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Reading Lawyer Films

Keywords: lawyer films, film pedagogy, reading films, teaching films, legal films, representation of lawyers in film, Hollywood lawyers.

Abstract: With the advent of film studies in the United States, there has been a growing interest in legal academic circles in lawyer, legal, and courtroom films. In Professor Elkins's essay, we find a claim that Hollywood lawyer films have pedagogical value.

With the emerging interest in lawyer and legal films, there is virtually nothing written about what or how films are to be taught, and what their value might be. Professor Elkins provides the basic axioms for a humanistic approach to reading lawyer films, an approach that does not require an extensive background in film studies or film theory.

Comment lire les films juridiques

Mots-clés: films centrés sur l'avocat, pédagogie par les films, lecture des films, enseignement par les films, films juridiques, représentation des avocats dans les films, avocats de films à grand succès commercial.

Résumé : Le développement des études cinématographiques aux États-Unis a accru l'intérêt des milieux académiques pour les films juridiques centrés sur un avocat ou un procès. Dans son article, le Professeur Elkins affirme que les films juridiques produits à Hollywood ont une valeur pédagogique.

Malgré ce nouvel intérêt pour les films juridiques et les films centrés sur l'avocat, pratiquement rien n'a été écrit sur l'exploitation pédagogique de ces films, et sur l'intérêt qu'ils présentent. Le Professeur Elkins propose ici les principes de base d'une approche humaniste de la lecture de films d'avocats, une approche qui ne nécessite pas une culture cinématographique extensive ou une connaissance théorique des études cinématographiques.

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First Memories

My father was a hard working man who lived within his means and wanted little. The one thing he did want was a new car. I was six years old when my mother acquiesced and my father bought a sleek new green '51 Pontiac with an ember-colored Indian hood ornament. The year we got the new car—1951—was memorable: I started going to school, my father drove the new Pontiac off a Mayfield, Kentucky car dealer's two-car-showroom-floor, and we began to frequent local drive-in theaters. (These were the days before we had a television, the days after the movie theater in town had closed down.) My favorite outings were the all-night shows, with movies shown from dusk to dawn.

Finally, in 1954, I managed to see a film in a movie theater. My uncle, Barney Thweatt, took my brother and I to his barber and after he treated us to haircuts, he decided to take us to a movie. Even now, I have a distinct memory of the velvet darkness in that Murray, Kentucky theater—my first. Lush burgundy curtains which covered the screen were pulled back so we could watch the unfolding of a story, a story which left me feeling so perfectly small and yet so perfectly alive, witness to a world not my own, a world fictional and real.

I became a regular film-goer in the '60s and '70s. I survived television, growing up on a western Kentucky farm, undergraduate education at a large state university. It was the late '70s when I finally settled down in a small town in West Virginia to teach law. I spent the summers living in San Francisco and Berkeley. In the city, I watched films, hundreds and hundreds of films.

I'm not at all sure how and when I got the idea to teach a lawyers and film course. I never, in all my film watching, considered myself a film buff or particularly knowledgeable about films. I never studied films as a student, and I never had any desire to read about films. And I don't think I saw in films the possibility of some new alchemical magic by which the hard tasks of learning can be made fun. But it seems clear—at least to some of us—that law is (and has always been) more than a

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set of rules, more than pronouncements of law by courts. Law is also a matter of politics, society, culture, theology. In thinking about teaching lawyer films, I had a simple purpose in mind: I wanted to see if I could use lawyer films to help students better understand the work we do as lawyers, the meaning we try to give that work, and the effect of the work on the lives we live. There is, in some quarters, the suggestion that films speak more directly to students, and involve a mode of communication more relevant to today's students.

McLuhan is remembered today for his slogan: *the medium is the message*. If film as medium is the message, then the message is easily misunderstood; films are no easier to "read" than any other text. I've relearned, in teaching lawyer films, a lesson I should never have tried to forget, that learning, serious learning, comes as second nature and with graceful ease only to the few. We may learn differently when we watch films, we do not, I think, make learning easy.

I did not set about to teach lawyer films with either a method or formula for talking about films, or the lawyers portrayed in them. When I first began teaching the film course, I had no idea what was to be done, how to do it, or how students might respond. My assumption was a simple one: we can learn *something* about ourselves watching lawyer films. What we are to learn and how we are to go about learning it, I would have to work out as I watched the films with my students. I hope this essay does not convey a false impression. I still do not have a method or formula for teaching lawyer films, to this my students will, I'm confident, fully attest.

Lawyer Films

In deciding to teach a lawyer film course, I was faced with a major decision—what films should we watch? I rather quickly assembled a working list of films which I knew to feature lawyers in significant roles: *Anatomy of a Murder* (1959), *To Kill a Mockingbird* (1962), *The Last Wave* (1977), *And Justice for All* (1979), *Kramer vs. Kramer* (1979), *Breaker Morant* (1980), *Body Heat* (1981), *The Verdict* (1982), *Jagged Edge* (1985), *Legal Eagles* (1986), *Suspect* (1987), *The Big Easy* (1987), *Nuts* (1987), *The Good Mother* (1988), *True Believer* (1989), *The Incident* (1989), *The War of the Roses* (1989), *Presumed Innocent* (1990), *Cape Fear* (1991), *The Accused* (1988), *Music Box* (1990), *Class Action* (1991), *Paris Trout* (1991), *A Few Good Men* (1992), *My Cousin Vinny* (1992), *Philadelphia* (1994), *Guilty as Sin* (1993), *The Firm* (1993), *The Client* (1994), *Primal Fear* (1996), *A Time to Kill* (1996). I had, fortunately, seen all these films. I had no great desire to spend a summer watching all of them again to try to decide which ones to include in the course. The problem was compounded in knowing that I'd want to watch any of the films chosen for the course again as I discussed them with students when the course got underway. (Rewatching a film is not, in my experience, comparable to the experience, and the pleasure, in rereading a novel.)

