

Articles

Families, Law, and Literature: The Story of a Course on Storytelling

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Introduction

IT HAS BEEN SAID THAT “literature helps us understand others. Literature helps us sympathize with their pain, it helps us share their sorrow, and it helps us to celebrate their joy.”¹ The relationship between literature and lawyering is the subject of much discussion among law professors in both law journal articles² and academic symposiums devoted to the topic³ because the stories in works of fic-

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1. Carrie Menkel-Meadow, Symposium, *Case Studies in Legal Ethics: Telling Stories in School: Using Case Studies and Stories to Teach Legal Ethics*, 69 *FORDHAM L. REV.* 787, 792 (2000) (quoting ROBIN WEST, *NARRATIVE, AUTHORITY & LAW* 263 (1993)).

2. Mary Ann Becker, *What is Your Favorite Book?: Using Narrative to Teach Theme Development in Persuasive Writing*, 46 *GONZ. L. REV.* 575, 576 (2011) (“Literature aids a student in developing the client’s point of view because by having had that familiar experience of being a reader of books, they are able to identify with those big themes—love, hate, revenge, fate—and better develop a theme that comports with their client’s point of view in a legal brief.”); see Elizabeth Villiers Gemmette, *Law and Literature: An Unnecessarily Suspect Class in the Liberal Arts Component of the Law School Curriculum*, 23 *VAL. U. L. REV.* 267, 267–70 (1988–1989); see also Menkel-Meadow, *supra* note 1, at 793; Elizabeth Villiers Gemmette, *Symposium on Legal Education: Law and Literature: Joining the Class Action*, 29 *VAL. U. L. REV.* 665, 665–67 (1995) [hereinafter Gemmette, *Symposium on Legal Education*].

3. See, e.g., Philip N. Meyer, *Will You Please be Quiet, Please? Lawyers Listening to the Call of Stories*, 18 *VT. L. REV.* 567, 567–68 (1994) (introducing an Interdisciplinary Symposium Exploring the Use of Storytelling in the Practice of Law); *Applied Storytelling Conferences*, LEGAL WRITING INST., http://www.lwionline.org/applied_storytelling_conferences.html

tion, memoirs, and other nonfiction accounts are seen as a means to enhance students' understanding of both the technical and human aspects of legal representation. This developing body of scholarship and academic discourse prompted a movement to support literary studies in law school, spawning a variety of perspectives on how to teach students to use clients' stories to the best advantage in their role as advocates.⁴ While the complexity of the evolution in storytelling pedagogy causes consternation among some,⁵ others embrace the opportunity it presents.⁶ Arguably, the diversity of these academic endeavors enrich the movement's creative capacities⁷ and will likely continue to inspire ways of using literary pursuits (both reading and writing) to further the education of would-be lawyers.

No matter the standpoint on teaching methods, learning the rudiments of storytelling is a necessary curricular activity for law students.⁸ Professor Elizabeth Villiers Gemmette, who has collected data on law and literature courses taught in law schools throughout the country, comments that the value of storytelling is undisputed.⁹ Ac-

(last visited Aug. 20, 2014) (describing date and speakers of the next Applied Legal Storytelling Conference).

4. See generally Stefan H. Krieger & Serge A. Martinez, *A Tale of Election Day 2008: Teaching Storytelling Through Repeated Experiences*, 16 J. LEGAL WRITING INST. 117, 145–46 (2012) (noting further that among the scholarly articles in the annals of storytelling pedagogy are: Bret Rappaport, *Tapping the Human Adaptive Origins of Storytelling by Requiring Legal Writing Students to Read a Novel in Order to Appreciate How Character, Setting, Plot, Theme, and Tone (CSPTT) Are As Important As IRAC*, 25 T.M. COOLEY L. REV. 267 (2008) and Brian J. Foley & Ruth Anne Robbins, *Fiction 101: A Primer for Lawyers on How to Use Fiction Writing Techniques to Write Persuasive Fact Sections*, 32 RUTGERS L.J. 459 (2001)).

5. See Gemmette, *Symposium on Legal Education*, *supra* note 2, at 678 (noting that the evolution of the movement's narrative strand has provoked concerns that it will cause critics to dismiss law and literature as an unfocused endeavor).

