

2012

## Misadventures of a Law School Misfit

Harvey Gilmore

Follow this and additional works at: <https://dsc.duq.edu/dlr>



Part of the [Legal Education Commons](#)

---

### Recommended Citation

Harvey Gilmore, *Misadventures of a Law School Misfit*, 51 Duq. L. Rev. 191 (2012).

Available at: <https://dsc.duq.edu/dlr/vol51/iss1/10>

This Article is brought to you for free and open access by the School of Law at Duquesne Scholarship Collection. It has been accepted for inclusion in Duquesne Law Review by an authorized editor of Duquesne Scholarship Collection.

# Misadventures of a Law School Misfit

Harvey Gilmore\*

I.	INTRODUCTION .....	191
II.	A FEW CONCERNS ABOUT LAW SCHOOL .....	192
	A. <i>Hostile, Potentially Abusive Professors</i> .....	193
	B. <i>Welcome to Socratic Madness</i> .....	195
	C. <i>The Dreaded Law School Exam!</i> .....	198
	D. <i>Law School Grades</i> .....	199
	E. <i>Competition</i> .....	203
III.	HOW I GOT TO LAW SCHOOL .....	204
IV.	SOME MORE OF MY MISADVENTURES .....	206
	A. <i>Being a Yankee Fan Going to</i> <i>Law School in Massachusetts</i> .....	206
	B. <i>How I was an Involuntary Participant in</i> <i>Sending My Classmates to Socratic Doom</i> .....	210
	C. <i>Having the Socratic Gun Pointed at Me</i> .....	211
V.	REMEMBER, A LAW DEGREE DOES NOT PIGEONHOLE ONE INTO PRACTICING LAW: FOLLOW YOUR PASSION .....	213
	A. <i>Follow Your Passion</i> .....	213
	B. <i>A Law Degree Can Open Other Doors</i> .....	215
VI.	CONCLUSION: I MADE IT AND YOU CAN, TOO!!! .....	216

## I. INTRODUCTION

If the brilliant, legendary playwright Rod Serling were still with us, he might have described a law school graduate's credentials something like this—consider if you will, the law school graduate's perfect resume: 1) graduated first in his class from "Ivy League University"; 2) graduated first in his class from "Ivy League Law

---

\* Professor of Taxation and Business Law at Monroe College, The Bronx, New York; B.S., Hunter College of the City University of New York (1987), M.S., Long Island University (1990), J.D., Southern New England School of Law (now known as University of Massachusetts-Dartmouth School of Law) (1998), LL.M., Touro College Jacob D. Fuchsberg Law Center (2005). I thank Christine Giuliano and the outstanding editorial team for their friendship, assistance, and most importantly, their patience with this article.

School"; 3) law review editor; and 4) elevation to Big-Firm partnership.<sup>1</sup>

Well, *that ain't me*. I was never a law review editor. I did not graduate in the top ten percent of my class. I did not go to an Ivy League college or law school. I never even finished high school. In fact, the closest I ever came to going to Columbia Law School as a native New Yorker was riding past the 116<sup>th</sup> Street subway station on the D train. When I lived in Massachusetts, the closest I ever came to attending Harvard Law School (in Cambridge) was driving by there after getting lost trying to find Fenway Park in Boston.

That said, it was not as if I scraped by at the bottom of the barrel, either. Actually, I did fairly well in law school and graduated with a B average. Thus, I was not exactly overmatched by law school, either. For all of the horror stories about law school—and they are legion<sup>2</sup>—this piece will hopefully advance the position that law school is not the absolutely unspeakable horror that some people make it out to be. Believe it or not, law school can be a positive undertaking. I enjoyed the experience and came out of it (reasonably) sane. Others can do the same.

## II. A FEW CONCERNS ABOUT LAW SCHOOL

If one believes the horror stories about law school, including intimidating professors, make or break law school exams, the workload, the competition, and the overall pressure to succeed, one would probably run screaming into the night.<sup>3</sup> While I admit that these stories do have some truth to them, I would advise anyone to take them with a grain of salt. Like anything else, law school is what one makes of it. I will now address some of the more common horror stories and hopefully show that even these potentially

---

1. Rod Serling is well known for his career in television and his eventual transition into film writing. He is most famous for writing the television series *THE TWILIGHT ZONE* and for co-writing, with Michael Wilson, the film *THE PLANET OF THE APES* (1968). *About Rod Serling*, *AMERICAN MASTERS* (Dec. 29, 2003), <http://www.pbs.org/wnet/americannmasters/episodes/rod-serling/about-rod-serling/702/>.

2. See, e.g., Andrew Jay McClurg, *Law Stories: One L Revisited – Neurotic, Paranoid Wimps – Nothing Has Changed*, 78 UMKC L. REV. 1049 (2010). See generally SCOTT TUROW, *ONE L*, (Grand Central Publishing 2d prtg. 1988); Andreanna C. Smith, *A Year of Magical Briefing: Contemplating Legal Education and the Solution to the Problem of the Traditional Method*, 3 PHX. L. REV. 375, 375 (2010) ("By the start of my first year in law school, I had heard the horror stories of the workload, tales of cutthroat competition, and most of all, the humiliating experience of the 'Socratic method.'").

3. McClurg, *supra* note 2.

negative aspects are not necessarily harbingers of inexorable calamity and disaster.

A. *Hostile, Potentially Abusive Professors*

If anyone has ever seen the movie “The Paper Chase” or read the novel *One L*, they would be left with an unshakeable impression that the first-year contracts class is *the class everybody* dreaded and that the only mission in life of contracts Professors Charles W. Kingsfield, Jr. (“The Paper Chase”)<sup>4</sup> and Rudolph Perini (*One L*)<sup>5</sup> is to abuse, torture, debase, and humiliate any student whom had the misfortune of being registered into their classes. So, there is a built-in perception that law school professors do not let little things like courtesy and common decency get in the way of drilling students in the finer points of “thinking like a lawyer.”

Professor Kingsfield is a fictional character in a movie,<sup>6</sup> but Professor Perini is supposedly based on one of author Scott Turow’s real life professors at Harvard Law School.<sup>7</sup> If Professor Perini is in fact a real life person, there is at least one other real life law professor who (seemingly) relishes using his lectern as an academic bully pulpit.

University of Michigan law professor James J. White wrote an article several years ago called *Maiming the Cubs*.<sup>8</sup> In it, he completely scoffs at the idea that the stress of law school causes permanent emotional damage in law students, making them dysfunctional in their professional and personal lives long after law school.<sup>9</sup> In addition, Professor White unapologetically states, in no uncertain terms, that until some more concrete information comes along that would convince him otherwise, he will continue to gleefully torture and terrorize his students on a regular basis . . . all in the name of making his students better lawyers.

Assuming for the sake of the argument that law school causes anxiety and depression in students, I am not persuaded either that that anxiety and its associated psychological ills persist after law school or that they can be prevented by even Hercu-

---

4. THE PAPER CHASE (Twentieth Century Fox 1973).

5. TUROW, *supra* note 2.

6. THE PAPER CHASE, *supra* note 4.

7. TUROW, *supra* note 2.

8. James J. White, *Maiming the Cubs*, 32 OHIO N.U. L. REV. 287 (2006).

9. *Id.* at 287-88.

lean efforts at making law school more humane. Until better data come forward, I will continue the traditional law teacher's reign of pillage and abuse. I do that happy in the belief that my hectoring will leave my students better, if momentarily sicker, lawyers.<sup>10</sup>

It is probably inevitable that a law student will have a Professor Kingsfield/Perini/White-type during his or her time in law school. I believe that the best way to minimize any potential trauma from encountering this type of professor is to not internalize any of the professor's caustic remarks during class time. In other words, a student should understand from the beginning that dealing with this type of professor (or a managing partner or judge in professional life for that matter) is par for the course during law school (and eventually in one's career).

