

ADVOCACY TO ZEALOUSNESS

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Learning Lawyering Skills from Classic Films

Kelly Lynn Anders

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*To Charles and Jeanne Banks,
I miss you dearly.*

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Although it might be a bit unusual to thank someone whom I've never met, I also wish to extend a note of gratitude to Tom Hatten. Growing up in Southern California, I used to watch his program, *Family Film Festival*, every Sunday on KTLA. A cartoonist and an actor, Hatten would show a classic film, along with vintage *Popeye* cartoons or a *Little Rascals* short film. During breaks, he would sketch on a large tablet and relay interesting trivia about whatever was being shown that day. It was through this weekly program that I first saw Bob Hope and Bing Crosby in their various "Road" pictures, heard details about directors and studios, and enjoyed an occasional interview with a guest. I looked forward to it each week.

What if Hatten had wrongly assumed that younger viewers would not be interested in such historical fare? What treasures we would

very likely have missed out on discovering until much later in our lives, if at all. His wonderful program opened my eyes to film history, which eventually led to graduate study in film theory and criticism, and a stint as a film reviewer for the *Omaha World-Herald*. In essence, *Family Film Festival* served as a catalyst for my fascination with classic and modern films. Movies provide a snapshot into our shared history, values, and dreams. Each one reflects a moment in time that can enable viewers to simultaneously look back and move forward.

Finally, I thank everyone who shares my love of film and reads this book. Regardless of whether you picked it up due to a personal interest, or because it was assigned reading, I am honored to have a few moments of your time. I hope you find it useful and illuminating.

Kelly Lynn Anders
October 27, 2011

Introduction

Legal education is at an exciting crossroads—one that, if approached creatively and proactively, can lead toward great strides in more effectively teaching law students and new practitioners the lawyering skills they will need to succeed in the new millennium. Although some traditions of the past deserve to be respected and preserved, many current and future needs warrant immediate attention and action. With the pervasiveness of technology, increased job movement, and highly-varying levels of economic stability, the idea of new lawyers taking a few years to learn the ropes on the job is an obsolete luxury of days gone by. Nowadays, lawyers need to graduate from law school already equipped with the skills to immediately function and thrive as new members of the legal profession. Many of these skills are not theoretical in nature; rather, they are practical and essential tools that every lawyer needs to be marketable, build and maintain a solid reputation and law practice, and, over time, to attain economic success.¹ Sadly, many are not

1. See, e.g., William M. Sullivan, et al., *Educating Lawyers: Preparation for the Profession of Law* (San Francisco: Jossey-Bass, 2007). Included in the report's "Summary of Findings and Recommendations" is the following advisory: "Law schools fail to complement the focus on skill in legal analyses with effective support for developing ethical and social skills. Students need opportunities to learn about, reflect on and practice the responsibilities of legal professionals. Despite progress in making legal ethics a part of the curriculum, law schools rarely pay consistent attention to the social and cultural contexts of legal institutions and the varied forms of legal practice." (Source: <http://www.carnegiefoundation.org/publications/educating-lawyers-preparation-profession-law>, last accessed August 29, 2011.)

entering the profession with the modern skills they need to succeed.²

Advocacy to Zealousness includes 26 skills, listed in alphabetical order and appearing in separate chapters, which should ideally be in every lawyer's toolbox. Each is an example of professionalism, and all are possible for every current or future lawyer to attain or sharpen. They also speak to our needs in the legal profession in the new millennium. Interspersed throughout the text are subtle references to diversity, both in the practice of law, as well as in various film references and storylines.

