

READING/TEACHING LAWYER FILMS

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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 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. I watched movies until I fell asleep with those distant flickering images haunting my dreams. To get through an entire night of movies—I'm not sure any of us ever did—required pillows and popcorn, a cooler of RC cola, sandwiches to get us through the night. We brought the food from home; we were frugal and stayed away from the snack bar .

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It was at local drive-in theaters that I saw *The Robe* (1953), *Demetrius and the Gladiators* (1954), and *The Ten Commandants* (1956), movies we watched not because we were so enamored with movies with religious themes but because these Biblical epics were lavishly produced dramatic stories; they reminded us of a world, of worlds, far beyond our own. Westerns were also popular in the 1950s. When *High Noon* (1952), *Shane* (1953), and *Bad Day at Black Rock* (1955) appeared at our local drive-in theaters, we had to get to the drive-in early to get a decent parking place (not too close and not too far from the screen).

Finally, in 1954, I managed to see a film in a movie theater. My uncle, Barney Thweatt, who everyone in western Kentucky knew as a member of the Brewers, Kentucky basketball team that had won the State Championship in 1948, 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.¹ In the meandering and turbulent years that have followed that magical afternoon watching *Johnny Guitar* (1953)(starring Sterling Hayden & Joan Crawford), I continue to live in a world that seems as fictional, as movie-like, as it is real.

A graduate of drive-in theaters in the 1950s, 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

¹ It was Marshall McLuhan who reminded us that “[t]he business of the writer or the filmmaker is to transfer the reader or viewer from one world, his *own*, to another, the world created by typography and film. That is so obvious, and happens so completely, that those undergoing the experience accept it subliminally and without critical awareness (McLuhan, 1965: 285).”

large state university, to become a lawyer and a film goer. As I moved city to city, first to Washington, D.C., then to Newark and New Haven, on to Chicago, it was the late '70s when I finally settled down in a small town in West Virginia to teach law. I spent the summers, my first years in West Virginia, 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 set of rules, more than pronouncements of law by courts. Law is also a matter of politics—society—culture—theology. During the 1970s, the decade I began teaching law, we begin to try to teach law by shifting the focus from legal rules to what lawyers do and to the world in which they do it (to the practical and the contextual study of law). 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 too today's students. For example, in the late 1960s Marshall McLuhan noted that:

The young today live mythically and in depth. But they encounter instruction in situations organized by means of classified information—subjects are unrelated, they are visually conceived in terms of a blueprint. Many of our institutions

suppress all the natural direct experience of youth, who respond with untaught delight to the poetry and the beauty of the new technological environment, the environment of popular culture (McLuhan & Fiore, 1967: 100).

I'm afraid that the buzz of revelation in McLuhan's hypothesis has more intuitive appeal than practical significance. We might well want to amend McLuhan's observation and say—we (old and young) have always lived mythically, and must continue to do so. There is little to suggest that the “young” live, experience, and know the world more deeply or mythically than do their elders.

McLuhan is remembered today—if at all—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, after watching so many movies over so many years, with such memorable and intense pleasure, 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 rather 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 would hope this essay does not convey a false impression. I still do not have a method or formula for teaching lawyer films, to this I 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? (What films can I teach?) 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), *The Client* (1994), *A Few Good Men* (1992), *My Cousin Vinny* (1992), *Philadelphia* (1994), *Guilty as Sin* (1993), *The Firm* (1993), *Primal Fear* (1996), *The Client* (1994), *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 when I discussed the films 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.)

As it turned out, I remembered some of the films on my short list so vividly, and others so poorly, that I rarely easily began to construct a “to show” list. I had, of course, seen all the films at movie theaters and had the benefit of the enhanced vividness, and that special feeling of being a participant at the unfolding of a great visual drama that one experiences watching films in a movie theater. And we might remember, as the film scholar Ray Carney notes: “It’s part of the nature of art that it sticks in your craw. It may frustrate you, or bewilder you, but it stays with

you” (Carney, 1994).

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. *Breaker Morant* is a fine film, but I decided it might be of better use in a “jurisprudence and film” course (see Appendix–Jurisprudence and Film). I removed still other films from the master list because the lawyers in the film were not central characters (although they may well have played significant roles in the film). I recalled strong performances by Richard Dreyfus (the lawyer) and Barbara Streisand (his client) in *Nuts* but had little memory of what role the lawyer actually played in that film. The lawyers in *Kramer vs. Kramer* (1979) play a significant but brief role in a film which focuses on a father’s learning to cope with raising his young son. *The Good Mother* (1988) was dropped for much the same reason; lawyers simply play a limited (although not insignificant role) in the film. *The Incident* (1990), a film I’ve never seen mentioned in the legal film literature, is a surprising good, made-for TV, film about a small town lawyer, Harmon Cobb (Walter Matthau), appointed to defend a Nazi prisoner of war against murder charges in the years following World War II. Cobb is taken by surprise when he finds a real defense, not expected of him, is demanded by what he learns about his client. *The Incident* was not readily available for pre-screening so I rather arbitrarily decided not to use it in the course.