6. See, e.g., Interview with Peggy Cooper Davis, Professor of Law, New York University Law School, in N.Y., N.Y. (July 26, 2010) (discussing, among her several scholarly interests, the value of using narratives to teach relational skills to law students). Professors Anthony Amsterdam and Jerome Bruner have taught a course titled "Lawyering Theory Seminar: Crime and Punishment, Vengeance and Forgiveness" at New York University Law School. The course involves reading plays (AGAMEMNON and WILLIAM SHAKESPEARE, TITUS ANDRONICUS), novels (GRAHAM GREENE, BRIGHTON ROCK (1938) and HERMAN MELVILLE, BILLY BUDD (1962)), and viewing films (DEAD MAN WALKING (1995 Gramercy Pictures) and MYSTIC RIVER (2003 Warner Bros Pictures), among other requirements. I was a participant observer in that course in the fall of 2010.

7. See, e.g., Becker, *supra* note 2, at 575–76; Interview with Peggy Cooper Davis, *supra* note 6 (discussing, among her several scholarly interests, the value of using narratives to teach relational skills to law students).

8. See Carolyn Grose, *Storytelling Across the Curriculum: From Margin to Center From Clinic to Classroom*, 7 J. ASS'N. LEGAL WRITING DIRECTORS 37, 46 (2010) (explaining that studying narrative theory has the ability to mold better lawyers).

9. Gemmette, *Symposium on Legal Education*, *supra* note 2, at 677.

knowledging storytelling as an essential component of legal practice, Professor Philip N. Meyer explains that “[O]ur legal culture is a storytelling culture. Practitioners and appellate judges are storytellers, and legal academics are increasingly sensitive to storytelling forms and aesthetics.”¹⁰ As Meyer notes, storytelling is embedded in the law.¹¹ Successful courtroom advocacy hinges on presenting the facts of the client’s case in a form that is compelling to the judge and the jury; the most successful litigators are effective raconteurs.¹² In the policy-making arena, legislation is frequently enacted because it is grounded in a particular narrative featuring an individual’s plight.¹³ Name-based laws such as Ryan’s Law, Kendra’s Law, and Tyler’s Law are rooted in captivating tales of human predicaments,¹⁴ prompting legislators to empathize with the challenges faced by these legal protagonists and to

10. Meyer, *supra* note 3, at 567.

11. *See id.*

12. Drew Westen, Op-Ed, *What Happened to Obama?*, N.Y. TIMES (Aug. 6, 2011), <http://www.nytimes.com/2011/08/07/opinion/sunday/what-happened-to-obamas-passion.html> (“[R]esearch in cognitive science has shown, lawyers whose closing arguments tell a story win jury trials against their legal adversaries who just lay out ‘the facts of the case.’”).

13. *See generally* Nancy Levit, *Reshaping the Narrative Debate*, 34 SEATTLE U. L. REV. 751, 756 (2011) (“Narratives have encouraged law reform in many different domains.”); *see also* Arkadi Gerney, *Guns and My Mother*, THE NEW YORKER (May 10, 2013), <http://www.newyorker.com/online/blogs/newsdesk/2013/05/guns-and-my-mother.html> (“[I]t’s the stories of the people whose lives are changed [by gun violence] that can help to permanently change the debate.”).

