolis/wp/2017/07/20/sen-john-mccain-faced-death-twice-as-a-navy-fighter-pilot-and-survived-brutal-years-as-a-pow/?utm\\_term=.6e7afd85e347](https://www.washingtonpost.com/news/retropolis/wp/2017/07/20/sen-john-mccain-faced-death-twice-as-a-navy-fighter-pilot-and-survived-brutal-years-as-a-pow/?utm_term=.6e7afd85e347) [https://perma.cc/JH2E-F3J6].

205. Lily Rothman, *How John McCain’s Years as a Vietnam POW Shaped His Life*, TIME, <http://time.com/5260228/john-mccain-pow-history/> [https://perma.cc/9SHG-23K9] (last updated Sept. 11, 2018).

206. Dan Nowicki, *How John McCain’s POW Release 45 Years Ago Started His Path to Politics*, ARIZ. CENT. (Apr. 2, 2018), <https://www.azcentral.com/story/news/politics/arizona/2018/04/02/john-mccain-vietnam-war-pow-release-45-years-ago-started-path-politics-arizona-senator/440247002/> [https://perma.cc/Y2YY-7J5L].

207. Kim Geiger, *Rep. Tammy Duckworth Plays it Safe in U.S. Senate Bid*, CHI. TRIB. (Nov. 4, 2016), <https://www.chicagotribune.com/news/local/politics/ct-tammy-duckworth-us-senate-met-20161103-story.html> [https://perma.cc/TDJ8-UXNS].

208. *Id.*

209. *Id.*

210. *Id.*

211. See Associated Press, *Paralympics: Disabled People Experience Accessibility Issues*, WTOP (March 17, 2018), <https://wtop.com/asia/2018/03/paralympics-disabled-people-experience-accessibility-issues/slide/1/> [https://perma.cc/CS75-S3EP]; Tara Parker-Pope, *Oksana Masters’s Road from a Ukrainian Orphanage to Paralympic Stardom*, N.Y. TIMES (Mar. 9, 2018), <https://www.nytimes.com/2018/03/09/sports/paralympics-oksana-masters.html> [https://perma.cc/9ND8-7TNC]; Larry Greenemeier, *Blade Runners: Do High-Tech Prostheses Give Runners an Unfair Advantage?*, SCI. AM. (Aug. 5, 2016), <https://www.scientificamerican.com/article/blade-runners-do-high-tech-prostheses-give-runners-an-unfair-advantage/> [https://perma.cc/GXM8-Y9FC].

overcoming superhero in their narratives. For example, in a child protection case, attorneys often present evidence of how much developmental improvement the child-protagonist has made in a foster-adoptive placement.<sup>212</sup>

Superhero protagonists enjoy larger-than-life powers other than overcoming physical challenges. Both Barack Obama's and Bill Clinton's story-crafters portrayed them as sort of intellectual superheroes. Obama graduated from Harvard Law School and was the first black president of *Harvard Law Review*,<sup>213</sup> and Clinton graduated from Yale<sup>214</sup> and was a Rhodes Scholar.<sup>215</sup>

Regarding over-the-top wealth, while certainly a campaign could portray a candidate surrounded with symbols of wealth, perhaps the best kind of superhero would be one who gives away wealth. Warren Buffet,<sup>216</sup> J.K. Rowling,<sup>217</sup> Oprah Winfrey,<sup>218</sup> and Bill Gates<sup>219</sup> have enjoyed public relations success for the amounts of money they donate to charities.<sup>220</sup>

Wealth, intellect, and physical feats all simply serve as some of the examples of larger-than-life aspects of superheroes. The key is that the story-crafter must find some aspect of the protagonist that makes them extraordinary.

212. Cf. Judith D. Moran, *Families, Law, and Literature: The Story of a Course on Storytelling*, 49 U.S.F.L. REV. 1, 19 (2015) (explaining the importance of storytelling in a family law case).

213. Fox Butterfield, *First Black Elected to Head Harvard's Law Review*, N.Y. TIMES (Feb. 6, 1990), <https://www.nytimes.com/1990/02/06/us/first-black-elected-to-head-harvard-s-law-review.html> [<https://perma.cc/MQ9P-6K8D>].

214. *Colleges and Universities Attended by the Presidents*, PRESIDENTS USA, <https://www.presidentsusa.net/collegelisting.html> [<https://perma.cc/3A5N-MDLL>] (last visited Feb. 23, 2019).

215. Andy McSmith, *The 2014 Rhodes Scholars-Stars in the Making?*, INDEPENDENT (Nov. 26, 2013), <https://www.independent.co.uk/life-style/health-and-families/features/the-2014-rhodes-scholars-stars-in-the-making-8963199.html> [<https://perma.cc/688L-DCEV>].

216. Julia Horowitz, *Warren Buffet Just Gave \$3.4 billion to Charity*, CNN (July 16, 2018), <https://money.cnn.com/2018/07/16/news/companies/warren-buffett-donation/index.html> [<https://perma.cc/86UW-DTHY>].

217. Stuart MacDonald, *Charities of JK Rowling Donate £8m.*, TIMES (Jan. 13, 2018), <https://www.thetimes.co.uk/article/charities-of-jk-rowling-donate-8m-zmv67kfgt> [<https://perma.cc/EQ4S-YUJR>].

218. Roger Friedman, *Oprah Winfrey's Charities Worth More Than \$200 Million*, FOX NEWS (Jan. 5, 2007), <https://www.foxnews.com/story/oprah-winfreys-charities-worth-more-than-200-million> [<https://perma.cc/AJ2M-EHVB>].

219. Noah Kirsch, *Philanthropy King: Bill Gates Gives Away \$4.6 Billion, Unveils New Campaign to Combat Malaria*, FORBES (Aug. 15, 2017), <https://www.forbes.com/sites/noahkirsch/2017/08/15/philanthropy-king-bill-gates-gives-away-4-6-billion-unveils-new-campaign-to-combat-malaria/#306e8d8230d3> [<https://perma.cc/H4S9-25RK>].

220. See Yuri Bender, *Banks Uniquely Positioned to Harness Philanthropic Spirit*, PROF. WEALTH MGMT. (Feb. 1, 2014), <https://www.pwmnet.com/Wealth-Management/Private-Banking/Banks-uniquely-positioned-to-harness-philanthropic-spirit?ct=true> [<https://perma.cc/FT3Y-EAUJ>].

### 3. Creating Instant Association with the Antagonist’s Super-Flaws

With respect to the antagonist, while story-crafters should “go high,” they should also take all fair punches. Name-calling is low-brow. Moreover, name-calling can be an *ad hominem* attack if the qualifications of the person attacked are not relevant.<sup>221</sup> So story-crafters should avoid terms like “Crooked Hillary,” “Sloppy Steve,” or even “Orange Orangutan.”

However, a campaign story or legal story should include relevant information about the antagonist along with the antagonist’s name whenever possible. For example, “Accused Child Predator Roy Moore” should be part of Roy Moore’s name any time someone campaigns against him. That the mall banned Roy Moore for pursuing underage women is relevant to any public office he might hold.<sup>222</sup> Likewise, recently, various Holocaust-deniers, White Supremacists, and White Nationalists have been running for office.<sup>223</sup> That information is relevant, and a story-crafter should include these descriptions as part of these antagonists’ names.