There were still other films—*Philadelphia* (1993), *True Believer* (1989), *The Client* (1994)—which are of interest as lawyer films but are not sufficiently engrossing (or properly cast) that I wanted to include them in the course. *My Cousin Vinny* (1992) is great fun, and a teachable

film, and I considered including it because I wanted a comedy or two in the overall line-up of course films. I elected not to include *My Cousin Vinny* because so many students have seen the film, and seen it so many times! I placed *Suspect* (1987) on the initial course list because, unlike many reviewers, I rather liked Cher's performance as the lawyer, Kathleen Riley. I used *Suspect* the first time I taught the course, and it evoked a lively discussion, but the lawyer's involvement with a juror, Eddie Sanger (Dennis Quaid), who provides crucial assistance in Riley's efforts to defend her client, was the kind of Hollywood plot development that students found hard to accept and I dropped the film from the course. I considered using *The Accused* (1988) but decided that one viewing of the film was painful enough; I didn't relish the thoughts of revisiting the gut-wrenching, graphic depiction of gang rape in the film. *The Accused*, for those venturesome enough to teach it, could be a film to consider.

My final line-up of films for the course was: *Anatomy of a Murder* (1959), *To Kill a Mockingbird* (1962), *And Justice for All* (1979), *The Verdict* (1982), *Suspect* (1987), *Class Action* (1991), *A Few Good Men* (1992), *Music Box* (1990), *Paris Trout* (1991), *The Last Wave* (1977).

As I continued to teach the course, I began to consider new lawyer films as they came to local theaters: *The Devil's Advocate* (1997), *The Sweet Hereafter* (1997), *Liar, Liar* (1997), *The Rainmaker* (1997), *The Winslow Boy* (1999), *Snow Falling on Cedars* (2000), *The Castle* (1997).² I also began to consider older films, like *Adam's Rib* (1949), when they came to my

² *The Castle* did not come to theaters in West Virginia. Ben Goldsmith, Research Assistant at the Australian Key Centre for Cultural and Media Policy Faculty of Humanities, Griffith University, Brisbane, Queensland sent me a note, just as I was preparing to teach lawyers and film for the first time, describing a new Australian film, *The Castle* (1997), which had become a low-budget box-office success in Australia. When some several months after receiving

attention. *Adam's Rib* is a wonderful film with spirited performances by Spencer Tracy and Katharine Hepburn, both lawyers, whose marriage is threatened by Amanda Bonner's (Tracy Hepburn) resolution to take up a woman client's case (and the cause of women in general) in a criminal case prosecuted by her husband Adam Bonner (Spencer Tracy).

The line-up of films for the course, as the course 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. While there are numerous, excellent films that raise issues about law, order and justice (see the Appendix: Jurisprudence and Film), it was films with memorable lawyers, lawyers who left a lasting impression on me, films with lawyer protagonist(s) that allow us to explore the relationship of our professional and personal lives, that I continue to use in the course. And, of course, I had no objection to using films which were associated with acclaimed novels, or films which received

Goldsmith's note, I finally got another to viewing *The Castle*, and finding it both amusing and delightful, I added it to the course. A belated thanks to Ben Goldsmith for his gracious note and for alerting me to the film and for enticing him to watch it because of his rich description of it.

critical attention.

A Place for Lawyer Films in Legal Education

Law students expect everything they study, and I mean everything, 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. Our students treat these claims with skepticism, 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 who imagines one's self 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? These are questions for which no answers are to be found in law books. It's reflection and introspection that brings the student to ask: How did I happen to end up in law school? (What brought me here?) What kind of lawyer is my legal education preparing me to be? (What kind of lawyer does

law school *not* prepare me to be?) What kind of lawyer do I imagine myself becoming? (What obstacles do I encounter in becoming the lawyer I imagine I'll be?) We might think of lawyer films as being an impetus to raise and to respond to these questions (and to others suggested by the “implicit curriculum”).

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; perhaps it is. Lawyer films, at least the ones I present to students, were designed and produced as entertainment.³ 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

³ “Any critique of Hollywood films or television shows that depict lawyers or involve legal subject matter must begin with a fundamental and crucial understanding that these mediums have one underlying purpose—to entertain (Spitz, 2000: 740).” We might reflect for a moment on the fact that: “The motion picture has become the most influential and compelling form of mass entertainment ever created (Marini, 2001).” Least we despair at the craven and debased notion of “entertainment,” Spitz observes that “entertainment, in the dramatic sense, revolves around storytelling and conflict” (Spitz, 2000: *supra*). Frank McConnell, in his exploration of stories and mythmaking in literature and films observes that: “Even at the most unredeemed level of ‘escapist’ entertainment, cheap novels or trash films, the didactic force of storytelling is still present and important. What kind of world does a person want to escape *to*? (McConnell, 1979: 4).” Considering films as entertainment and pleasure, we might ask: “If we grant that cinema can be the most vulgar, escapist medium, is it not also true that its real power lies precisely in its seductive sensuality? (Biró, 1982: vii).” I’ll forego the temptation to translate Biró’s observation into a commentary on the place of sensuality in legal education, or for that matter, in lawyer films.

What we are dealing with here is the common idea evoked in the word entertainment: “Entertainment usually implies that only one part of the brain is being used (Rosenbaum, 1997: 89).” We should not forget that: “Any successful narrative that involves or entertains us is structured to combine logic and surprise (Armes, 1994: 14).”

find in a lawyer film, a film made for 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 (or standing in the way of it), as they deal with clients (more or less interested in justice), judges (more or less interested in justice), and other lawyers (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 at great cost 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 the just do not always prevail; the quest for justice can break your heart.

