

## Chapter Five

### Stories Take Center Stage

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Story isn't a flight from reality but a vehicle that carries us on our search for reality, our best effort to make sense out of the anarchy of existence.

—Robert McKee, *Story: Substance, Structure, Style, and the Principles of Screenwriting*<sup>1</sup>

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Great fiction proceeds by making the familiar and the ordinary strange again . . . .

—Jerome Bruner, *Making Stories: Law, Literature, Life*<sup>2</sup>

I have made a claim that some students will find curious: stories have a central place in your education as a lawyer. The course in which I advance this claim most rigorously, proof evasive and well beyond my reach, is Lawyers and Literature. Elsewhere in the building, you and your colleagues study Administrative Law and Labor Law, Tax and Antitrust Law, Evidence and Criminal Procedure. These courses are crammed, bow to stern, with judicial opinions that serve as the predicate for the reality of your day-to-day life as a law student. In Lawyers and Literature, there isn't a judicial opinion in sight; in this course we read fiction. The texts we read in Lawyers and Literature are, in a way, "different" from ordinary law school text in that they are *stories*. The stories happen to be *fiction*, and the fiction, notably, features characters—we might call them protagonists—who are law students, lawyers, and judges. Finally, the fiction might, properly, be viewed as literature (and, perhaps, characterized as literary in nature). (We will also read poetry along the way but the primary focus of the Lawyers and Literature

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<sup>1</sup> Robert McKee, *STORY: SUBSTANCE, STRUCTURE, STYLE, AND THE PRINCIPLES OF SCREENWRITING* 12 (New York: HarperCollins/ReganBooks, 1997).

<sup>2</sup> Jerome Bruner, *MAKING STORIES: LAW, LITERATURE, LIFE* 9 (New York: Farrar, Straus & Giroux, 2002).

course is fiction.<sup>3</sup>) I forego, for the moment, any effort to response to the obvious question about what makes a particular work of fiction “literary” in character, or entitles the story to the honorific label—*literature*.

I cannot claim that the fictional characters you encounter in this course will teach you anything about how to practice law or try a law suit. I want to think that what you learn from the stories you take up here may help you figure out some things you will need to be a different kind of lawyer—a lawyer who practices with heart as well as with a legal mind.

Reading lawyer stories, we are reminded that we live our lives as stories, and only one of these stories turns out to be—*I am a lawyer*. We read stories in recognition that there is more to becoming a lawyer than learning legal rules, more than whatever it is you are enticed to learn from a law school regime of vocational training. Being a lawyer requires *all* that one can bring to the law. We see this in lawyer stories, and in our efforts to talk about what we find in the stories; it is all too easy to resist what stories might prompt you to see.

Lawyer stories bring back into focus some things we might need to know about ourselves, things we push aside to be a lawyer. Lawyer stories encourage us to think about how we make our way in the world doing the work that lawyers do. Stories prompt us to rethink our most readily accepted notions about what it means to be a lawyer.

We turn to stories for perspective—to *see*. With the clatter and clutter of legal rules filling the air of the law school classroom, you may be tempted to discount your story version of the world and how it informs your sense of who and what you want to be as a lawyer. With a mind entangled in “legal thinking”—thinking like a lawyer we reverently label it—surrounded by aficionados of a mythical Real World, who can summon the curiosity to see what might be learned from fiction? Some of you have already begin to silently devote your life to Law. Law, quietly seated, becomes the god of your storied world.

Stories, fictional and not so fictional, don’t come with a built-in set of instructions on how they are to be used; stories prompt questions that

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<sup>3</sup> In recent years, I have included poetry in the Lawyers and Literature course by introducing students to lawyer poets who, in their poetry, give us a new way of seeing the work and world we inhabit as lawyers. See James R. Elkins (ed.), *LAWYER POETS AND THAT WORLD WE CALL LAW: AN ANTHOLOGY OF LAWYER RELATED POETRY* (New York: Pleasure Boat Studio, 2013); James Clarke, *THE JURIED HEART* (New York: Pleasure Boat Studio, 2015) (republished in Canada under the title *Oblique Verdicts* (Exile Editions, 2017) (James Clarke is a retired Canadian judge who makes his life as a judge a part of his poetry).

we didn't know we had. We can rather quickly sketch a working list of questions about stories and their place in legal education: What, one might ask, can we learn about being a lawyer, and about ourselves, from stories? What do fictional lawyers tell us about what it means to be a lawyer that doesn't show up in traditional law school courses? If the idea of stories is so important, why are we being introduced to the notion so late in our education, with our initiation as lawyers already underway? Assuming that questions of this kind might follow you into this Lawyers and Literature course, I invite you, in reading lawyer stories, to contemplate and puzzle over a question that underlies these questions about stories in your education as a lawyer: *What does it mean, really mean, to be a lawyer?*

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While Law and Literature occupies the attention of legal scholars, the more enticing invitation, for the student of law who wants to put literature to use in her education as a lawyer can be found in fiction overlooked or ignored in traditional Law and Literature courses. A judicious selection of contemporary lawyer stories, along with a few classics from the 19<sup>th</sup> century—Melville's *Bartleby, the Scrivener* and Tolstoy's *The Death of Ivan Ilych*—invite us to think anew about what it means to be a lawyer and to reappraise what kind of education one needs to be a lawyer.