### 4. Revealing True Threats of Repeat Antagonists’ Resurrection

Not only can these antagonists be name-branded, some of them do actually resurrect just as in superhero fiction. For example, Roy Moore was removed from the Alabama Supreme Court not once, but twice, for defying federal court orders, one to remove a Ten Commandments monument from the courthouse and another to issue same sex marriage licenses.<sup>224</sup> Yet he resurrected to fill the Senate seat left vacant by Jeff Sessions.<sup>225</sup>

Similarly, Jeff Sessions himself resurrected. In 1986, Ronald Reagan nominated Jeff Sessions for a federal judicial position, but nomination

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221. MURRAY HIEBERT & BRUCE KLATT, *THE ENCYCLOPEDIA OF LEADERSHIP: A PRACTICAL GUIDE TO POPULAR LEADERSHIP THEORIES AND TECHNIQUES* 170–72 (2000) (defining *ad hominem* attack with a relevant example).

222. Charles Betha, *Locals Were Troubled By Roy Moore’s Interactions with Teen Girls at the Gadsden Mall*, *NEW YORKER* (Nov. 13, 2017), <https://www.newyorker.com/news/news-desk/locals-were-troubled-by-roy-moores-interactions-with-teen-girls-at-the-gadsden-mall> [<https://perma.cc/YZ2V-F355>].

223. Christopher Mathias, *All the White Supremacists Running for Office in 2018*, *HUFFINGTON POST* (Feb. 16, 2018), [https://www.huffingtonpost.com/entry/white-supremacists-running-for-office-2018\\_us\\_5a7da926e4b0c6726e1285c1](https://www.huffingtonpost.com/entry/white-supremacists-running-for-office-2018_us_5a7da926e4b0c6726e1285c1) [<https://perma.cc/T5D2-GSBX>].

224. Stephanie McCrummen et al., *Woman Says Roy Moore Initiated Sexual Encounter When She Was 14, He Was 32*, *WASH. POST* (Nov. 9, 2017), [https://www.washingtonpost.com/investigations/woman-says-roy-moore-initiated-sexual-encounter-when-she-was-14-he-was-32/2017/11/09/1f495878-c293-11e7-afe9-4f60b5a6c4a0\\_story.html?utm\\_term=.2c917a5ecc90](https://www.washingtonpost.com/investigations/woman-says-roy-moore-initiated-sexual-encounter-when-she-was-14-he-was-32/2017/11/09/1f495878-c293-11e7-afe9-4f60b5a6c4a0_story.html?utm_term=.2c917a5ecc90) [<https://perma.cc/PPN8-TQ9A>].

225. *Id.*

opponents charged Sessions with racism.<sup>226</sup> For instance, a black former colleague said that Sessions called him “boy,” and Sessions said that he thought the KKK was “okay until he learned that they smoked marijuana.”<sup>227</sup> The Senate denied Jeff Sessions’ confirmation.<sup>228</sup> He was later voted into office as a senator.<sup>229</sup> Then, Donald Trump appointed him as Attorney General.<sup>230</sup> When the antagonist’s resurrection is a real threat, that threat should be mentioned.

### 5. Revealing Actual High-Stakes Conflicts in the Narrative

In defeating these antagonists, truth-tellers face several real stakes of apocalyptic or genocidal proportions, such as climate change,<sup>231</sup> terrorism, violence against women and girls, and genocide<sup>232</sup> or other discriminatory mass-murder.<sup>233</sup>

More than ninety-five percent of actively publishing climate scientists agree that manmade global warming and climate change exist.<sup>234</sup> In fact, according to NASA, global warming is already occurring: (1) ice sheets are shrinking; (2) the sea level is rising; (3) the ocean is acidifying; and (4) extreme weather events are increasing.<sup>235</sup>

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226. Amber Phillips, *That Time the Senate Denied Jeff Sessions a Federal Judgeship Over Accusations of Racism*, WASH. POST (Jan. 10, 2017), [https://www.washingtonpost.com/news/the-fix/wp/2016/11/18/that-time-the-senate-denied-jeff-sessions-a-federal-judgeship-over-accusations-of-racism/?utm\\_term=.92019030a4d8](https://www.washingtonpost.com/news/the-fix/wp/2016/11/18/that-time-the-senate-denied-jeff-sessions-a-federal-judgeship-over-accusations-of-racism/?utm_term=.92019030a4d8) [https://perma.cc/87SG-UVTU].

227. *Id.*

228. *Id.*

229. *Id.*

230. Eric Lichtblau & Matt Flegenheimer, *Jeff Sessions Confirmed as Attorney General, Capping Bitter Battle*, N.Y. TIMES (Feb. 8, 2017), <https://www.nytimes.com/2017/02/08/us/politics/jeff-sessions-attorney-general-confirmation.html> [https://perma.cc/EDV2-2J9V].

231. Scott Learn, *Global Warming Activist, Former NASA Scientist James Hansen Speaks Out Before World Affairs Council of Oregon Appearance*, OREGONIAN (Apr. 24, 2013), [https://www.oregonlive.com/environment/index.ssf/2013/04/global\\_warming\\_activist\\_and\\_fo.html](https://www.oregonlive.com/environment/index.ssf/2013/04/global_warming_activist_and_fo.html) [https://perma.cc/4ZLA-UQLX].

232. Junior Sabena Mutabazi, *Your Country Needs You to Speak Up Against Genocide Denial*, NEW TIMES (Apr. 9, 2015), <https://www.newtimes.co.rw/section/read/187716> [https://perma.cc/6F6X-W2DG].

233. See Stewart Chang, *Our National Psychosis: Guns, Terror, and Hegemonic Masculinity*, 53 HARV. C.R.-C.L. L. REV. 495, 500 (2018) (discussing race and patriarchy in mass shootings); Campbell Robertson et al., *Quiet Day at a Pittsburgh Synagogue Became a Battle to Survive*, N.Y. TIMES (Oct. 28, 2018), <https://www.nytimes.com/2018/10/28/us/pittsburgh-synagogue-shooting.html> [https://perma.cc/BK3R-SL6F] (reporting a mass shooting at a Pittsburgh synagogue); Kevin Sack & Alan Blinder, *Jurors Hear Dylann Roof Explain Shooting in Video: ‘I Had to Do It’*, N.Y. TIMES (Dec. 9, 2016), <https://www.nytimes.com/2016/12/09/us/dylann-roof-shooting-charleston-south-carolina-church-video.html> [https://perma.cc/RTU2-WYWK] (reporting a mass shooting by a white supremacist).

234. *Scientific Consensus: Earth’s Climate is Warming*, NASA, <https://climate.nasa.gov/scientific-consensus/#> [https://perma.cc/LA8F-GVG5] (last visited Apr. 23, 2019).

235. *How Climate is Changing*, NASA, <https://climate.nasa.gov/effects/> [https://perma.cc/J9AV-279A] (last visited Apr. 23, 2019).

Additionally, in the “war on terror,” the United States needs allies.<sup>236</sup> Yet, Trump has denied entry to allies who aided U.S. forces and became targets for doing so.<sup>237</sup> Denying entry or asylum to allies, to those fleeing fundamentalists, or to those fleeing cartels puts American lives at greater risk in all the wars that Donald Trump is fighting.<sup>238</sup>

Moreover, the Trump administration recently separated over 1000 immigrant children from their parents.<sup>239</sup> Removing a child from a parent typically injures the child’s attachment, even in cases of abuse.<sup>240</sup> Attachment forms the foundation of empathy and social function, and the more impaired a person’s attachment, the more likely this attachment trauma can lead to criminal or even sociopathic behavior—or even just to a string of broken relationships and lifelong struggles with depression.<sup>241</sup>

Some historians have drawn parallels to these events and the beginnings of the Holocaust.<sup>242</sup> The difficulty with this parallel is that some audience members grade on a curve.<sup>243</sup> If the audience places an

236. Daniel L. Byman, *Take Care of America First? We Need Allies to Do So*, BROOKINGS (July 22, 2016), <https://www.brookings.edu/blog/order-from-chaos/2016/07/22/take-care-of-america-first-we-need-allies-to-do-so/> [<https://perma.cc/QFD2-C4QK>].