Some of the films on my list had definitely stayed with me over the years. *Anatomy of a Murder*, *The Verdict*, and *To Kill a Mockingbird* are memorable "classics,"

held in high regard even among film critics. And there were some fine films on the list I decided not to make a part of the course.

The line-up of films for the course, as it evolved over the past ten years, is now: *Adam's Rib* (1949), *Anatomy of a Murder* (1959), *To Kill a Mockingbird* (1962), *Paris Trout* (1991), *And Justice for All* (1979), *The Verdict* (1982), *The Sweet Hereafter* (1997), *Class Action* (1991), *The Castle* (1999), *Music Box* (1990), *The Devil's Advocate* (1997), *The Last Wave* (1977).

There is, of course, nothing sacred about this particular list of films. My basic criteria was to select films which presented lawyers as central, memorable characters, in stories that raise issues (personal and professional) worth talking about. I did not try to limit the selection of course films to the "classics." *Class Action* (1991) and *The Devil's Advocate* (1997) are not, and probably will never end up, on anyone's list of "classics", but I find both films interesting to teach, and it's their pedagogical value that keeps them on the course "to show" list.

A Place for Lawyer Films in Legal Education

Law students expect everything they learn to be relevant to the work they envision doing as lawyers. We law teachers make claims on behalf of jurisprudence, legal history, legal ethics, law and literature, as we hope to broaden and deepen our students' education. But they treat these claims with scepticism, if not disdain. The study of law, always a practical enterprise, leaves us with the task of convincing students that there is something worth knowing that might be found outside their law books. What, one wonders, can be found of practical value (disguised) in lawyer films?

My teaching colleagues place their pedagogical faith in the practicalism of the "explicit curriculum"; we now, rather charitably, call it skills training. Yet, we know that what a student learns, how it is learned, and how that learning is transformed into a professional identity—a set of attitudes toward lawyer work and how one imagines oneself doing that work—is shaped not only by a law school's skills training and its explicit curriculum but also by an "implicit curriculum." I'll forego an extended discussion of this "implicit education" but will claim forthrightly that it is exposed when we prompt our students to reflect on where they are, what they are doing, who they are and who they are becoming, what and who they want to be.

A lawyer film course may seem, on first impression, to be an odd way to get our students to hone their skills of reflection and to pursue what might be called "meaning" questions, since lawyer films, at least the ones I present to students, were designed and produced as entertainment. But if a film is to bring credit to its director, further the career of the actors who appear in it, and make a profit for its producers, it must present viewers with a compelling story. Basically, what is *sold* to us as entertainment turns out to be entertainment of a peculiar sort, the sort that draws on the deep need for *drama* and *story*. (Our need for, and use of stories, is

gaining scholarly attention in legal education.) It is the dramatically compelling, imaginative story we find in a lawyer film, a film made ostensibly for purposes of entertainment, that we can put to practical use in legal education.

As it happens, and fortunately so for those who want to teach to, with, and against legal education's "implicit curriculum," lawyer films (and more generally legal/courtroom drama films) tell stories made dramatic by invocation of our sense of truth and justice. From the time of the Greek tragedies we find justice—justice betrayed and denied, justice sought and vindicated—as a central element of drama. In lawyer films we find lawyers pursuing justice, as they deal with clients, judges and other lawyers, all more or less interested in justice. We identify, if we have any sense of humanity and empathy, with those who have suffered injustice, those who seek justice, and those who aid and befriend the seekers in their quest. Our identification with film characters is secured and deepened by the serious, seemingly real, debilitating obstacles that they (and we) confront in their (and our) quest for justice. It's a quest made all the more perilous because we know justice does not always prevail; the quest for justice can break your heart.

A Student Guide to Lawyer Films

I use the term "read" to suggest that a film is a "text"; a text must be read to be understood. By understood, I mean, to know the text in a way that allows the reader to put the text to practical use.

We focus on "reading" a film because reading is something students purportedly know how to do. Every student assumes they know what to do when asked to "read." Yet, what we find in practice is that students in a film course are no better prepared to read a film than they are Melville's "Billy Budd" or a judicial opinion. So, we have to learn to read lawyer films to make it possible to use the film to learn about ourselves. The problem we confront is that films "not only document who we think we are—and were—but also reflect the inconsistencies in our self-image." (Bender 1997: 59) It's not easy to admit that we are inconsistent in our thinking, in our approach to life and to law.

We must try to use films (and other texts) to learn how to engage in reflection and introspection. The effort to learn the law, solve legal problems, and utilize lawyering skills requires the development of a searching mind, attention to detail and form, perseverance and the desire to get things done right, detachment and objectivity, acquisition of performative skills, and finally a moral/ethical sensibility. From this rather short list it is possible to see that becoming a lawyer demands a great deal; it can demand all one has to give *and more*. Being a law student engages the whole person, an engagement that legal education simply does not, at present, attempt to address. Film lawyers present, in stark and dramatic fashion, how we engage limited parts of the self in the roles we assume as lawyers, and how these "limited parts" inevitably displace the "whole person." (The sense that we are whole becomes a guiding illusion as well as what Scholes called a "confinement.")