For lawyer fiction that invites the student to reflect on the lives we live and the work we do as lawyers, consider:

—a Kafka parable, “Before the Law”;

—short stories of Lowell Komie, collected in *The Legal Fiction of Lowell B. Komie* (Swordfish/Chicago, 2005);<sup>4</sup>

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<sup>4</sup> Lowell Komie's lawyer stories (along with his other short fiction) were first published in three collections: *THE JUDGE'S CHAMBERS: STORIES* (Chicago: Academy Chicago Publisher, 1983); *THE LAWYER'S CHAMBERS AND OTHER STORIES* (Chicago: Swordfish/Chicago, 1994); *THE NIGHT SWIMMER: A MAN IN LONDON AND OTHER STORIES* (Chicago: Swordfish/Chicago, 1999). After the publication of the Komie law student/lawyer/judge stories in the *Legal Studies Forum* in 2001, Komie published the stories in a collection titled, *The Legal Fiction of Lowell B. Komie* (Chicago: Swordfish/Chicago, 2005) (a collection that Komie graciously insisted that I provide an introduction).

—stories of John William Corrington in *The Collected Fiction of John William Corrington* (University of Missouri Press, 1990);<sup>5</sup>

—stories by J.S. Marcus (“Centaur”), Cynthia Ozick (“Puttermesser . . .”), Margaret Atwood (“Weight”), Richard Ford (“Puppy”); Madison Smartt Bell (“Witness”), Maile Meloy (“Tome”), Tobias Wolff (“The Deposition”)

—Tolstoy’s “The Death of Ivan Ilych”;

—Herman Melville’s “Bartleby, the Scrivener”;

—Leslie Hall Pinder, *On Double Tracks* (Lester & Orpen Dennys, 1990).

I begin the Lawyers and Literature course with a Kafka parable, “Before the Law”; students then read Lowell Komie’s stories about law students, stories that reintroduce the student to a way of reading and thinking that gets waylaid in traditional law school courses.

Following the Komie law student stories, I present students stories that unsettle our linear law school prescribed ways of thinking and reading: “Centaur” in J.S. Marcus, *The Art of Cartography: Stories* (Alfred A. Knopf, 1991); Margaret Atwood’s “Weight,” in *Wilderness Tips* (Doubleday, 1990); “Puttermesser: Her Work History, Her Ancestry, Her Afterlife,” in Cynthia Ozick, *The Puttermesser Papers* (Vintage, 2<sup>nd</sup> ed., 1998); “Puppy,” in Richard Ford, *A Multitude of Sins* (Alfred A. Knopf, 2002); “Witness” in Madison Smartt Bell, *Barking Man and Other Stories* (New York: Ticknor & Fields, 1990); Tobias Wolff’s “The Deposition,” *The New Yorker* (February 6, 2006) (“The Deposition” was collected in Tobias Wolff, *Our Story Begins: New and Selected Stories* (Alfred A. Knopf, 2008)); “Tome” in Maile Meloy, *Half in Love: Stories* (Scribner, 2002).<sup>6</sup> I then turn, again, to the stories of my friend, Lowell B. Komie (1928-

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<sup>5</sup> Corrington’s stories were published in an issue of the *Legal Studies Forum* in 2002. The stories were first collected in Joyce Corrington (ed.), *THE COLLECTED FICTION OF JOHN WILLIAM CORRINGTON* (Columbia, Missouri: University of Missouri Press, 1990).

<sup>6</sup> I was introduced to the J.S. Marcus and Margaret Atwood stories by way of a noteworthy collection of lawyer stories edited by Jay Wishingrad (ed.), *LEGAL FICTIONS: SHORT STORIES ABOUT LAWYERS AND THE LAW* (Woodstock, New York: Overlook Press, 1992) (a collection, now, unfortunately out-of-print).

2015), a Chicago lawyer, who quietly and without fanfare, for over fifty years, presented us with an exquisite body of lawyer fiction. After teaching Komie's stories for a decade, I discovered the fiction of John William Corrington (1932-1988), and began to include his stories in the course. Corrington, a novelist, poet, and screenwriter, when he took up the study of law at age forty, published six stories and two novellas that feature lawyers before his untimely death in 1988.<sup>7</sup>

In previous versions of the course, I was pleased to introduce, or I should say reintroduce, students to the widely-known, beloved fictional lawyer, Atticus Finch, in Harper Lee's *To Kill a Mockingbird* (Harper, 50<sup>th</sup> Anniversary ed., 2010). In the years I taught *To Kill a Mockingbird* in the Lawyers and Literature course, I presented students with far darker novels, novels that suggest that lawyering, with its promise of virtue and glory, is accompanied by a *shadow* that can deform and overwhelm the lives of those who take up the practice of law. In Camus's *The Fall* (Knopf, 1957), Pete Dexter's *Paris Trout* (Penguin Books, 1989), and Walker Percy's *The Second Coming* (Farrar, Straus, Giroux, 1980), we find lawyers who follow conventional paths to success, only to learn that success does not immunize them from life's great reversals.