237. David Zucchino, *Visa Ban Amended to Allow Iraqi Interpreters Into U.S.*, N.Y. TIMES (Feb. 2, 2017), <https://www.nytimes.com/2017/02/02/world/middleeast/trump-visa-ban-iraq-interpreters.html> [<https://perma.cc/A5D4-NCQ2>].

238. Cf. Andrea Mitchell & Richie Duchon, *Trump Travel Ban Makes America Less Safe: Ex-Top Security, State Officials*, NBC NEWS (Feb. 6, 2017), <https://www.nbcnews.com/news/us-news/trump-travel-ban-makes-america-less-safe-ex-top-security-n717206> [<https://perma.cc/F7T3-D4WQ>]; Ray Sanchez, Nick Valencia, & Tal Kopan, *Trump’s Immigration Policies Were Supposed to Make the Border Safer. Experts Say the Opposite Is Happening*, CNN (July 20, 2018), <https://www.cnn.com/2018/07/19/americas/trump-migration-border-smuggling/index.html> [<https://perma.cc/T98Z-FB69>].

239. Lisa Riordan Seville & Hannah Rappleye, *Trump Admin Ran ‘Pilot Program’ for Separating Migrant Families in 2017*, NBC NEWS (June 29, 2018), <https://www.nbcnews.com/storyline/immigration-border-crisis/trump-admin-ran-pilot-program-separating-migrant-families-2017-n887616> [<https://perma.cc/B36C-GM6N>].

240. Claire Chiamulera, *The Enhanced Resource Guidelines: A Tool for Court Innovation*, 36 CHILD. L. PRAC. 101, 108 (2017); Andrea Koehler, *The Forgotten Children of the Foster Care System: Making A Case for the Professional Judgment Standard*, 44 GOLDEN GATE U. L. REV. 221, 226 (2014); *Removal from the Home: Resulting Trauma*, UPENN COLLABORATIVE ON CMTY. INTEGRATION, <http://tucollaborative.org/wp-content/uploads/2017/04/Trauma-The-Impact-of-Removing-Children-from-the-Home.pdf> [<https://perma.cc/4RL7-B8PK>] (last visited May 13, 2019) (noting the detrimental psychological and neurobiological effects of disruptions in the parent-child attachment).

241. See JAMES ALAN FOX & JACK LEVIN, EXTREME KILLING: UNDERSTANDING SERIAL AND MASS MURDER 62–64 (2005); Kathryn Page, *The Invisible Havoc of Prenatal Alcohol Damage*, 4 J. CTR. FAMILIES, CHILD. & CTS. 67, 88 (2002), [https://www.prooffalliance.org/wp-content/uploads/2012/02/FASD\\_Kathryn\\_Page\\_PhD.pdf](https://www.prooffalliance.org/wp-content/uploads/2012/02/FASD_Kathryn_Page_PhD.pdf) [<https://perma.cc/E3XV-HXSD>]; see generally KEN MAGID & CAROLE A. MCKELVEY, HIGH RISK: CHILDREN WITHOUT A CONSCIENCE (1988).

242. Christina Zhao, *Trump Detention Centers Listed Alongside Nazi Concentration Camps On Wikipedia*, NEWSWEEK (June 20, 2018), <https://www.newsweek.com/trump-child-detention-centers-listed-alongside-nazi-concentration-camps-985837> [<https://perma.cc/PH8A-N3TS>].

243. Cf. Deborah Lipstadt, *It’s Not the Holocaust*, ATLANTIC (June 22, 2018), <https://www.theatlantic.com/ideas/archive/2018/06/holocaust-family-separation/563480/> [<https://perma.cc/2XKH-56L3>] (explaining how the Holocaust metaphor often fails).



event on a curve with the Holocaust, then that is akin to placing just two students on a grading curve together when one of those students has negative 1000%. The other event usually still appears less catastrophic than the Holocaust.<sup>244</sup> Until the government incarcerates up to six million people solely based on race or religion, without pretext, and murders them,<sup>245</sup> then people can always make distinctions.<sup>246</sup>

Instead of making a direct comparison to Hitler, those who want to illustrate the gravity of policies like Trump's should follow a piece of good writing advice along with a couple of pieces of good legal writing advice. First, "show, don't tell."<sup>247</sup> Second, unless the writer's case directly parallels the comparison case, compare to multiple cases and not just to the worst case.<sup>248</sup>

Regarding showing rather than telling, a story-crafter should provide details about the Holocaust, details about other similar events,<sup>249</sup> and details about the new atrocity. If the story-crafter uses good storytelling techniques, then any audience members who can be swayed will reach the conclusion about the similarity for themselves.

With respect to making multiple comparisons, throughout history, other demagogues and fascists have committed other atrocities.<sup>250</sup> Story-crafters should tell those stories and be sure to include details and patterns that will appear similar.

## 6. Portraying the Strength and Courage of Peaceful Solutions Visually and Symbolically

Concerning the solutions to these high-stakes problems and atrocities, while the narrative runs into challenges, superhero fiction still

244. Maya Eliahou & Saeed Ahmed, *She Survived the Holocaust and Says the Trauma of Being Separated from Your Parents Lasts Forever*, CNN (June 19, 2018), <https://www.cnn.com/2018/06/19/us/holocaust-survivor-on-immigration-trnd/index.html> [<https://perma.cc/62ZS-44TW>].

245. Raffi Berg, *The Holocaust: Who Are the Missing Million?* BBC NEWS (Apr. 24, 2017), <https://www.bbc.com/news/world-middle-east-39062221> [<https://perma.cc/YQ6A-7UWP>].

246. Lipstadt, *supra* note 243.

247. Erik Spanberg, *'Elmore Leonard: Westerns' Celebrates Leonard's Mastery of the Genre*, CHRISTIAN SCI. MONITOR (June 5, 2018), <https://www.csmonitor.com/Books/Book-Reviews/2018/0605/Elmore-Leonard-Westerns-celebrates-Leonard-s-mastery-of-the-genre> [<https://perma.cc/36MR-AU4V>].

248. See MICHAEL D. MURRAY & CHRISTY H. DESANCTIS, LEGAL WRITING AND ANALYSIS, chs. 5–6 (2d ed. 2015) (explaining the concept of "explanatory synthesis").

249. See, e.g., Olivia B. Waxman, *Family Separation Is Being Compared to Japanese Internment. It Took Decades for the U.S. to Admit That Policy Was Wrong*, TIME (June 18, 2018), <http://time.com/5314955/separation-families-japanese-internment-camps/> [<https://perma.cc/B2C8-49UP>].

250. *Past Genocides and Mass Atrocities*, UNITED TO END GENOCIDE, <http://endgenocide.org/learn/past-genocides/> [<https://perma.cc/NK5C-C7MA>] (last visited Apr. 18, 2019).

provides answers. Both Trump’s narrative and superhero fiction succeed because they are simple and visual. They are simple solutions to complex problems—black and white solutions in a rainbow world. These kinds of solutions probably appeal in particular to audience members whom linguist George Lakoff discusses as preferring the strict-father narrative.<sup>251</sup> Regardless, most people can easily follow and understand these solutions.

The real solutions to these problems can be more complex. In fact, the difficulty with combatting inaccurate narratives about issues like global warming is that global warming results from systemic causation as opposed to direct causation.<sup>252</sup> When Batman punches a bad guy in the face, his punching directly causes face pain. In contrast, chain reactions, compound causes, and feedback loops cause global warming.<sup>253</sup>

That being said, readers might ask when explanations for supervillain and superhero weapons ever made sense. Usually, systemic causation drives the mechanism for a superhero’s origin, for the weapons, and sometimes even for the solution. This causation sounds somewhat complex and makes little sense upon scratching the surface.

