

A CONVERSATION WITH RUTHANN ROBSON

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I am not interested in fooling anyone except myself. I call it survival.

—Ruthann Robson, *Notes on My Dying*¹

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the sun shifts in a direction you did not predict.
smoke drifts, but you cannot measure the distance,
every point looks half-way from the fuzzy horizon.

if you wait here long enough, the mountains
will set themselves on fire, sparked
by the fear of winter. you start to grow cold.

....

it occurs to you vaguely, you could throw
yourself overboard, to drown in the ocean of sky,
to become a mask on the face of the cliffs.

but you want to remain unpredictable. such
clichés belong in films about outlaws and women,
in nineteenth century novels, in nightmares.

....

it seems you have spent most of your life waiting
for some purpose or some freedom to overtake you.

—Ruthann Robson, excerpt from “The Ledge”²

¹ Ruthann Robson, *Notes on My Dying*, 18 *Creative Nonfiction* 8, 9 (2001)

² Ruthann Robson, “The Ledge,” in “MASKS 89-91, at 89-90 (Wellfleet, Massachusetts: Leapfrog Press, 1999).

Ruthann Robson’s bold and innovative writing, as a lawyer, scholar, essayist, novelist, and poet, constitute a theoretical and poetical body of work that makes her deserving of accolade: *She is a real writer*.³ I have been particularly drawn to Robson’s essays; they are written in prose of stark beauty and surgical precision. Robson’s essays are present us with a luminous prose poetics that stuns us to silence, to tears, and finally to wonderment. In my conversation with Ruthann, we talked about law and literature, writing, and other matters of mutual interest.

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Elkins: Ruthann, you are engaged in so many different kinds of writing, as well as teaching, that I imagine you lead a complex life. Given the range of your writing—essays, novels, short stories, poetry, academic legal articles and books—would it be fair to say that your life, for better and for worse, has been richly complex?

Robson: A life that is complex? Yes. Although I don’t believe it’s “rich” or that my writing has made me wise. And I’m not sure it is anymore “complex” than anyone else’s life. I’m sure your life is complex, no?

But that’s always a mystery to me—the complexity and actual experience of other people’s lives. I think both law and literature give one an entree into other people’s lives. Law because as lawyers—and even professors and legal scholars—we try to help people solve particular problems, and then realize that the problem we are working on is not so “particular” and is only partially legal. And literature because we move outside our own selves, transmuting our experiences through lyricism and narration.

Elkins: I’d say, with regard to my own life, that it would be greatly simplified if I did not serve as editor of the *Legal Studies Forum*, if I attempted to write less, if I attempted to limit my teaching to the narrow confines of the law. Wouldn’t your life be far more ordinary and simple than it has turned out to be if you had been able to confine your writing and your teaching to law, narrowly defined?

Should we, I now begin to wonder, whether we should aspire to have our students lead ordinary lives or lives that are complex? If life were set up so you could choose, behind some veil of ignorance, a life ordinary or complex, which would you choose?

³ For a wide-ranging symposium that celebrates the many nooks and crannies of Ruthann Robson’s scholarly, pedagogical, and writing life, see *Symposium to Honor the Work of Professor Ruthann Robson*, 8 N.Y.C. L. Rev. 311-773 (2005).

And while we're talking about this twisted relation between ordinaryness and complexity, what contribution, in either direction, should we assume that a long association with law and with literature would take us? Or should we be trying to make any assumptions about this sort of thing at all?

Robson: By choosing to enroll in law school, and by choosing to enroll in your Lawyers and Literature course, I would think students have already shown an attraction to complexity. One reason for a reluctance to engage in the discussion about choosing a certain kind of life may be a general discomfort with articulating large choices, but I also suspect the problem stems from a general romanticization of the simple life.

On balance, I'm not sure I actually believe that there are people who lead ordinary, simple lives. Having known many people who would be described as "simple" and many who would adopt the label as self-description, I don't experience them as ordinary or simple unless, that is, I make superficial judgments about them. Certainly, some of my rural and poor relatives seem simple, as do some of my friends who have adopted simplicity as a lifestyle for political or spiritual reasons. Yet, scratch them—or wait around until they scratch themselves—and complexity abounds.

Nevertheless, when one is running to catch a plane, dragging a laptop and carrying a satchel full of deadlines, life feels anything but simple. As you suggest, being involved in both law and in literature may have made my life more complex, in part because there are ways in which the two endeavors are inconsistent, and in part because there are only so many waking hours. Perhaps as compensation, I have made choices to have other parts of my life be less rich. I do try to plan some days that are objectively simple; an observer would find them absolutely boring. But while it may look as if I'm just sitting there staring into space, I'm probably at my most complex.