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I read a statement several decades ago in a *New York Times* book review in which the reviewer contended that "[b]ooks lead outside,"<sup>8</sup> that is outside of our present thinking and outside the confined world(s) in which we live. If we read books to include stories, and for our purposes here I think we can, we might want to pursue stories that lead us outside the traditional confines of law school thinking, stories that lead you beyond your own everyday thinking about law school and your future life as a lawyer. I want to use stories to take us not just "outside" but also "inside" where we learn what gets shoved aside and forgotten, bruised and buried, as you plow forward to become a lawyer. The stories

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<sup>7</sup> The Corrington stories, first collected in *THE COLLECTED STORIES OF JOHN WILLIAM CORRINGTON* (University of Missouri Press, 1990), edited by Joyce Corrington, Bill Corrington's wife, have now been republished in two volumes, *THE COLLECTED FICTION OF JOHN WILLIAM CORRINGTON* (Joyce Corrington, ed., 2015). For Corrington's lawyer-related novellas, see John William Corrington, *ALL MY TRIALS* (Fayetteville, Arkansas: University of Arkansas Press, 1987).

<sup>8</sup> Le Anne Schreiber, "Home Alone," *New York Times Book Review*, Oct. 2, 1994, p. 14 (reviewing Doris Grumbach, *Fifty Days of Solitude* (1994)).

I find most daunting—and instructive—lead back to unattended rooms of the self. Stories take us into the basement and the attics of our everyday lives.

In the endless work of your everyday life as a student, there is a tendency to forget how we create and tell stories, accept and reject stories, praise and rebel against stories. With all this story-making, story-telling, and story-living that we do, it seems intuitively obvious, at least to me, that we might need to make story sensibilities a central part of *what we study* in legal education. Ernest Becker observed that “[i]t is a worthwhile lifetime adventure, this expansion of your self into new inner landscapes.”<sup>9</sup> The lawyer stories we find in literature—and the lawyer stories you will be invited to read in *Lawyers and Literature*—provide a constant reminder of the “inner landscapes” from which and into which we imagine ourselves as lawyers. In reading lawyer stories, in and out of school, in and out of a law school course that features lawyer fiction—in the reading we do over a lifetime—we immerse ourselves in this “worthwhile lifetime adventure” in which life—story—being a lawyer—become interwoven into some-thing we want to think is a life project. We read lawyer stories and learn how to use these stories to reflect on our interwoven, entangled, conflicted—professional and personal—lives. Reading lawyer stories, we become more story conscious; we become more attentive to the stories we are asked to live as a lawyer.

Socrates, the much-maligned patron saint of legal education, questioned the conventional thinking of his day. Socrates prompts us to subject ourselves—our philosophy, our persistent, habitual way(s) of thinking—to question and examination.<sup>10</sup> We can do this if we are attentive to the stories that come our way, and remain mindful of the stories we bring with us to law, mindful of the stories we hope to live as lawyers.<sup>11</sup> Reading lawyer stories, we reflect on the stories offered to us

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<sup>9</sup> Ernest Becker, *THE DENIAL OF DEATH* 113 (New York: Free Press, 1971).

<sup>10</sup> For a law colleague’s laudable efforts to reorient our thinking, and our appreciation of and for Socrates, see Thomas D. Eiselle, *BITTER KNOWLEDGE: LEARNING SOCRATIC LESSONS OF DISILLUSION AND RENEWAL* (Notre Dame, Indiana: University of Notre Dame Press, 2009). For this idea that we might want to explore philosophy as another way to study ourselves, see James R. Elkins, *A Teacher’s Reading of Robert Pirsig’s Zen and the Art of Motorcycle Maintenance*, 37 *Legal Stud. F.* 37 (2013) (Suppl.1).

<sup>11</sup> We become so enmeshed in the ordinary affairs and demands of everyday life that being asked to think about the universe of stories in which we live can be an irritation, a nuisance. Paying the rent, getting through another class, studying for an examination,

as we set out to be lawyers, and we try to think about these stories in the context of the stories we already embrace—the stories we bring with us to the study of law and the stories we hope to live as lawyers.

In your work as a law student, you may find it convenient to avoid the reflection and studied response that literary stories demand of you. Indeed, some versions of the law school story would have you believe that reading fiction and poetry as part of your education as a lawyer is a waste of time. You may want to think that you have already adopted a plot for your story, that you don't have time or the need to think about fictional lawyer stories. There is always someone standing nearby to remind us, "Reality is a full-time job. Those who take up the study of fiction are on a fool's errand." I meet students who find stories elusive and ephemeral, and an unlikely source of answers to the questions that loom in their lives. For many students, the success story they are trying to live—and to tell—is the only story they want to focus on. The problem is that success stories can leave us with vast regions of inner landscape that are unexplored and unimagined. In pursuing lawyers in fiction, we read stories that make us aware of this inner landscape, and of the faintly sketched parts of the self that may turn out to be essential to the life we most desire, the life most worthwhile to live.