Yet, the audience suspends their disbelief. They buy that Magneto will target only non-mutants with his weapon,<sup>254</sup> that Spiderman received superpowers after a radioactive spider bit him,<sup>255</sup> and that *Black Panther*’s T’Challa survived a fall from a cliff and was brought back by an imaginary mineral called vibranium. The audience is willing to suspend their disbelief because superhero fiction shows them visual, symbolic solutions in battles that visually and symbolically depict immense threat, great bravery, and great strength. These three features repeat over and over in superhero fiction ordeals: (1) an immense threat; (2) visual and symbolic solutions; and (3) an act of great bravery and great strength. However, these solutions might still seem to pose a problem as superhero fiction typically posits violence—a battle—as a solution to problems.

Some might argue that the battles simply symbolize metaphoric psychological or political battles and that the battle language could be

251. See LAKOFF, DON’T THINK OF AN ELEPHANT!, *supra* note 11, at 2–10 (discussing the how the strict father mode of viewing the world means disciplining children and using punishment to prevent “bad” behavior).

252. *Id.* at 36–37.

253. *Id.*

254. Hilary Goldstein, *Xavier vs. Magneto: A Philosophical Debate*, IGN (May 4, 2006), <https://www.ign.com/articles/2006/05/05/xavier-vs-magneto-a-philosophical-debate?page=1> [<https://perma.cc/LHB7-ENZN?type=image>] (discusses how Magneto became genocidal based on the persecution he experienced in his life).

255. Tracy Brown et al., *There’s a Friendly Neighborhood Spider-Man or Spider-Woman—or Spider-Ham—for Everyone*, L.A. TIMES (Dec. 9, 2018), <https://www.latimes.com/projects/la-et-hc-spider-verse-spidey-characters/> [<https://perma.cc/X2SV-PY2Z>].

adapted. For instance, some could use *Black Panther* as an impeachment metaphor.<sup>256</sup> In the movie, the antagonist, Killmonger defeats Black Panther, T'Challa, in a battle for the throne.<sup>257</sup> However, despite appearing to be dead, T'Challa lived and never conceded the fight.<sup>258</sup> So technically, Killmonger did not adhere to the rules just as some argue that Trump did not adhere to the rules in light of Russian tampering, Comey's announcements, and collusion.<sup>259</sup> Just as much of the evidence came to light after Trump was already elected,<sup>260</sup> the evidence about T'Challa's survival came to light after Wakanda declared Killmonger king.<sup>261</sup> Killmonger then made a series of warmongering and chaotic decisions, all of which seemed to justify overthrowing him.<sup>262</sup> Likewise, some people argue that either the election violations and Trump's subsequent actions justify impeachment, or both.<sup>263</sup>

So, while it may seem that advocates can simply adopt battle language and visual metaphors for their legal and political objectives, this approach poses problems. Linguistics scholar George Lakoff explains that the language we use "trains our brains" towards philosophies.<sup>264</sup> He argues against adopting the opponent's language because it conditions people to think more like the opponent;<sup>265</sup> in fact, he argues that America moved to the right in part because of the language that Democrats adopted from the right.<sup>266</sup> Using battle language and battle metaphors might backfire by training people's brains to view solutions more violently and aggressively as opposed to embracing collaborative solutions.

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256. Richard Brody, *The Passionate Politics of "Black Panther,"* NEW YORKER (Feb. 16, 2018), <https://www.newyorker.com/culture/richard-brody/the-passionate-politics-of-black-panther> [https://perma.cc/55FW-6KJX].

257. *Id.*

258. *Id.*

259. Philip Bump, *A Third of Republicans Think Trump Should Be Impeached If He Obstructed Justice,* WASH. POST (Feb. 12, 2019), [https://www.washingtonpost.com/politics/2019/02/12/third-republicans-think-trump-should-be-impeached-if-he-obstructed-justice/?noredirect=on&utm\\_term=.12464e270cf8](https://www.washingtonpost.com/politics/2019/02/12/third-republicans-think-trump-should-be-impeached-if-he-obstructed-justice/?noredirect=on&utm_term=.12464e270cf8) [https://perma.cc/Q7Q2-JBHW]. Over two-thirds of respondents said they would support impeachment if it was found Trump interfered with the Russian investigation. *Id.*

260. Scott Shane & Mark Mazzetti, *The Plot to Subvert an Election,* N.Y. TIMES (Sept. 20, 2018), <https://www.nytimes.com/interactive/2018/09/20/us/politics/russia-interference-election-trump-clinton.html> [https://perma.cc/QJ5T-WWAV].

261. *Black Panther* (MARVEL STUDIOS 2018).

262. *Id.*

263. Laurence H. Tribe, *Trump Must Be Impeached. Here's Why,* WASH. POST (May 13, 2017), [https://www.washingtonpost.com/opinions/trump-must-be-impeached-heres-why/2017/05/13/82ce2ea4-374d-11e7-b4ee-434b6d506b37\\_story.html?utm\\_term=.1e83101fd427](https://www.washingtonpost.com/opinions/trump-must-be-impeached-heres-why/2017/05/13/82ce2ea4-374d-11e7-b4ee-434b6d506b37_story.html?utm_term=.1e83101fd427) [https://perma.cc/BK7Y-DYYF].

264. LAKOFF, *supra* note 11, at 1–2.

265. *Id.*

266. *Id.*

Fortunately, feminist superheroine Buffy the Vampire Slayer has an answer to this problem. While the course of the series often did offer violence as a solution, notable peaceful exceptions appear in a few season finales. In hero’s journey story structure, the most common structure in Western story, the “big battle” at the end of the story is sometimes called “the ordeal.”<sup>267</sup> In the season finale for season five, during the ordeal, instead of attacking the supervillain, Buffy sacrifices herself by jumping off a platform to stop an apocalypse.<sup>268</sup> Buffy’s friends resurrect her in season six, but the process ignites a darkness in Buffy’s friend and ally, Willow, who becomes the season six antagonist.<sup>269</sup> In the season finale ordeal, their other friend and ally, Xander, overcomes Willow, not with violence or threats but with love.<sup>270</sup> While season seven does end with a big battle, Buffy shares her gift by training other potential slayers and releasing slayer power to all of them; her strength is as a teacher and as someone who shares.<sup>271</sup> Again, ultimately, the battle is won when Buffy’s ally and lover, Spike, sacrifices himself.<sup>272</sup>

The show and the finales enjoyed immense popularity and critical acclaim;<sup>273</sup> these solutions seemed to work for audiences. Perhaps that’s because these solutions share key traits with other superhero solutions. First, the protagonist still faced an immense visual and symbolic threat, represented either by physical attacks or glowing lightning. In each instance, the show had established that the villain planned to bring about an apocalyptic crisis.

Second, the “winners” showed great courage and strength of character in the face of the threat. For example, Xander stood in front of Willow as she zapped him over and over with lightning declaring that she was his best friend and that he loved her.<sup>274</sup> The scene ends with them embracing and with Willow’s veiny skin, oversized black pupils, and darkened hair returning to normal.<sup>275</sup> Likewise, Buffy’s sacrifice was visual and took great courage and strength. She climbed a towering rickety platform, stood before a glowing pit, and jumped off.<sup>276</sup>

When Spike sacrificed himself, his sacrifice was visual and took great courage, particularly given that as a vampire, he likely faced an eternity

267. VOGLER, *supra* note 20, at 159–79.

268. *Buffy the Vampire Slayer* (WB television broadcast May 22, 2001).

269. *Buffy the Vampire Slayer* (WB television broadcast Oct. 2, 2001).

270. *Buffy the Vampire Slayer* (UPN television broadcast May 21, 2002).