We turn to the "fictional world" of lawyers in film as a source of vivid images, memorable stories in which protagonists triumph, and protagonists fail. By way of these stories we study ourselves and our identity as lawyers, our place in the world as lawyers. With lawyer films we study law school's "implicit curriculum" and engage in a pedagogy of self-learning, seeing mirrored in film what we most desire and most fear as we make ourselves lawyers.

A Student Guide to Lawyer Films

We confront the impressed shapes of the “implicit curriculum” when we ask of a lawyers film course: What are we to do with these lawyer films? And what do we hope to learn from the films? The more immediate, central problem for the student of lawyer films, can be simply put: How is the film to be “read”? And how can we “read” a film so that it has some special meaning for those who have set out to become lawyers? How can the film be put to use in understanding the life-in-law I have undertaken?

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. Introspective reflection illuminates, according to the literary critic Robert Scholes, “the nature of our own confinements and possibilities” 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 student, 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 of 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—it’s 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 film lie questions about film as media (and the messages of 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. I avoid this academic film criticism for reasons suggested by Ray Carney, who notes that:

The vocabulary of formalist criticism represents an attempt to give its methods a pseudo-scientific rigor and precision. It's an open secret that film study is ghettoized in the American university and that film scholars, still not taken quite seriously by their colleagues in the humanities, are forced to overcome a kind of academic inferiority complex. One of the ways they have responded to this sense of being second-class citizens in the arts is by doing what any other threatened guild does: attempting to legitimize their field by developing an esoteric methodology and a specialized language (Carney, 1992).⁴

Carney argues that:

Most contemporary academic criticism is . . . not humble, but superior, skeptical, smug, and knowing. The critical stance does not involve intimacy with the text in all of its particularity, but flying 50,000 feet above it in a realm of ideological abstractions, swooping down on it only occasionally, for selected evidence to bolster a predetermined position. Most importantly, it does not involve lovingly opening oneself to the work, *learning* from it, but more often than not, *debunking* it: exposing its so-called “complicity with the reigning ideology,” and, as far as possible, reducing the work to its political, social, and material origins (Carney, 1994-b).

⁴ The formalists, Carney argues, ignore “the most meaningful and important parts of an artistic experience—the content, tone, feelings, emotions, characters, acting, understanding of life embodied in the world. The formalist account gives us films with style a mile high and knowledge of life an inch deep (Carney, 1994-b).”

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 our 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 (and it sometimes does exactly that), but we may also find that meaning resists capture by our interpretative nets. Wendell Berry, the Kentucky farmer, novelist, poet, essays, and philosopher notes that: “Our knowledge of the world instructs us first of all the world is greater than our knowledge of it (Berry, 1983: 64).” When we become enamored with theory—doing it, writing it, studying it, teaching it—we miss Berry’s point, and make theory the god of knowledge rather than

its servant.

What I emphasize is not so much the complexity meaning, but it's practical, inevitable nature. And it is this practical orientation to meaning (coupled with the practical orientation of my students; admittedly, their practicalism is frighteningly ugly in its crudest expressions), that has left me so ambivalent about the place we give theory as we search for meaning. So, I begin the lawyer film course with this question: How is this text, this film, to be used? What we do—in law school—when we read a lawyer story or novel, or watch a lawyer film is really quite simple. We are trying to figure out, not where the story/narrative/novel/film belongs in the universe of academics and their study of the text but rather, where the text belongs in our own lives, its use in figuring out where we are, what we are doing, and where we are going. It is this view of texts (and their meaning), that has us asking: What am I to do with this text? this story? this film? We back away from theory, a step or two, and ask: Can I use what I find in this film? Can this film be read so that it has a place in what I am trying to learn about myself, about the role(s) I'm adopting and adapting as a lawyer? What does this film tell me about the identity that seems to accompany various lawyer roles and the work associated with those roles?

With this understanding of what I want to do with students and with lawyer films, I was intrigued by the suggestion of Tim Bywater and Thomas 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 (Bywater and Sobchack, 1989: ix).” Bywater and Sobchack in their survey of schools of film criticism describe a “humanistic approach” which they contrast with academic film critics who investigate film as aesthetic, social, and historical phenomena. The work of the humanist film reader described by Bywater

and Sobchack is strikingly close, to what I have been presenting here:

[T]he humanist approach to film attempts to make sense of the individuals' emotional and intellectual experience of a film (it always begins with that personal encounter with the work), to draw conclusions about the value of that experience, and then to communicate that value to others (Bywater and Sobchack: 25).

The question which lies at the heart of the humanistic approach 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 and Sobchack: 25, 26).

Bywater and Sobchack find two implicit assumptions in the humanist approach:

(1) that movies are more than simple entertainment and deserve a backward glance, some extra thought, some writing about, in order for us to understand the experience of film going more thoroughly and (2) that since movies are about human experiences, any human who has some interest in intellectual matters in general can write intelligently about the experience of the movies (Bywater and Sobchack: 25)."

They conclude that, "[f]or the humanist, critical inquiry, intellectual curiosity, and logical analysis of all aspects of experience are habitual responses to life" and it is this habitual response that the humanist critic brings to the "the movie experience," where the critic tries "to discern there the mark of human excellence" The stories most inviting to a humanist inquiry are the stories and fictions which "provide a place or point in time where the viewer is invited to make comparisons between the story on the screen and the world in which the viewer exists (Bywater and Sobchack: 26-27, 38)."