We learn from lawyer films how lawyers, by this process of displacement (and the illusion it makes possible) get to be heroes and villains, how lawyers live a life framed by distinctive ideals and the revelation of stunning pathologies. Fictional film lawyers help us see and understand the allure of a life in law—its mythic dimension—and the assorted, various, neurotic, dysfunctional aspects of character and psyche that we see in the lives lawyers live.

Can we work with lawyer films in the reflective way I propose without undertaking a study of the various “schools” of film theory and a study of the way these schools of film theory would have us try to read films? In the background of any effort to read films lie questions about film as media: how does film differ from other media in which lawyers are portrayed (TV dramas, novels, journalistic accounts)? How do films, and their particular mode of production, effect the portrayal of lawyers? Do films encode (and require reading and interpretation of) social, political, and cultural messages in ways unique to the medium? What particular difficulties might one face in reading, interpreting, and understanding the social, political, and cultural messages presented (encoded) in lawyer films? How does film differ from other forms of representation as a medium of instruction, source of cultural information, and mythology? What elements of film media (e.g., story-telling, narrative, drama, mythology, visual presentation, ideological critique) are of particular interest to lawyers? What particular problems might we expect students of law (and lawyers) to face as they work with the images of lawyers in film?

In teaching lawyer films I assign minimal reading/commentary *about* films and no readings about particular films. I do so with the realization that film studies is an established academic discipline and that there is a substantial body of scholarly research and writing on films. And yet, there is a central, thematic message in popular culture studies and film studies to which I expect my students to subscribe: we should take our entertainments seriously. They require questioning and exploration. One of the founders of popular culture studies puts the point about the inevitability of “meaning” in popular culture this way:

Popular culture is not only entertainment, not only the media. It covers 98-99 percent of American society today in one way or another. It is the life-scene, the life-action, the way of existence of nearly all Americans, and it creates the culture in which all must live, even the few among us who claim to hate and be unaffected by it. Popular culture is the way we live while we're awake, how we sleep and what we dream. (Browne 1993: 7)

A film, like any text, can be read literally (following its surface features) and it can be read for its depths. The basic proposition is simply this: for every surface there is a depth. Some surfaces may be more suggestive of their depths than others; some surfaces may betray depths sufficiently shallow they barely constitute a depth at all. And for some surfaces, we may well find ourselves staring into depths that go on... and on... on beyond our limited knowledge, perhaps even beyond our imagination. We have in lawyer films a paradox: the shallowness of the entertainments that exploit the depths of our desires.

And what about theory? What theory drives your approach to reading film? We commonly assume that it is theory that makes the revelation of meaning possible, but we may also find that meaning resists capture by our interpretative nets.

With the understanding of what I want to do with students and with lawyer films, I was intrigued by the suggestion of Bywater and Sobchack in their *An Introduction to Film Criticism* that the basic purpose of film criticism is “to increase the possibilities of meaning available in the experiences of viewing and thinking about movies” (1989: ix). The question which lies at the heart of a humanistic approach to films is this: “What can movies tell us about the human condition?”. It’s a question that spawns a host of others dealing with the aesthetics of the film, the ideas “hidden beneath the surface of a film,” and the symbols we find in films (Bywater & Sobchack 1989: 25, 26). What I seek to do, in watching films, discussing them, arguing about them, trying to learn from them is to help the student build a strategy for reading films that lays the groundwork for a more reflective life.

Obstacles to “Reading” Lawyer Films

We should expect our students to encounter obstacles when they read lawyer films just as they encounter obstacles in reading judicial opinions, and just as they experienced difficulties in reading novels and poems. The problem for the student of film is that (s)he bring both too little and too much to the task (s)he has undertaken. When the law-trained student or lawyer watches a film they are often trying to escape law rather than confront it. Consequently, they assume that the ultimate purpose of a film is pleasure, not education. For some viewers of lawyer films, the pleasure and entertainment associated with “movies” simply cannot be overcome; the student cannot make the transition from casual viewer to critical self-reflective viewer.

A second obstacle, and one which reinforces the “film is entertainment” obstacle, is the knowledge that lawyer films are produced by the Hollywood film/culture industry. And it's true enough that films are made for money; they are products and artifacts of a culture industry. For students who hold this jaundiced view of “Hollywood,” we might recommend biblio-therapy¹. They need an exposure to texts and films that help them see beyond their pop cultural images of Hollywood.

There is still a third obstacle for student of lawyer films, perhaps the most pernicious of all. As “legal insiders” law students and lawyers have a tendency to focus

¹ For example, by way of Kristin Thompson’s *Storytelling in the New Hollywood: Understanding Classical Narrative Technique* (Harvard University Press, 1999), or better still, an engaging biography of a Hollywood director, like Oliver Stone, the kind of biography we find in James Riordan’s *Stone: The Controversies, Excesses, and Exploits of a Radical Filmmaker* (Hyperion, 1995), or the work of a film director himself, perhaps the intriguing account of the making of the film, *Matewan* (1987), we find in John Sayles’s *Thinking In Pictures: The Making of the Movie Matewan* (Houghton Mifflin, 1987).

on the “legal accuracy” of a film, while ignoring the film’s larger meaning. Law student insiders constantly critique lawyer films for legal inaccuracies, as well as for their alleged unrealistic depiction of the legal profession. Lawyer films, in this view, are simply failed documentaries; it’s the role of the “insider” to remind us that Hollywood legal and lawyer films never seem to get the legal procedures right.