Elkins: I wonder whether you've not, implicitly, presented in outline form the nature of our attraction to literature.

— We are attracted to complexity, and we find that our attraction takes us to literature.

— We find in literature the making and living of large choices, a making and choosing that we find hard to articulate when asked what we are doing, and especially hard to talk about in the law school world.

— We take up with literature as an antidote to costly romanticization, whether it be of the simple life, the law, friendship, or whatever it may be that nudges us to engage in soft thinking.

— We find in literature a juxtaposition of the ordinary and the complex, the familiar and the strange, what we know and what we know as the unknown.

Ruthann, would you comment on what you find that makes law and literature inconsistent

endeavors?

Robson: The one aspect I would like to make more explicit is the political. My attraction to literature has always been political in a progressive sense: I believe that literature can change the world for the better. Certainly, it is a naive position. At times and places, I think the potential has been greater than it is at present. When I first started writing, my work was published in what was then called the underground press. I continued to write as part of the “women in print movement,” that overlapped with a lesbian and then a queer publishing milieu, that was part of a broader alternative press movement. I read and I wrote—and think about literature—as part of those movements, movements I perceived as part of a push toward progressive social change.

With this sense of politics, I have always seen my legal pursuits as consistent with my literary ones. To use one specific example: to represent the local battered women’s shelter and the local feminist women’s health center may call on different skills than writing creatively for publication in feminist literary journals, but the core motive, for me, is quite the same.

I continue to believe in an underlying seamlessness between my legal and literary pursuits, but it has become much more difficult to maintain that seamlessness. I’m fortunate to teach at CUNY where 95% of our graduates practice public interest law. But it’s clear that the forces of conservatism and capitalism have transformed, commodified, appropriated, trivialized, and attacked the legal and literary communities to which I belong. Today, far more of my energy that could be spent in creative work must be expended to defend progressive social change.

Some of the ways in which I experience law and literature as conflicting endeavors are rather mundane. Creating a world, even a world as compact as one found in a 30 line poem, requires uninterrupted time. Preparing for a class, even a class on cases one has taught fifteen times before, also demands uninterrupted time. Structuring a law review article and then writing it, requires substantial blocks of time. I do feel impaired and slowed, at times, by the constraints of time.

Related to time is the mundane-ness of deadlines. Early on in my career, I received some advice from the poet and novelist Marge Piercy that I continue to follow. She said that she never signed a contract for a creative work unless she had already finished the draft to her own satisfaction. The rationale for this is simply freedom. Piercy’s advice was sound; I’ve witnessed many writers who submit plot outlines and first chapters to agents and editors who provide so many opinions and suggestions that the result is the writers’ work becomes unrecognizable. And the price is that a writer is not writing her book, but the book an editor or agent wants. In some cases, a writer is not writing any book at all, so stymied has the process become.

Less mundane, and thus more difficult to articulate, it seems to me that another inconsistency between law and literature arises in the difference in the quality of thought required by the two enterprises. It is not that literature does not have linear, argumentative, and structural characteristics; I think it does, and must. But literature draws on more ineffable qualities than law does. Some people would say emotional or subconscious or intuitive, but all of those words seem inadequate to me.

Elkins: I wonder whether in your writing, there may not be times when you find yourself slipping away from, beneath, or beyond politics. In what sense does your attraction to literature as politics extend across the genres in which you write, or do you find in particular genres that you tend to do less in the way of political thinking? In what sense, if any, has your sense of politics been influenced by the Critical Legal Studies movement of the late 1970s and 1980s?

I obviously see my own writing as far less overtly political than you view yours. Should I view the times when I read and teach as having quite little to do with politics as an illusion?

Robson: Certainly, I agree that the pleasures associated with reading and writing can have nothing to do with politics—and I don't think that is an illusion in any sense. Indeed, I think the pleasures of literature, as so many other pleasures, can be transcendent, if I may use an unfashionable word. To slip beyond one's time and place and even beyond one's self—how wonderful!

But perhaps even this pleasure is political? How have I come to be able to read and enjoy a particular work of literature? How am I able to write? What are the material conditions that make my reading and my writing possible? These are questions that I still ask.

As for Critical Legal Studies (CLS), I'm afraid it has not been an important political movement for me personally. I have found more resonance in the feminist and critical race theorists' engagement than I have with CLS.

Elkins: Do you find, after years of fruitful reading and engagement, that even promising progressive theoretical movements, like feminist jurisprudence and Critical Race Theory begin to wear thin?