Believe it or not, getting to know one's professors outside of class is a *good* thing.<sup>11</sup> Contrary to popular opinion, law professors are people too. And, many law professors are even decent, humane people once a student gets to know them outside of class. In my own law school experience, I am happy to report that I developed personal friendships with my professors that I cherish to this day. This is especially true of those professors who were particularly rough on me when I took their classes. Over the years, several of my professors have generously written letters of recommendation on my behalf when I applied to several LL.M. programs as well as when I first applied for a teaching job shortly after graduating from law school. Luckily, I realized early in law school that the rough treatment I went through was just part of the learning curve and was not an insidious, calculated, personal attack on my character, integrity, or ability to learn the law. I saw it for what it was: just the nature of the law school beast.

On a personal note, after reading Professor White's article,<sup>12</sup> I came to believe that, despite his tough words, Professor White is a person I would like to have dinner and drinks with far away from the law school environment. I would not be at all surprised if Professor White does exactly that with his current and former students. I have had similar experiences with my professors during

---

10. *Id.* at 303.

11. Stephen E. Schilling & Rebecca M. Greendyke, *How to Win a CALI Award: Some Personal Advice from Two Law Students Who Have Done It*, 36 U. DAYTON L. REV. 167, 181-84 (2011).

12. White, *supra* note 8.

and after law school and I have certainly enjoyed their company. And, after eighteen years (as of this writing), they even feel the same about me.

On the other hand, after having read *One L*, I had absolutely no doubt that Professor Perini is far and away the villain of the piece. For me, everything about the man is unlikable. I think he is vain, pretentious, conceited, and absolutely enjoys torturing students as his hobby. Even at the end of the first year when he called his students his friends,<sup>13</sup> one of Turow's classmates commented: "He's got a lot of nerve . . . terrorizing me all year, then saying he's my friend. He's not *my* friend."<sup>14</sup> If I had been a student in his class after he made that speech, well, I probably would have said something equally caustic to him on the spot (thank God for anonymous grading). I would not consider this man (whoever he really is) to be my friend either, and I absolutely would never hire him to do the closing on my house.

### B. *Welcome to Socratic Madness*

I would be lying if I said that the fear of the Socratic method is exaggerated or even overstated; it is quite the contrary. Those of us who went through law school and lived (and maybe even thrived) are intimately familiar with the Socratic method of law teaching. The Socratic method is the pedagogical theory and methodology suggesting that a student is better able to learn the law by answering a series of rapid-fire questions from his professor to resolve a legal issue being presented in class. This requires a student to think on his feet and learn legal principles himself, as opposed to being merely given the answers during the class discussion. By this ideal of self-learning, the law student will be able to come to a resolution of legal issues under his own devices.<sup>15</sup>

The prototypical figure of the Socratic method is Professor Charles W. Kingsfield, Jr., portrayed by actor John Houseman, in the movie "The Paper Chase."<sup>16</sup> Kingsfield's position is that stu-

---

13. TUROW, *supra* note 2, at 255.

14. *Id.*

15. See James R. Beattie, Jr., *Socratic Ignorance: One More into the Cave*, 105 W. VA. L. REV. 471, 477-81 (2003); Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 SEATTLE U. L. REV. 1, 12-13 (1996); Richard K. Neumann, Jr., *A Preliminary Inquiry into the Art of Critique*, 40 HASTINGS L. J. 725, 729-36 (1989); Michael Vitiello, *Professor Kingsfield: The Most Misunderstood Character in Literature*, 33 HOFSTRA L. REV. 955, 961-65 (2005).

16. THE PAPER CHASE, *supra* note 4.

dents teach themselves the law, and his *modus operandi* as the professor is to take the student's skull full of "mush" and mold it to the point where the student will "think like a lawyer."<sup>17</sup>

The most common criticism of the Socratic method is that it is considered to be a blunt instrument that law professors wield as the ultimate weapon of fear.<sup>18</sup> Even if a student is able to successfully answer the professor's questions during class, he or she normally does so under some form of extreme duress.<sup>19</sup> Not only that, no matter how many questions the student answers, he or she is only going to get peppered with more and more questions from the professor until the student finally runs out of wiggle room. Consequently, many students are not only punch drunk from the experience, they are oftentimes left with the indelible impression that the professor would prefer to dismantle the student's position in a classroom debate rather than provide constructive legal instruction.<sup>20</sup>

Even more subversive is the style of inquisition. Just as in Spain in the Middle Ages or in Stalin's Gulag, if you should miraculously manage to produce a right answer, it will never be sufficient. You will always be questioned further through the use of ever more recondite hypotheticals, until you inevitably fail. For in this game of Socratic Madness, you are only allowed to play two roles—fall guy or straight man—depending on whether the professor casts himself or herself as prosecutor/persecutor or as the suave master of subtle nuance and gentle mockery. Either way, the result will be the same. The

---

17. *Id.*

18. TUROW, *supra* note 2, at 263 ("[T]he peculiar privilege which Socraticism grants a teacher to invade the security of every student in the room means that in the wrong hands it can become an instrument of terror . . ."); see also, Karen Neal & Cynthia Sellers, *The Advancement of Women in the Private Practice of Law and Why Guys Should Care*, 45 TENN. B. J., Feb. 2009 at 20, 20 ("Over the past 20 years, law schools, not renowned for embracing radical change (flashback to the feared Socratic Method -- still a thriving instrument of terror).").

19. Pierre Schlag, *Hiding The Ball*, 71 N.Y.U. L. REV. 1681, 1683 (1996) ("But Mr. Jones, now I am confused. You are telling us that . . . . Whereas, a few moments ago, you told us that . . . . Which is it, Mr. Jones . . . ? What do you mean you're not sure, Mr. Jones? Not sure about what? Well then, let me change the facts a bit for you, Mr. Jones . . . .").

20. Harvey Gilmore, *To Failure and Back - How Law Rescued Me from the Depths*, 10 FLA. COASTAL L. REV. 567, 572 (2009).

professor will have the last word. And you will feel used and foolish.<sup>21</sup>

No matter how prepared I was for class, there is something just foreboding about randomly being called on to discuss a case in class, along with the not so vague sense that the professor is looking to take you apart at every turn.

Certainly nothing inspires instant panic like having your name called by a law professor. Few words cause my brain synapses to misfire faster than, "Please brief the case, Ms. Moseley." I stammer and stutter, and between all of the "ums" and "ers" I finally choke out a response, praying all the while that I do not throw up, cry, or, heaven forbid, giggle like a teenager. Twice, out of maybe a hundred instances, have I felt completely humiliated in front of a class."<sup>22</sup>

Realistically, answering questions under the Socratic method can be rather unnerving, even under the best of conditions. So, I do not know that being perpetually scared in every class is the best way to learn something as intense as law.

Still, my early experiences with the Socratic method taught me two very important things. Number one, you had to be prepared for every class, no matter what. Even if you are completely wrong in your analysis, as I was more times than I care to admit, you will, at a minimum, be prepared to the point where you can take your best shot. That way, my professors could never undress me publicly for being unprepared. At times, I might have been an overmatched, babbling idiot, but at least I was a *prepared* overmatched, babbling idiot.

With time and practice, I learned from my mistakes and ended up doing better with it as I went along. In addition, I was in my early thirties when I started law school after several years in the corporate world. I believe those two factors went a long way in helping me deal with the Socratic experience. I think it is much easier for a thirty-something-year-old individual with professional (and life) experience to handle the rigors of law school compared to a twenty-something-year-old individual fresh out of college.