Reading Strategies

We must devise ways of reading that get us beyond first impressions: the film is “good” or “bad,” the film is “realistic” or “unrealistic”; and still more pernicious, “I just don’t have anything to say about the film.” Most students are not in a great rush to admit that they are less than agile and adept at exploring the meaning of a film. Yet, a student, who has by some means maintained his curiosity and openness to new “texts” (and new genres), texts with which he may have had little experience, may be able to translate this curiosity into new strategies for learning. To promote and encourage the students’ search for new reading strategies, I propose the following axioms:

Look to the Film Itself. The “right” text needs no teacher, or so my phantasy would have it. It can be put to meaningful use by the student still curious, still able to learn. My students, rather surprisingly, argue against this notion.

I try to convince students that a text/film contains internal markers (strong clues) as to how it can be read and indeed, some texts are rather dictatorial in this regard. These markers or clues allow the strong/critical reader to figure out how to begin to read the text. There may, as well, be clues about how to put it to use. When these markers and clues are not sufficient, one must look elsewhere for help. Whether one is trying to read a judicial opinion, the poems of Wallace Stevens, or a lawyer film, there are often enough guides to be found.

I want students to learn to make use of what they find in the film: memorable scenes, striking dialogue (between lawyer and client, lawyer and lawyer, lawyer and judge, lawyer and spouse, lawyer and a parent, lawyer with himself), courtroom speeches, recurring symbols, music that sets a mood and heightens our attention, the camera shot that takes the lawyer (and the viewer) into the courtroom, and more basic still, the story, the always, ever present, story.

Following Alan Stone, a psychoanalyst, legal scholar, and film critic, we might look first to the film by “listening” to it. Alan Stone describes listening this way: “I watch a film in the way a psychoanalyst listens to a patient. I try to suspend judgment and understand what the auteur is saying and doing. I approach a film as an exercise in listening, and then make an effort to discover the underlying coherent structure and meaning of the film.” (Stone 2000: 588)

A Film is an Education. James Boyd White, a central figure in the field of law and literature and a preeminent scholar in the field of “law and humanities” more generally, says “I read for an education” (Ball & White 1996: 476). White’s statement,

simple and direct, suggests questions of the kind I want my students to address: what kind of education does this film make possible? What kind of knowledge of lawyers, the legal profession, and the world does the film offer? What view of the world and lawyers and law does this film offer that is not so readily found in the world of law and lawyers presented to me as a student of law?

A Film Tells a Story. Lawyer films present, yet again, stories long told, that we continue to tell, and which define, limit, and expand the nature of our existence; stories upon which we premise our hope, that fuel our fears; stories in which we encounter and challenge, surmount or succumb to, the deep and most fundamental conflicts of our culture. The conflicts in our polyvalent culture, with its various and opposed traditions, are no secret to the ordinary man; they are common fodder for our legal system. Being common, highly charged (with value significance), and law-defined, these conflicts represent the structural fault-lines embedded in our work as lawyers.

Film stories are plotted by way of vivid characters, who reflect different kinds of men and women, of different habits and sensibilities, who must contend with (and rebel against) the situations and settings in which they find themselves. The drama in lawyer films comes from our encounter with what Will Wright, writing about the Western film genre, calls “different kinds of men”, “farmers, cowboys, cavalrymen, miners, Indian fighters, gamblers, gunfighters, and railroad builders” (Wright 1975: 4, 6). The contemporary setting where we find these “different kinds of men” and their modern day counterparts is in the courtroom. In a courtroom trial, a man is required to defend his decisions and actions (and in doing so, his way of life). In defending decisions and actions (arising from the situational antagonism of plaintiff and defendant who by way of prior relationship have seen their dealings go bad) and in the lawyers who act as agents for the litigants, we see the very real difference in the women and men who act as courtroom advocates. And we may, in a lawyer film, find that the party least likely to have a personal stake in the fight—the judge—is still another kind of man or woman whose adherence to, or deviance from, the ideals we associate with judges, is also a character to be studied.

A Film Drama Exposes Conflict. If we could live free of conflict, tension and the fault-lines which underlie human existence, we'd have less affinity for stories than we do. With less need and affinity for stories, the film industry would go the way of the small family farmer. Conflict is central to drama, drama to story, story to life. Our lives are connected to lawyer films by story, drama, and conflict.

To understand the stories in our lives and in the films we use to study these lives, we need a better understanding of conflict and its more florid expression in the great opposites: good & evil, order & disorder, love & hate, success & failure, individual & society, past & future, modern & primitive, masculine & feminine, imagination & reality, profane & sacred. If these oppositional forces in our life create tension and conflict as they do, and the particular men and women who come to be identified with the struggles in patterned ways are what they seem to

be, then we might try to study these oppositions and how they get expressed in the lives we try to live. Lawyer films provide us, arguably, with maps (sometimes crude ones) of these oppositional forces, maps from which we can chart the lived tensions between and within the “great opposites.”

In a lawyer film we can “follow the conflict” the way prosecutors in white collar crime investigations are told to “follow the money.” The conflict in the film must be placed in perspective, both *in* the film and, as we try to find a place for it, *beyond* the film in the way we understand the world we inhabit. To participate, even if vicariously, “in stories about characters who play out possible lives, confront possible situations, who have moral conflicts and who must make choices, is to learn such truths about life, not through personal experience but through a kind of *super* experience—that is, an experience that one might never be able to have oneself, except through the story.” (Bywater & Sopchack 1989: 37)

Scholes posits a movement from reading to interpretation, from interpretation to criticism. Criticism, according to Scholes, entails “the critic's recognition of her or his own values” (Scholes 1985: 39). We use binary oppositions to read a text, to think critically about it, to deconstruct it; we use the oppositions to recognize our own values (ideals and limits) and our neurotic adaptations to them. We deconstruct when we read “a text to elucidate its quarrels with itself, the contradictions and uncertainties suppressed beneath its superficial order” (Leubsdorf 1987: 181). It is in this critical reading of the conflict we find in a film that we begin to put the film to use.

