



## The Serial Phenomenon: One Business Litigator's Story

By Kristin B. Rowell, Esq.

Kristin B. Rowell is a trial lawyer and shareholder of the law firm Anthony Ostlund Baer & Louwagie P.A., a Minneapolis business litigation boutique with an extensive history representing companies and individuals in complex business disputes. Kristin regularly appears on behalf of her clients in state and federal courts in Minnesota and other states around the country. When she is not helping her clients solve their problems, she enjoys running, strength training, volunteering, and spending time with family and friends. For more information, please visit [www.anthonyostlund.com](http://www.anthonyostlund.com).

**T**here are few things I enjoy more than being in trial. As a business litigator, I find trial exciting, energizing and tiring all at the same time. Throughout my practice I've often wondered what it is like to sit in the judge's or jury's seat during one of my trials. Unfortunately, I've never been called for jury duty. What do the judge and jury make of the evidence? Do they believe the witnesses? Which witnesses? Can they tell when the other side is lying? Most importantly, do they believe my client's story?

### The Podcast

While I may never get to experience an actual trial from the viewpoint of a judge or jury, I recently discovered the next best thing – listening to the podcast called “Serial.” (Okay, so that statement might be a little dramatic, but the podcast is really quite good.) I discovered “Serial” while listening to a local radio program. “Serial” is a story told by reporter Sarah Koenig episode by episode as she investigates the 1999 murder of Hae Min Lee and the ultimate conviction of 17-year-old Adnan Syed. At the time of the murder, Hae Min Lee was Adnan Syed’s ex-girlfriend.

I downloaded the podcast and listened to the first 11 episodes in one weekend. Considering that I barely find time for television, this was a major feat. I was on a “Serial” binge. It became an all-consuming project that preoccupied the majority of my time that weekend. I listened to Koenig tell me the story of Adnan Syed through various witnesses. I listened to the story while I cooked, did laundry, put up Christmas lights, drove to and from Target and walked my dog. I was surprised by my level of interest in the podcast.

I quickly realized that a large part of my fascination with “Serial” is that Koenig is a fantastic storyteller. Critics agree. In an Oct. 9, 2014 article in *The New Yorker*, author Sarah Lawrence wrote, “‘Serial’ has an irresistible concept, one that seems obvious and inevitable as a form: a season-long exploration of a single story, unfolding over a series of episodes. Combining the drama of prestige-television-style episodic storytelling, the portability of podcasts, and the reliability of ‘This American Life,’ the show has been, perhaps not surprisingly, ranked at No. 1 on iTunes for much of the past couple of weeks.”

### The Power of Storytelling

In less than a weekend, I became invested in the characters and outcome of the case. I was like a juror or judge at trial. “Serial” is a well-crafted, succinct yet thorough, interesting yet tragic, and hopeful yet disturbing story that, as a listener, you become attached to.

I'm not a criminal defense attorney or a prosecutor. I'm a business litigator. I try business disputes to judges and juries for a living. So what struck me about “Serial” is that listeners like me

– who don't practice criminal law – are captivated by a good story. As I listened to “Serial” that weekend, I wanted Adnan Syed's conviction to be reversed. I wanted his friend, Jay, to confess that he knew more than he was telling the investigators and the police. In fact, I wanted Jay to confess that he did it (even though after having now listened to 12 episodes it is still not clear to me who was responsible for the death of Hae Min Lee). Why? I became attached to the characters. I formed opinions about them. I connected with them. I was invested in their story.

### What Litigators can Learn from “Serial”

Like the reporters in “Serial,” my job as a litigator is about creating a compelling story to present to a jury or a judge. Writing that story starts from my initial client interview. When meeting with a client for the first time, I ask myself several questions. What brings the client into my office? What are the potential claims and defenses? What are the client's goals? I am also evaluating whether my client is believable, whether the jury will like my client, whether the jury will relate to my client, and who our audience will be at trial. I consider one of my responsibilities to my clients to figure out how to learn as many facts as early as possible in order to tailor my discovery efforts and weave those facts into my story. I gather all of this information through my interviews of witnesses, reviewing documents and files, assembling outlines for deposition questions, cross-examining witnesses in depositions and at trial, and presenting arguments – hopefully in an engaging and persuasive way – to judges and juries.

After binging on “Serial,” I feel as though I have a better understanding of the judge's or juror's seat. Like Koenig's role in reporting on “Serial,” my job is to weave hundreds of facts together in a compelling fashion so that, as a listener, you take a position and commit to it. Preparing for trial and presenting a case to a judge or jury involves a tremendous amount of work. I have to imagine that Koenig and her team put in thousands if not tens of thousands of hours developing “Serial.” I, for one, am grateful that they are telling this story. It sounds like millions of others agree with me. If you haven't listened to it, try listening to an episode. I suspect that like me, you'll be hooked.