---

21. RALPH WARNER & TONI IHARA, 29 REASONS NOT TO GO TO LAW SCHOOL 50 (4th ed. 1996).

22. Marea De Nice Mosely, *The Reports of Socrates' Demise Have Been Greatly Exaggerated: A Response to Bang Goes the Theory – Debunking Traditional Legal Education*, 3 PHX. L. REV. 367, 371-72 (2010).



The second thing I learned from the daily Socratic ritual was that there was no point in getting scared about it. Like it or not, we as law students will face the Socratic inquisition eventually, no matter how scared we might get. Thus, once you have accepted the fact that you will be on the hot seat (*and* in the professor's cross hairs) sooner or later, you should do everything within reason to make your turn as painless as possible. Obviously, this is easier said than done. However, there is really no other alternative but to go through it. Actually, I found as I went along that I got used to being on stage (so to speak) and it really did get better over time. Did I come up with the right answers every time? I should say not. Did I say some monumentally stupid things in an attempt to break the increasingly deafening silence in the room? Yes, I did that, too. However, I did not dissolve into crazed panic either whenever the Socratic spotlight found me. Like anything else, you live and learn as you go along. Take heart, it does get better.

### C. *The Dreaded Law School Exam!*

If there is one thing that sets law school apart from any other academic experience, it is the final exam. Actually, what I just said is not one hundred percent accurate. In law school, there is rarely such a thing as a "final" exam, *per se*. A "final" exam would mean that a student had taken at least one or two other exams (or had other assessments like papers or term projects) during the semester prior to taking the final exam. This would normally happen in associate's, bachelor's, and master's degree programs. In law school, however, there is only *the* exam. That means, in most law courses, an entire semester's (August through December and January through May) worth of classes, preparation, and studying come down to *one* exam at the end of the semester.<sup>23</sup> Yes, the typical law school exam is an "all or nothing"<sup>24</sup> affair, in which the student's entire semester grade will come from that one test.<sup>25</sup>

---

23. See McClurg, *supra* note 2, at 1050 ("and the fate of most students still rests on a single make-it-or break-it exam.").

24. ANTHONY SUMMERS & ROBBYN SWAN, *SINATRA: THE LIFE* 59 (Vintage Books 2006) ("All or nothing at all. Half a love never appealed to me. If your heart never could yield to me, then I'd rather have nothing at all.")

25. GARY A. MUNNEKE, *HOW TO SUCCEED IN LAW SCHOOL* 18 (4th ed. 2008) ("As a rule law school exams average one hour of exam for each credit hour of class, and in many cases count for 100% of your course grade (one exam – all the marbles!).").

A law school exam can be nerve racking in its own right. When we consider the additional all-or-nothing element, the pressure now ratchets up exponentially. There is now the very real possibility that a law student's academic fate comes down to (figuratively) one throw of the dice. One single exam can make the difference between good standing and academic probation. Or, it can even make the difference between graduating and not graduating.

The other thing about law school grades that creates such angst is this: there is at least one school of thought that suggests a C grade in law school is, in fact, considered a good grade in that it shows that a student possesses at least the requisite professional competence.<sup>26</sup> I also understand, however, that there are current students and employers who might not share that opinion, especially in today's legal job market. Ultimately, whether a C is a good grade depends on whom one asks. A C average results in an overall grade point average (GPA) of 2.0, which is the minimum requirement for a student to remain in good academic standing and eventually graduate.<sup>27</sup> At the same time, however, a borderline student can also find himself one bad exam score away from academic probation or possibly academic dismissal.<sup>28</sup>

#### D. Law School Grades

If having one exam determine a student's grade is bad enough, the wait for the grade is even worse. Assuming that fall semester exams take place in mid-December, students will receive their grades sometime in late January, or later. "During January (and sometimes February or March) first semester grades will be posted."<sup>29</sup> Depending on one's actual exam results, students will likely

---

26. See, e.g., Michael I. Swygert, *Putting Law School Grades in Perspective*, 12 STETSON L. REV. 701, 708-09 (1983) ("[U]nderstand that a 'C' grade signifies at most schools a 'professionally competent' level of work . . .").

27. See, e.g., Thomas A. Schweitzer, "Academic Challenge" Cases: Should Judicial Review Extend to Academic Evaluations of Students?, 41 AM. U. L. REV. 267, 270 n.13 (1992) ("At most institutions, the minimum GPA necessary for retention or graduation is 2.00 on a four point scale, where A is four-points; B, three points; C, two points; D, one point; and F, zero points. Failing to maintain a 2.00 average usually means being automatically placed on academic probation if not outright dismissal.").

28. *Id.* at 270 ("Dismissals are typically for failure to maintain a satisfactory grade point average (GPA), and a single low grade can reduce a marginal student's GPA below the minimum acceptable grade point average for retention or graduation.").

29. MUNNEKE *supra* note 25, at 19; see also Gilmore, *supra* note 20, at 579 ("Therefore, a student might find himself a month into Contracts II without knowing if he passed Contracts I."); Patrick Wiseman, "When You Come to a Fork in the Road, Take It," and Other Sage Advice for First-Time Law School Exam Takers, 22 GA. ST. U. L. REV. 653, 664 (2006)

experience either relief (that they actually did well)<sup>30</sup> or disappointment (that they did not do as well as they had hoped)<sup>31</sup> with their grades. Still, no matter what a student's grade might be, the student must not internalize the grade to the point where he bases his personal self-worth on it. "You must not think of your exam (or paper) grades as a measure of your worth as a person."<sup>32</sup>

Anyone who has seen "The Paper Chase" remembers the final scene where student James Hart receives the letter with his semester grades (Professor Kingsfield gave him an A in Contracts)<sup>33</sup> and folds it into a paper airplane and tosses it into the ocean without opening it. In my humble opinion, *this is not realistic!* I believe that a student needs the final closure of seeing his or her grades (I know I did) irrespective of how he or she did.

Like most law students, I have been on both ends of the grading spectrum. Here is the good side of it. First, to this day, I remember walking out of my first semester Contracts exam thoroughly convinced that I had missed every issue imaginable on the exam and there was absolutely no way I could have got even a respectable grade, let alone passed. I even sneaked out a side door instead of the main entrance to the building because I did not want anyone to see me crying (well, I did not actually cry, but I certainly could have . . . that was how bad I thought I did).<sup>34</sup> When I got my grades one month later, I remember opening the envelope right at my mailbox; I just could not wait to get to the privacy of my apartment . . . I had to know how I did. I was absolutely floored that I actually received an A grade in contracts. I even reviewed my exam with my professor to make sure that it was not a mis-

---

("It remains the practice in most law schools to release first-semester grades when you are already well into your second-semester studies.").

30. R. STEPHANIE GOOD, LAW SCHOOL 101: SURVIVAL TECHNIQUES FROM PRE-LAW TO BEING AN ATTORNEY 106-07 (2004) ("There is no doubt that law school exams and stress are synonymous, but the anticipation is much worse than the reality.").

31. MUNNEKE *supra* note 25, at 19 ("The wait for grades may be agonizing. The actual knowledge of your grades may be worse. Most students are disappointed in some or all of their marks.").

32. HELENE SHAPO & MARSHALL SHAPO, LAW SCHOOL WITHOUT FEAR: STRATEGIES FOR SUCCESS 174 (2d ed. 2002).

33. THE PAPER CHASE, *supra* note 4.

34. See Schilling & Greendyke, *supra* note 11, at 169 n.5 ("The authors can attest to this from personal experience. One of the authors actually wrote on an exam predicting that he would receive a B-. He was indeed surprised when he instead received an A+ and a CALI award. The other author left an exam in tears, convinced she had failed and would be thrown out of law school. She was also very surprised to receive an A+ and a CALI award.").

take. Even in my finest hour as a 1L, insecurity got the better of me. Thank God it was an A and not a mistake.