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 she bring both too little and too much to the task she 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. The law student says, “I watch films for pleasure, I simply love movies. I don't want to destroy that pleasure by subjecting every film I watch to rigorous/academic interpretation. I watch lawyer films to escape the relentless drumbeat in life.” 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 view.

A second obstacle, and one which reenforces the “film is entertainment” obstacle, is the knowledge that lawyer films are produced by the Hollywood film/culture industry. The politically savvy student says, “Lawyer films are a product of the Hollywood film industry and aren't intended as prescriptions on how to be a lawyer, how to practice law, or how to live. These films are made for the profits they produce.” 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-therapy 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 of the kind 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 *Matewan* by John Sayles, *Thinking In Pictures: The Making of the Movie Matewan* (Houghton Mifflin, 1987). If our students have a hang-up about Hollywood, they need an exposure to texts and films that help us see through our 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 on the "legal accuracy" of a film, while ignoring the film's larger meaning. When I ask a student, what do you see when you watch this film, she replies, "The most obvious thing I notice about this film, and about TV shows involving lawyers, is how inaccurate they are. Lawyer movies don't reflect the reality of law work, legal trials, and litigation." Law student insiders (and even knowledgeable film critics of whom we might expect better) 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

First, 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 maintains 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. The “right” text is a text that can be put to meaningful use by the student still curious, still able to learn. My students, rather surprisingly, argue against this “the right text is self-teaching” notion. Consequently, I don’t tell them, as I’m so often tempted: “I have found these texts (stories/accounts/statements/philosophical arguments/films) and I present them to you; they are all I have to offer. These texts constitute *my* duty and *my* pleasure. What they may mean to you I cannot foretell. I have, in my search for these texts, learned a great deal. They have served as an education on matters of real importance to me, and it is my hope that they might be made part of your education as well. Whether they do so is now in your hands.”

I try to convince students that a text/film contains internal markers (strong clues) as to how it can be read. (Indeed, some texts are rather dictatorial in this regard.) These markers or clues allow a knowledgeable, persistent reader—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. Ironically, the student easily stumped—“I have nothing to say about this text.”

Or, “this text says nothing to me”—is the student least likely to search out a guide that might provide strategies (strategies mind you, not answers) which would allow “something” to be said, some preliminary proposal as to how the text might be put to good use.

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 and White, 1996: 476).” White’s statement, simple and direct, suggest 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, stories we continue to tell, stories which define, limit, and expand the nature of our existence; stories upon

which we premise our hope, stories 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 (often unforgettable) characters, 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 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 particular men and women come to be identified with the struggles in patterned ways as they seem to, 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 and Sopchack: 37).”

Robert Scholes, in *Textual Power*, argues that “laying bare” the basic oppositions expressed in our conflicts exposes “the flow of value and power” and are “a basic part of the critic's repertory . . . (Scholes, 1985: 4).” Consequently, “[i]n getting from the said and read to the unsaid and interpreted . . . [t]he first things to look for are repetitions and oppositions that emerge at the obvious or manifest level of the text.” In reading a film, we

must ask what these oppositions “represent,” . . . what they “symbolize.” This aspect of interpretation involves connecting the singular oppositions of the text to the generalized oppositions that structure our cultural systems of values. . . . It is not so much a matter of generating meanings out of a text as it is a matter of making connections between a particular verbal text and a larger cultural text, which is the matrix or master code that the literary text both depends upon and modifies. In order to teach the interpretation . . . we must be prepared to teach the cultural text as well (Scholes, 1985: 32).

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 a text when we read “a text to elucidate its quarrels with itself, the contradictions and uncertainties suppressed beneath its superficial order (Leubsdorf, 1987).” 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 she has in her bedroom, the kind of car she drives, her marital and family situation, where she works, whom she works with, what kind of work she does, how she is

regarded by her co-workers, her relationship with her boss, how the boss is regarded by the workers, and the various tensions and conflicts created by 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!

We learn enough about film characters—those portrayed with subtlety in a well-written film—to become briefly, but intensely, intimately involved in a pure fiction. We become engrossed in the lives of a film's characters because they have burdens to bear, threats to confront, obstacles to overcome; failures to endure, glories to savor. The film character is asked to learn something about herself and her world and what she learns is of real interest. In seeing the film character learn, we in turn, learn are prompted to learn.

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; we want the character to get what he desires because of what we know of him 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 and White: 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. I have, over the years, sought out the stories of my students and listened to them talk about their decision to become lawyers and their experience as they undergo the legal rites of passages that will make them lawyers. There may be talk about the boredom and challenges of legal education, about uncertainties of the work that lies ahead, questions about professional identity, concern about the public's perception of lawyers, along with the brash talk about glories

to come. Amidst all of this talk, one finds a cacophony of ideals and fears as the student becomes a protagonist in a new story, the story that being a lawyer makes possible. In one version of this story, law allows us to be great warriors who engage in epic courtroom battles, facing skilled (sometimes mean-spirited) foes, over whom we will triumph in the name of justice. It may sound outlandish to suggest that in becoming a lawyer one sets out upon a heroic, mythic quest, but the presence of the hero archetype in the stories our students tell is quite real.

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)). 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.