Identifying With a Film's Characters. There is something odd, peculiar, and wonderful about the knowledge we come to possess about film characters—where a character lives, what kind of furniture (s)he has in his/her bedroom, the kind of car (s)he drives, his/her marital and family situation, where (s)he works, whom (s)he works with, what kind of work (s)he does, how (s)he is regarded by his/her co-workers, his/her relationship with his/her boss, how the boss is regarded by the workers, and the various tensions and conflicts created by his/her work. I know more about many lawyer film characters than I do my real world colleagues, some of whom I've worked with for over twenty-five years!

Involved (and identified) with the character, we begin to care (even as we know we are in the presence of fiction) about what happens to the character; we want things to turn out well for the character to get what (s)he desires because of what we know of him/her and of ourselves. Entertained by plot, we are educated by the film's characters.

In Film We Encounter Heroes. James Boyd White notes that “the activity of law is inherently idealizing” (Ball & White 1996: 480). There are many ways to idealize, and we should expect to find this idealization at work in the way our students think about law and about their lives as lawyers.

We cannot expect law students to openly admit they have set out to be heroes. Yet, it would, in my view, be a mistake to underestimate the effect of the lawyer hero we find in film and in fiction, a particularized, vivid image of the hero we imagine ourselves being as lawyers. Our lawyer heroes (arrogant and humble, legalist and wise) tell us something we want and have a deep need to hear—that a lawyer's work is at the heart of things, that law work has meaning, that our own lives will be meaningful. To live with the phantasy that life has social and cultural significance is to see one's self voyaging forth on a worthy quest.

The Problem of and with Power. The power of lawyer stories with mythic resonance is best seen in stories where lawyers use law and their legal skills to speak truth to power, to stand up to a community as Atticus Finch does in *To Kill a Mockingbird* (1962), or represent a community as Jan Schlichtmann does in *A Civil Action* (1998) (a film that, regrettably, fails in contrast to Jonathan Harr's brilliant book, *A Civil Action* (Random House, 1995), on which the film is based). The lawyer-hero may have little immediate impact on the powerful, but the words of the lawyer spoken and written in response to power—words of an attentive and engaged conscience—enable us to see how power works and how it can be confronted. Heroes provide instruction, guidance and inspiration to lawyers in their dealing with power—their desire of it, their triumphs over it, and their defeats by it.

The stories of lawyers and how they stand against those who have power—*Erin Brockovich* (2000), *A Civil Action* (1998), *The Incident* (1990), *And Justice for All* (1979), *A Few Good Men* (1992)—are central to the myths we carry with us as lawyers. The stories of our most authentic lawyer heroes contain a crucial insight into the problem of truth confronted by the amorality and immorality of power: the insight that we may lose and falter, but in doing so we live a life of hope.

The Lawyer Film Genre. There is an emerging consensus, at least among legal film critics, that trial/courtroom drama films constitute a genre, a genre which has not, perhaps, been fully recognized and explored as yet by academic film critics. In my view, it is lawyer films rather than the courtroom drama genre more generally that is of highest pedagogical value to legal educators. To make the case for lawyer films, let me present here a preliminary and tentative outline of the structural features I associate with the lawyer film genre:

- the film's protagonist, central character, or narrator, is a lawyer (or lawyers play a central role in the film, even if they are not cast as central characters);
- the film presents the lawyer engaged in professional work;
- the lawyer's work (and the ordinary world in which that work takes place) has been significantly disrupted either by a client's case or cause, or by some feature of the lawyer's work or some event in the lawyer's personal life;
- the world of the lawyer is subject to a significant threat (which entails loss of the client's case, or loss of professional status/marriage/family from actions of

- the client, agents of the client, or the lawyer himself), which threatens the lawyer with disorder;
- the threat of dissolution, loss, identity deformation, or harm is addressed by the lawyer's resort to professional (legal) and personal resources (character); and in addressing the threat, the lawyer's work and the meaning of that work is at stake (as are other things of value);
 - the lawyer confronts enemies who are most often the source and cause of disruption in the life of his client, then the client's enemies become the enemies of the lawyer and must be dealt with using a lawyer's tools/resources/character, which ends up implicating larger social institutions (law, judiciary, police, government, corporations);
 - the lawyer may, in confronting the disruptions in the life of the client, and in his/her own life, be involved in litigation which may result in a significant courtroom drama (and the courtroom drama may play a significant part in the film, that is, the trial becomes not only a central feature in the film, but something akin to a character in it);
 - in the lawyer's courtroom battles, engagements with clients, and efforts to marshal his own psychological resources encounter substantial obstacles and in prevailing over these obstacles we find representations of heroes and enactments of the heroic quest.