Surveying unimagined parts of the self is not at all simple and there are no handy guides for this kind of reading; we cannot expect literature to take us to places we forbid ourselves to go. And yet, we sometimes venture into great darkness beyond the walled-city we inhabit; in the dark, in an unfamiliar world, we realize that we need to know something we have studiously avoided learning. Some of what we learn reading lawyer stories, we learn reluctantly. The stories we read can produce discomfort; stories sometimes leave us unsettled when we learn we know less than we think know about our own lives.

There are real, significant, sometimes unsurmountable obstacles in the use of stories to see more clearly who we are and what we are not, to see how we have found it possible to succeed as we have and how

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finding a place in a law firm or legal organization to work—these matters demand persistent attention. When we surrender to the demands made upon us, we tend to overlook the scripted-stories we enact, the stories we tell about ourselves as students, stories offered to us that we unknowingly and uncritically adopt. Indeed, in our daily scurrying about we may not think of our ourselves as being *in a story* at all until, that is, we find ourselves in a fog, surrounded by darkness—lost—a character in a story we have not imagined.

failure can still feel so close at hand.<sup>12</sup> Literature is not magic; it is not the magic potion that turns every reader into a thoughtful, reflective person. Yet for some of us, the possibilities we find in stories—in literature—has indeed been a kind of magic, an opening of new avenues in the way we imagine our lives. Unfortunately, it is not a magic that can be conjured up on demand, a magic that can be spoon-fed to new initiates; this is not a magic available by prescription or formula.

The promise of literary lawyer fiction is that what we see, really *see*, in the life of a fictional lawyer and his confrontation with the world and with himself is something we can learn to see when confronted with our own real world difficulties and obstacles. The hope is that in responding to and living with the difficulties we cannot solve using the rational methods of the law, an exposure to lawyer stories will provide new strategies for living—imagining—surviving. To be the kind of person we imagine ourselves to be in the stories we tell ourselves about life—and about a life in law—requires a wealth of resources. I can’t imagine a full accounting of these resources that does not include the resources we find in literature.

### *Student Questions & Concerns about Lawyers and Literature*

**I don’t see any John Grisham books on the course reading list. I had hoped we might be asked to read a Grisham novel or two in the course.** John Grisham, as virtually everyone knows, is the lawyer turned novelist whose novels helped create and define the legal thriller as a genre, a genre that has allowed Grisham to become an enormously rich man. Grisham has made a storage locker full of money as an author of legal thrillers; it’s an open question as to whether Grisham will be remembered as a writer who has done anything more

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<sup>12</sup> William Domnarski has observed that “[p]aradoxically, as the lawyer, in his professional life gains control (and enjoys an ever greater level of success), he is in danger of losing control of his personal life, and finding that he faces the greatest of all failures, the loss of his own soul.” William Domnarski, *Law and Literature*, 27 Legal Stud. F. 109, 128 (2003).



than popularize the legal thriller genre and, doing so, found a way to mint money.<sup>13</sup>

Scott Turow is still another writer whose fiction is associated with the legal thriller genre. Many of us suspected, with the appearance of Turow's *One L*—his account of his first year at Harvard Law School—first published in 1977 and still in print<sup>14</sup>—that Turow was a serious writer; we now know that Turow is a rather good novelist. Turow's novel, *Personal Injuries*, has, in my view, sufficient depth to be regarded as a literary novel.

I read John Grisham and Scott Turow, among other lawyer novelists and authors of popular and literary legal fiction. Some years ago, I wrote an essay about Rudy Baylor, the law student/lawyer in John Grisham's *The Rainmaker*, in which I focused on Baylor's musings about legal education.<sup>15</sup> But I must say, I don't find much of compelling or lasting literary interest in Grisham's novels. His legal thrillers can be, as his devoted readers attest, pleasurable reading, and I can imagine a teacher here or there who might ask you to read a Grisham legal thriller and speculate on why this kind of novel has become so vastly popular with readers, and ask you to further speculate on the effect legal thrillers as a genre might have on those who find their way to law school, or for that matter, what might happen when a Grisham reader ends up on a jury, or a lawyer must try a case before a jury of Grisham readers.<sup>16</sup> My own sense, as a reader, is that Grisham's characters are cogs of a wheel that keep the plot moving—a Grisham speciality—more than they are an invitation to think more deeply about anything that might be going on

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<sup>13</sup> John Grisham, according to 2012 sales figures, ranked as the top-selling author of the last two decades. Grisham reportedly sold 275 million books as of 2012. Yes, that's right—275 million. Grisham had five novels on the top-ten best seller list during the decade of the '90s. CBS News, April 11, 2012 <website>.

I should note that Grisham has written a respectable non-fiction work about one of the hundreds of wrongly convicted defendants that have been unearthed in recent years. See John Grisham, *THE INNOCENT MAN: MURDER AND JUSTICE IN A SMALL TOWN* (New York: Doubleday, 2006).

<sup>14</sup> Scott Turow, *ONE L* (New York: G.P. Putnam's Sons, 1977).

<sup>15</sup> James R. Elkins, *Troubled Beginnings: Reflections on Becoming a Lawyer*, 26 U. Memphis L. Rev. 1303 (1996).