14. Ryan’s Law, S.C. CODE ANN. § 38-71-280 (2013); Justine Redman, *Mom Wins Fight for Autism Insurance*, CNN.COM (Apr. 1, 2008, 3:24 PM), <http://www.cnn.com/2008/HEALTH/conditions/04/01/autism.insurance/index.html?iref=topnews#cnnSTCText> (describing that a new law requiring insurance coverage for autism treatments was prompted by the story of a boy whose family could not afford to pay for services for autistic children); Kendra’s Law, N.Y. MENTAL HYG. LAW § 9.60 (McKinney 2013); *Kendra’s Law & NYS Office on Mental Health Problems*, MENTAL ILLNESS POLICY ORG., <http://mentalillnesspolicy.org/kendraslaw.html> (last visited Sept. 15, 2014) (authorizing court-ordered mental health outpatient treatment for specified individuals, which resulted from the story of a young woman who was pushed in front of an oncoming N.Y.C. subway by a psychotic individual); Anti-Bullying Bill of Rights, N.J. STAT. ANN. § 18A:37-13 (West 2013). *See N.J. Assembly, Senate Pass ‘Anti-Bullying Bill of Rights’ in Wake of Tyler Clementi’s Death*, NJ.COM (Nov. 23, 2010, 5:27 AM), http://www.nj.com/news/index.ssf/2010/11/nj_assembly_passes_anti-bullyi.html (providing that interventions directed at preventing bullying was inspired by the story of a Rutgers University student who committed suicide as a result of bullying); Winnie Hu & J. David Goodman, *Wake-Up Call for New Yorkers As Police Seek Abducted Boy*, N.Y. TIMES (July 18, 2013), <http://www.nytimes.com/2013/07/18/nyregion/early-morning-alert-issued-after-7-month-old-boy-is-abducted.html> (explaining that the Amber Alert system originated in Texas in the Dallas-Fort Worth region in the 1990s following the abduction and murder of a local girl named Amber); Curtis Sittenfeld, Op-Ed, *EpiPens for All*, N.Y. TIMES (Sept. 7, 2013), <http://www.nytimes.com/2013/09/08/opinion/sunday/epipens-for-all.html> (reporting on the recent passage in Virginia of “Amarria’s Law” in response to the death of Amarria, a child with a peanut allergy, whose treatment, after ingesting a peanut, was delayed (resulting in her death) because of regulations at the pub-

recognize the necessity to craft a remedy.¹⁵ In sum, the ability to tell or write a good story is an essential skill for law students to master.

This Article proposes an approach to teaching law students how to tell stories effectively, whether they are advocating in a courtroom or a policy-making arena. This teaching method incorporates close reading and reflective writing techniques—skills that enable students to critically examine the specific narrative elements that comprise a story: plot, timeframe, setting, character, and point of view.¹⁶

Close reading involves the detailed interrogation of a narrative account by parsing excerpts to identify narrative elements and to analyze their meaning and effect.¹⁷ Reflective writing engages the writer's analytical and emotional capacities to a similar extent, but with the added dimension of committing the thoughts and feelings resulting from the critique to writing.¹⁸

The study of narrative elements through close reading and reflective writing is a critical means to developing lawyering skills. The narrative legal scholar, Professor Jerome Bruner remarks: “[C]ases are decided not only on their legal merits but on the artfulness of an attorney’s narrative. . . . [L]aw stories need to honor the devices of great fiction if they are to get their full measure from judge and jury.”¹⁹ First, among these elements, is the plot,²⁰ which drives the story; Bruner and his colleague, Professor Anthony Amsterdam, assert that

lic school she attended, which precluded access to the epinephrine drug (or EpiPen) without a specific doctor’s order).

15. See Ryan’s Law, S.C. CODE ANN. § 38-71-280 (2013); Kendra’s Law, N.Y. MENTAL HYG. LAW § 9.60 (McKinney 2013); Anti-Bullying Bill of Rights, N.J. STAT. ANN. § 18A:37-13 (West 2013); Jess Blumberg Mayhugh, *Call to Action, Tragedy Inspires a Federal Hill Family to Champion a New Law*, BALTIMORE MAGAZINE, Jan. 2014 (chronicling a legislative initiative mounted by a Maryland family to prompt the state legislature to pass a law—Jake’s Law—making texting while driving a felony crime in Maryland. The initiative stems from the death of five-year-old Jake, who was killed in a car accident when a driver, distracted by a cell phone, “smashed into” his family’s car).

16. See Rappaport, *supra* note 4, at 287.

17. See I. A. RICHARDS, PRACTICAL CRITICISM: A STUDY OF LITERARY JUDGMENT 13–18 (1929).

18. See Carol McCrehan Parker, *What Will I Do on Monday, and Why Aren’t We Doing it Already?: Reflecting on the Value of Expressive Writing in the Law School Curriculum*, 15 J. LEGAL WRITING INST. 279, 280 (2009); Andrea McArdle, *Writing Across the Curriculum: Professional Communication and the Writing That Supports It*, 15 J. LEGAL WRITING INST. 241, 245–50 (2009).

