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Everything You Need to Know about Aristotelian Rhetoric You Can Learn from Kendall Jenner and Serena Williams

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Pop culture can teach us a lot about the law: almost everyone knows the *Miranda* warnings and can recite them by heart, thanks to *Law and Order* and other crime dramas,¹ the concept of a “conservatorship” is familiar to many because of Brittany Spears,² and the notorious RBG has become a household name, recognizable in a crown and jabot, partly due to Kate McKinnon’s portrayal on *SNL*.³

Commercials, and the pop culture icons featured in them, can also teach students about the art of persuasive advocacy. At the start of the spring semester,

¹ Ronald Steiner, Rebecca Bauer & Rohit Talwar, *The Rise and Fall of Miranda Warnings in Popular Culture*, 59 Clev. St. L. Rev. 219, 231 (2011); Russel Dean Covey, *Miranda and the Media: Tracing the Cultural Evolution of a Constitutional Revolution*, 10 Chap. L. Rev. 761, 761 (2007).

² Joe Coscarelli & Julia Jacobs, *Judge Ends Conservatorship Overseeing Britney Spears’s Life and Finances*, NY Times (Nov. 12, 2021), <https://www.nytimes.com/2021/11/12/arts/music/britney-spears-conservatorship-ends.html>; Hayley Phelan, *The Oracle of Britney*, Vanity Fair (Nov. 12, 2020), <https://www.vanityfair.com/style/2020/11/the-oracle-of-britney-spears>.

³ Sara Aridi, *How Ruth Bader Ginsberg Lives on in Pop Culture*, NY Times (Sep. 26, 2020), <https://www.nytimes.com/2020/09/26/at-home/ruth-bader-ginsburg-pop-culture-rbg.html>.

when I segue from objective analysis to persuasive advocacy in my legal writing course, I let Kendall Jenner and Serena Williams introduce the concept of Aristotelian Rhetoric. It turns out, they are very effective teachers.

1. Why It Works

Because we spend the entire fall semester assessing both sides of an issue, the shift to persuasive writing can be jarring for some students. It often takes some time for students to feel comfortable adopting a “persuasive tone.”⁴ I often hear, “How can I argue for my side when I see that the other side has merit too?”

One way to introduce the art of advocacy is to critically assess persuasive arguments in the real world.⁵ It is helpful for students to look at briefs to see how lawyers have crafted arguments, what issues were raised first, and how counter-arguments were addressed. But as a first activity, I like to ease students into persuasive advocacy by having them watch two commercials.

Starting with commercials does a few things: first, it puts students at ease. There is no legal issue, terminology, or document format that they need to know. Also, it piques students’ interest. The activity involves celebrities and brand marketing success and failure. Given the accessibility of commercials and interest in both famous brands and people, discussion during this activity is robust, and I find that students who have been more reluctant to speak during other class activities participate in this activity. Many students initially don’t realize the connection to Aristotelian persuasive techniques. But the connection becomes obvious by the end. Finally, the activity is short and creates a lot of energy in the class on the first day back to school, when some students are still reeling from their first semester grades.

2. The Class Activity

Students engage in this activity on the first day of spring semester. It is short and takes only around forty-five minutes to complete. The activity can be cut down to thirty minutes if students watch the commercials for homework. Although the purpose of the exercise is to introduce the rhetorical conventions of logos, pathos, and ethos, students do not need to be familiar with these concepts before class. In fact, it is often better if they aren’t.

⁴ Kathy Stanchi, Teaching Students to Present Law Persuasively Using Techniques from Psychology, 19 Perspectives: Teaching Legal Res. & Writing 142, 142 (2011).

⁵ Elizabeth Shaver, LRW’S The Real World: Using Real Cases to Teach Persuasive Writing, 38 Nova L. Rev. 277, 278 (2014).

To start, I ask all students to jot down notes during the commercials and provide them with two questions to focus on individually:

1. What is your overall impression of each commercial?
2. Were there any images/statements/moments that you found particularly noteworthy/jarring/interesting?

Then, I play the commercials. First, I show students Pepsi's "Live For Now" commercial starring Kendall Jenner from 2017.⁶ This is the commercial where Jenner is in the midst of a photo shoot but is interrupted by Gen Z protesters marching on the street. Jenner whips off her wig, smears her lipstick, and joins the crowd. When they reach a police barricade, she gives an officer a Pepsi and the crowd erupts in cheers and dancing.

Immediately afterward, I show students Nike's "Dream Crazier" commercial starring Serena Williams from 2019. The commercial features Williams's voiceover while videos play of women succeeding in sports in ways that were previously unimaginable, like running a marathon, dunking a basketball, or winning 23 Grand Slams. The commercial ends with Serena exhorting the viewer, "So if they want to call you crazy, fine, show them what crazy can do."

After watching the commercials, I give students a few minutes to finish writing down their own thoughts to the two initial questions. Then, I separate students into small groups of four or five. I give each group a worksheet with questions to discuss and ask each group to fill out one worksheet to turn in.⁷ The groups briefly discuss the questions and write their answers on the worksheet. Afterwards, I choose one group to start the broader class discussion.