Speaking out, telling truth to those who profit from deception and lies, standing up to power, can be costly; it entails suffering. When Atticus Finch in *To Kill a Mockingbird* undertakes the defense of Tom Robinson, a black man falsely charged of rape of a young white woman, in the 1930s in Alabama, we know that his patience and endurance will be tested. In the novel, in a scene not found in the film, Atticus is visited at home by a group of neighbors and town folk who have gotten word that Atticus actually means to defend Robinson, Link Deas, one of the men in the group, says to Atticus, you've got everything to lose from this, Atticus, everything. The cost to Atticus in defending Tom Robinson is most evident in its impact on the lives of his children, Jem and Scout, as they try to live with and understand the fact that some people in the community don't want to see Tom Robinson defended at all.

The stories of lawyers and how they stand against those who have power—*Erin Brockovich, A Civil Action, The Incident, And Justice for All, A Few Good Men*—are central to the myths we carry with us as lawyers. The stories of our most authentic lawyers—we call them 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. Atticus Finch, tells his son, Jem, after the jury conviction of Tom Robinson, that he is tired, but not bitter.

Atticus is not defeated by the social injustice perpetrated by the jury and Maycomb's racism because he knows that the community has failed itself, that it is diminished by its failure. Atticus also knows that his life—along with the lives of his children—is in Maycomb, and that he must make a home for himself and his children there and must live with those who do not share

his vision of law and of justice. In making a worthwhile life in communities that fail us, as Maycomb fails Atticus, we experience the reality of failure and the power of an ethical vision, a vision embedded in character, character that becomes central to a film narrative.

It is in heroic images of the lawyer (standing as they do for the lawyer we fantasize being), in the deeply imagined phantasies of law work grounded in myth, that we find ways to sustain ourselves. As the editors of *Screening the Sacred* put it: “[M]yth has enabled human beings to connect with their psychological and religious depths, aspects of their world not normally accessible by the conscious mind. Myth puts people in touch with great foundational forces, powers that generate and govern the world (Martin and Ostwalt, 1995: 66).”

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 lawyer’s 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 ordinary world of the lawyer (which we may find to be “ordinary” only to the lawyer) is subject to a significant threat (which entails lose 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, must be addressed and is addressed by the lawyers 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, in confronting enemies, who are most often the source and cause of disruption in the life of the lawyer’s client, then, with the client, the client’s enemies become the enemies of the lawyer; enemies which must be dealt with using a lawyer’s tools/resources/character; the use of the lawyer’s tools end up implicating larger social institutions (law, judiciary, police, government, corporations). (“Storytelling. . . is always the story of the individual in some sort of relationship to his social, political, or cultural environment. He can found that environment, he can civilize it, he can find it confusing, or he can hate it: but the basic terms of story are, like the basic terms of any human being’s relationship to his world (McConnell: 6) .”

– the lawyer may, in confronting the disruptions in the life of the client, and in his/her own life, be involved in litigation and this litigation 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*) (the neither fallen/nor star characterization is the

general state of affairs for the secondary lawyers who play supporting roles in lawyer films; although secondary/supporting lawyers may be mentors to the protagonist or may betray the protagonist as he/she tries to resolve the conflict in his/her life or legal problem).

(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 opposition that block the ascent. Those at the top of the heap are threatened by a great downfall. In other plot variations, a mid-life crises must be threatened by still worse developments (if the lawyer has already lost his family, then his legal practice may now be at stake). For film lawyers immersed in the everyday routine work, either the lawyer's work or the lawyer's ordinary world must in some way become extraordinary, as in *And Justice for All*, or in Amanda Bonner's decision to take a case in which she opposes her husband, Adam Bonner, in *Adam's Rib*, or the hostile reactions of a community in *A Civil Action*, or the hostility of a client in *The Verdict*.

(IV) With the lawyer's world and work, and the lawyer's position in this world established, and then threatened, the lawyer having responded in more or less ethically acceptable ways to the challenge, must now resolve the conflicts in which he/she 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 focus on unethical lawyers. Lawyer film critics find the portrayals of lawyers misleading and pernicious, bad for lawyers and the public.

In the conventional criticism of lawyer films, legal critics have adopted a "script." It reads something like this: The public doesn't think so highly of lawyers, and we are so often reminded of this that the negative perception of lawyers drives the perception still more negative. We believe this decidedly negative public perception of lawyers has an adverse impact on the work of lawyers and, on the "rule of law." It has a negative impact on the way juries decide cases and on the way clients interact with lawyers.

This conventional critique of lawyer films is as tiring as it is stale. First, it's extremely 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 about law). Beyond the concern about the public's negative perception of lawyers and how this perception might affect lawyers and law we know virtually nothing, claims to the contrary notwithstanding. It's not at all clear how deep and how pervasive the negative public perception of lawyers actually is. And

finally, how a negative public perception is to be traced to actual failings of lawyers, the legal profession and law and to representations in popular culture, and apportioned between the real and the fictional, is well beyond what we today know.

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." (The real world gets old. The real world may not be all it's cracked-up to be.) 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 who bigger 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 up-end our real world (with all it's real ways of blocking our thinking), and to displace the real, powerful as it is, with something equally powerful, the fiction, created by act of imagination, a fiction so complex and compelling that it becomes a *real* substitute for *the real*.

In contrast to the legalist/realist film critic who warns of the negative and unreal representations of lawyers in film, we might better focus on the fact that most lawyer films present us with lawyer protagonists with whom we can identify, characters who reflect virtue (even if they must come to it the hard way), with lawyer protagonists who can be viewed as heroes.