19. JEROME BRUNER, MAKING STORIES, LAW, LITERATURE, LIFE 13 (2002).

20. CHRIS BALDICK, OXFORD DICTIONARY OF LITERARY TERMS 260 (2001, 2008) (“The [plot is a] pattern of events and situations in a narrative or dramatic work, as selected and arranged both to emphasize relationships—usually of a cause and effect—between incidents and to elicit a particular kind of interest in the reader or audience, such as surprise or suspense.”).

the plot is essential, otherwise readers or listeners lose interest.²¹ Timeframe orients the reader/listener; it provides a context for the plot—when the events took place and the passage of time during which they occurred.²² Setting is the “where” of the story; it contextualizes the plot as well as the characters.²³ Characters are a requisite component in storytelling²⁴—they are the actors around which the plot revolves and “what make the stories stick with us and speak to us.”²⁵ Point of view²⁶ is an extension of characterization,²⁷ and is what makes characters/clients interesting²⁸ and worthy of empathy for their situations.²⁹

Part I of this Article provides historical background for the storytelling movement that evolved most recently from narrative legal theory.³⁰ Part II explores the techniques that are currently in vogue to teach legal storytelling, including both theoretical perspectives on constructing narratives as well as practice-based means in clinical contexts.³¹ This section also documents the lawyering capacities that are enhanced through reading literary works. Part III utilizes the story of a Families, Law, and Literature course: how it came into being, its content, and its methods.³² It includes a discussion of the various texts used in the course. The section will also explain, in more detail, close reading and reflective writing—the pedagogical methods used to instruct students in storytelling skills. Finally, Part IV reports students’

21. See ANTHONY G. AMSTERDAM & JEROME BRUNER, *MINDING THE LAW* 127 (2000) (“Stories go somewhere. . . . If someone drifts in telling a story, we urge him or her to ‘get to the point.’”).

22. See Editorial, *A Nobel Prize for Alice Munro*, N.Y. TIMES, Oct. 10, 2013, at A24 (commenting on Munro’s use of time in her storytelling—her skill in using it to immerse her readers in the story).

23. See BRUNER, *supra* note 19, at 72 (“Locate your characters in the world of people.”).

24. See *id.* at 16–17 (“Everyone will agree that [a story] requires a cast of characters.”).

25. Silas House, *Tell Their Secrets*, N.Y. TIMES OPINIONATOR (July 13, 2013, 2:35 PM), <http://opinionator.blogs.nytimes.com/2013/07/13/tell-their-secrets/>.

26. See BALDICK, *supra* note 20, at 263 (“The position or vantage-point from which the events of a story seem to be observed and presented to us.”).

27. *Id.* at 52 (“The representation of persons in narrative and dramatic works.”).

28. See House, *supra* note 25 (noting that in order to make the reader care about a character, the character’s most closely held secrets must be revealed).

29. See generally Cathren Koehlert-Page, *Come a Little Closer So I Can See You My Pretty: The Use and Limits of Fiction Techniques for Establishing an Empathetic Point of View*, 80 UMKC L. REV. 399, 400 (2011) (highlighting the effectiveness of conveying the client’s point of view to engender empathy for his situation).

30. See *infra* Part I.

31. See *infra* Part II.

32. See *infra* Part III.

perspectives on the course (the featured characters in this story), using their responses from an end-of-semester survey, as well as excerpts from their comments during class discussions, recorded in my field notes, to illustrate their points of view.³³ In writing the account of this course, nearly four years in the making, I hope to add another chapter to the narrative of teaching students the art of storytelling in a lawyering context.

I. Storytelling in Law School: A Historical Perspective

Legal storytelling is the result of an earlier movement in legal education: law and literature, its historical predecessor, which is rooted in the early history of legal education.³⁴ The original paradigm for teaching aspiring lawyers was designed to provide a solid grounding in the classics to ensure that lawyers were “men” of letters who recognize that lawyering is a human enterprise fortified by the study of great literature.³⁵

Currently, the impetus to incorporate law and literature courses into law school curricula has gained increasing potency. Commenting on this recent trend, Gemmette observes in the introduction to her 1995 survey of law and literature curricula that “‘the itch of literature’ was upon many law professors’ minds and that there was much ‘scratching of [the] pen.’”³⁶ While Professor James Boyd White surmises, in remarks on the proliferation of the law and literature movement, that it likewise encouraged a variety of teaching modes:

There is no organized program here, no commitment to an ideology, no plan of conquest. Rather, as is consistent with the nature of literature itself, and of the humanities, the idea is that many flowers may bloom, different in shape and color.³⁷

White is widely acknowledged as the founder of the modern law and literature movement, which has propagated a variety of “flowers”

33. See *infra* Part IV.

34. See AMY D. RONNER, *LAW, LITERATURE AND THERAPEUTIC JURISPRUDENCE* 6–7 (2010) (noting that the tradition of the classically educated lawyer was established early on). In 1794, James Kent, a lecturer in law at Columbia College, recommended that American lawyers be well-versed in the humanities, inclusive of Greek and Latin classical literature, while Thomas Jefferson assigned his law students voluminous bibliographies that specified readings in poetry, history, criticism, and rhetoric among other rigorous topics. *Id.* at 7.