The first question asks for first impressions. This usually results in a raucous discussion. Students often have strong feelings about the commercials. Opening with such a broad question has usually resulted in general comments: "I hated it." "The commercial was inspiring." "It made no sense and was offensive." After giving students a few minutes to provide broad overarching comments, I start to focus the discussion on the more specific questions in the worksheet. Usually, students have already begun to narrow in on one of the three elements of Aristotelian rhetoric. I allow the class to guide the conversation and do not address the three aspects of Aristotelian rhetoric in any particular order.

⁶ Kendall Jenner for Pepsi Commercial, YouTube (Apr. 5, 2017), <https://www.youtube.com/watch?v=j9x15lR9VIg>.

⁷ The worksheet is attached as "Appendix A."

2.1. *Logos*

The logos discussion revolves around the following questions: What is the message of each commercial? And, how is the message conveyed? These questions allow students to assess the internal logic and substance of the commercials.⁸

At the outset of the discussion, students quickly determine that the Nike commercial clearly addresses women's empowerment, gender stereotypes, and, more broadly, tackling and overcoming challenges. To that end, the Nike commercial includes real video clips that show women or girls excelling in sports in ways that they hadn't done before. Equally as quickly, students often conclude that the Pepsi commercial has no clear message and is, at best, nonsensical, and at worst, offensive and insulting. Unlike the Nike commercial, there is no clear progression between ideas to lead the viewer to a logical conclusion. Without logos, or a reasoned approach, the Pepsi commercial fails to convince the viewer of its significance or meaning.

This discussion lends itself to some follow-up questions, depending on the available time. For instance, if Pepsi wanted to establish that it was committed to social justice issues, what type of commercial could it have created? Come up with a clear message that you think Pepsi should have focused on in the commercial. How would you have conveyed it?

2.2. *Ethos*

When the discussion turns to ethos, I ask students to describe the "main character" in each of the two commercials. Students describe Serena Williams' tennis prowess and Kendall Jenner's modeling and reality T.V. career. I then probe into how each of the star's public persona relates to the perceived message of the commercial. These commercials provided very stark contrasts into the ethos, or credibility, of the main actors.

During discussions of the Nike commercial, student discussion often focuses on how Williams, who faced constant media scrutiny and criticism over the course of her tennis career, is able to speak convincingly about overcoming naysayers to accomplish "crazy" things. Student discussion of the Pepsi commercial focuses on Jenner's lack of credibility to be leading some kind of social movement in the commercial when she is not known for protesting or engaging in social activism.

⁸Paul Mark Sandler, JoAnne A. Epps, Ronald J. Waicukauski, *Classical Rhetoric and the Modern Trial Lawyer*, 36 *Litigation* 16, 17 (Winter 2010).

Follow-up questions could include an inquiry into who Pepsi might have hired that would have been more credible and whether a company can or should try to monetize a social movement in the first place. Particularly with ethos, I like to draw a connection to legal writing because, initially, it may not be clear how this relates to the practice of law. To do this, I ask students how we, as writers, can make our audience trust our analysis, suggestions, or assessments when we don't have a famous persona to draw upon? What would make us seem more or less reliable as authors to our intended audiences?

2.3. *Pathos*

For our discussion regarding pathos, I ask students how the commercials made them feel and how they thought the commercials were intended to make them feel. Students often talk about the Nike commercial's uplifting tone. The historical video footage of real women and girls reaching and surpassing goals is inspiring and motivating. Students emphasize the inclusivity of the Nike commercial, which features women of different ages, races, and physical abilities engaged in different sports. By contrast, students usually conclude that the Pepsi commercial seems designed to manipulate their emotions. Students often agree that the Pepsi commercial is visually compelling and showcases diverse groups of young people, including those of different genders, races, and ethnicities. But these are all actors who are protesting an undefined issue. Students reflect on the commercial's attempt to tap into social protest movements, such as Black Lives Matter, to sell a product, without a compelling connection to a social cause or context. As such, students conclude that the attempt to imbue the Pepsi commercial with emotional significance is wholly unsuccessful.

3. Conclusion

I end by asking students why they think we started the semester with this activity and whether/how the commercials can help us understand legal arguments. This final question allows students to think about the service nature of the legal profession: being a lawyer essentially involves selling an argument to a judge or opposing counsel, just like a tennis shoe or soft drink. Moreover, the same persuasive techniques that work or fall flat in the commercials are used in legal arguments. It is only at this point that I refer to the Greek terminology: logos, ethos, pathos. By that point, students naturally understand the significance these concepts have in persuasive writing and analysis.

Student buy-in of the importance of Aristotelian rhetoric is seamless. Even better, Kendall Jenner and Serena Williams did all the hard work for me.

Appendix A

Individual Instructions

1. What are your first impressions?
2. Were there any images/statements/moments that you found particularly noteworthy/jarring/interesting?

Group Instructions:

Group members:

- 1.
- 2.
- 3.
- 4.

Nominate someone to take notes on this document for your group. You will turn in one copy per group. Think about the two commercials that we just watched: Nike- Just Do It and Pepsi- Live For Now. As a group discuss the following questions:

1. What was the message of each commercial? How was the message conveyed?
2. Who is the “main character” in each commercial? How does that person’s public persona relate to the perceived message of the commercial?
3. How did the commercial make you feel?
4. How can these commercials help us understand legal arguments? What are some takeaways from this activity?