There are, of course, legal film critics who have questioned the conventional critique of lawyer films based on legal and representational accuracy. Anthony Chase tells a story about a legal colleague:

[who] complained that the ending of Oliver Stone's *Wall Street* ruined the film for

him: a sadder but wiser Bud Fox (Charlie Sheen) hustling up the courthouse steps to help convict Gordon Gekko (Michael Douglas) is filmed heading into a state rather than federal court building, when the securities manipulation crime committed by Gekko would, we lawyers suspect, have been a federal offense. Where, I ask, does it end? (Chase, 1997: 124)”

Chase goes on to note that “realist criticism may misunderstand the nature of film as art.” The danger of the realist critique is that it “run[s] the risk of mistaking surface for essence . . . (Chase: 132, 138).” Chase points out that realism, and here he quotes Fredic Jameson,

is a “peculiarly unstable concept owing to its simultaneous, yet incompatible, aesthetic and epistemological claims, as the two terms of the slogan, “representation of reality,” suggest. These two claims then seem contradictory . . . will clearly be undermined by an intensified awareness of the technical means or representational artifice of the work itself. . . . [I]f realism validates its claim to being a correct or true representation of the world, it thereby ceases to be an aesthetic mode of representation and falls out of art altogether. If, on the other hand, the artistic devices and technological equipment whereby it captures that truth of the world are explored and stressed and foreground, “realism” will stand unmasked as merely reality–or realism–effect, the reality it purported to deconceal falling at once into the sheerest representation and illusion (Jameson, 1992: 158).

Chase amends Jameson’s argument on the “unavoidable contradiction” by noting that the contradiction “does not mean that realism can serve no purpose.” Rather, Chase finds, again quoting Jameson, that:

[C]ontrasting reality with its aesthetic representation will always remain pro forma, an exercise which can be infinitely repeated without any advance in knowledge since one is merely rediscovering, so to speak, the same problem inherent within all realistic representation. What a realist critique can, and should, provide is the juxtaposition of two contexts: first, the representational work is understood on its own terms, as part of a larger aesthetic context, and then that totality is reinterpreted in relation to an historical context (Chase: 117).”

Chase footnotes the discussion with a reference to Terry Lovell, *Pictures of Reality: Aesthetics, Politics, and Pleasure* where Lovell argues that:

the validity of the narrative, its realism, does not depend on any one-to-one correspondence between events and characters of the fiction, and those experience in the real social world. . . . [I]t is the narrative structure organised around climax and resolution which constitutes the formal structure of the novel, and it is at this global level of form that correspondence to reality must be sought. In seeking correspondences at the level of incident and character, the naturalists failed to produce the more fundamental correspondence which exists in great realist works . . . (Lovell, 1983).

A film is all surface (so much so that we think of the film as pure entertainment), but a surface so finely etched, made so appealing, that we are drawn to the depth beyond the surface. And it is this getting beyond the surface of the film, that we demand of our students.

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 heros and devils.

The lawyer film, found deficient by conventional legal film critics and their realism critique, may actually “represent far more of the nature of law than we acknowledge,” argues Suzanne Shale (Shale, 1996: 999). Shale outlines a way of thinking about film-making and film

narrative that gets us beyond the conventional indictment of lawyer films as being law and reality deficient. Shale puts it this way:

First, we must consider the narrative conventions that structure the paradigmatic Hollywood movie, shaping it into a tale of heroic odyssey. Second, we must look at the way in which a screenwriter creates a story from the life-stuff of events. In asking how a *story* emerges, I am asking how the writer creates a meaningful, thematic narrative rather than an inconsequential, flat recitation of occurrences. Third, we need to turn our minds to the problem of *plot*—that is, how the meaningful story is presented to the audience as a series of discrete events. Having found a meaningful story in the life events, the screenwriter must still establish a satisfying way of telling it (Shale: 997-98).

Following Shale's instructive commentary, we might pose the following questions for students of lawyer films: (1) What "narrative conventions" do we find in the lawyer film and what do they tell us about lawyers that we might want to make a part of our education? (Is there a lawyer film genre? How does this genre address us as lawyers?) (2) Of what value, to us, and to the public more generally, are the "tale[s] of heroic odyssey" we find in lawyer films? (3) If a screenwriter "creates a story from the life-stuff of events" how are we to navigate the delicate/crude relationship between "the life-stuff of events" and the fiction presented to us in the film? (4) What kind of "*story* emerges" when we become lawyers and how is this emerging story connected to the fictional stories of lawyers we find in films? (5) How does a story, those we live and those we see in films, become "meaningful, thematic narrative[s]" in contrast to stories which are "inconsequential, flat recitation of occurrences"? (6) How is a "meaningful story," in film and in life, to be presented to an audience? (7) Can a "satisfying way" be found to tell the stories we want to tell? What makes for a "satisfying" film lawyer story?

There is more than one course for future lawyers in these questions.

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? Some ask, adjusting their glasses, “what line? Do you see a line? I don’t see a line. You call that a line. Looks more like a scratch of some kind to me. I don’t see any line. There’s no line not to cross here. I need not be concerned.” The lawyer talks, and talks, talks to the world and talks to himself, erasing lines with rhetoric, as he justifies with sophistry what the client wants done. Lawyers 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 then, 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. (And yes, lines get moved because clients want them

moved and lawyers get paid to help do the moving.) And so we shouldn't be surprised that, lawyers with their familiarity with lines, learning as a matter of art and skill to draw near to edges and boundaries, might also be expected to "get out of line" and to cross into forbidden territory.