Robson: Yes, I'll agree with your implication that movements in the disciplines can wear thin. Some would say these movements have been a "victim of their own success," which is a phrase I often hear applied to LGBT movements.⁴ But in some ways, this is what I meant when I was referring to appropriation and commodification. There are certainly real and concrete reforms that change people's lives, but even these do not approach the level of "revolution." (Since we have entered risky territory with "transcend," I thought "revolution" might also be broached!) And most of what happens is superficial and stylistic adjustments. Even so, I'm heartened by what I see happening, especially with the younger generation, even if there is too little happening to suit me.

Don't you find this connection we maintain with young people a gift of teaching?

Elkins: I suspect that we both want and resist the kind of real and concrete reforms that change our lives. Many of us are forever stuck with an immobilizing ambivalence compounded of a need for security and the anxiety we associate with change.

⁴ LGBT is a common abbreviation for Lesbian, Gay, Bisexual, Transgender.

You mention the energy of the young and yes, I know that teachers often describe their association with the young as a “gift of teaching.” A good part of my early writing about legal education was an effort to discover, by way of my students, something about their law school experience. I was curious about what brought them to law school, their experience reading judicial opinions, and how they articulated the changes in themselves that took place as they undertook the study of law. My engagement with their world was like that of an anthropologist who develops an abiding fondness for the tribe he has chosen to live with and to study. Yet, my intellectual world is, I suspect, radically different from that of most of my students.

In the way I imagine myself and my place in the law school, I know that I am a better teacher for some than I am others. Some students feel most comfortable and learn better when a teacher appears most connected to them, when the teaching is familiar and safe. Other students expect the teacher to be different, to have come from some far place, to bring into the classroom a sense of self and world that is different.

Most of my students over the years have neither sought nor desired any real connection. I do not see this as a failing on their part, or mine. In the friendships that do develop with students, I’ve experienced not so much the energy of the young but the pleasures to be found in shared intellectual interests.

Ruthann, if I may, change directions, for a moment. In the creation of your fictional characters, what kind of mix of politics, psychology, and ordinary life do you strive for? Or maybe the better question: Who do you want your fictional characters to be? What do you want them to be for the reader? Since I don’t write fiction, I’m curious as to what kind of audience you envision for your fiction. Is this audience different when you write essays? Or does it make any sense at all to even talk about an audience?

How has your work as a novelist and short story writer affected your work as an essayist? I sometimes see your essay writing described as creative non-fiction. Some of us may be left wondering about this rather curious sounding label.

Robson: As for fictional characters—some of them have certainly been LGBT—I strive to know them—which seems a rather silly thing to say since I created them. And I want the reader to know them, but also be provoked by them, and engaged with them. I can say that I want the characters to be real, but I also want them to be more than real, in the sense that I can make the inner lives of the characters manifest. It is difficult to have every character with a complex inner life to which a reader is privy (mostly because of the structures of narrative and voice), but I think this is vital.

It is perhaps cliché to say I write for myself as my intended audience, but in the first instance it is embarrassingly true. Although in both fiction and nonfiction, I am cognizant of the communicative function of writing and want the work to be intelligible. I quite detest difficult work that is difficult out of pomposity.

As an essayist, I have translated some of the lessons from the craft of fiction, but also many of the lessons from the craft of scholarly writing. Essays interest me when truth and accuracy are most contested. I have turned to “creative nonfiction” when what I want to relate is unbelievable. For example, I understood from reading novels that a person dying in the first chapter does not suddenly and miraculously recover at the end of the book. The reader will feel cheated without the closure of death. Yet that was the story I wanted to tell. And so the essay, whether labeled creative nonfiction or something else, seemed most amenable.

Regarding students, I am most interested in the ways they challenge the law and challenge me. So, I don’t quite feel as if I am “inducting” them into a world, but more that I am introducing them to a world that they will change. My notions of “equality” and “sexuality,” to take but two examples, are quite different from their notions, but yet there are many commonalities. Moreover, because I am no longer practicing law myself, I am particularly interested in the internship tales of students and the law practice “war stories” of my former students.

Elkins: Do you find that creating fictional characters affects, in some way, your teaching, or your relationships with students and colleagues? Maybe I should put the question differently: How does being a writer affect your teaching? How does being a poet affect your sense of what you are do as a teacher?

Robson: These are incredibly interesting questions that lead my thinking into an epistemological labyrinth. Since I have always been so deeply entrenched in fictional creations, I don’t know how my teaching may have been affected. I’ve tried to think counter-factually on this: If I weren’t a writer, how would my teaching be different? That strategy has been similarly unsuccessful.

I could enumerate several ways in which my teaching has affected my writing. There are those material conditions of which we were speaking earlier, but I have derived ideas for writing projects in the classroom. I also think my writing, fictional and scholarly, has benefitted from developing the skills that benefit a teacher—patience, clarity, and enthusiasm.