35. See *id.* (“[James Kent] advised American lawyers to master Greek and Latin classics and said that only those ‘well read in the whole circle of the arts and sciences’ could form ‘an accurate acquaintance with the general principles of Universal Law.’”).

36. Gemmette, *Symposium on Legal Education*, *supra* note 2, at 665.

37. James Boyd White, *The Cultural Background of the Legal Imagination*, in *TEACHING LAW AND LITERATURE* 29, 38 n.1 (Austin Sarat et al. eds., 2011).

as he predicted;³⁸ narrative law and storytelling are the most recent. The law professors who followed White's lead have been equally dedicated to changing what had been the dominant legal pedagogy for at least a century³⁹—the “scientific study of the law through the case method.”⁴⁰ The method, introduced in the nineteenth century by the then-dean of Harvard Law School, Christopher Columbus Langdell, yielded unbending doctrines to guide legal analysis. As Professor Robin Wellford Slocum explains, legal education since then is generally reliant on a rational perspective.⁴¹ This turn of events ushered in a more mechanistic approach to lawyering.

The dawn of legal realism in the early twentieth century altered somewhat the course charted by Langdell.⁴² It encouraged a way of thinking about law that acknowledged the salience of its social milieu. And as a consequence, the exclusive use of legal doctrines to divine the law, as Langdell had prescribed, started to fall from favor.⁴³ “‘Legal realists’ began to question whether legal principles alone should dictate or explain outcomes, and literature was identified as one field that could be used to supplement, enrich, or correct legal principles.”⁴⁴ The eminent early twentieth century legal scholar, Professor John H. Wigmore, for example, published *A List of Legal Novels* in 1908,⁴⁵ which formed the basis for the reading he encouraged for both law students and lawyers. He observed in a subsequent law review

38. See *id.*

39. See Stacey A. Tovino, *Incorporating Literature Into A Health Law Curriculum*, 9 MICH. ST. J. MED. & LAW 213, 228 (2005); Martha C. Nussbaum, *Cultivating Humanity in Legal Education*, 70 CHI. L. REV. 265, 278 (2003) (arguing for innovative curricular approaches to engender in law students the capacity to empathize with their clients' circumstances); see, e.g., AMSTERDAM & BRUNER, *supra* note 21 (explicating a narrative approach to teach law students lawyering skills).

40. RONNER, *supra* note 34, at 9.

41. Robin Wellford Slocum, *An Inconvenient Truth: The Need to Educate Emotionally Competent Lawyers*, 45 CREIGHTON L. REV. 827, 830 (2012).

42. See Judith D. Moran, *Judicial Leadership and Unified Family Court Implementation: It Starts at the Top*, in FINAL REPORT OF THE SUMMIT ON UNIFIED FAMILY COURTS: SERVING CHILDREN AND FAMILIES EFFICIENTLY, EFFECTIVELY, AND RESPONSIBLY, CENTER FOR CHILDREN, FAMILIES AND THE COURTS, UNIVERSITY OF BALTIMORE SCHOOL OF LAW (2008) (noting that the movement provoked a consideration of the social context in which the law operates). See also Randolph Barton, Sr., Remarks Addressing the Members of the Lawyers' Round Table, Assembled as the Guests of Mr. Randolph Barton, Jr., at Harvard University 7 (Feb. 1, 1919) (documenting the association's history including *A Record Of The Memberships and Of The Meetings From The Organization on April 8, 1911, Until April 24, 1953*, and noting that on May 17, 1913, the meeting featured a presentation titled *The Relation Between Law and Literature*, by Dr. Kirby Flower Smith of Johns Hopkins University).

43. See Tovino, *supra* note 39, at 225–26.

44. *Id.* at 226.