Lawyer films get interesting, become valuable and instructive, worthy of reading and study, when we are exposed to 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—there are lines, and in crossing some lines there is a price to be paid. 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.) If we see justice done in lawyer films, it is all the more satisfying if it compensates for the injustice that law makes possible, for injustice we experience in ordinary life. We don't expect in lawyer films, or in life, to see every bad act punished, or every violation of the profession's rules sanctioned, or good rewarded and virtue recognized.

The film viewer, holding some modicum of commonsense, assumes, based on everything she knows, and knows lawyers to know, *that the lawyer must know the line is there*. Yet the line gets crossed and it gets crossed so readily that we begin to question lawyers (both in film and in the practice of law). It is this ability of the film viewer to see the line, to read the DO NOT CROSS sign, and to see that the lawyer fails to heed (in film and in life) the warning, that makes for the negative image of lawyers which legal film critics find in lawyer films. Who, the film-viewer/man-on-the-street wants to ask, gives the lawyer the god-almighty power to ignore the lines *we*

know to have been imposed on us (ironically, by law no less)? Is there, we might wonder, something in the character, the training, the selection of those who become lawyers, that make them unable to see what the film viewer can see so readily? And how could Hollywood lawyer films portray this line-crossing in such a deliberate and persistent fashion if lawyers in the non-cinema world—if there can be such a place—do not engage in the kind of line-crossing so vividly dramatized in lawyer films? How is it that otherwise intelligent, trained professionals can be so blind to what the film view knows so well? And by what measure of magic and character do film viewers gain such acute vision that they know and *see* what the lawyer does not? One might conclude that there is a real story to be told in response to these questions. Lawyer films (and the lawyer film genre) make it possible to study lawyers and their transgressions, their crossing of uncrossable lines, the punishments that follow, and the grace of redemption.



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 the Devil. Lomax's threat to right thinking about the legal profession (*we lawyers are simply human beings, with all the flaws of our fellow human beings; most of us are trying to solve problems brought to us by our clients; and yes there are a few "bad apples" in the barrel; we don't need to have our real problems compounded by the negative and unrealistic portrayal of lawyers in Hollywood films which film goes in their uninformed way take to be a representation of what lawyers are really like*) is made more serious

by the fact that he is young, handsome, married to a beautiful wife, and awfully 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, are we not, 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 basically no-good, in theological themes (and the conflict of the great opposites) they are 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 learned 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 (what we have in *The Devil's Advocate* is not the actual crossing-over, but a dream sequence in which we are to assume the cross-over has taken place) 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 (god forbid) about lawyers—that they can be bought, their advocacy put to use by the Devil. Since Hollywood film lawyers need not, even with the constant squeal of legal film critics, conform to our conventionalized thinking about lawyers, and need not present lawyers in the celebratory, wishful way, charted in the phantasies of realists, we find ourselves presented with the lawyer as professional “shadow.” (A person is “persona” and “shadow,” in the Jungian sense, so may a profession have a “persona” and a “shadow.”) The fear of lawyers and legal film critics who warn against Kevin Lomax stories, is that we might actually take them seriously, that the public might actually think that lawyers do the Devil’s work. 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.

The legal commentators who police the virtue of cinema lawyers may be doubly incensed at Kevin Lomax and John Milton (keep in mind that we’ve seen Al Pacino in still a previous reincarnation as film lawyer, Arthur Kirland, in *And Justice For All* (1979), a film in which Kirkland, makes a grand (melodramatic) stand for truth, exposes his evil client, Judge Francis Rayford (Jack Warden), before the jury in which he has been, and some would say, is duty bound, to argue his innocence. Arthur Kirkland’s betrayal of his client’s confidence is ridiculed by legal commentators as a gross violation of the legal profession’s ethical rules, a violation so grotesque that no real lawyer would be tempted to do it. That film viewers—and some fair number of lawyers—might applaud Kirkland’s actions, knowing that he has, upon extreme and persistent provocation, spoken the simple, unvarnished truth, a truth which will obviously be costly (a long suspension from practice if not disbarment), seems lost on legal film critics who chafe at *And*

Justice For All as a debasement of the lawyer's public image. (This debasement derives from Kirkland's defilement of a sacred covenant of a lawyer's ethics—loyalty to the client, zealous representation of the client's interest, preservation of the client's confidences and secrets—an ethical covenant central to our myth as lawyers). That these professional ethical covenants are breached daily, in ways minor and major, behind closed doors, and are routinely exposed for all the world to see, is of less importance to the legal film critic than is Kirkland's challenge to institutional authority, his *public, visible, individualized, ostentatious* violation of lawyer ethics just happens to be a dramatic telling-truth-to-power, a telling of truth that is so unexpected and for which the punishment will be sufficiently great, that we cannot imagine it as real (enjoy the moment of its taking place as we do.)

Self-protection (that is, lawyers defending lawyers) in the guise of lawyer film criticism would have us ridicule Kirkland's naive and hopeless "gesture," a sneer for those like Kirkland who would presume to speak the truth, and speak it where he did—in the courtroom. Since *we* lawyers cannot be the enemy, Kirkland must be a fool, a fool invented by Hollywood to further torment the life and threaten the good work of real world lawyers.