Second, in my third year, I took a course in Bankruptcy. It was a great course, and the professor was awesome. That exam, however, was the worst exam I had ever taken in academic life (I had exams at the LL.M. level that were much easier). What made it worse was that it was an open book exam, and *I forgot my notebook* (stupid, stupid, stupid!!!). Luckily, I did bring the statute book with me and that saved my hide. The first question was a definitional question, and I could actually visualize what I had written originally in my notebook, but I just could *not* remember that answer to save my life! I thought to myself that I was going to be severely hosed on this one.

I do not claim to be the sharpest tool in the shed, but I had some brilliant classmates in the room with me. *They* walked out of that Thursday night exam shaking their heads. We were all convinced that we were in a train wreck. I could not obsess (well, not that much, anyway) over the exam because I had an exam in Remedies the following Friday morning. I was pleasantly surprised to get a B in the course. When I ran to the professor's office the day after I got my grades, I just thanked him. I did not bother to look at the exam, and I was not going to give him a chance to change his mind. In fact, every time I see him, we still laugh about it, and he jokes that the statute of limitations for any grade change has run out.

Now, the not so good side of law school grades. In my third year, I had taken a course in Law and Literature. Based on the title, I had assumed that the course would deal with how law was presented in film and literature. I figured we would watch legal movies like "Twelve Angry Men," "Witness for the Prosecution," "Philadelphia," "The Verdict," "Anatomy of a Murder," or "The Caine Mutiny" or maybe read legal novels like *A Civil Action*, *The Firm*, *The Client*, or even *One L*, among others.<sup>35</sup> Unfortunately, to my complete disgust, this course was a master's degree level English course. The only thing that this course had to do with law was that the word "law" was in the course title—that's it. I sure as heck did not relocate to Massachusetts from New York to waste

---

35. JOHN GRISHAM, *THE CLIENT* (Doubleday 1st ed. 1993); JOHN GRISHAM, *THE FIRM* (1991); JONATHAN HARR, *A CIVIL ACTION* (1995); TUROW, *supra* note 5; *ANATOMY OF A MURDER* (Columbia 1959); *THE CAINE MUTINY* (Columbia 1954); *PHILADELPHIA* (Tri-Star Pictures 1993); *TWELVE ANGRY MEN* (Metro Goldwyn Mayer 1957); *THE VERDICT* (Twentieth Century Fox 1982); *WITNESS FOR THE PROSECUTION* (United Artists 1957).

three tuition credits reading about alliteration, onomatopoeia, and iambic pentameter. If I cared at all, I could have gone up the street to my local library in Brooklyn to read about that stuff.

By the time I had taken Law and Literature, my writing skills had progressed to the point where my professors were complementing me about it on a regular basis. After all, these people are all experts on legal writing, and consequently, I trusted their judgment (who was I to argue?). We had a take-home paper in lieu of the final exam. As I had always enjoyed and done well in my undergraduate English classes, I figured that I should be able to get at least a B here as well—no matter how much of a waste I thought the course was, or so I thought. I ended up with a C, and a *low* C at that. Again, there are those who believe that a C grade in any law school course is generally considered to be a good grade. Frankly, I would agree with that opinion; a C grade is not fatal.<sup>36</sup> Again, I understand that there are those who would not necessarily agree; reasonable minds can differ. For example, when I scored a C+ in Property II, my immediate reaction was “C” you in Trusts and Estates next semester (for which Property I and II were prerequisites).

Ordinarily, I would have taken a C, kissed my professor’s ring, and got out of Dodge! This is especially true if I believed that I took my best shot and that was as good as it gets. But, with Law and Literature, this was one grade I *still* do not feel good about. The thing that grinds my gears to this day is that I had actually got good grades (some B’s, some C’s, and even an occasional A) in the substantive law courses, only to get sandbagged by a non-descript English class, which I still believe is not a legitimate course for any law school because of the way it was presented. Oh well, I am least secure in the knowledge that I will never be called upon to discuss onomatopoeia in any professional setting for as long as I live, and my Income Tax exams will not be overruled by my department chairperson because they lack iambic pentameter.

The bottom line is that we as law students do get great grades in some courses and then some not-so-hot grades in other courses. This is a fact of life that is par for the course. The trick is to get more good grades than mediocre ones. As long as we adequately

---

36. See, e.g., Monroe H. Fredman, *The Professional Responsibility of the Law Professor: Three Neglected Questions*, 39 VAND. L. REV. 275, 284 (1986) (“A grade of C represents the minimum degree of competency necessary to practice law.”).

prepare and do the absolute best that we can, we cannot ask any more of ourselves than that.

By the end of the year, you will have dissected hundreds of cases. Then, on your own, you will have reviewed every single concept addressed in these cases. After your individual review, you will further refine your understanding of the concepts with your classmates in your review groups. Near the end of the year, you will spend days testing your legal acumen by reading outlines and sample tests. You have given yourself every opportunity to succeed. Whatever happens now will be the product of the best you have to offer. You cannot ask any more of yourself.<sup>37</sup>

### *E. Competition*

A lot of things in life are competitive. We compete for promotions on the job. We compete when we run in school board elections. We compete when we play softball, football, or shoot pool. We even compete when we play chess on our laptop. Law school is no different.

Sure, law school is competitive.<sup>38</sup> We, as students, compete for top grades. We compete to graduate in the top ten percent of our class. We compete for coveted positions on the law review. We compete for CALI (Computer-Assisted Legal Instruction) awards.<sup>39</sup> We compete for top positions after graduation. Like it or not, competition is part of the law school experience. The key, as I have suggested above, is to do the best you can and have confidence in yourself.

In spite of the horror stories about law school, I always had confidence in my ability to navigate law school and do well. Did some

---

37. HERBERT N. RAMY, *SUCCEEDING IN LAW SCHOOL* 192 (2006).

38. Danielle C. Istl, *The Law School Experience: Staying Grounded and Enjoying the Journey*, 80 U. DET. MERCY L. REV. 485, 493 (2003) ("Everyone knows law school is competitive. While many hate that aspect of it, they should acknowledge it exists and is unlikely to change. The key is to allow it to be a healthy competition, not one that destroys your ability to develop satisfying relationships.").

39. See Schilling & Greendyke, *supra* note 11, at 168-69 ("In partnership with the Center for Computer-Assisted Legal Instruction, nearly every law school in the United States gives an award for the student who achieves the highest grade in each class. These awards are known as CALI awards, and winning one is a valued prize. Lawyers regularly give CALI awards a prime spot on their resumes, even when law school is a far-off memory, and students compete to win them, sometimes fiercely. Winning a CALI award is rarely easy, and most law students never win one. For this reason alone, a CALI award is an honored achievement.").

people do better than me in some courses? Yes, they did. Did I do better than some people in other courses? Yes, I did. Do I enjoy lifelong friendships with classmates in spite of who got what? Yes, I do. For example, I certainly did not get mad at any of my friends because they scored an A in Law in Literature while I only got a C. Similarly, nobody was jealous of me when I scored the second-highest grade in Trusts and Estates; and I certainly hold no antipathy against the person who did get the highest grade in the class (whomever that was).

I would have loved to finish in the top ten percent of my class, but it did not happen. By the grace of God, I proved myself to be a good law student anyway. The reality is that everybody cannot finish in the top ten percent. Florida State Professor Lawrence Krieger conducted an experiment in which he asked his first-year class who would like to finish in the top ten percent of the graduating class, and every individual in the class responded that they would.<sup>40</sup> Professor Krieger concluded that if the members considered this success as a need and not just a hope, then the majority of students in the class would have to consider themselves to be failures.<sup>41</sup> In other words, nine out of every ten people in the class would see themselves as failures if they did not reach the Holy Grail of the top ten percent.