<sup>16</sup> It cannot escape the academic interest of any lawyer or legal colleague attuned to popular culture that John Grisham has probably introduced more Americans to law and lawyers than any other living writer.

with one of Grisham's fictional lawyers. I don't see Grisham's legal thrillers as being an invitation to delve into the nuances of how one might go about figuring out what it means to be a lawyer.

**You seem to have a great deal of confidence in the stories you ask us to read. Can you talk about this affinity you have for these stories?** I see in the stories we read, characters and situations that prompt us to learn something of the complexity of our own lives. There is something just short of delectable in reading fictional stories and find that you have embraced fictions of one sort or another in your own life. Stories provide us with a relatively "safe arena" in which we can see how these fictions—in story and in a life—work. Michael Roemer makes an observation about stories being a "safe arena" that seems applicable here: "In the safe arena of story, we can afford to face our vulnerability and helplessness; it offers us a nonparalyzing look into the abyss and serves to remind us of the essential facts which, though they govern our existence, must be kept well out of sight."<sup>17</sup>

We act, all too often, as if the only world we're interested in knowing is the bounded world in which we live day-to-day—the immediate world of our intentions and desires, the world that centers on the press of everything we take to be necessary. For most of us, the familiar world we inhabit, rich and complex as it may be, is never quite enough; we venture out beyond the confines of this known world—beyond the walled city we inhabit—and this is what you do in the decision to go to law school and become a lawyer. Still another way we venture forth to explore the unknown—fiction. We read stories, and in doing so we journey beyond the familiar. We discover, in fiction, characters who think and talk about things in ways at times reassuringly familiar, but we also encounter characters who turn out to be not so familiar at all, indeed, these strange characters often turn out to be intriguing.

When we read and engage a story, we find ourselves, paradoxically, in a world we know something about and in a world beyond the realm of what we know first-hand, a world beyond that fiction allows us to experience.

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<sup>17</sup> Michael Roemer, *TELLING STORIES: POSTMODERNISM AND THE INVALIDATION OF TRADITIONAL NARRATIVE* 86 (Landam, Maryland: Rowman & Littlefield, 1995).

**In your introduction to the course and to the stories we are going to be reading, you sometimes talk about the “known” and “unknown” worlds that we inhabit. Can you say anything more about this way of looking at reality?** Stories appear and become known to us in a series of expanding concentric circles. In the inner circle is the story (or stories) that you most intimately associate with yourself—*the story that is you*—the story of your own life—the story you tell yourself about who you are, what you are doing, and where you are going. (You will find, I suspect, even in these stories that purport to be a first-hand account of your life, that fictions abound.) Then, there are the stories you know and carry around with you, stories familiar to you, stories that have become a part of a repertoire of stories that you use—stories that you tell, read, puzzle over—stories that allow you to inhabit the world in the settled—and yes, sometimes, unsettling—way you do. These familiar stories are collateral to the *you story* . . . and yes, in a sense, these stories, too, are *you*. (Where would you be without them?) In any movement outward from the *you story* to *stories you carry with you* to the broader circles of stories, that sense of *you-ness*—that sense of nearness and intimacy that speaks of familiarity—welcome and inviting—begins to fade and as familiarity fades what do you find? Still more stories, stories that come your way that seem quite clearly to belong not to you but to someone else, to some world beyond your familiar known world. (Some of these stories are so far beyond your world that you don’t see any reason to summons up the energy to try to understand them.) There is, you may want to say, nothing new, nothing profound in this idea that we know the world through the lens of a *this is who I am* story and that stories exist that take you beyond the *you story*. Some stories feel familiar, other stories appear to us as odd or strange. In life—and in law school—you will find the familiar and the strange. How you take account of the strange and the familiar, how you bake a mix of the two into your own life will tell us something about the story you imagine that you are living.

**Do I need to be a literature major to take the Lawyers and Literature course?** The short answer is no. I’m not at all sure that studying literature in college prepares you to read a story and talk about the significance for you in what you have found in the story, or that studying literature will have helped you figure out how a story illuminates—or fails to illuminate—the situation you are now in as a student of law and the life you imagine you are living. I suspect that a major in English literature does not prepare you to read stories in quite the same way we will attempt to read them in *Lawyers and Literature*.

I subscribe to Harold Bloom's observation that the way we want to read in *Lawyers and Literature* "depends upon our distance, inner or outer, from the universities, where reading is scarcely taught as a pleasure, in any of the deeper senses of the aesthetics of pleasure."<sup>18</sup>

**Do you focus on literary theory in the course?** In working with stories, I do not expect to introduce you to theories of literary interpretation and literary criticism that an English professor might find of interest. My sense is that we are all, already (more or less) enmeshed in stories; we don't need literary critics or English professors to tell us that we have an affinity for stories. We use stories in virtually every aspect of our everyday lives. We use stories to convey to someone who we are (or at least who we think we want to be), and who we think they are. We use stories to locate ourselves in a particular place. Some of us turn to stories for the pleasure they bring us. Stories are, so far as we know, part of our human inheritance. What I want to do in *Lawyers and Literature* is see what we can learn from the remnants of knowledge we already have about stories, and see how we can learn to work with stories through our conversations about them.