Additionally, I find that the same paradoxical ego is required for both pursuits: One must have an incredibly strong ego (how else to stand in front of 160 other human beings and believe one has something to say? or put pen to paper, or fingers to keyboard? Simultaneously, one must have a mind-set of “no-ego” (teaching is not about the teacher and writing is not about the writer).

Elkins: The questions were, of course, easy enough to pose, but looking at them again, I see how they might well be unanswerable.

Your comment about the place of strong egos and no-ego in teaching leaves me wondering whether it is not an over abundance of ego that produces the arrogance and closed-mindedness we find in so many of our academic colleagues.

Ruthann, let me, again, change directions. You have a far deeper and more abiding interest in theory

than I do. You say in *Sappho Goes to Law School*, “I take theorizing extremely seriously. . . .”⁵ Yet, elsewhere, you point out that doing theory can simply be “another name for thinking, for deciding, for arguing and examining one’s own beliefs and principles as well as the beliefs and principles we have been taught.”⁶ I wholly agree with this description of theory. However, I think you would agree that most theorists don’t act as if all they are doing is thinking/deciding/arguing/examining beliefs and principles. The most egregious violation of your description of theorizing can be found in the work of the postmodernists. I find it curious that you identify your theory work with postmodernism. How can you enter the language labyrinth of postmodernism and hold to the notion that theory is simply another name for thinking/deciding/arguing/examining?

I now find that I simply didn’t have the time, energy, or inclination to translate postmodernist academic jargon. In pursuing stories and narratives, I have further distanced myself from postmodernism. And yet, here you are, a storyteller, with an affinity for postmodernism. Or have you simply mined postmodernism for ideas without developing any great affinity for it?

Robson: Yes, I strongly believe in theorizing. But by theorizing, I’ve never meant postmodernist theorizing. The major pitfall of postmodernism, as I see it, has been a tendency to valorize language over meaning. I don’t think theorizing is meaningful when the idea being communicated is rendered in language that makes the idea seem more complex than it is. All the work, then, is deciphering the language. For me, the work of theory should be evaluating ideas. For sexual theorists, I think a certain obscurity has been part of the attractiveness of postmodernism—it does make certain aspects of sexuality seem less crude if the language is complicated. But perhaps this is too cynical on my part.

I’ve seen it as part of my work to make theorizing accessible, which is why I wrote *Lesbian (Out)law* in the form that I did. Theorizing remains important to me. I know there is much work about the importance of narrative to theory, but I think there has been less work about the importance of theory and the limits of narrative. I have tried to do some of that work.

Elkins: You are a self-confirmed theorist, and, in my reading, a rather good one. And you are a narrativist. More accurately, we might say you’re a practicing narrativist: You write and publish short stories and novels. Yet, you don’t seem to have aligned yourself with the law and literature movement or with legal storytelling and narrative jurisprudence. Am I misreading your “movement” alliances?

I’m curious about your concerns about narrative expressed in *Sappho Goes to Law School*. You are, in a real sense, in up to your neck in narrative, and yet you go to some lengths to talk about the limits

⁵Ruthann Robson, *SAPPHO GOES TO LAW SCHOOL* 59 (New York: Columbia University Press, 1998).

⁶Ruthann Robson, *LESBIAN (OUT)LAW: SURVIVAL UNDER THE RULE OF LAW* 15 (Ithaca, New York: Firebrand Books, 1992).

of narrative. I can't quite figure it out. Are you as a theorist simply trying to be cautious? Where does your theorizing fit your heavy involvement in narrative? Do you really believe, at some level, that theory has the power to change the world and that narrative does not? You have, I know, observed that you write scholarly work and fiction for the same reason: A belief "in the power of language to forment progressive change." Maybe you have been infected with doubts about narrative from your readings of and travels with the postmodernists? Or maybe you simply want, for some reason, to avoid being associated with legal narrativists?

Robson: I'm not trying to hedge my bets on narrative or even defend postmodernism. Instead, I think I have been frustrated when "stories" are presented as self-validating and self-explanatory; when the particular is presented as if it is an approximation of the universal. I find, also, that narrative can close down inquiry as well as open it up.

I also believe—and this feels rather risky to say—that there is a lack of appreciation of narrative amongst many legal theorists who deploy narratives. I'm not referring here to the analysis of texts by law and literature scholars, but the use of narrative in the form of anecdotes with the assumption that a vignette might be commensurate with a well-developed theory. Of course, I've included anecdotes in my own legal theory, and will probably continue to do so.

As someone who has written novels, I should say that narrative can be as disciplined, complex, and demanding of writer and reader as any theory. Of course, some theorists would not agree.

Elkins: I'm not sure what you mean when you say that stories are presented in legal scholarly writing as self-validating and self-explanatory. I guess I've never read them as being problematic in quite the way you describe. It's rather rare, I think, that we have stories presented in legal scholarship without being accompanied with explanatory commentary.