Even if you do not finish in the top ten percent, I strongly encourage you not to consider it a personal failure precisely because *it is not a failure*. People have solid academic records and excellent careers after law school without finishing in the top ten percent. I am not a top ten graduate. I am not embarrassed by that fact. Why should I be? What I am proud of is that my own law school track record is pretty good, even respectable (and even winning a CALI award)<sup>42</sup>, and I can bring my track record to the table with anyone else and not be insecure about it.

### III. HOW I GOT TO LAW SCHOOL

We all have our own reasons for going to law school. People go to law school to give a voice to historically underrepresented per-

---

40. Lawrence S. Krieger, *What We're Not Telling Law Students—and Lawyers—That They Really Need to Know: Some Thoughts-in-Action Toward Revitalizing the Profession from its Roots*, 13 J.L. & HEALTH 1, 11 (1999).

41. *Id.*

42. My CALI award was in Negotiable Instruments and Payment Systems while I was in the LL.M. program at Touro Law School in the Spring 2004 semester.

sons,<sup>43</sup> to keep options open,<sup>44</sup> to change the status quo,<sup>45</sup> or even to get rich,<sup>46</sup> among many other reasons. I went to law school for two reasons. First, I always wanted to go to law school,<sup>47</sup> although I did not necessarily want to practice law. Secondly, I was an accountant for ten years before I went to law school.<sup>48</sup> Unfortunately, my career experience was not as fulfilling or as successful as I had hoped.<sup>49</sup> The disillusion of my failing career only got worse with each passing year,<sup>50</sup> and I eventually needed to get out of the corporate hell in which I was living.<sup>51</sup> Fortunately, law school gave me the chance to escape.<sup>52</sup>

Prior to law school, I had experienced the worst of corporate life. I lived with (maybe even for the amusement of) demanding, mi-

---

43. See Mauri Long, *President's Column: It's Worth It*, 25 ALASKA BAR RAG 2 (2001) ("Like many of you, I went to law school to help people in a way they couldn't help themselves.").

44. See, e.g., Bradley G. Clary, *Thinking About Law School: The Big Picture*, 80 U. DETROIT MERCY L. REV. 467, 467-68 (2003) ("My reason for going to law school might not be yours. Some people go to law school not because they want to be lawyers, but because they want the analytical training that law school provides, to help them with other endeavors. Still, others go to law school because they do not know what else to do, and are in a holding pattern waiting for other options to surface. These reasons may cause them to make very different decisions than I made. There is no one correct reason for going to law school that fits all students and circumstances. But it is important for you to understand your reason for attending. Consciously or subconsciously that reason should guide your behavior, and it certainly will affect how you measure your success.").

45. See, e.g., DEBORAH ARRON, *RUNNING FROM THE LAW: WHY GOOD LAWYERS ARE GETTING OUT OF THE LEGAL PROFESSION* 57 (4th Ed. 2004) ("I know some lawyers enter the profession to bring about justice and to make the system better.").

46. See, e.g., Jan M. Levine, *Leveling the Hill of Sisyphus: Becoming a Professor of Legal Writing*, 26 FLA. ST. U. L. REV. 1067, 1079 (1999) ("As was true for many other students in the late 1970s, I went to law school for no particular reason at all, except perhaps because it allowed me to be trained to do something that was prestigious and allegedly lucrative while I deferred the difficult task of figuring out what I wanted to do when I grew up."); see also ARRON, *supra* note 45, at 57 ("But I saw plenty of other lawyers who came into the prosecutor's office merely as a fast track into a civil litigation firm where they could make a lot of money.").

47. Gilmore, *supra* note 20, at 605 ("I knew that I wanted to go to law school.").

48. *Id.* at 574 ("When I started law school, I was thirty-one years old, and I was a former accountant with several years of corporate life already behind me.").

49. *Id.* at 585 ("I found out the hard way that career success and fulfillment were not immediately forthcoming. On top of that, it turned out that it would take more than a decade, plus a career change, before I finally found career fulfillment as a college instructor.").

50. *Id.* at 605 ("I wasted years of my life in a dead end career with nothing to show for it . . .").

51. *Id.* at 590 ("There were a great many days where I left for work before sunrise and got home well after dark every single night. I did this for a career that I could not stand, and where I was wholly unappreciated. Frankly, on many workdays I felt complete and total hopelessness.").

52. *Id.* at 612 ("Yes, law school gave me an escape from the corporate world, and the opportunity for a new occupation.").



cromanaging, and unappreciative bosses. I had endured long hours on the job, and lived with the day-to-day reality of career failure.<sup>53</sup> I eventually came to the realization that things would never improve for me in my professional life.

I must admit here that a major reason that I was ultimately successful in law school was that I was able to just relax and focus on my studies. This seems incongruous to what I have discussed about the pressure of law school, but this is the absolute truth. This is not to say that I did not deal with the stress of sweating out grades, Socratic inquisitions, meeting deadlines, and the like. I negotiated the law school minefield just like everyone else. While I had an idea of what life in law school could be like, I was also reasonably sure that whatever my worst day in law school might be would not come anywhere near my worst day in professional life. However, for me, relatively speaking, law school really was a therapeutic, fun experience. This was something I sorely needed after the bad, unsuccessful dark times of my corporate life.

#### IV. SOME MORE OF MY MISADVENTURES

##### A. *Being a Yankee Fan Going to Law School in Massachusetts*

One of the most important reasons I was blessed to do as well as I did in law school was because I actually had fun in law school. Part of the fun was that I was a native New Yorker attending law school in Massachusetts. I was also (and still am) a lifelong Yankee fan. As baseball fans surely know, one of the most heated, intense, and just plain bitter rivalries in professional sports is between the New York Yankees and the Boston Red Sox. Thus, it was quite an interesting experience for me as a Yankee fan attending law school in the heart of "Red Sox Nation," where virtually all of my classmates were Red Sox fans. Oh by the way, the faculty (yes, the same faculty who would be grading *my* exams) *and* the Dean were also rabid Red Sox fans. This was going to be some ride.

In spite of all that, I had a blast. Did I feel any additional pressure to do well because of this dynamic? Not exactly, pressure really is not the right word here. I will say I had additional *moti-*

---

53. *Id.* at 599, 600 ("The boredom and lack of fulfillment on the job eventually got to the point where I just did not look forward to going to work. In fact, I felt it the most on late Sunday afternoons, at around 5:00 p.m. That is when the depression started to set in, because I knew that all I had to look forward to was just another week of career failure.").

vation to do well. If I did everything I was supposed to do during the semester and did well on my exams, I would show all concerned (myself included) that I was a good law student. That in turn would make it easier for me to talk trash to the faculty, the Dean, and my classmates about their beloved Red Sox. I can honestly say that our repartee back and forth was really in the spirit of fun, and I got a kick out of being one of the few New York domiciliaries willing to stand up for truth, justice, and The Yankee Way.

During my time in law school (1995-98), the Red Sox were enduring an eighty-six year streak in which they had not won a World Series since 1918.<sup>54</sup> The Yankees, on the other hand, were the dominant team of the Twentieth Century, having won twenty-six World Series Championships between 1921 and 2000.<sup>55</sup> Consequently, I became an easy target for the faculty. Not only did they disproportionately call on me to brief cases, but they would also make some not so thinly veiled sarcastic commentary about New York, my team, or me.