**Can you tell us anything more specific about what we will do with the stories we read in *Lawyers and Literature*?** In *Lawyers and Literature*, we try to create a place—a time—a course of reading—where we focus on the story dimension of our life-world. One way to think about stories we read is to see how they allow us to slow down and attend to what is going on in our own lives.

Let me see if I can outline, in broadly sketched terms, what we will try to do with stories:

- identify strategies we use to read and understand and talk about stories;
- investigate possibilities for and obstacles to learning about ourselves as lawyers drawing on the characters we find in the stories we read;
- reflect on how being a lawyer opens up and closes down important aspects of our lives;

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<sup>18</sup> Harold Bloom, *HOW TO READ AND WHY* 22 (New York: Scribner, 2000).

—puzzle over the “fiction” in the lives we live as lawyers; and

—implicitly draw connections between the dynamics of story-focused reading and the skills associated with your story-sensibility that you will need as a lawyer.

When I read lawyer stories with students, I expect the perennial questions: How are we going to try to talk about these stories? How can I translate these stories into something I can write about? How can these fictional accounts of lawyers be of any significance in my education as a lawyer? Facing these perennial questions, I begin the course with a sense of humility and the knowledge that we must confront, story after story, obstacles that the stories pose for us. To my knowledge, these obstacles are rarely avoided by having studied English literature as an undergraduate.

Obviously, providing you with a list of what we will read in the course tells you something about the course but inevitably not enough. Talking about what we will try to do with what we read is not at all like presenting you with a map that provides ready reference points for locating where you are and a route that will take you where you want to go. What we do—or should I say what we try to do—in *Lawyers and Literature* is examine, from a story perspective, how a lawyer’s life is enriched, and how it is diminished, by the legal culture that we inhabit when we become lawyers.

To put it most simply, we are going to read stories and see if we can find a way to talk about them. Then, as the course progresses, you will need to find a way to write with—and about—the stories you are reading. *Lawyers and Literature* is a course of reading (and writing); a course that invites you to articulate your engagement with and your use of the fictional works you read. Drawing on this reading—the stories—you are invited to talk about your life as a lawyer and your life as a student, and about your life as a reader.

**Is there a theme (or themes) to be found in the stories we read in *Lawyers and Literature*?** This question might be better addressed after we have read the stories and you have become a participant in a conversation about the stories, that is, after you have found a way to work with the stories we read.

My tentative response is that the stories we read in *Lawyers and Literature* are cautionary tales; the stories suggest that in being a lawyer we pose a danger to ourselves and that the exact nature of this danger may not always be so easy to identify, describe, or explain—or immunize ourselves against. We are going to take up some stories in which life doesn't turn out quite the way the protagonist had in mind, stories in which the protagonist ends up with a life she did not envision for herself. This means we will be reading stories in which oddness—of one kind or another—abounds. The idea in reading these stories is that by learning to see the odd and the perverse in the lives of fictional lawyers, we can focus with more clarity on the ordinary lives we try, and fail, to live.

Let me see if I can be more precise: The lawyers-in-literature fiction I present in the course brings with it a host of unaddressed questions (questions ignored in legal education): How are the ideals associated with a life in law to be lived? How are these ideals called into question? In what sense are the lawyers we find in fiction characters who represent a desired future—a feared future? With these questions lodged in the shadow region of your education as a lawyer, a course of reading of lawyer fiction invites you to: (1) focus attention on the possibilities for and the obstacles to learning about what it means to be a lawyer, (2) identify the strategies we use—and those we might learn from stories to use—to read our clients and ourselves as lawyers, (3) puzzle over the relation of the “real” and the “fictional” aspects of the lives we live as lawyers, (4) speculate about how being a lawyer opens up and closes down important aspects of our lives.<sup>19</sup>

Jerome Bruner, a psychologist who in his later years developed an interest in narrative jurisprudence, argues that we should “constantly be inquiring about the interaction between the powers of individual minds and the means by which the culture aids or thwarts their realization.”<sup>20</sup> Bruner contends that this inquiry “will inevitably involve

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<sup>19</sup> There are also sociological questions posed by popular and literary culture contexts in which lawyer fiction—novels, TV dramas, films—appear. E.g., how are we to account for the public's seemingly insatiable appetite for lawyer stories that we so steadfastly ignore in legal education? Some Law and Literature teachers will undoubtedly want to explore our social, cultural, and political preoccupation with lawyers (and law) and how it effects our view of our work and ourselves.