Basically, what we find in lawyer films is (in a rather crude formulation), something like a four part narrative structure:

(I) When first viewed, we are presented with the lawyer's world. It may be presented as a world fallen and in disarray (Frank Galvin in *The Verdict*); a world where the lawyer is a rising star (*The Devil's Advocate*; *A Time to Kill*); a world where the lawyer is already at the top of the heap, but whose place there is called into question (*Primal Fear*; *A Civil Action*); a world which presents the lawyer in mid-life crisis (Paul Bigler in *Anatomy of a Murder*; *The Sweet Hereafter*; *Class Action*) (what we call mid-life extends now over a good number of years); a world where the lawyer is neither fallen, nor a star, but enmeshed in endless routine (*Suspect*; *And Justice for All*; *Adam's Rib*).

(II) The lawyer's world—fallen, rising or descending, stuck at mid-life or in the routines of life—however it is presented (as stasis or change), must now be disrupted (by one or a series of events), most often by the appearance of a particular client/case, an appearance which moves the story character from the opening state of affairs (settled or in disarray) and threatens the present order (only if it is to threaten a still deeper fall, e.g., *The Verdict* and *The Sweet Hereafter*).

(III) The “fallen” or “falling” lawyer must seek, against opposition and great obstacles, to find a secure place in the world, the “fallen” lawyer seeks redemption. The “falling” lawyer learns what must be learned about the fragile and flawed success he/she has attained. The path of the rising star is threatened by obstacles and oppo-

sition that block the ascent. Those at the top of the heap are threatened by a great downfall. In other plot variations, a mid-life crisis must be threatened by still worse developments (if the lawyer has already lost his family, then his legal practice may now be at stake).

(IV) With the lawyer's established world, work, and position being under threat, the lawyer having responded in more or less ethically acceptable ways to the challenge, must now resolve the conflicts in which (s)he has been placed by the disorder in his/her life. The nature of the response turns on the lawyer's character. The response leads to a resolution and the reordering of the lawyer's world, or to a new life beyond law's reach.

Are Film Lawyers Realistic?

If there is a single, predominant, recurring theme in legal film scholarship, it appears to be the misguided notion that lawyer films fail a legal audience and the larger public because lawyers in film are not representative, are portrayed negatively, and the films focus on unethical lawyers. Lawyer film critics find the portrayals of lawyers misleading and pernicious, bad for lawyers and the public.

This conventional critique of lawyer films is as tiring as it is stale. First, it's difficult to sort out the relationship of the present day negative public perception of lawyers and the historical ambivalence that the public has had about lawyers and law.

Conventional critics of lawyer and legal films forget, surprisingly, that we don't have as a predicate for watching *any* film that it portray the "real world." We go to movies for entertainment, an evening of pleasure, to escape the relentless hold that reality has on our lives; we seek out and become absorbed in and engaged by stories made hyper-real by visual images, stage craft, music, and characters larger than life. The impact of the film and the value of the film for pedagogical purposes is not in its realism but in its fiction. We want a film to upend our real world, and to displace the real, powerful as it is, with something equally powerful, the fiction, created by an act of imagination, a fiction so complex and compelling that it becomes a *real* substitute for *the real*.

In response to the conventional school of lawyer film criticism we need to be clear about what lawyer films are and how they become instructive "texts." Nancy Rapoport points in this direction when she notes that lawyer films are

not based on Hollywood's deep understanding of law and lawyers. In fact, Hollywood knows very little about lawyers or lawyering. That's not surprising: the business of Hollywood is film, not law (or medicine or history or science fiction). All that Hollywood needs to know about law, in order to go about its business, is how law can fit into the conventions that make up the world of movies. Those conventions force [the makers of the film] to filter most of "real" law out, leaving only the most cinematically interesting parts. Those parts include the drama of the trial, the compelling image of the lawyer-hero, and the equally compelling image of the lawyer-devil. (Rapoport 2000: 58).

Rapoport has it right to imply that we need the ability to bracket our concern for “real law” (whatever that might be), so we can study the *drama*, the *compelling image*, the *hero* and the *devil*, and the lawyer’s place in these dramas with their heroes and devils.

Lawyer Films Are Not Anti-lawyer

I want to now address more directly this notion that lawyer films portray lawyers in a negative light, that Hollywood lawyer films are anti-lawyer. We see lawyers cast in a negative light, in lawyer films and in life, because filmmakers (like viewers) are interested in the way lawyers, by work and by skill, by daring and by foolishness, walk up to that line that reads: LINE. DO NOT CROSS. DO NOT GO BEYOND. When confronted with the line and the warning, what do lawyers do? They learn to walk up to the line, and then, they learn to cross it. The warning might as well be written in Farsi, as far as the lawyer is concerned. And then, confronted, the lawyer claims justification, and even, to try our patience, innocence—every lawyer secretly thinks of himself as Billy Budd, the innocent.

Do all lawyers, film and real, take this adventurous and advantageous stance toward lines not to be crossed? No. Are some lines to be questioned? Yes, of course. And is it the everyday business of lawyers to be engaged in this questioning of where we draw the lines? Yes, yes, of course it is. We know too that lawyers, whether by curiosity, innocence, or willfulness, want to get up close to lines, real and imaginary. They want to push against them, tug at them, erase them—and cross over the uncrossable. Lawyers work with lines, they contest them, they help to bring about an orderly movement of lines which have been misplaced, lines which we know, by passage of time, require repositioning.

Lawyer films get interesting when the film lawyers get entangled by their perceptions, false readings, and wilful readings of the lines in a way that is all quite obvious to the viewer. The viewer seems to know what the lawyer character in the film seems oblivious of—that there is a price to be paid for crossing lines. We expect lawyer villains in film who cross indelible lines to be punished, and the pleasure in having this happen is more palpable, real, and psychologically satisfying knowing as we do that lawyers do as a professional caste (and cult) what we can only do in our personal lives. (Lawyers get paid good money, sometimes big money, to do what they claim to be a good thing, for bad people.)