Whenever I felt the need to defend myself in class (which was quite often), I was not afraid to respond in kind. For example, I would make sure to make a reference to 1918 (the last time the Red Sox had won the World Series prior to 2004).<sup>56</sup> I would say something like “the court had one thousand nine hundred eighteen reasons to rule as it did.” Or, I would take special pleasure in torturing the faculty by referring to my all-time favorite Yankee team (and also Bucky Dent<sup>57</sup>), the 1978 World Series winner.<sup>58</sup> That was the year the two teams finished tied for the division lead (after the Sox had blown a fourteen game lead on the Yankees)

---

54. Boston Red Sox Team History & Encyclopedia, [BASEBALL-REFERENCE.COM](http://www.baseball-reference.com/teams/BOS/), <http://www.baseball-reference.com/teams/BOS/> (last visited Dec. 29, 2012); see also Parker B. Potter, Jr., *Take Me Out to the Metaphor*, 5 PIERCE L. REV. 313, 320 (2007) (“In an attempt to define the term ‘competitive,’ Judge Pickard of the Connecticut Superior Court took what appears to be a backhanded shot at the Red Sox: ‘From 1918 until last season the Yankees and Red Sox teams were said to have been ‘competitive with’ each other (‘the greatest rivalry in sports’) even though the Yankees had won 26 World Series titles and the Red Sox none.’ Ouch.”).

55. New York Yankees Team History & Encyclopedia, [BASEBALL-REFERENCE.COM](http://www.baseball-reference.com/teams/NYY/), <http://www.baseball-reference.com/teams/NYY/> (last visited Dec. 29, 2012).

56. 2004 World Series (4-0), [BASEBALL-REFERENCE.COM](http://www.baseball-reference.com/postseason/2004_WS.shtml), [http://www.baseball-reference.com/postseason/2004\\_WS.shtml](http://www.baseball-reference.com/postseason/2004_WS.shtml) (last visited Dec. 29, 2012).

57. See Thomas Boswell, *Yankees Beat Red Sox, 5-4 in Playoff; Blinded Piniella Saves Yanks; Dent, Jackson Homer to Win A.L. East Title*, WASH. POST, Oct. 3, 1978, at C3; see also *The Yanks and the Sox: Nobody Lost*, WASH. POST, Oct. 3, 1978, at A18.

58. 1978 World Series (4-2), [BASEBALL-REFERENCE.COM](http://www.baseball-reference.com/postseason/1978_WS.shtml), [http://www.baseball-reference.com/postseason/1978\\_WS.shtml](http://www.baseball-reference.com/postseason/1978_WS.shtml) (last visited Dec. 29, 2012).

and Bucky Dent's home run helped the Yankees win the playoff tiebreaker in Fenway Park.<sup>59</sup> Because the Red Sox played such an important role in the Yankees' championship comeback that year, I consider the 1978 Red Sox to be my all-time favorite Red Sox team also.<sup>60</sup> Finally, no recitation of the Sox's postseason travails would be complete without mentioning Bill Buckner,<sup>61</sup> and how *only* the jinxed, choking 1986 Boston Red Sox could fumble away a World Series championship that was so firmly theirs for the taking.<sup>62</sup> Suffice to say that they blew a two-run lead with the New York Mets down to their final strike, only to lose Game Six, and also Game Seven<sup>63</sup> two nights later. Even I, as a Yankee fan, was completely disgusted by that reversal of fortune. I could live with the Red Sox, our natural enemy, winning the World Series as they did in 2004 and 2007.<sup>64</sup> But seeing the Mets, New York's *other* team, win the championship is painful to this day.

Ten years to the day (October 25, 1996) of Buckner's misfortune, the Boston Herald printed a story about the tenth anniversary of the Sox's near miss back in 1986. The Herald also had a picture of

59. See, e.g., Symposium, *Bankruptcy Reform: Then and Now*, 12 AM. BANKR. INST. L. REV. 299, 329 (2004) ("I mean, I love Phil's analysis because it's a Boston Red Sox view of the world. [Laughter] We didn't win the series this year because we sold Babe Ruth. We didn't get into the World Series this year because Bucky Dent hit a homerun. But this is the year. Right?"); see also James Salzman, *What is the Emperor Wearing? The Secret Lives of Ecosystem Services*, 28 PACE ENVTL. L. REV. 591, 591 (2011) ("I want to start off with a story that a number of you know. I said some nice things about Pace Law School and I meant them. But I am from Boston and I've got to tell you up front, I'm not wild about New Yorkers. Part of it may be 1978 and Bucky Dent's home run that knocked the Red Sox out of the playoffs.").

60. Jon Couture, *New Book Dissects "Greatest Game" and Era*, SOUTHCOAST TODAY (Apr. 13, 2008, 12:15 AM), <http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20080413/SPORTS/804130384/1/SPORTS0702>.

61. Salzman, *supra* note 59, at 591 ("Part of it might be 1986 and Bill Buckner's ground ball error that knocked the Red Sox out of the World Series. I am now over that, mostly, but one of the things that still bugs me is when New Yorkers brag about their tap water.").

62. See, e.g., Dana L. Gatlin, *What the Red Sox need is . . .*, CHRISTIAN SCI. MONITOR, Oct. 30, 1986, at 14 ("There were the Red Sox World Series losses in 1967 and 1975, of course, and Yankee Bucky Dent's 1978 season-ending home run, which will remain forever etched in the memories of Red Sox followers who have perennially watched leads slip away."); see also, *In Boston, Love for Sox Defeats Anger*, N.Y. TIMES, Oct. 29, 1986, at A1 ("Some Red Sox fans were embittered today, remembering all the other years the Sox had found some painful way to lose the World Series with victory in sight. Wherever Bostonians gathered, they shared anger and words of consolation: anger at the loss to the Mets, consolation in the fact that the Red Sox had not done so badly after all.").

63. 1986 World Series (4-3), BASEBALL-REFERENCE.COM, [http://www.baseball-reference.com/postseason/1986\\_WS.shtml](http://www.baseball-reference.com/postseason/1986_WS.shtml) (last visited Dec. 29, 2012).

64. 2007 World Series (4-0), BASEBALL-REFERENCE.COM, [http://www.baseball-reference.com/postseason/2007\\_WS.shtml](http://www.baseball-reference.com/postseason/2007_WS.shtml) (last visited Dec. 29, 2012).

Buckner's infamous defensive gaffe (which resulted in the Mets scoring the winning run in Game Six). That day, I had Commercial Law, and this was a course that was reputedly the most intimidating course at the school. Since I had been an accountant already, I had seen a lot of the subject matter in my professional life and was ahead of the curve compared to many of my less-experienced classmates. I had practical experience dealing with holders in due course,<sup>65</sup> negotiable instruments,<sup>66</sup> and the implied warranty of merchantability,<sup>67</sup> to name a few.

My professor (who is a dear friend) was by far my *biggest* antagonist as a Red Sox fan (this started in first-year Torts, which I will explain shortly). I could not resist the temptation to pour some salt into the psychological wound. So, when I showed up for class, I gave him a blown up picture of Buckner and wished him a happy anniversary. In spite of that, I did well in Commercial Law that semester. By the way, the next night (October 26, 1996), the Yankees beat the Atlanta Braves to win their twenty-third World Series championship.<sup>68</sup> Although I am nuts enough to believe that I would have done well anyway, I will say it again: *Thank God for anonymous grading!*<sup>69</sup>

There are a number of reasons that law professors cherish anonymous grading as much as law students do. First, most of us don't really want to have the power to decide which students have better job opportunities than others. The next best thing to not having that power at all is being able to exercise that power in the most impersonal way possible. Second, most of us professors would not trust ourselves, despite our best intentions, to be completely objective if we knew the identity of the person whose exam we were assessing. Given that some exams will inevitably deserve low grades, it would be hard in a non-anonymous system to give low grades knowingly to identifiable students we like. Anonymous grading as-

---

65. U.C.C. § 3-202 (1977).

66. U.C.C. § 3-104 (1977).

67. U.C.C. § 2-315 (1977).

68. 1996 World Series (4-2), BASEBALL-REFERENCE.COM, [http://www.baseball-reference.com/postseason/1996\\_WS.shtml](http://www.baseball-reference.com/postseason/1996_WS.shtml) (last visited Dec. 29, 2012).