271. *Buffy the Vampire Slayer* (UPN television broadcast May 20, 2003).

272. *Id.*

273. *Buffy the Vampire Slayer Awards*, IMDB, <https://www.imdb.com/title/tt0118276/awards> [<https://perma.cc/LL3Q-C4V3>], (last visited Apr. 23, 2019).

274. *Buffy the Vampire Slayer* (UPN television broadcast May 21, 2002).

275. *Id.*

276. *Buffy the Vampire Slayer* (WB television broadcast May 22, 2001).

in a hell dimension upon death.<sup>277</sup> He stood amongst the melee of battle and put on an amulet that glowed until it disintegrated him.<sup>278</sup>

Advocates can and have used similar approaches to visually depict acts of great courage and strength to achieve non-violent resolution in the face of immense threat. Perhaps the most successful examples of non-violent, yet courageous, solutions come not from political campaigns but from the civil rights campaigns. Still today, people view iconic photos of Rosa Parks sitting in the front of the bus,<sup>279</sup> an act of great courage, along with a visual. In another photo showing great courage in the face of immense threat, nine black schoolchildren walk to the previously all-white Central High in Little Rock as an enormous mob shouts at them.<sup>280</sup> Similarly, Reverend Dr. Martin Luther King, Jr., joined the ranks of celebrated American superheroes as media displayed photos of him marching peacefully arm-in-arm or hand-in-hand with an enormous crowd.<sup>281</sup>

These campaigns succeeded in desegregating our schools<sup>282</sup> and our buses,<sup>283</sup> and passing the Voting Rights Act<sup>284</sup> and the Civil Rights Act.<sup>285</sup> Moreover, these campaigns changed the hearts and minds of many.<sup>286</sup> In fact, this success likely ignited fear of loss of privilege among Trump supporters with a “strict father” deep frame. Further, the white supremacist hostility abounding today is a push back against these changes—some hope this push-back is the last cry of the dinosaurs.<sup>287</sup>

277. *Buffy the Vampire Slayer* (UPN television broadcast May 20, 2003).

278. *Id.*

279. 54b. *Rosa Parks and the Montgomery Bus Boycott*, U.S. HIST., <http://www.ushistory.org/us/54b.asp> [<https://perma.cc/998M-LKXU>], (last visited Apr. 23, 2019); see also Teri A. McMurtry-Chubb, “Burn This Bitch Down!”: Mike Brown, Emmett Till, and the Gendered Politics of Black Parenthood, 17 NEV. L.J. 619, 622 (2017) (discussing how Park’s actions began the bus boycott).

280. Noah J. Gordon, *The Little Rock Nine: How Far Has the Country Come?*, ATLANTIC (Sept. 25, 2014), <https://www.theatlantic.com/politics/archive/2014/09/the-little-rock-nine/380676/> [<https://perma.cc/A9RT-6BAB>].

281. *Martin Luther King Jr.: His Life in Pictures*, NBC NEWS, <https://www.nbcnews.com/slideshow/martin-luther-king-jr-n707546> [<https://perma.cc/7YYP-5A57>], (last updated Jan. 21, 2019).

282. John Seigenthaler, *Brown v. Board of Education: Making A More Perfect Union*, 34 STETSON L. REV. 457, 462 (2005).

283. C.J. Griffin, *Workplace Restroom Policies in Light of New Jersey’s Gender Identity Protection*, 61 RUTGERS L. REV. 409, 424 (2009).

284. Stephen H. Hobbs, *Symposium Introduction*, 50 ALA. L. REV. 1, 2 (1998).

285. *Id.*

286. Andrew E. Taslitz, *Foreword: The Political Geography of Race Data in the Criminal Justice System*, 66 L. & CONTEMP. PROBS. 1, 15 (2003); DONALD T. PHILLIPS, MARTIN LUTHER KING, JR. ON LEADERSHIP: INSPIRATION & WISDOM FOR CHALLENGING TIMES 52–67 (1999) (discussing how Martin Luther King, Jr.’s strategy for social change during Civil Rights Movement was intended to change white hearts and minds).

287. Cf. Jared A. Goldstein, *The Klan’s Constitution*, 9 ALA. C.R. & C.L.L. REV. 285, 360 (2018).

### 7. Using the Simple Language of Superhero Fiction to Tell the Story

Finally, all storytellers must frame all of these storytelling techniques with the right words, simple words. While some may say it’s not so simple to explain such complex themes, a book like *The Lorax* by Dr. Seuss explains all of the quality of life impact, environmental devastation, and socioeconomic impact of deforestation on a community in an 1815-word book for children that rhymes.<sup>288</sup>

Likewise, Linguistics Professor George Lakoff discusses collapsing solutions into two-word frames.<sup>289</sup> For instance, he explains how George W. Bush mollified swing voters with nurturant values by using terms like “The Clear Skies Initiative” and “No Child Left Behind” for policies that fit the strict father modality. However, Lakoff cautions against adopting the other side’s language, in what he calls Orwellian fashion, here. Not only does adopting the other side’s language present a less honest picture, it also trains people’s brains to adopt the opposing philosophy’s way of thinking. Instead, two-word frames that capture visuals and symbols and convey a campaign’s actual values work best. For instance:

- (1) tax as “a tax investment,”<sup>290</sup>
- (2) Muslims as “our Muslim allies,”
- (3) asylum seeking immigrants and refugees as “asylum seekers,” and
- (4) immigrant child detention as “child captivity.”

Most of the issues listed in the frames above involve humanitarian concerns; however, some of the frames also capture pragmatic concerns that justify tax investment, more open borders, or the like. By framing the issues both pragmatically and compassionately, progressives make the decision to invest tax or open borders about achieving not merely compassion goals, but also about achieving sound and practical goals for our country.<sup>291</sup>

Lakoff explains that it’s not enough just to coin the term; rather campaigners must repeat them over and over in context and use them to frame the discussion.<sup>292</sup> For example, the term “monster hurricane” repeated and put into context with large numbers seemed to mobilize people to action when Hurricane Irma hit Florida. For several weeks, some Florida residents watched catastrophic flood footage from

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288. See generally DR. SEUSS, *THE LORAX* (1971).

289. LAKOFF, DON’T THINK OF AN ELEPHANT!, *supra* note 11, at 19–24.

290. *Id.*

291. *Id.*

292. George Lakoff, *A Modest Proposal #ProtectTheTruth*, GEORGE LAKOFF (Jan. 13, 2018), <https://georgelakoff.com/2018/01/13/a-modest-proposal-protectthetruth/> [https://perma.cc/UP4L-3LQT] (reinforcing that information is believed if it is repeated).

Hurricane Harvey.<sup>293</sup> Then when Irma began brewing off the coast, newscasters repeated the term “monster hurricane” all day long for over a week.<sup>294</sup> Nearly seven million people evacuated.<sup>295</sup> Those who did not leave, stormed grocery stores, gas stations, and liquor stores to stock up.<sup>296</sup> Thus, terms like “monster hurricane,” repeated and contextualized, can resonate with large numbers of sufficiently-primed audience members.

Note, as part of the context, visuals accompanied this term. Meteorologists posted swirling red depictions of the “monster hurricane” along with “spaghetti maps” showing the hurricane’s potential paths all over Florida, Georgia, and the Carolinas.<sup>297</sup> These maps again came on the heels of pictures of flood waters looming before the Houston skyline.<sup>298</sup> Even the word “monster” symbolizes a more visual and threatening foe, and “hurricane” carries visuals not just of weather maps, but of catastrophic hurricane footage on the news.