To flesh out these abstractions, we might consider a film like *The Devil’s Advocate* (1997), a film unlikely to find favor with conventional legal film critics. The lawyer protagonist in *The Devil’s Advocate*, Kevin Lomax (Keanu Reeves) is viewed by legal commentators as a typical negative portrayal of a lawyer. What we have, in this conventional view is heresy—a lawyer takes up with the Devil. Lomax’s threat to right thinking about the legal profession is made more serious by the fact

that he is young, handsome, married to a beautiful wife, and good at his work; he seems to have a special talent, a way of understanding jurors that makes it possible for him to win when other lawyers would be losing. Kevin Lomax is a lawyer to be envied, possessed not just of skill but talent. We then learn—as we might well have known—that Kevin Lomax can be lured, by the promise of his great talent, and the reach of his ambition, and the ability of others to sense his unfulfilled needs, to cross lines for which we know he must pay a price, personal and professional. We are forever intrigued by those with bountiful natural talents, augmented by acquired skills, who have their talents and skills diverted to devious ends by devious men.

In *The Devil's Advocate* we find Kevin Lomax representing clients that are, in theological themes profoundly evil. Lomax puts his talent to use on behalf of these questionable clients. Can he justify what he is doing? Absolutely, and with no great difficulty. Lawyers like Kevin Lomax must deal with bad men and their bad deeds; they get to see, up close, those who have stepped over the edge, crossed the line, those who now inhabit a “fallen world.”

There is no great lesson to be learnt that men become evil. It's the fact that a good man can become evil, that a man with talent and skill like Kevin Lomax can cross-over that is the hook for this story. What the film as dream sequence allows us to see in *The Devil's Advocate* threatens the stability of our self-protective views of lawyers. (Conventional legal film critics are in the lawyer protection racket.) To the great horror of legalist/realist film commentators, viewers find Kevin Lomax's crossing-over entertaining; it resonates with what we believe to be truth about lawyers—that they can be bought, their advocacy put to use by the Devil. The Devil in *The Devil's Advocate*—John Milton (Al Pacino)—turns out not to be an entertaining figure, but an intellectually, philosophically, complex one. This is a Devil who knows how to think.

In the study of ourselves as lawyers, there is still a lingering question: does a *compact* of lawyer with the Devil make any sense, any experienced, real world, sense, any cinema sense? It matters little, one might argue, that *The Devil's Advocate* was not, by aesthetic film standards, an exceptional film; it was excessive and at times, downright weird, enough so that it sometimes threatened the deeper meaning of the film, a meaning that might be of real interest to students of law. But isn't the compact with the Devil an imaginative context for revisiting the devilish play of good and evil? Aren't lawyers, film and real, cast as actors in dramas in which we see not only the banality of ordinary lawyer wrongdoing but the possibilities of real evil? And aren't lawyer films, with their portrayal of lawyers in their dance of good and evil, that we find the real made ludicrous, the ludicrous informing us of the real? And when put to the test, as is Kevin Lomax—and Captain Vere in Melville's *Billy Budd*, the sheriff and the young district attorney in Susan Glaspell's *A Jury of Her Peers*—aren't we all implicated, in some small or large way, by the testing of lawyers we find in film? It matters that even in this “fallen world” in which we are cast as human actors, in film and in life, that some one of us may be appointed

(self-appointed or nominated by others) to be a speaker of the truth that exposes the various and sundry devices, disguises, shams, and frauds that threaten us all.

Kevin Lomax, in *The Devil's Advocate*, seduced by his own talent and by the lure of a big city law practice, dreams of an evil that is beyond the ordinary, or so it seems. Yet, we know how ordinary it is for a talented lawyer like Lomax to want to push himself, his talents, his skills, and his lawyering, to take him as far as his endowments will carry him. We know, too, that pushing on this way cannot be done without danger. Ambition may be admired, but it is lethal. If there is danger here, and it's obvious that Kevin Lomax faces great danger, then we might find it instructive to allow Lomax to go where we—viewers—will not.

Lawyer films are not, in their negative portrayals, anti-lawyer; they are an opportunity to participate vicariously in dramas that upend our lives and impoverish our communities. We'd like best to have the great drama of good and evil finally settled, with evil banished. With this utopian outcome an elusive dream, lacking the skill and power to bring it about, absent social institutions to make it happen (if such social invention were possible), we can expect our greatest dramas—legal and tragic—to be restaged again and again in popular culture, in literature, and in our daily lives.

My reasons for teaching lawyer films can be simply stated: we need vivid, compelling representations of lawyers in action, by way of stories that prompt us to explore and re-imagine the on-going, relentless, sometimes heart-breaking, fateful struggle to give professional life meaning. We need cinema lawyers (and fictional lawyers) as subjects and as stories, not to study for who they are, but for who we are. Fictional lawyers become part of the rich, storied world in which we try to imagine, think, act, and live a meaningful professional life, a life in which we recognize the person we are in the work we do, a life in which the work we do gives our lives meaning it would not otherwise have. Simply put, lawyers in film teach us, those still curious and open, those still willing to learn, who we are and what we have become.

And, of course, film lawyers teach us about perennial, ultimate questions: how is law enacted? On what kind of stage is it performed? What kind of actors assign themselves to do law work? What is the relationship—troubled and elusive as we know it to be—between law and justice? How can an individual lawyer stand against the power of the “system,” an established order with its accumulation of institutional power? How are we to understand and live with the reality of individual failure? How are we to live in the face of law's failure? How does law, as a lawyer lives it, and as an ideology, blind us to the larger reality in which it is embedded? To explore these questions we need stories to help us focus on the meaning of professional life.