69. See, e.g., Louise Harmon, *Fiction: The Eight O'Clock Class*, 23 LEGAL STUD. F. 405, 408 (1999) ("Mr. Winthrop was one of the really smart ones. In class, he was so undistinguished and indistinguishable at first, that except for his outstanding performance on the midterm, I would never have known he was in the room. This often happened with anonymous grading, that some student whose very existence I was oblivious to would end up with the highest grade in the course.").

tures that our subconscious biases will play no part in the score that we give.<sup>70</sup>

The final reason that most law professors like anonymous grading is that it is good for faculty-student relations. If a student with whom I have a good out-of-class relationship gets a terrible score on my exam, that student and I can generally still have a good rapport despite the bad grade. One reason for this, I am convinced, is that the student knows that there was nothing personal in the grade he received. This is one reason that grading papers in seminars or legal writing courses is a more delicate proposition: both the student and the professor know that the professor is grading the overtly personal product of that particular student.<sup>71</sup>

*B. How I was an Involuntary Participant in Sending My Classmates to Socratic Doom*

As discussed earlier, being called on by your professor to discuss cases under Socratic pressure can be an uncomfortable experience. It is infinitely worse when *you* are the one deputized by your professor to pick his daily victims for him. Believe it or not, that is exactly what happened to me in my first year. How could this have happened? I still cannot believe it happened, and I was there! I had just moved to Massachusetts from New York and I did not know a soul. For the first couple of weeks the only time I saw a familiar face was when I looked in the mirror to shave. My being an instrumentality to Socratic torture began in first-year Torts. I could tell from the syllabus that our professor had a wicked sense of humor and that this class promised to be a lot of fun . . . and it certainly was fun. He also had a longstanding "tradition" of identifying Yankee fans in his class. Once he found out who the Yankee fans were, he would then give them nicknames identifying them with past and present Yankee players. Names like "Babe," "Yogi," "Scooter," "Moose," "Bucky," "Thurman," "Jeter," and "Mariano," the list is endless. My "stage name" was (and still is,) "Mickey." Since I walked into the first day's class wearing my Yankee cap, there was no doubt as to who his stooge was going to be that year.

---

70. Daniel Keating, *Ten Myths About Law School Grading*, 76 WASH. U. L.Q. 171, 173 (1998).

71. *Id.*

The first case we discussed in torts was *Garratt v. Dailey*.<sup>72</sup> Instead of looking at the class roster, the professor turns to me and says “Mickey, pick a volunteer.” *What?* In my complete and total panic, I did the only reasonable thing I could do under the circumstances. I picked the poor joker sitting next to me (he moved to the other side of the room the very next class). From that point forward for the rest of the semester, I had to supply the “victims,” and I could only “volunteer” myself so many times in a class of approximately 100 people. Happily, my classmates never hated me for it; we got along very well. They realized “better that poor chump than me.” While I was a rather sympathetic figure for going through that stunt, I made a bunch of friends (the professor included) in spite of it all.

### C. *Having the Socratic Gun Pointed at Me*

As I mentioned previously, we as law students will eventually have that one fearsome professor. All professors are tough in their own way; what I mean is that there is that one professor whose reputation for inspiring fear precedes him or her. This is the professor students assiduously try to avoid. This is also the professor who will teach *your* section of a *required* course. This person will be your Professor Kingsfield/Perini. This professor will have killer professional and academic credentials (as all law professors do), and you might consider yourself blessed to be in that person’s presence for a few precious seconds outside of class. For example:

Think back to your first days of law school. Think of the shock of the Socratic Method and the complexity of the materials in your casebooks. Remember the authoritative timbre of your first professor’s voice and the fear and awe she inspired. She had written articles and books on multiple topics. She was a national expert in law and [blank], and all you knew about [blank] was a one-semester class in college five years ago. She was a genius and rumored to be really, really tough. She religiously used the Socratic Method and knew more about the law than you would ever know (or, frankly, would ever want to know). You were perpetually nervous and apprehensive, and for those first couple of months you studied

---

72. 279 P.2d 1091 (Wash. 1955) (discussing whether a five year-old child could formulate the intent to commit a battery).

hard, attended class, and diligently attempted to decipher the law's mysteries.<sup>73</sup>

I met my “Professor Kingsfield” in Constitutional Law in my second year. Everything I had heard about her in my first year added up to two words: death and dismemberment. She was a former judge and her reputation was that if your work product was not up to par, she would rip your colon out and smack you with it (figuratively). When I looked at the schedule and saw she was penciled in to teach my section of Constitutional Law, I did the two things any reasonable person in my position would have done. First, I said “Oh s\*\*t!” Next, I tried to see if I could manipulate my schedule to avoid taking her. Yes, I was scared to death (a 32 year old coward). Unfortunately, every possible scheduling combination I could come up with had a course conflict; it was almost as if the registrar had set it up on purpose just to put the hose to me.

As always, I was prepared for every class and the few times she called on me early in the semester the Socratic dialogue went well. I really did know what I was doing, and I believe *she* even thought I knew what I was doing. Additionally, I would go to see her during her office hours and she was extremely helpful. We got along famously, and we are friends to this day. Make no mistake here; no matter how nice and accommodating she might have been away from class, there was no question about who was in charge during class time.

One day, she called on me to discuss another case. I had done reasonably well up to a point, said point being her last question. I do not remember what I said, but I certainly remember what she said. She said “That was a brilliant answer, but it was completely unresponsive. Now does somebody have a clue regarding the question I just asked?” Ouch. Needless to say, if I had to pick out my finest hour in 2L, that would not have been it. As harsh as that incident was, however, this was only a minor discomfort compared to my lowest point ever in corporate life. A former boss of mine, after he did not like one of my answers to his questions about a tax return, in front of the entire office, yelled at me: “You’re a God-damned idiot!” (If I could have broken his jaw on the spot, I would have.) Having gone through this type of professional humiliation (and having lived to tell the story) is why I tru-

---

73. Benjamin Barton, *Review Essay: The Emperor of Ocean Park – The Quintessence of Legal Academia*, 92 CAL. L. REV. 585, 585 (2004).

ly believe that being on business end of a Socratic cross examination is not always the bitter fright fest that some make it out to be.

I did redeem myself in class the very next day. She called on me to do another case and everything went smoothly. At the end, she asked me if there was anything I would like to add. I said something to the effect that since I do not want to be killed again for being non-responsive, I will shut up now. The look on her face suggested to me that she thought I recovered nicely. As tough as it may appear to do, I believe that if one does not lose his or her self-confidence and can stand up for himself even in the heat of Socratic cross-examination, one will not only survive the experience, but even thrive because of it (by the way, I got a B in Constitutional Law).

#### V. REMEMBER, A LAW DEGREE DOES NOT PIGEONHOLE ONE INTO PRACTICING LAW: FOLLOW YOUR PASSION

There is one very important piece of advice that I always give my accounting students, and that is to follow their passion when pursuing their careers. I pass along that same advice to anyone currently in law school, or contemplating going to law school, or in a completely different line of work. Getting a law degree does not automatically mean that one has to practice law if one does not want to do so. Actually, while my friends were in their navy-blue or charcoal-gray power suits interviewing with recruiters, I was in my loud golf shirts and sweats shooting pool in the student lounge. I already knew that I was not going to practice law. Instead, I went straight into academia after finishing law school, and it is easily the best career decision I ever made.