Story-crafters can tell these tales using plain English. Books like *Plain English for Lawyers*,<sup>299</sup> *Legal Writing in Plain English*,<sup>300</sup> and nearly every other legal writing book on the shelf all provide examples on simplifying.<sup>301</sup> These books show how a writer can break complex sentences into smaller sentences<sup>302</sup> with fewer clauses and phrases,<sup>303</sup>

293. See Accuweather, *Hurricane Harvey: 130 MPH Winds in Eye Wall to Catastrophic Flooding in Houston*, YOUTUBE (Aug. 28, 2017), <https://www.youtube.com/watch?v=Td-XGq19IAE> [<https://perma.cc/SF4D-LRPG>]; Chris Dolce, *Here’s Why Hurricane Harvey Rapidly Intensified Into a Category 4 Monster*, WEATHER (Aug. 26, 2017), <https://weather.com/storms/hurricane/news/why-hurricane-harvey-intensified-rapidly> [<https://perma.cc/BWZ2-YNMY>].

294. Erin Burnett *OutFront* (CNN television broadcast Sept. 6, 2017); see also Mario Guerrero, *20/20 ABC—Hurricane Irma: Monster Storm*, YOUTUBE (Apr. 9, 2018), <https://www.youtube.com/watch?v=iN8SCMqFvTM> [<https://perma.cc/S7ZP-5WKZ>].

295. Kimberley Miller, *Hurricane Irma, 6.8 Million People Evacuated, Survey Finds Many Won’t Next Time*, WEATHERPLUS (Sept. 11, 2018), <http://weatherplus.blog.mypalmbeachpost.com/2018/09/11/hurricane-irma-6-8-million-evacuated-survey-finds-many-wont-next-time/> [<https://perma.cc/E995-DN88>].

296. *One Year Ago, Hurricane Irma Made Its Final Two Landfalls in Florida*, FOX13NEWS (Sept. 10, 2018), <http://www.fox13news.com/news/local-news/one-year-ago-hurricane-irma-made-its-final-two-landfalls-in-florida> [<https://perma.cc/A76D-PNYG>].

297. *Hurricane Irma Map*, N.Y. TIMES (Sept. 11, 2017), <https://www.nytimes.com/interactive/2017/09/05/us/hurricane-irma-map.html> [<https://perma.cc/3LC5-D6ZA>].

298. Andy Long, *Before and After Photos Illustrate Massive Houston Flooding*, NBC4 (Aug. 28, 2017), <https://www.nbc4i.com/news/u-s-world/before-and-after-photos-illustrate-massive-houston-flooding/1064649237> [<https://perma.cc/Z6N3-AN57>].

299. See generally RICHARD C. WYDICK, *PLAIN ENGLISH FOR LAWYERS* (5th ed. 2005).

300. See generally BRYAN A. GARNER, *LEGAL WRITING IN PLAIN ENGLISH* (2d. ed. 2013).

301. *Id.*

302. *Id.*

303. *Id.*

reduce prepositions,<sup>304</sup> make language active,<sup>305</sup> and use simpler word choices.<sup>306</sup>

Truth-tellers will want to remain truthful. However, even truthful narratives must contain concrete details to seem real.<sup>307</sup> So, the story-crafter will want to lace concrete, truthful details into the narrative to lend an air of reality to reality.<sup>308</sup>

Thus, even when the power of truth supports a story, the truth-teller must still use a convincing narrative approach to defeat falsities. After identifying the audience and planning story dissemination, truth-tellers can use a superhero storytelling style to: (1) visually code the hero as the audience; (2) show the hero’s super abilities; (3) create automatic antagonist name association; (4) reveal the antagonist’s resurrection threat; (5) raise the stakes in the narrative; (6) provide courageous visual solutions; (7) display symbolic strengths and weaknesses; (8) simplify the story language; and (9) include concrete details to establish reality. Such a story can achieve not just super-truthfulness but super-success.

#### IV. A TRUE STORY

Although the truth does not always win, truth-tellers should remain so in their narratives for several reasons.<sup>309</sup> First, it’s simply the right thing to do. Second, if a person lies about an event like global warming or terrorism, the person still suffers the same consequences as everyone else in the end.<sup>310</sup> Third, when truth-tellers stoop to lying they become the thing that they hate. Fourth, in an unrigged system with two equally good narratives disseminated equally, the true story will likely triumph in the long-run.<sup>311</sup> Finally, if a liar is already winning on lies, truth-tellers are not likely to beat liars at their own game. Rather, truth-tellers relinquish one of their strengths, the truth, by joining in the lies.<sup>312</sup>

304. *Id.*

305. *Id.*

306. *See generally* GARNER, *supra* note 300.

307. *See* Page, *Stranger Than Fiction*, *supra* note 157, at 923; *see also* Ruth Wedgwood, *The Revolutionary Martyrdom of Jonathan Robbins*, 100 YALE L.J. 229, 269 (1990) (describing the “kind of detail that cannot be filled in by the imagination and so lends verisimilitude”); *cf.* JOHN GARDNER, *THE ART OF FICTION: NOTES ON CRAFT FOR YOUNG WRITERS* (1991) (discussing how concrete details establishes verisimilitude).

308. *Id.*

309. *See generally* Kaiser & Brown, *supra* note 15, at 233 (discussing some of the hazards of false stories).

310. *Cf.* FILIZ KATMAN, *GLOBAL CLIMATE CHANGE, ENVIRONMENT AND ENERGY: GLOBAL CHALLENGES AND OPPORTUNITIES TO GLOBAL STABILITY* 3–5 (2014).

311. Lebovits, *supra* note 193, at 64 (stating that the truth is more credible).

312. *See* Stanchi, *supra* note 84, at 99 (explaining that more honest and objective briefs are more likely to persuade); *see generally* Kathryn Stanchi, *Playing with Fire: The Science of Confronting*



In telling these truths, advocates should develop awareness regarding the kinds of biases that can surround visual messages and then include those with care so that they are an honest representation.<sup>313</sup> Even a photograph has an author; thus, particularly in a court setting, advocates must take care that the photograph is a fair and accurate representation of events.<sup>314</sup>

Though the truth is a strength, Donald Trump's fictional narrative likely defeated Hillary Clinton's more truthful, and actually more popular, narrative because: (1) our system is weighted due to the electoral college;<sup>315</sup> (2) questions remain about Russian tampering;<sup>316</sup> (3) Donald Trump enjoyed widespread dissemination of his message via bots;<sup>317</sup> (4) Donald Trump likely did a better job of storytelling as outlined in this Article, albeit a less accurate job; and (5) a wide swath of Trump's audience was already stoked and primed to accept his narrative and held deep frames more favorable to him and less favorable to Clinton. If opponents of his style of narrative address these dynamics, then the truth becomes a narrative strength.

#### V. THE STORY OF SUPER-STRENGTHS TO DEFEAT A SUPER-VILLAIN'S EVIL WEAPONS

The superhero narrative and a weighted system are not Trump's only super-strengths. Trump engages in tactics that disarm opponents and distract the public. These approaches sink low. He engages in the following ethically questionable tactics:

Shifting blame or scapegoating;<sup>318</sup>

Deflecting or changing the subject;<sup>319</sup>

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*Adverse Material in Legal Advocacy*, 60 RUTGERS L. REV. 381 (2008) (explaining that disclosing harmful information can increase credibility).

313. See Murray, *Visual Rhetoric: Topics of Invention*, *supra* note 52, at 187; Michael D. Murray, *The Ethics of Visual Legal Rhetoric*, 13 LEGAL WRITING: J. LEGAL COMM. & RHETORIC: JALWD 107 (2016).

314. Brian Barakat & Bronwyn Miller, *Authentication of Digital Photographs Under the "Pictorial Testimony" Theory: A Response to Critics*, 78 FLA. B.J. 7, 38 (July/Aug. 2004).