There is, from still another perspective, a sense that narrative and theory are radically different enterprises. And being different enterprises, each stand, in their own way, as self-validating and self-explanatory. Don't we think of a story, cogently presented, just as we do an argument: self-validating within the context in which it is presented? By self-validating, I don't mean to suggest that a story is true, any more than we are to take for granted that a particular theory is right. And I don't mean self-validating in the sense of quality: The quality of a story is always in question. I assume that we are *always* questioning stories because of the tacit knowledge we have about stories. The interesting thing about our most compelling narratives is that we want to think that they require no critical interpretation.

I'm also unclear about the problem you associate with stories in their being presented as particulars that approximate the universal. I want to think—keep in mind that this is Monday morning and I'm no theorist—that stories embody the universal, and represent the universal. (I'm tempted to say they represent the universal as well as theory does.) Maybe I should say that stories do what theory does but by a different means, by taking a different path. Or put more personally, I don't think I've ever felt particularly close to anything universal when I'm reading, exploring, contemplating, puzzling over theory. I get to that feeling much more directly when I'm reading and working with a good

story. Isn't it fair to say that story and theory by different means implicate the universal, even as they each in their own way traffic in particulars?

On a more mundane front, I don't find anything in stories and narratives that prevents them from being read, or used, poorly. But wouldn't we say exactly this same thing of theory?

Finally, you note that as a novelist, you "feel that narrative can be as disciplined, as complex, and as demanding of writer and reader as any theory." As someone who has never written a novel and seems unlikely to ever do so, I think you're right about narrative requiring discipline on the part of the reader. I think we see the point of your comment best when we try to teach stories—in my case, lawyer stories—to law students. When presented with stories—even those of no great complexity—many law students tend to read the stories as if there is nothing to be said about them. It becomes clear that they have not developed a strategy for reading stories. Consequently, they cannot talk about stories in an engaging way. They have trouble getting beyond the surface of the story.

Robson: I agree with much of what you say. I do not want to conflate narrative with poor narrative when it comes to legal scholarship. I think where our point of disagreement lies is that I do not believe particular narratives are universal—or that they should be, or that they have built-in-explanations. (I leave aside here the question of whether the narrative impulse is part of human nature.) Instead, I think narratives are particularized explorations of particular people (or non-humans) in particular situations, and at their best they illuminate the ambiguities, the contradictions, and the un-theorizability of life. That they can cast light on more general circumstances is certainly true, and is certainly part of the work the reader does (or tries to do). Having students (or anyone) discuss and engage with a narrative can be pretty daunting, I agree.

It is not that I believe narrative is inferior or in any way subordinated to theory. Or vice-versa. But I do not believe they should be conflated. Conflation mis-serves both.

Interestingly enough, I am working on a piece which could be said to conflate theory and narrative in a form that Nicole Brossard names "fiction-theory," and a form I find attractive.⁷ In my own defense, I would say that the form does not conflate fiction and theory, but rather engages with them both, seeking to have them reverberate and reflect, or dance.

Elkins: You have a point about the conflation of narrative and theory being a prescription for trouble. Perhaps worse, in my view, are those who talk, write, and theorize about narrative with no indication that they have an affinity for narrative at all.

I'm not at all sure that I would equate theory and narrative as sources of misunderstanding. You might, although I can't be sure of this, agree with me that we're both more likely to know what we

⁷See Nicole Brossard, *THE AERIAL LETTER* 73-76 (Toronto: The Women's Press, 1988)(Marlene Wildeman trans.).

mean by narrative than what we mean by theory. We grew up with stories, and in growing up with them, we learned a great deal about them; we come to theory much later than we come to stories. You're right to suggest that in one sense, we are all, all the time, doing theory. But what we also do is resist theory.

By narrative, I take it, we are talking about stories: Telling them, listening to them, writing them. And I don't mean at all to suggest that narrative and story-telling aren't to be treated as complex endeavors, and that as such, they don't or can't undergo the kind of theorizing we do about all the cultural constructs we erect and adopt for use.

I'm far more comfortable thinking about theory as you describe it in *Lesbian (Out)law*, as "another name for thinking, for deciding, for arguing and examining one's own beliefs and principles as well as the beliefs and principles we have been taught."⁸ But it's not the idea of theorizing as "something that we all do" that you have in mind when you talk about doing theory. I suspect that when you talk about theory and theorizing that you mean to be talking to other theorists. When you are talking to and about other theorists you may well be thinking/deciding/arguing/examining, but that turns out to be the half of it, the other half, and sometimes the more obvious half, from my perspective, is just standing toe-to-toe with other theorists, making for yourself a seat at the table where everyone purports to be doing theory.