##### A. *Follow Your Passion*

There is nothing worse than being stuck in a career that one just does not like. As a former attorney once recalled:

In 1987, I was working on a month long project in Washington, D.C. when the associate review committee called me from New York to give my annual critique. They said, "You're doing fine, blah, blah, blah, but you don't have enough initia-



tive.” “There’s a good reason for that,” I wanted to say, “I hate doing this.”<sup>74</sup>

I have been there. I hated my career to the point where I could not get a good night’s sleep because I knew and dreaded what was coming tomorrow. Once one’s career pursuit deteriorates to that point, I firmly believe that it does not matter how good the money might be, or how good the other job perks might be. In my opinion, nothing can ever be worth going through chronic disillusion and chronic disappointment in one’s career. Therefore, when pursuing a career, one should enjoy what one does for a living. There is absolutely nothing wrong with making some decent money while doing what one enjoys.

Don’t be impatient; somewhere along the line, you will find your passion. And when you do, don’t let money be the determining factor. Money is secondary. When you like what you’re doing and do it well, money will follow. Money should never be a primary driver – passion for the work should be the driver.<sup>75</sup>

As of this writing, I have been safely out of the corporate world for eighteen years now, and I have been teaching for fifteen years now. I just stand in front of a classroom and talk about what (little) I know, whether it is tax-free incorporations,<sup>76</sup> what constitutes gross income,<sup>77</sup> or discuss whether writing the particulars of a purchase and sale agreement on a restaurant check created a valid contract,<sup>78</sup> among others. In my humble opinion, there is nothing better than enjoying one’s professional occupation, *and getting paid for it*. In fact, this always reminds me of the original version of the movie “Ocean’s Eleven” (starring the legendary Rat Pack),<sup>79</sup> in which one of the co-conspirators who helped burglarize five Las Vegas casinos remarked: “If it had been any easier, I would have been ashamed to take the money.” (That is the best

---

74. ARRON, *supra* note 45, at 96.

75. Tony Alvarez, *A Tribute To Tony Alvarez and Bryan Marsal: Acceptance Remarks*, 20 EMORY BANKR. DEV. J. 7, 8 (2011).

76. I.R.C. § 351 (2006).

77. I.R.C. § 61 (2006).

78. *Lucy v. Zehmer*, 84 S.E.2d 516, 518 (Va. 1954).

79. OCEAN’S ELEVEN (Warner Brothers 1960). The members of the Rat Pack were Frank Sinatra, Dean Martin, Sammy Davis, Jr., Peter Lawford, and Joey Bishop.

quote in the movie, and my all-time favorite movie line.) Therein lies the beauty of career satisfaction.

### *B. A Law Degree Can Open Other Doors*

For those people who have law degrees but have no desire to practice law (like me), the great news is that a law degree can lead to fulfilling careers having nothing to do with practicing law. “A law degree is a starting point for a multitude of career opportunities. If you do something really well, a place will open up for you.”<sup>80</sup> Not only did my law degree open the door for me to get into academia, but a law degree can open doors to other fulfilling careers, such as business consulting, investment banking, sports management, non-profit work, or even movie production, to name a few.

There are three basic skills that a lawyer acquires in law school and during the course of his/her practice: the ability to write, the ability to orally communicate, and the ability to critically think outside of the box. These three skills are readily transferrable to other careers and leadership positions outside of the law. They transfer to the world of business, not-for-profit groups, and the regulation and enforcement industry for starters. A juris doctor degree along with an undergraduate degree or background in business (and perhaps an MBA) can lead to a high-level corporate position. What about the practicing lawyer who decides it’s time to try something new? There are obvious choices: become a politician, a law professor, or a famous author of mediocre but wildly popular legal fiction novels. There is much more out there, however.<sup>81</sup>

I knew during law school that I did not want to practice law, and instead wanted to get a job teaching taxation and business law courses. I already had practical experience doing tax work, and a law degree would give me additional credibility to teach business law. My workdays are nowhere near the pressure-packed workdays that I had in the corporate world. If anyone

---

80. Michelle Mann, *Write Your Own Job Description*, NULLI SECUNDUS Spring 2003, at 7, 10 (quoting Diana Miles), available at <http://www.uwindsor.ca/law/sites/uwindsor.ca.law/files/NulliMay03.pdf>.

81. Jeanine L. DeBor, *Women in the Law Division Page: What Else Can You Do With a Juris Doctorate?*, 10 LAW. J. 8 (2008); see also ARRON, *supra* note 45, at 57.

were to ask me my job description today, it would be this: I walk into a classroom, tell stories for a few hours, and then I go home.

## VI. CONCLUSION: I MADE IT AND YOU CAN, TOO!!!

Needless to say (but I will), going through law school is a painstaking, meticulous, endeavor. It is not for the faint hearted. It is a marathon, not a sprint. Going through law school is not easy, nor is it supposed to be. After all, if getting a law degree was easy, *everybody* would get one.

Law school was good to me, and I certainly enjoyed the experience. The thing to remember about law school is this: even though a lot of horror stories about law school are true,<sup>82</sup> it is also true that students do thrive and graduate from law school.<sup>83</sup> Yes, law school will be rough at times. However, even a misfit like me did well in law school. I never saw it as an insurmountable horror.

Law school does *not* have to be a soul crushing, demoralizing experience. Success in law school is neither unimaginable nor impossible. On the contrary, judging from just my own experience, law school *can* be fun. If I can handle law school, you can too. "It is an experience that only a fellow survivor can understand."<sup>84</sup> The fact that law school can be a positive, rewarding experience is not at all farfetched, as many others have attested.<sup>85</sup> At the end of that one of a kind experience, you too can say (like I have done many times since . . . in the privacy of my own mirror): I did it! I *am* smart! It was *not* a fluke! Thank God!

---

82. Istl, *supra* note 38, at 485 ("Unfortunately, those horror stories are generally true.").

83. *Id.* ("But obviously the workload is not insurmountable - law schools all over the world graduate persons who have managed to get through it.").

84. *Id.*

85. See, e.g., Virginia C. Downs, *Department: Yankee Justice: The Lighter Side of Vermont Law: Ralph Foote: A Would-be Journalist Turns to the Law*, 35 VT. B. J. & L. DIG. 20, 20 (2009) ("Frankly I loved law school. In fact, I liked the academic work far better than I had enjoyed other schools. So I had three very pleasant years there and graduated."); Linda Diane Henry Elrod, *Washburn Law School Celebrates a Century of Welcoming Women*, 42 WASHBURN L.J. 853, 886 (2004) ("I loved law school from the beginning. There was a certainty and an exhilaration in finding my niche."); Michael J. Gerhardt, *Teaching Federal Courts: Federal Judges as Problem Solvers*, 53 ST. LOUIS L.J. 729, 733 (2009) ("Last but not least, teaching a Federal Courts class provides an excellent (albeit not the only) opportunity to show that law school can be fun."); Susan Palmer, *Jean Myers: The Journey of a Lawyer Educator*, 29 VER. B. J. & L. DIG. 22, 23 (2003) ("I was scared silly a lot of the time but I absolutely loved law school . . ."); Wiseman, *supra* note 29, at 664 ("When your exams are over, take some well-earned time off, and spend it with those loved ones whom you've been ignoring too much for the last few months! When you return to school refreshed, enjoy the rest of your time in law school; while hard work, law school really can be fun.").