<sup>20</sup> Jerome Bruner, *THE CULTURE OF EDUCATION* 13 (Cambridge, Massachusetts: Harvard University Press, 1996). For Bruner's observations on literature, see Jerome Bruner, *MAKING STORIES: LAW, LITERATURE, LIFE* (Cambridge, Massachusetts: Harvard

us in a never-ending assessment of the fit between what any particular culture deems essential for a good, or useful, or worthwhile way of life, and how individuals adapt to these demands as they impinge on their lives.”<sup>21</sup> The legal profession is, by most accounts, a distinct culture, a culture as I view it that aids and thwarts the realization of individual minds and well-lived lives. I propose that we use the stories in *Lawyers and Literature* to initiate a conversation about the way we think about ourselves as lawyers—about the way we live as lawyers. I call this course of conversation *Lawyers and Literature* to distinguish the course from traditional Law and Literature courses; I want to make clear that we have shifted the focus from talking about law to a conversation about how a lawyer’s life is enriched and diminished by the legal world he or she inhabits.

In *Lawyers and Literature*, we read lawyer fiction to become more attentive to the “fictions” we live and the “stories” we fabricate, adopt and adapt in the lives we lead as lawyers. Reading fiction—stories—as part of our education as lawyers reminds us that it is our stories, fictional and real, that shape the lives we live and the work we do as lawyers. The stories we tell and live as lawyers are quite real; they are inevitably driven by the fictions that we imagine and embrace (and that are imagined for us and that others encourage us to embrace). Reading fictional accounts of lawyers, we constantly confront two perplexing questions—what is the fiction in one’s life as a lawyer? how do we make our fictions real?

**Is there a particular story that you can point to that best exemplifies the course?** This question reminds me of an inquiry and proposition sometimes presented to authors: select a personal favorite from all the books you have written, or a favorite of all the books you have read. That kind of singling out can be hard to do. William Kittredge, a literature professor at Amherst, observes that “[t]here is no single, simple story that will define paradise for us and there never will be.”<sup>22</sup> I share Kittredge’s sentiment.

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University Press, 2003). Bruner joined Anthony Amsterdam in authoring one of the central texts on narrative jurisprudence. See Anthony G. Amsterdam & Jerome Truner, *MINDING THE LAW* (Cambridge, Massachusetts: Harvard University Press, 2002).

<sup>21</sup> Bruner, *THE CULTURE OF EDUCATION*, *id.*

<sup>22</sup> William Kittredge, “Doing Good Work Together,” in Kurt Brown (ed.), *THE TRUE SUBJECT: WRITERS ON LIFE AND CRAFT* 52-58, at 57 (Saint Paul, Minnesota: Graywolf Press, 1993).

If you insist on singling out a pivotal story, I would direct you to Tolstoy's *The Death of Ivan Ilych*. Ivan Ilych is, quite simply, a rather traditional man and he has familiar ambitions as a lawyer; he happens to be a conformist and a careerist of a kind that some of you may be on track to be, or secretly fear that you are becoming, or want to resist becoming. Ilych leads an unreflective life; he eventually gets to a point in his life where the only thing that will give him any solace is to figure out how he has lived his life as he has and how he ended up as he did. Reading *The Death of Ivan Ilych*, we end up with questions of a kind that can be posed for other stories we read: Who is this man—Ivan Ilych? What kind of man is he? How does what we learn about this man's life and how he lived it help me understand my own life?

**Do you have a clear sense of what the purpose of the Lawyers and Literature course is?** The purpose of the course is to encourage you to reflect on where you are and what you are doing, where you are going and how this place that you came from—let's call it home—has a real bearing on where you are going, and how you got to this place where you are now.

**Can you say anything further about what you mean by reflection?** In *Webster's Seventh New Collegiate Dictionary*, I find that reflection means: a thought, idea, or opinion formed by thinking about something; the process of meditating on something. Basically, reflection is the thoughtful consideration of some subject matter, idea, or purpose. To reflect is to make manifest or apparent; to reflect is *to show*, to excavate what lies buried in our thinking, to pause the on-rush of commonplace ideas and watch the movement of our thinking.

In *Lawyers and Literature*, you are invited to reflect on what it means to say, *I am a lawyer*. What does it mean to study law? To become a lawyer? You might think of the course as a series of stories—meditations—on your life as a student and reader, meditations on how you see yourself becoming a lawyer. When you turn to stories, you will no doubt find that they offer different perspectives, different angles, that prompt you to reflect on how you make a place for yourself in the world of law, at the same time that you recognize that you inhabit a world beyond law. Reading stories may help us in our quest to find a home for ourselves. We are all, in some sense, aren't we, looking for a place to call home?



At one time, I might have suggested that the purpose of Lawyers and Literature was to get you *to think* about where you are, what you are doing, and what brought you to law school. But, then, my colleagues claim that *they* want to teach you to think—to “think like a lawyer.” I am after something quite different. If it turns out that in every law school course, you are asked to think in a prescribed way (with whatever variants may be introduced by different teachers), you may want to question the notion that this is the only way of thinking you will need as a lawyer. The question I would ask here is this: Are you encouraged to reflect on this law school prescribed way of thinking? In Lawyers and Literature, you are invited to reflect on how your new law school habits of mind—glorified in the ephemeral notion of *legal thinking*—effect the way you read and how this purported way of thinking may pose obstacles in trying to think clearly about the life you want to live. (This law school prescribed way of thinking may introduce habits of mind that distort how you think about the characters you find in the stories you read.

