



# WHAT A TED TALK ABOUT LYING KIDS CAN TEACH US ABOUT FAMILY LAW

By Paul Nelson, Esq



**Professor Kang Lee begins his 2016 Ted Talk with a story.** It stars his friend and elementary school Principal Richard Messina. He got a call one day. The person on the other line said, “Mr. Messina, my son Johnny will not come to school today because he is sick.”

Mr. Messina responded with: “Who am I speaking to, please?”

The caller said, “I am my father.”

Though funny, there’s a serious implication to this anecdote. Lee has been studying the science of lying for decades. His talk concerns experiments he and his team performed on kids to see how much they lie. Surprise, surprise: He found most children will bend the truth to suit them when put in the right position. (In this case, when lying could net them a big prize.)

What’s so interesting to the discussion of family law is the fact that no one—not even parents—can tell if a child is lying once kids master two abilities: theory of mind (thinking like others) and self-control.

Extrapolating from Lee’s conclusion, if even parents cannot tell if their little ones are prevaricating, how can a judge possibly assess the veracity of dueling spouses in something as complex as a high-stakes divorce? (As the saying goes, there are three kinds of lies: lies, damned lies, and statistics.)

The truth is judges cannot employ some newfangled AI gizmo to determine someone’s honesty in court. Although there may come a day when that’s possible. (Bet on the CCP to invent the technology!)

For now, judges must rely on their *perception* of reality.

This is why presentation and first impressions matter. Prolific author Malcolm Gladwell says this in *Blink: The Power of Thinking Without Thinking*. He posits there is something very valuable about instant “gut checks.”

According to Gladwell, “Anyone who has ever scanned the bookshelves of a new girlfriend or boyfriend—or peeked inside his or her medicine cabinet—understands this implicitly; you can learn as much—or more—from one glance at a private space as you can from hours of exposure to a public face.”

Gladwell’s insight dovetails with my own decades of trial experience. Facts matter. But more important is how the facts are presented. To prevail in family law, where a positive outcome rests upon a judge’s perception of you, it comes down to delivery.

Any seasoned attorney knows you can’t discount the power of drama, emotion, and good old-fashioned storytelling in a courtroom trial. Like a good play, a legal presentation is well-structured, suspenseful, emotionally gripping, and expertly performed.

But while in the theater the literal truth is often bent and twisted for dramatic effect, in court an attorney must be *very* careful about the veracity of the facts presented. The danger inherent in error—however small—is summed up in the Latin phrase “*falsus in uno falsus in omnibus*,” which means “false in one thing, false in everything.”

If you give a judge reason to doubt you about anything, they can doubt you about everything. Which is why, when in court, I make it my mission to poke holes in as much of the opposition’s evidence as I possibly can. (And, by the same token, ensure my own evidence is bulletproof.)

This leads to an important query: Is your divorce attorney telling your story in such a way your judge doesn’t just think you’re truthful, but actually sides with you? If not, you won’t receive the most favorable outcome. No lie.

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