Oddly enough, you begin *Lesbian (Out)law* with the notion that it is a work of theory, but I'm not sure that it is. It doesn't read like a work of theory at all. In looking again at *Lesbian (Out)law*, I see it more as an active effort to uncover and unearth—to discover—the lesbian as a legal subject. Isn't *Lesbian (Out)law*, given the nature of what you were trying to do and the time in which it was being done, more descriptive than theoretical? It seems to me to be more a guide than it is a work of theory. I see *Lesbian (Out)law* as a kind of adventure travel writing!

I've not done the same kind of rereading of *Sappho Goes to Law School*, but on first appearance it seems to be far more theoretical in nature than *Lesbian (Out)law*. For example, your chapter on narrative might be read as theory, but again, it's an instance where the "talk among the theorists" takes up far more space than does theory itself. It would be an interesting experiment—and one I will not attempt to undertake—to go through *Sappho Goes to Law School* and carefully map out the two perspectives on theory: actual theorizing vs. the conversation that takes place about theory and theorists. (And, of course, this may turn out to be a dubious dichotomy.)

Robson: Narrative does not seem more easily understood to me than theory. You are right, we grow up with stories. But stories, of course, can be true or fictive. I think I've always understood that there was something "other" than stories. Some of this other I would name "theory," as a way of describing the more generalized meaning a story might illustrate. Another "other" might be called the "lyrical"—the poetics, the images, even the *eros*—that might be evident in some stories, but are not necessary for a story, or for theory.

⁸ *Lesbian (Out)law*, at 15.

Elkins: In your critique of narrative in *Sappho Goes to Law School*, you portray narrative as so riddled by paradox that we should, in law, be weary of the turn to narrative. I'm curious about one of the paradoxes you attribute to narrative: "[W]e may be at the end of the period in which narrativity is a relevant undertaking." You go on to note, "[w]e may be telling our stories at the end of the story of story-telling."

I'm not sure whether your cautionary comments are directed to the turn to narrative in law, the promise attributed to the use of narrative in law by progressive legal scholars, or the theorizing that takes place under the name narratology and narrativity. If, in these comments, you mean to suggest that the interest in the theory of narrative—the narrative jurisprudence movement—is at its zenith, you may well be right. If, on the other hand, you are suggesting that we've reached a political, social, cultural, psychological high-water mark in telling and listening to stories, that would be a rather extraordinary claim.

Robson: It's funny you should make this comment. Lately I've found myself rethinking the end of narrative posed by Sue-Ellen Case and which I find less plausible now than I did when I read her book, *The Domain Matrix*.⁹ I find that what she names "screen culture" (meaning computer culture) has in many ways appropriated "print culture," so that rather than the end of print culture (and narrativity), we've seen real changes but not of the kind I once envisioned. Like so many others, I resort more and more to the Internet; I'm an avid participant in screen culture, yet the Internet is increasingly a narrative milieu. The diary-blogs are but one example. I did a one-issue stint as a guest-editor for an online literary journal, *Blithe House Quarterly*, where my narrative judgments were augmented by considerations of screen culture but certainly not supplanted by them.

It seems to me the notion of content on the Internet is often interpreted as solely information, as if information is not presented in a narrative form. So, I'm pleased to have lived long enough to have changed my mind and rethink some of this. And yet, as I articulate these musings, I am led back to the idea that even narrative collapses into itself.

Elkins: Ruthann, you mentioned earlier your interest in Nicole Brossard and your sometimes adoption of the term fiction theory to help describe your writing. Fiction theory doesn't, at least on first impression, strike me as descriptive of what you do in your essays. I suppose there is a need, at times, to find new genre labels that make it possible to redefine and reimagine our writing. If these new labels make it possible to write in ways we have not previously written, then the new labels serve a purpose. Maybe there is an inescapable need for new categories of classification.

Robson: Certainly, fiction-theory, whatever form it may turn out to be, is not really unique. In Philip Lopate's mammoth anthology, *The Art of the Personal Essay*, he includes a table of contents of the essays organized by "form" and includes a "mosaic" form (the only entry being Richard Rodriguez's

⁹ See Sue-Ellen Case, *THE DOMAIN MATRIX: PERFORMING LESBIAN AT THE END OF PRINT CULTURE* (Bloomington: Indiana University Press, 1996).

“The Late Victorians”) and a form Lopate calls “Prose Poem and Reverie.” Either of those two forms could probably be used synonymously with “fiction-theory.” Brossard, I know, was not using fiction-theory to denominate only form, and that form does not animate Brossard’s work. Perhaps it is that I discovered Nicole Brossard’s work at a time when it resonated for me. I found her work freeing in the way that it addressed the breaking of boundaries. She places lesbian writing at the center of her work, and I found that liberating.