If reflection is a goal of the Lawyers and Literature course—and it is—then what I ask you to do is to use stories to make yourself a subject of study, and to use the fiction (and the poetry) we read to help you do that. This means we read stories and return, story after story, to ask: What do the lawyers in this story and their problems have to do with the life I’m trying to live, the life I most want to live?<sup>23</sup>

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<sup>23</sup> I’m reminded here of Walker Percy’s admonition:

If it is true that the poet and novelist are in the vanguard in their foreboding that something has gone badly wrong and in their sketching out of the nature of the pathology, let the reader both rejoice and beware, rejoice that the good novelist has the skill to point out the specters which he, the reader, had been only dimly aware of, but beware in doing so of surrendering the slightest sovereignty over himself. If one happens to be a writer or a scientist and lucky enough occasionally to hit on the truth, or if one is a reader or a consumer and lucky enough to benefit from a great medical discovery or a novelistic breakthrough which excites him—well and good. Well and good, that is, as long as one never forgets that the living of one’s life is not to be found in books, either the reading of them or the writing of them.

“The State of the Novel: Dying Art or New Science?” in Walker Percy, *SIGNPOSTS IN A STRANGE LAND* 139-152, at 152 (New York: Farrar, Straus & Giroux, 1991) (Patrick Samway ed.).

If you imagine a lawyer as a hybrid creature—composed of what you bring to the Law and what you take on to meet what the Law rigidly demands of you (by way of its historical practices and its culture and the habits of mind you acquire)—you begin to get a hint at what might account for some of the deep-lying psychological undercurrents one might encounter in being a lawyer. How you bridge or blend or merge—how you configure—the person you are and the person Law would have you be is not commonly addressed in the law school curriculum. In law school, we hold stubbornly to the notion that in the study of law, the preferred way to proceed is to forget about who you think you might already be; you learn in law school that whatever you may bring to the law is a distraction rather than a resource. In *Lawyers and Literature*, we try to undo this nothing-before-law-school-counts thinking. I proceed with the assumption that it is not too late to make your self a subject of study, and that you can study.

**You talk about stories and how they invite us to make ourselves a subject of study. How do we go about doing this?** You might begin with a question that puts your inquiry into context: What brings you to a course like *Lawyers and Literature*? You could be sitting in a different room with a teacher studying what your fellow students would consider “real law,” and yet, here you are, in *Lawyers and Literature*. I want to imagine that there is a story—of one kind or another—that brings you to a course like this. This story, however you may try to tell it, will undoubtedly be a part of the course.<sup>24</sup> If you find that you don’t have a story to tell about being in the course, that too turns out to be a story<sup>25</sup>—a story in which you have erased yourself as a protagonist.

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<sup>24</sup> When you take up this question—how did I end up in this course?—you may find yourself saying something like this: “The course was offered at a time that fit my schedule.” “My friend signed-up for the course and I’m here because we wanted to take a course together.” “I love to read and from all appearances this is a course in which we will be reading.” “I took literature courses as an undergraduate and they were my favorite courses. My literature courses were different from the courses in which teachers were primarily concerned with presenting us with facts and information.” “I wanted a change of pace.” “Law school can be relentlessly narrow. I am always looking for courses to broaden my perspective.” Each of these observations is a tell-tale fragment, a prelude to something, a story more or less intriguing. The story, if the fragment can be unpacked to reveal it, would tell us a good deal more about who you are, where you came from, and where you are going. If you can translate fragments and observations of this kind into a story worth telling, you may turn out to be a serious student of stories.

<sup>25</sup> The precursor to this question—what brings you to the *Lawyers and Literature* course?—is a still more basic question: What are you doing in law school?

[N]ot every law student enters law school with a clear notion of why (or even

You may think well of yourself as a reader, and you may think that being where you are now—in law school—confirms that you are far better than a merely adequate reader. But, in reality, *what kind of reader are you?*<sup>26</sup> In *Lawyers and Literature*, you will be exposed to the reading of your colleagues; some of them may turn out to be adept in the way they go about reading a story, and some, you may decide, don't know how to make use of that they have read. Keep in mind that you will be asked to reflect on your own reading: What kind of story will you devise for and about yourself as a reader as you observe yourself and your colleagues as readers? Can you fashion a story that hints at how you read and how being a reader makes you one kind of person or another?

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whether) they want to become lawyers. For some, it is simply the next logical step in their academic careers. For others, it is a way to fulfill family expectations. For still others, the desire to become a lawyer has more to do with glamorized media images and high salaries than with the real work of practicing law.

Laurie A. Morin, *Reflections on Teaching Law as Right Livelihood: Cultivating Ethics, Professionalism, and Commitment to Public Service from the Inside Out*, 35 *Tulsa L. J.* 227 (2000).

<sup>26</sup> Some years ago I was drafted—against my strong objections—to teach a course on Appellate Advocacy. I knew the central task in the course was to have students write and argue an appellate brief—that is, to act as a real legal writer and as a lawyer advocate. My first question to students in that course was: What kind of writer are you? My assumption—one I still hold—is that how we imagine ourselves involved in an enterprise—who we tell ourselves we are when we work—tells us everything about how we go about doing a particular kind of work and the quality of the work we end up doing.