45. J.H. Wigmore, *A List of Legal Novels*, 2 ILL. L. REV. 574, 575 (1908).

article, updating his original essay on the subject,⁴⁶ that “the novel—the true work of fiction—is a catalogue of life’s characters. And the lawyer must know human nature.”⁴⁷ Clearly, Wigmore heeded the call of stories recognizing that law practice involved a human enterprise, and stories were the means by which law students could learn the art of lawyering.⁴⁸ Wigmore’s foundational work languished, however, until the law and literature movement was resurrected in the 1970s.⁴⁹

Despite Wigmore’s lead, further scholarship and teaching in the area did not begin in earnest until 1973 with the publication of James Boyd White’s groundbreaking textbook, *The Legal Imagination: Studies in the Nature of Legal Thought and Expression*,⁵⁰ which formally launched the modern law and literature movement.⁵¹ White’s book became the source for a course entitled the Legal Imagination, which he developed and taught at the University of Michigan Law School,⁵² thereby spearheading the effort to teach law and literature in professional schools of law. In addition to the force and endurance of White’s scholarship and teaching, the enterprise was bolstered by both legal education’s early history (that works of great literature had been required reading for those studying the law as early as the late eighteenth century)⁵³ and more recently by The MacCrate Report on Legal Education,⁵⁴ which includes a recommendation that law schools pre-

46. *Id.*

47. J.H. Wigmore, *A List of One Hundred Legal Novels*, 17 ILL. L. REV. 26, 31 (1922) (including, among other titles, CHARLES DICKENS, *THE PICKWICK PAPERS* (1836), ALEXANDRE DUMAS, *THE COUNT OF MONTE CHRISTO* (1844), and VICTOR HUGO, *LES MISERABLES* (1862)).

48. See Tovino, *supra* note 39, at 226.

49. See RONNER, *supra* note 34, at 12–13 (chronicling the history of the law and literature movement and noting that James Boyd White could not have foreseen the revolutionary effect of the theories he proposed in his book, *THE LEGAL IMAGINATION*, in 1973).

50. JAMES BOYD WHITE, *THE LEGAL IMAGINATION* (1973).

51. See Ruth Anne Robbins, *An Introduction to Applied Storytelling and to this Symposium*, 14 J. LEGAL WRITING INST. 3, 8–9 (2008) (noting the impact of the publication of White’s book on the birth of the law and literature movement).

52. See *Law School Curriculum*, U. MICH. L. SCH., <http://www.law.umich.edu/historyandtraditions/curriculum> (last visited Dec. 19, 2013) (specifying that Professor White first taught this course in the 1986–1987 academic year).

53. See generally RONNER, *supra* note 34, at 7 (“[James Kent] advised American lawyers to master Greek and Latin classics and said that only those ‘well read in the whole circle of arts and sciences’ could form an ‘accurate acquaintance with the general principles of Universal Law.’”).

54. *Legal Education and Professional Development—An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, 1992 ABA SEC. LEG. EDUC. & ADMIS. TO THE BAR V.

pare students for the human dimension of legal practice, a goal believed achievable, in part, by exposure to literary works.⁵⁵

The reinvigoration of the law and literature movement has its own evolution. The undertaking has progressed from course offerings focused on the law as explicated in works of fiction⁵⁶ to those that examine narrative theory as a means to effective advocacy,⁵⁷ of which legal storytelling is its obvious outgrowth.⁵⁸ Especially pertinent in recent academic discourse on the subject is how best to teach storytelling as a lawyering skill; legal scholars now debate the merits of theory versus practice to promote narrative competency.⁵⁹ The close reading and reflective writing methods used to teach the Families, Law, and Literature course, when taught in tandem, combine both: reading closely enables students to contextualize the components of narratives,⁶⁰ while writing reflectively allows them to practice storytelling in written forms⁶¹ and gain clarity of thought.⁶² I propose, and will demonstrate in the following sections of this Article, that close reading and reflective writing are potent methods to teach the art of storytelling. These tools provide students with the means to critically examine the elements of effective stories and to develop an awareness

55. See generally Menkel-Meadow, *supra* note 1, at 789–92 (“Moral dilemmas are ‘more vividly rendered in the works of imaginative literature than in books about ethics, which tend to be pious, predictable, humorless and dull.’”).