Whatever it might be called, I find the fiction-theory form attractive. Perhaps, as you say, it is different from the more formal essay form that we teach our students to write (and then labor to read). But I also find that the new form, whatever we call it, can incorporate not only the narrative (as in story) and the theoretical (as in argument/essay), but also the lyrical.

Elkins: I suspect that in your discovery and reading of Nicole Brossard’s work there must be an element of serendipity. I’d say something of a similar sort about my first reading of James Boyd White’s unique yellow book, *The Legal Imagination* (published just two years before I started teaching). I had a real sense, even as a novice teacher, that White was pushing against well-established boundaries and that he was reorganizing the way we think about the texts we use in legal education, and thus, rethink legal education.

As we talk about the mosaic, fragment-style writing that you adopt in your best essays, and now, even in some of your legal writing, I’m still trying to figure out why I find the form so attractive. I’m searching for a way to describe this new essay writing that I associate with your work. It is writing with a presence of mind; it is fresh and sharp, lean and angular. It is pastiche, potpourri, medley, hodgepodge. It’s the use of fragments as a fine art—the haiku of non-fiction—a genre of inscription. It is a print/old culture version of hypertext. Quotation is sparse but not unwelcome. Text and sub-text have their place. Footnotes are an undertext of/for creativity. Meandering is expected. What is not said counts equally with what is said. The final product is an illusion, a magic show of the real, a preview of some imagined whole that must—forever—await composition. The new writing is the well-crafted pot, broken, and recollected as shards—the writer is archaeologist. It’s a form we learn from an appreciation of fragments, from writers like Sappho and Heraclitus. In the new essay writing, the author travels, and brings with her, on her return, a prose travelogue. Our travels rendered in the form of poetics, reminds us, first and last, of what a nimble mind can do.¹⁰

On the “new writing” as you practice it, I must say I find it elegant, economical, sensible, practical, crafty. It’s prose doing the work of poetry.

Robson: All this talk of forms! I do love your prose ode—now, what kind of form is that?—to the

¹⁰ For our staunch traditionalist colleagues, the new fragment|mosaic essay form is an excuse for what can appear as aimless musing. It lacks structure, argument, rationality; until you realize that it *is* what it seems to lack. In the bilious writings of postmodernism we had an excess of prose, academic prose oozing from every paragraph. For the traditionalist, fragment writing is the prose equivalent of TV sound-bites; advertisements for goods not in stock.

mosaic/prose poem/fragment style that I have been calling, perhaps accurately or perhaps not, fiction-theory.

If “form follows function” (Charles Olson, I believe), then the larger question is what are we trying to accomplish by choosing different forms? Why does one form resonate for certain work and another form for other work? Certainly, the audience issue is important, but it is not always determinative. And yes, I do think writing must be accessible. Something that drives the articulation of theory and the theoretical arguments/explorations most explicitly in *Lesbian (Out)Law*.

The question of form is an incessant question. We addressed the form this piece would take, rejecting the idea of an interview in favor of a conversation. A conversation is a form that is quite familiar in some ways, but still odd in a written format. And authentic dual-authorship is a relatively rare phenomenon. Our conversation should also be distinguished from narrative dialogue (however purportedly true) or theoretical dialogue (Plato, *et. al.*).

Elkins: Let’s look at another genre in which you write. I was well underway with my work on lawyer poets, when I discovered, to my pleasant surprise, that not only were you a novelist and essayist, but a poet as well. Where does poetry fit into your life as a writer? Does your poetry have any bearing on your work as a legal scholar and law teacher?

Robson: Like many writers, my first love is poetry. I started writing as a juvenile and my early days as a writer have certainly shaped my life as a law professor. I have used my teachers from that time as “negative role models.” I vowed not to be, as I found them, narrow, rigid, and without courage. The cultural context of the late 1960s and early 70s was a time of great rifts and I placed myself on the side of what was then called the counter-culture. So, in a way I now see as unfortunate, I did not receive the guidance that would have benefitted me. On a more positive note, I became a regular published poet in underground magazines. I managed, during these years, to leave high school without graduating.

Poetry is also a first love in the sense that my ideas, phrasings, and impulses are often first expressed in poetry. I often find myself cannibalizing my poems in other work. At one time, I had doubts about doing this, but I’ve now reconciled myself to the practice. For example, I use the sentiment and the set-up from “poem to be read at my memorial service” (which you included in the poems you selected for publication along with this conversation) in the novel I’m now writing.

Poetry is demanding. The close-reading of a poem is a perfectly good preparation for the close-reading of legal opinions, statutes, and regulation. The discipline of poetry, writing it and reading it, have certainly shaped me as a legal scholar and professor.