Teaching lawyer films also allows us to reflect on a cultural phenomenon—lawyers and law have never been more prominently featured in popular culture (television, Hollywood movies, novels, journalistic accounts in newspapers, radio talk-shows) than they are today. We live in an era of lawyer TV dramas, John Grisham legal thrillers, and popular lawyer films. What, one wonders, does this intense, pervasive preoccupation with law and lawyers, courtrooms and legal themes, tell us about the culture? Is the cultural preoccupation with lawyers (and law) a positive or negative development? And how does the preoccupation with lawyers affect the legal profession? With the new scholarly attention given to popular culture and the emerging scholarly focus on law and film, lawyer films are of particular interest to legal educators who focus on the “implicit curriculum” by which students prepare themselves for an imagined “real world.”

Suggested bibliography

Armes, Roy. 1994. *Action and Image: Dramatic Structure in Cinema*. Great Britain: Manchester University Press.

Ball, Milner S. & James Boyd White. 1996. “A Conversation Between Milner Ball and James Boyd White.” *Yale Journal of Law & Humanities*. 8: 465.

Bender, Eileen T. 1997. “Malice in Wonderland: American Working-Girl Scenarios.” In Oliver F. Williams (ed.), *The Moral Imagination: How Literature and Films Can Stimulate Ethical Reflection in the Business World*. Notre Dame, Indiana: University of Notre Dame Press. 53-70.

Berry, Wendell. 1983. *Standing by Words*. San Francisco: North Point Press.

Biró, Yvette. 1982. *Profane Mythology: The Savage Mind of the Cinema*. Bloomington: Indiana University Press. Imre Goldstein trans.

Browne, Ray B. 1993. “Why Should Lawyers Study Popular Culture?” In *The Lawyer and Popular Culture: Proceedings of a Conference*. Littleton, Colorado: Fred B. Rothman & Co. 7-21 [available online at: <http://www.law.utexas.edu/lpop/etext/conf/browne.htm>].

Bywater, Tim & Thomas Sobchack. 1989. *An Introduction to Film Criticism: Major Critical Approaches to Narrative Film*. New York: Longman.

Carney, Ray. 1992. “Cassavetes and the Critics: The Road Not Taken.” <<http://people.bu.edu/rcarney/acad/crit.htm>> (excerpted from “A Polemical Introduction: The Road Not Taken.” *PostScript: Essays in Film and the Humanities*. 11 (2): 3-12).

Carney, Ray. 1994-a. Interview with Peggy Lamb, “Academic Fads and Fashions: The Functions of Criticism,” <<http://people.bu.edu/rcarney/acad/crit.htm>> (published in *Boston University Today*, May 8, 1994).

Carney, Ray. 1994-b. “Challenging Truths.” Interview with David Steritt. *Christian Science Monitor*. <<http://people.bu.edu/rcarney/acad/crit.htm>>

- Chase, Anthony. 1997. "Review Essay." *Cardozo Studies in Law and Literature* 9: 107.
- Jameson, Fredric. 1992. *Signatures of the Visible*. New York: Routledge, Chapman & Hall.
- Leubsdorf, John. 1987. "Deconstructing the Constitution." *Stanford Law Review*. 40: 181.
- Lovell, Terry. 1983. *Pictures of Reality: Aesthetics, Politics, and Pleasure*. London: British Film Institute.
- Marini, John. 2001. *Western Justice: John Ford and Sam Peckinpah on the Defense of the Heroic*. *Nexus: Journal of Opinion* 6: 57.
- Martin, Joel W. & Conrad E. Ostwalt Jr. (editors). 1995. *Screening the Sacred: Religion, Myth, and Ideology in Popular American Film*. Boulder, Colorado: Westview Press.
- McConnell, Frank. 1979. *Storytelling and Mythmaking: Images From Film and Literature*. New York: Oxford University Press.
- McLuhan, Marshall. 1965. *Understanding Media: The Extensions of Man*. New York: McGraw-Hill Paperback ed.
- McLuhan, Marshall & Quentin Fiore. 1967. *The Medium Is The Message*. New York: Simon and Schuster/Touchstone. Produced by Jerome Agel.
- Rapoport, Nancy B. 2000. "Dressed For Excess: How Hollywood Affects the Professional Behavior of Lawyers." *Notre Dame Journal Law, Ethics & Public Policy*. 14: 58.
- Rosenbaum, Jonathan. 1997. *Movies as Politics*. Berkeley: University of California Press.
- Shale, Suzanne. 1996. "The Conflicts of Law and the Character of Men: Writing Reversal of Fortune and Judgment at Nuremberg." *U.S.F. L. Rev.* 30: 991.
- Scholes, Robert. 1985. *Textual Power: Literary Theory and the Teaching of English*. New Haven: Yale University Press.
- Spitz, David M. 2000. "Heroes or Villains? Moral Struggles vs. Ethical Dilemmas: An Examination of Dramatic Portrayals of Lawyers and the Legal Profession in Popular Culture." *Nova Law Review* 24: 725.
- Stone, Alan A. 2000. "Teaching Film at Harvard Law School." *Legal Studies Forum*. 24: 574.
- Wright, Will. 1975. *Sixguns & Society: A Structural Study of the Western*. Berkeley: University of California Press.