Each film has been carefully (if not painstakingly) chosen for its representation of particular skills, as well as for its contributions to the promotion of increased diversity in the legal profession through depictions of diverse characters. To be eligible for inclusion, each film had to have been released before the modern film rating system was adopted.³ The rationales for these limits are threefold: first, films made during this period (known as "code"

2. There has been much debate about the development of lawyers who are immediately equipped for modern law practice. A very recent example occurred during the American Bar Association's (ABA) meeting in Toronto in August 2011, when the ABA's House of Delegates approved a New York State Bar Association resolution concerning the need for law schools to create more "practice-ready" lawyers. The text of the proposal reads, in part, "We used to think that being a good lawyer simply meant knowing the law. Today, we are more likely to think that good lawyers know how to *do* useful things with the law to help solve client problems. Society has shifted from a static understanding of professional competence as memorized knowledge to a dynamic conception of lawyers adding value through judgment and their ability to manage and solve complex problems. This dynamic conception of lawyering is both promising and demanding. More is expected of lawyers today, and these heightened expectations are particularly stressful for young lawyers. Too many law students and recent graduates are not as well prepared for the profession as they might be. Law schools, bar examiners, the judiciary and the bar owe more to our young colleagues in these difficult times." (Source: <http://www.nysba.org/AM/Template.cfm?Section=Home&Template=/CM/HTMLDisplay.cfm&ContentID=53622>, last accessed August 29, 2011.)

3. As referenced on the Motion Picture Association of America's (MPAA) *Ratings History* page, the modern rating system was officially adopted on

films⁴) lack the nudity, profanity, and graphic violence found in many modern films, making them easier to show in a variety of classroom settings; second, many law students and young lawyers have not yet seen these films, which exposes these classics to a new audience; and finally, all are available in Digital Video Disc (“DVD”) format. Additionally, most of the original trailers for these films are available for viewing online.⁵

For many classic film buffs, this compilation may include familiar titles. For others, this list involves a surprising array of stories that may be presented cleanly, but are never dull. In fact, these filmmakers’ ability to convey decidedly sensitive and controversial topics without the creative crutches of nudity, violence, or expletives is an impressive and refreshing feat. As is true with any art form, what is seen is as important as what is not seen, and the use of imagination and nuance can go a long way in conveying a point.

Each chapter includes a discussion of the skill and its use for lawyers, a synopsis of the film associated with the skill (which does not reveal the ending), film discussion questions, and brief exercises for improvement. The format encourages readers to either me-

November 1, 1968. (Source: <http://www.mpaa.org/ratings/ratings-history>, last accessed August 26, 2011.)

4. With the formation of the MPAA in 1922, the industry took its first step toward self-regulation. It required its members—the major motion picture studios, which then were responsible for virtually all U.S. film-making—to submit films to the Production Code Administration for approval prior to distribution. The Hays Code, as it became known in honor of the first MPAA President, Will Hays, featured a detailed and extensive list of rules. (Source: http://www.filmratings.com/filmRatings_Cara/#/about/, last accessed August 26, 2011.) Full text of the code’s guidelines is available at *History Matters: The Motion Picture Production Code of 1930*, <http://historymatters.gmu.edu/d/5099/> (last accessed August 26, 2011). See also Bob Mondello, *Remembering Hollywood’s Hay’s Code, 40 Years On*, National Public Radio, August 8, 2008. (Source: <http://www.npr.org/templates/story/story.php?storyId=93301189>, last accessed August 26, 2011.)

5. Original film trailers may be found on various websites, including *The Internet Movie Database* (www.imdb.com) and *Turner Classic Movies* (www.tcm.com).

thodically review each chapter in alphabetical order, or skip around as needs and interests dictate. The book concludes with a comprehensive index.

Images, be they positive or negative, are powerful and long lasting. Those found in popular films are often our only points of reference until we meet the real thing—or assume the role ourselves. As an example, in my previous role as Associate Dean for Student Affairs at Washburn Law School, I would address incoming students during orientation week about *Keeping Law School in Perspective*. A segment of my remarks addressed how law students are depicted in the movies.⁶ Popular cultural references are something we all share, and they can build excellent bridges for illuminating and understanding concepts and situational challenges—including legal education and the practice of law. To illustrate this point, I would discuss one film per decade, from the 1970s to the new millennium. These films were *The Paper Chase*,⁷ *Soul Man*,⁸ *The Pelican Brief*,⁹ and *Legally Blonde*.¹⁰

By a show of hands, I'd ask the students whether they had seen these films. Not surprisingly, most had typically watched *Legally Blonde* and *The Pelican Brief*, a handful had seen *The Paper Chase*, and the fewest hands were raised for *Soul Man*. I'd ask volunteers to provide synopses of each film.