Elkins: I’ve never tried to make the case that lawyers and poets do related kinds of work. What I do know is that the place of lawyer/poets in our literary history is not widely-known. I doubt whether most law and literature scholars could name more than two or three lawyer poets. They might name Wallace Stevens; he has achieved sufficient acclaim as a 20th century poet that his work as a lawyer for the Hartford Insurance Company is now common knowledge in literary and legal circles. Some

law and literature scholars might recall that Archibald MacLeish was a lawyer. MacLeish published a speech in the late '70s he gave to a *Harvard Law Review* gathering in which he talked about his early days as a lawyer, the days before he abandoned the legal profession to become a poet, journalist, statesman, and librarian of Congress. And there might be a few law and literature teacher who remember that Edgar Lee Masters, of *Spoon River Anthology* fame, was a practicing lawyer (he was, for several years, a law partner with Clarence Darrow, and for some years they had, in their small firm, another poet, Ernest McGaffey, working with them as well). A lawyer who travels in literary circles might remember that Charles Reznikoff, in his early years was a practicing lawyer, and that his work for a legal encyclopedia company became the basis for some of his celebrated poetry.

My interest in lawyer poets was piqued over a decade ago when I was working on a biographical essay on John William Corrington. I needed to say something—I didn't know exactly what—about the fact that Corrington was a published poet before he became a lawyer. I wanted to learn what Corrington had to say about his years as a poet, but to before I could do that, I took a reader's foray into the literature on Stevens, and read again MacLeish's rather interesting *Harvard Law Review* "apologia" in which he talks about his life as a lawyer and a poet. Reading about Stevens and MacLeish, I began to identify other lawyer poets, first a small list, 20 or so, and then I began to find that it isn't possible to read 19th century poetry anthologies without seeing that it was not at all unusual for lawyers to be poets. At this point, my effort to identify this country's lawyer|poets became a full-scale obsession: I set out to to try to identify every lawyer poet in America's history. With a decade of historical excavation work, I have now identified 1,288 lawyer|poets beginning with Thomas Morton (1580-1647), and another 927 contemporary—living—lawyer|poets.

Do you think this rich presence of lawyer poets in this country has any significance?

Robson: As I write, my local public radio station is airing a program on composers, highlighting well-known and those not so less-known, who earned their living in fields other than music. So, perhaps one way of thinking about poets who are lawyers is that being a lawyer is a good day-job while one pursues poetry, which has never been a very profitable profession. I'd think this would be especially true before the proliferation of academic writing programs which now provide poets with work. There is also the shared love of language in law and poetry. So that the fields are not so far apart as people tend to think.

Elkins: *Masks*, your first collection of poems, was published in 1999. I'm curious if you have another collection in the works?

Some years ago, you were diagnosed—actually misdiagnosed—as having a fatal form of cancer. You've now written a number of essays about your illness and your encounter with doctors. What was it, in and about your medical situation that resulted in your taking up—with a vengeance shall we say—the essay as a genre in which to address your medical situation?

My sense is that your illness essays are quite brilliant; I view them as the most compelling work you've done as a writer, which is all the more striking since you are an accomplished writer in all

the genres in which you work. Where, in your view, do these illness essays lie in the overall scheme of your work?

Robson: In addition to being flattering—thank you!—your question seems to me quite insightful in making a connection between writing poetry and what you call the “illness essays.” Many of those essays began as poems, and when I was referring previously to the use of forms and cannibalizing my poems, I had those essays in mind. As I was recovering, I began to write poetry, and many of those poems appear in what you have called my illness essays.

I would say that the illness essays to me, *are* poems. The poetic is the creative part of creative non-fiction, or what I have viewed as fiction-theory after Nicole Brossard. Or perhaps these are simply long-poems. The line breaks, the phrasings, the “stanzas” are vital to me in these works, in the way that they would be in poetry. Although they are certainly not formal, there is a meter and a rhythm to these pieces, at least in the way I hear them and have tried to write them.

And before the illness essays, I wrote other similar pieces, a few of which appear at the end of *Masks*, and thus qualify, at least in that context, as long-poems.

I have continued to write poems, but I now publish poetry only occasionally. In part, this is because I find the subjects I am pursuing work better in longer forms such as the essay.

Elkins: Ruthann, we have a printer waiting for us to conclude this conversation. I must say I think about it coming to an end with some regret. I don’t know whether I’ll ever be able to lure anyone else into an endeavor of this sort or not. It’s been a pleasure, all the more, in thinking that someday we will resume where we leave off here.

Robson: There is something so satisfying about a deadline and a conclusion, especially when it is not a real ending. I hope our conversation will continue, beyond these pages and beyond the two of us.