315. *Electoral College Fast Facts*, HISTORY, ART & ARCHIVES, U.S. HOUSE OF REPRESENTATIVES, <http://history.house.gov/Institution/Electoral-College/Electoral-College/> [https://perma.cc/4UF3-J9VL] (last visited Apr. 24, 2019).

316. *2016 Presidential Campaign Hacking Fast Facts*, CNN, <https://www.cnn.com/2016/12/26/us/2016-presidential-campaign-hacking-fast-facts/index.html> [https://perma.cc/P2BU-6H7G] (last visited Apr. 24, 2019).

317. John Markoff, *Automated Pro-Trump Bots Overwhelmed Pro-Clinton Messages, Researchers Say*, N.Y. TIMES, (Nov. 17, 2016), <https://www.nytimes.com/2016/11/18/technology/automated-pro-trump-bots-overwhelmed-pro-clinton-messages-researchers-say.html> [https://perma.cc/PC4S-QLT6].

318. *MTP Daily with Chuck Todd* (MSNBC television broadcast Jan. 3, 2018) (featuring Professor George Lakoff's discussion of Trump's framing, diversion, and deflection).

319. *Id.*

Name-calling, making *ad hominem* attacks;<sup>320</sup>

Making fun of people;<sup>321</sup>

Making threats;<sup>322</sup> and

Physically stalking his opponent on stage.<sup>323</sup>

These tactics can take an opponent by surprise and unnerve them. The behavior is so shocking that an opponent often does not prepare for such an uncivilized approach. This behavior may trigger a flight, fight, or freeze response in people who have experienced post-traumatic stress or bullying.<sup>324</sup>

Moreover, these tactics seem to offer the opponent few choices in responding. If the opponent responds in kind, then the opponent is no better.<sup>325</sup> If the opponent does nothing, the opponent appears weak.<sup>326</sup> If the opponent yells or cries, the opponent appears either unhinged or weak.<sup>327</sup> If the opponent tries to defend against the actual content of the attack, such as by defending themselves personally against an *ad hominem* attack, then the opponent appears defensive, wheedling, and,

320. Jasmine C. Lee & Kevin Quealy, *The 567 People, Places and Things Donald Trump Has Insulted on Twitter: A Complete List*, N.Y. TIMES, <https://www.nytimes.com/interactive/2016/01/28/upshot/donald-trump-twitter-insults.html> [<https://perma.cc/DMU2-CUSM>] (last visited Apr. 24, 2019); Kevin Quealy, *Trump Is on Track to Insult 650 People, Places and Things on Twitter by the End of His First Term*, N.Y. TIMES (July 26, 2017), <https://www.nytimes.com/interactive/2017/07/26/upshot/president-trumps-newest-focus-discrediting-the-news-media-obamacare.html> [<https://perma.cc/5Q4W-9AWP>].

321. Chris Cillizza, *Donald Trump's Bullying of Mika Brzezinski Crosses a Big Line*, CNN (June 29, 2017), <https://www.cnn.com/2017/06/29/politics/trump-mika-analysis/index.html> [<https://perma.cc/967M-72D7>]; Maureen Johnson, *Trickle-Down Bullying and the Truly Great American Response: Can Responsible Rhetoric in Judicial Advocacy and Decision-Making Help Heal the Divisiveness of the Trump Presidency?*, 25 AM. U. J. GENDER SOC. POL'Y & L. 445, 457 (2017).

322. Michael Gerson, *The Dangerous Worldview at the Core of Trump's Intimidation*, WASH. POST (Feb. 29, 2016), [https://www.washingtonpost.com/opinions/the-strong-hand-at-the-center-of-trumpisms-dangerous-worldview/2016/02/29/fd2c9ada-df17-11e5-846c-10191d1fc4ec\\_story.html?utm\\_term=.a42bb4066bee](https://www.washingtonpost.com/opinions/the-strong-hand-at-the-center-of-trumpisms-dangerous-worldview/2016/02/29/fd2c9ada-df17-11e5-846c-10191d1fc4ec_story.html?utm_term=.a42bb4066bee) [<https://perma.cc/M93W-64PY>]; Donald J. Trump, @realDonaldTrump, TWITTER (Jan. 2, 2018), <https://twitter.com/realDonaldTrump/status/94835557022420992> [<https://perma.cc/L4RE-QWA3>].

323. Alastair Jamieson, *Presidential Debate: Trump Accused of 'Stalking' Clinton on Stage*, NBC NEWS (Oct. 10, 2016), <https://www.nbcnews.com/storyline/2016-presidential-debates/presidential-debate-trump-accused-stalking-clinton-stage-n663516> [<https://perma.cc/DWS5-UVS2>].

324. Donna A. Gaffney, *PTSD, RTS and Child Abuse Accommodation Syndrome: Therapeutic Tools or Fact-Finding Aids*, 24 PACE L. REV. 271, 276 (2003).

325. Philip Rucker, Ed O'Keefe, & Matea Gold, *Inside Rubio's Collapse: A Fateful Decision That Helped Unravel His Campaign*, WASH. POST (Mar. 9, 2016), [https://www.washingtonpost.com/politics/inside-rubios-collapse-a-fateful-decision-that-helped-unravel-his-campaign/2016/03/09/2581e17e-e617-11e5-bc08-3e03a5b41910\\_story.html?utm\\_term=.20e1985ed68b](https://www.washingtonpost.com/politics/inside-rubios-collapse-a-fateful-decision-that-helped-unravel-his-campaign/2016/03/09/2581e17e-e617-11e5-bc08-3e03a5b41910_story.html?utm_term=.20e1985ed68b) [<https://perma.cc/E5YK-UREC>]; L. Ali Khan, *Advocacy Under Islam and Common Law God Means No Injustice to Any of His Creatures*, 45 SAN DIEGO L. REV. 547, 574 (2008); cf. Robert A. Creo, *The Art of Persuasion: The Written Word-Briefs*, PA. LAW., 14, 16 (Nov./Dec. 2017) (cautioning against personal attacks in briefs).

326. Ellen Ostrow, *Effectively Managing Criticism*, 74 WIS. LAW 23, 23–24 (2001).

327. *Cf. id.*

again, weak.<sup>328</sup> Moreover then, the opponent draws more focus onto the subject of the attack.<sup>329</sup>

Instead, the best response to these tactics is to metacommunicate,<sup>330</sup> to call out the tactics,<sup>331</sup> with humor if possible. If the opponent tries to shift-blame or scapegoat, the first response should be, “[Opponent] is trying to shift blame away from himself for [\_\_\_\_.]” Then the conversation should shift back to the events that the opponent has tried to shift blame from, the reasons the opponent is responsible, and the reasons the blame-shifting is inaccurate.

If the opponent tries to deflect or change the subject, the first response should be, “Opponent is using the magician’s trick of deflection and drawing attention away from X. But X is important because \_\_\_\_\_.”

If the opponent name calls or makes fun, it’s important to remember how ridiculous and childish it is for a political candidate or a legal advocate to do so. The response will be as much about body language as content.<sup>332</sup> The respondent must appear relaxed, confident, strong, and genuinely amused.<sup>333</sup>

In terms of content, the response should be to make fun of the name calling itself. For instance, someone using the humorous tone could respond with something like, “Seriously? Third-grade insults? I’m here to talk about the issues,” and then move on to the issues. Tone here is key; readers might study the character, Jim, from the television show, *The*

328. See, e.g., Jenna Johnson, *The Long-Simmering Bush-Trump Feud Boils Over on Stage*, WASH. POST (Feb. 14, 2016), [https://www.washingtonpost.com/politics/the-long-simmering-bush-trump-feud-boils-over-on-stage/2016/02/14/b7702c34-d344-11e5-be55-2cc3c1e4b76b\\_story.html?utm\\_term=.50877120db4c](https://www.washingtonpost.com/politics/the-long-simmering-bush-trump-feud-boils-over-on-stage/2016/02/14/b7702c34-d344-11e5-be55-2cc3c1e4b76b_story.html?utm_term=.50877120db4c) [https://perma.cc/Z6BP-TQPH?type=image] (discussing Bush’s attempted defense of Trump’s accusation that Bush said he would moon someone).