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, over-the-top, 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. Arthur Kirkland's joining up with the Devil made for high drama, and at times compelling drama, even though it may not been crafted as a drama that resulted in a great film.

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 isn't it lawyer films, with their portrayal of lawyers in their dance of good and evil, where we find the real made ludicrous, the ludicrous informing us of the real? And when put to the test, as is Kevin Lomax—and Creon in *Antigone*, Job in the Old Testament of the Bible, 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, and matters still, 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, 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 early on that Kevin Lomax faces a great danger, then we might find it instructive to allow Lomax to go where we—viewers—will not, or assume we will not. The film viewer wants to say to Lomax—“boy, you've got a talent that's a pretty thing to see, now you be careful you don't let this powerful thing you've got lead you astray.” Can't Kevin Lomax see that a powerful talent used indiscriminately and unreflectively can undermine everything that he

believes he *is*? And how can it be anti-lawyer, or a detrimental negative portrayal of a lawyer, to particularize and give full character to the presence of a talent so powerful that it leads to a compact to do the devil's work?

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, and again, staged in popular culture, in literature, and in our daily lives. We do not, and the lawyers in film do not, finally prevail over evil by acting virtuously; we enact virtue for its own good, trusting that we might survive to fight another day. To have and understand heroes, film lawyer heroes and everyday heroes, we must know the reality of failure, lawyers who go astray, and the possibility of tragedy. The failure of the lawyers that we see in lawyer films is an inevitable truth, a truth both entertaining and educational.

An Unusual Law School Course

I was writing an earlier version of this essay, when I received an email message from a reporter for the *National Jurist*. The reporter indicated that she was writing an article about “unusual law school courses.” I don't consider my lawyers and film course unusual at all, and it was tempted to let this reporter find someone else's course to write about. I would argue that working with the lawyers we find in film—in learning to read these films—we are working our way

back to what should be central concerns in a student's legal education: How does one get to be a lawyer? And once you've gotten to be a lawyer what does it mean? What does it mean in terms of who you are and how you live? These "meaning" questions and the existential voids they expose, have everything to do with the most useful kinds of education. That these questions don't appear on the syllabus of most traditional law school courses does not erase them (although it may insure that they are questions to be viewed with deep suspicion). The questions I raise in the lawyers and film course are not, I think, "unusual."



My reasons for teaching lawyer films can be simply stated: We need vivid, compelling representations of lawyers in action (lawyers seeking justice, lawyers blind to the injustice they bring about), by way of stories that prompt us to explore and re-imagine the on-going, unfolding, 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. Lawyers in film, join lawyers in fiction, to 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? (A system may, for all its value, come to threaten an individual or a community. In lawyer films we often find protagonists who rebel against “system thinking.”) How are we to understand and live with the reality of individual failure? How are we to live (and to act) 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—stories we find in film and in fiction—stories that 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.”

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Appendix: Jurisprudence and Film

My “to consider” list for the “Jurisprudence and Film” course which I have never managed to teach includes the following: *The Ox-Bow Incident* (1943), *Twelve Angry Men* (1957), *I Want to Live* (1958), *Inherit the Wind* (1960), *Judgment at Nuremberg* (1961), *The Man Who Shot Liberty Valence* (1962), *Birdman of Alcatraz* (1962), *A Man for All Seasons* (1966), *Cool Hand Luke* (1967), *Z* (1969), *The Paper Chase* (1973), *Mad Max* (1979), *Brubaker* (1980), *The Road Warrior* (1981), *Missing* (1982), *Star Chamber* (1983), *Beyond Thunderdome* (1985), *A Cry in the Dark* (1988), *The Thin Blue Line* (1988), *Reversal of Fortune* (1991), *The Shawshank Redemption* (1994), *Dead Man Walking* (1995), *Mad Max Rashomon* (1952)(1950), *JFK* (1991), *Amistad* (1997), *A Dry White Season* (1989), *Falling Down* (1993), *In the Name of the Father* (1993), *Natural Born Killers* (1994); *Dead Man Walking* (1995), *Ghosts of Mississippi* (1996), *People vs. Larry Flynt* (1996) *Straight Time* (1977), *Incident at Ogala* (1992), *The Insider* (1999), *The Advocate* (1994), *Snow Falling on Cedars* (1999), *The Winslow Boy* (1999), *The Green Mile* (1999), *Dirty Pictures* (2000).

The Thin Blue Line and *Incident at Ogala* are documentary films and the decision to include them in a film course along with fictional (commercial/Hollywood) films presents pedagogical issues, as do films like, *A Man for All Seasons*, *Inherit the Wind*, *Ghosts of Mississippi*, *Reversal of Fortune*, and *People vs. Larry Flynn*. These films are based on the lives of historical characters and events. With both documentary films and real-events-based films, it is all too easy to get side-tracked by the kind of questions that have followed Oliver Stone’s

career as a director and filmmaker: Does this film “accurately” portray the characters and the real world events in which they were involved? Is the film a misreading of history? And what does it mean when real world events and characters are so thoroughly reinterpreted that they become no more than creative impetus for a film? As interesting and important questions as these may be, they may absorb far too much psychic space to allow for the kind of inquires I take up in a law school film course.