The Paper Chase involved a young man from the Midwest who attends Harvard Law School and falls in love with the daughter of one of his professors. *Soul Man* tells the story of a young man who takes pills to alter his complexion so that he can qualify for a minority scholarship to attend Harvard Law School. In the process, he

6. This example was included in the author's article, "Comedies of Error Shape Views of Law Schools, Lawyers," which was published in *The National Law Journal* on September 5, 2011, and in *Texas Lawyer* on September 6, 2011.

7. *The Paper Chase*, directed by James Bridges (20th Century Fox, 1973).

8. *Soul Man*, directed by Steve Miner (New World Pictures, 1986).

9. *The Pelican Brief*, directed by Alan J. Pakula (Warner Bros., 1993).

10. *Legally Blonde*, directed by Robert Luketic (Metro-Goldwyn-Mayer, 2001).

falls in love with an African-American classmate, and discovers that the experience of living as a black man is more than skin deep. *The Pelican Brief* focuses on a bright young woman who attends Tulane Law School and inadvertently writes a brief that exposes corruption at the highest levels of government. Finally, *Legally Blonde* chronicles the adventures of what happens when a sorority girl gets serious at Harvard Law School and in the courtroom.

Then, I'd ask the group what these films have in common. Through our discussion, they would discover that in three out of four, the main character (a likable law student who is always a "fish out of water" in a new and hostile environment) attends Harvard Law School. The exception was Darby Shaw in *The Pelican Brief*, who attended Tulane.¹¹ Three out of four films included storylines that featured a frightening and formidable law professor. Again, *The Pelican Brief* is the exception. The nice professor in that film—who may not have been all that sympathetic due to his inappropriate relationship with a student—was killed at the start of the film. This fact always garnered a few awkward chuckles.

"So, what do these discoveries tell us?" I'd ask to a sea of blank stares. "Is every law student a likable 'fish out of water' who goes to Harvard?" A few would smile, and heads would slowly move from left to right. "Of course not," I'd continue, "but that's not what many people think, and these images are some of the first pictures your clients may envision when they meet you."

I would then go on to explain how many people make assumptions about lawyers and law school based on what they see on television and in the movies, and that many of these images are formulaic, repetitive, and just plain wrong. To be fair, these films also feature some basic truths about law school that deserve to be acknowledged, and we would discuss those, too. First, law school is hard. Second, it requires adjustments. Third, there are benefits

11. According to trivia associated with *Legally Blonde* on *The Internet Movie Database* website, the character of Elle Woods was originally set to attend The University of Chicago, but school administrators objected to the harassment storyline, so she became Harvard bound instead. (Source: <http://www.imdb.com/title/tt0250494/trivia>, last accessed August 26, 2011.)

to working through initial challenges and sticking with the process. Finally, Harvard Law may be a great school, but there are many others. Years later, when I see my former students, they often tell me that my *Keeping Law School in Perspective* address is one of the few memories they have of orientation, and it positively impacted their experiences in law school. Many have also advised me that they were inspired to see the films.

Much like my discussion with first-year law students that compared experiences (both real and reel) to the actual law school environment, films can also be used to successfully highlight elements associated with the practice of law, and to inspire fruitful discussions of professionalism. Many professors already use film clips in their classes, but, until *Advocacy to Zealousness*, there was no singular point of reference for films selected solely for the purpose of fostering and sharpening lawyering skills.

Legal skills training needn't be dry or cumbersome. With creativity and planning, it can instead be educational, memorable, and enjoyable—while also remaining comprehensive and relevant—thereby enhancing the practice of law and the legal profession as a whole. Our current and future legal professionals, and the clients they serve, deserve nothing less.