329. See, e.g., *id.*

330. Ostrow, *supra* note 326, at 23–24.

331. Colwyn Trevarthen, *Contracts of Mutual Understanding: Negotiating Meanings and Moral Sentiments with Infants*, 6 J. CONTEMP. LEGAL ISSUES 373, 388 (1995) (defining metacommunication as communicating about the communication).

332. Joy Kanwar, *Avatars, Acting, and the Imagination: Bringing New Techniques Into the Classroom*, 43 J. LEGAL PROF. 1, 31–32 (discussing the importance of body language in persuasion); Neil J. Dilloff, *Law School Training: Bridging the Gap Between Legal Education and the Practice of Law*, 24 STAN. L. & POL’Y REV. 425, 434 (2013); Michael J. Higdon, *Oral Argument and Impression Management: Harnessing the Power of Nonverbal Persuasion for A Judicial Audience*, 57 U. KAN. L. REV. 631, 632 (2009) (discussing the power of nonverbals in presidential debate); Jason Bloom & Karin Powdermaker, *The Jury Likes Me, the Jury Likes Me Not: Building Rapport in the Courtroom*, TEX. B.J. 540 (June 2006) (“Only 7 percent of one’s message is communicated verbally; the remaining 93 percent is communicated non-verbally through speech tenor and tone, body language, and physical demeanor.”); Jeff Thompson, *Is Nonverbal Communication A Numbers Game?*, PSYCHOL. TODAY (Sept. 30, 2011), <https://www.psychologytoday.com/us/blog/beyond-words/201109/is-nonverbal-communication-numbers-game> [https://perma.cc/6X6Z-SK4S].

333. Cf. Kanwar, *supra* note 332, at 31–32 (discussing body language and authenticity in responding); Higdon, *supra* note 332, at 632.

*Office*, who often just gives a look that shows how ridiculously his colleagues are behaving.<sup>334</sup>

Regarding more general *ad hominem* attacks, remember, an attack on the person is only the logical fallacy of an *ad hominem* attack when the person’s qualifications are not at stake in the discussion.<sup>335</sup> The reason an *ad hominem* attack is a logical fallacy is that a person’s qualifications are irrelevant as to whether their point is sound.<sup>336</sup> When someone makes an actual *ad hominem* attack, again, labeling the attack as such and drawing the focus back onto the issues is the best approach.<sup>337</sup>

With respect to political candidates, however, at times, the person’s qualifications are at issue.<sup>338</sup> Thus, an attack on the person does not qualify as an *ad hominem* attack in that situation.<sup>339</sup> Nonetheless, if the attack is name calling, then the previous approach for name calling works. If the attack is deflecting or scapegoating, then the previous approach for those tactics works.

If an individual is making threats, an opponent should hit back hard. First, the opponent must call out the tactic for what it is. Second, if the threatened act is illegal, the opponent must threaten to bring down the arm of the law or any other enforcement mechanism. Third, the opponent must follow through with enforcement whenever and however possible.

Finally, regarding the physical intimidation tactics, again, body language may be even more important than content.<sup>340</sup> When Trump stalked Hillary Clinton on the debate stage, Hillary Clinton’s skin-crawled as per her own admission.<sup>341</sup> Clinton kept her back to Trump as he stalked her. While many women may have identified with Clinton as the protagonist, people may have also subconsciously noticed her nonverbal reaction.<sup>342</sup> As the leader of the free world, she would have to

334. -The Office Quotes-, @FakeOffice1, TWITTER (Jun. 4, 2014), <https://twitter.com/fakeoffice1/status/474371248273645568?lang=en> [<https://perma.cc/F5D9-WDR9>].

335. Kevin W. Saunders, *What Logic Can and Cannot Tell Us About Law*, 73 NOTRE DAME L. REV. 667, 676 (1998); Yvonne Raley, *Character Attacks: How to Properly Apply the Ad Hominem*, SCI. AM. (June 1, 2008), <https://www.scientificamerican.com/article/character-attack> [<https://perma.cc/H3SQ-W9SG>].

336. Raley, *supra* note 335.

337. Saunders, *supra* note 335, at 676.

338. *Id.*

339. *Id.*

340. Kanwar, *supra* note 332, at 31–32; Higdon, *supra* note 332, at 632.

341. Cleve R. Wootson Jr. & Amy B. Wang, *Hillary Clinton Calls Donald Trump a ‘Creep,’ says her ‘Skin Crawled’ During Debate*, WASH. POST (Aug. 23, 2017), [https://www.washingtonpost.com/news/politics/wp/2017/08/23/hillary-clinton-said-her-skin-crawled-when-donald-trump-stood-behind-her-on-debate-stage/?noredirect=on&utm\\_term=.86db2d687e0b](https://www.washingtonpost.com/news/politics/wp/2017/08/23/hillary-clinton-said-her-skin-crawled-when-donald-trump-stood-behind-her-on-debate-stage/?noredirect=on&utm_term=.86db2d687e0b) [<https://perma.cc/5XRN-Y6TM>].

342. *Cf.* Kanwar, *supra* note 332, at 7 (discussing how actors have gone from faking responses to responding authentically).

stand strong in the face of all the world's most abominable figures, and it is possible that some people evaluated her as being weak in the face of Trump's attack. In contrast, Angela Merkel adopts dominant body language in photos with Trump. In one photo, he's seen folding his arms as she stands over him, and she appears as though she's reining in a petulant child.<sup>343</sup> Thus, audiences likely perceive her not as their fellow victim, but as their defender.

Advocates who respond to these tactics will need to be psychologically prepared and will need to practice responding to these tactics confidently with charm and sometimes humor.<sup>344</sup> They will meet with the best success if they briefly call out the tactic and then shift the focus back to the issue being discussed.

## VI. CONCLUSION

Advocates wishing for super-success can persuade using a truthful and fair superhero storytelling model. In so doing and in defeating false narratives, advocates must also profile their audience to the extent allowed. In our legal system, *voir dire* allows for some profiling. In the world outside the courtroom, advocates should invite audiences to share their needs. Additionally, to defeat false narratives, truth tellers must outpace false narratives by spreading the non-fiction stories using both technology and old-fashioned community engagement. In so doing, honest advocates might make the truth super again.

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343. Patrick Grafton-Green, *G7 Summit Photo: The Best Internet Reactions to Viral Shot of Angela Merkel and Donald Trump*, EVENING STANDARD ONLINE (June 10, 2018), <https://www.standard.co.uk/news/world/g7-summit-best-internet-reactions-to-viral-photo-of-merkel-and-trump-a3859561.html> [<https://perma.cc/733R-DMF2>].

344. Kanwar, *supra* note 332, at 4–7 (discussing how both avatars and acting training can prepare people for speaking situations); Preston Ni, *How to Successfully Handle Aggressive and Controlling People*, PSYCHOL. TODAY (Sept. 7, 2014), <https://www.psychologytoday.com/us/blog/communication-success/201409/how-successfully-handle-aggressive-and-controlling-people>; Margarita Tartakovsky, *5 More Ways to Be Assertive with Intimidating People*, PSYCH CTR. (July 8, 2018), <https://psychcentral.com/blog/5-more-ways-to-be-assertive-with-intimidating-people/> [<https://perma.cc/E4SD-VH2E>].