56. See RONNER, *supra* note 34, at 13 (describing the *Law in Literature* approach, which analyzes and critiques literary works that contain legal themes, lawyer portrayals, and depictions of the practice of law). Professors involved in this domain write about and teach works of fiction such as HERMAN MELVILLE, *BILLY BUDD* (1924), WILLIAM SHAKESPEARE, *THE MERCHANT OF VENICE*, and CHARLES DICKENS, *BLEAK HOUSE* (1952).

57. See AMSTERDAM & BRUNER, *supra* note 21, at 110–13; see also RONNER, *supra* note 34, at 15 (describing the “narrative strand” of law and literature and its embrace of storytelling as a method of presenting confessions, offering evidence, and devising both judicial opinions and closing arguments).

58. See generally Meyer, *supra* note 3, at 567 (illustrating the interconnectedness of the storytelling culture with the legal culture).

59. See Krieger & Martinez, *supra* note 4, at 161 (concluding from their teaching experience using a practical approach to storytelling pedagogy that the dominant teaching method, which features theory-based training, should be reconsidered).

60. See Andrea McArdle, *Teaching Writing in Clinical, Lawyering, and Legal Writing Courses: Negotiating Professional and Personal Voice*, 12 CLINICAL L. REV. 501, 517–18 (describing an exercise in which students examined an appellate brief for narrative elements such as characterization to focus on how it affects the reader’s perception of the litigant).

61. See, e.g., Parker, *supra* note 18, at 280 (proposing that reflective writing fosters the development of critical understanding because it enables the writer to express thoughts to his or herself).

62. See *id.* (“Writing to express thoughts serves to form those thoughts: through expression, thoughts are revealed and shaped.”).

of their emotional impact on themselves, as well as their potential to similarly affect other readers and listeners.

II. Teaching Narrative Law: An Overview of Current Pedagogy

Legal scholars have devoted significant attention to determining and validating the role of storytelling in legal education, as well as the most effective methods of imparting the competencies necessary to enable it.⁶³ Several note that reading literary works in law school promotes empathetic⁶⁴ and rhetorical proficiencies;⁶⁵ some law schools offer lawyering courses that rely solely on narratives to teach these skills.⁶⁶ Empathy is among the essential components of lawyering,⁶⁷ allowing the attorney to walk in the shoes of her client and thereby represent her well.⁶⁸ It has been shown that empathy is enhanced through listening to and reading stories.⁶⁹ Those who teach law and literature have offered insight into how reading stories helps to develop an empathetic understanding for others whose experience dif-

63. See, e.g., AMSTERDAM & BRUNER, *supra* note 21, at 7 (asserting that their text is in part devoted to a re-examination of legal storytelling); Jo A. Tyler & Faith Mullen, *Telling Tales in School: Storytelling for Self-Reflection and Pedagogical Improvement in Clinical Legal Education*, 18 CLINICAL L. REV. 283, 283–84 (2011) (demonstrating support, based upon a storytelling project involving their students, for the value of narrative-focused pedagogy in legal education). See Rappaport, *supra* note 4, at 268.

64. See e.g., Nussbaum, *supra* note 39, at 277.

65. See, e.g., Becker, *supra* note 2, at 577.

66. See e.g., Course Description: Lawyering Seminar, Crime and Punishment, Vengeance, and Forgiveness, NYU LAW, <https://its.law.nyu.edu/courses/description.cfm?id=7845> (last visited Sept. 19, 2014) (using narratives to teach death penalty jurisprudence).

67. See Kristen B. Gerdy, *Clients, Empathy, and Compassion: Introducing First-Year Students to the Heart of Lawyering*, 87 NEB. L. REV. 1, 14–15 (2008). The article quotes notables such as ABA President Karen J. Mathis, who has said that “[c]aring is as much a part of the legal profession as intelligence.” *Id.* at 15 (citing Karen J. Mathis, President, American Bar Association, Keynote Address at the Drexel University College of Law Inaugural Celebratory Dinner (Sept. 27, 2006)). The article also quotes Professor Karl Llewellyn to suggest that “technique without compassion is a menace.” *Id.* (citing Roger C. Crampton, *Beyond the Ordinary Religion*, 37 J. LEGAL EDUC. 509, 510 (1987)). The article, thus concludes, “Clearly, both intellectual and technical skill and human and humane compassion are necessary for effective lawyering.” *Id.*

68. See Gerdy, *supra* note 67, at 3–4 (“Understanding clients and exercising empathy and compassion comprise the ‘heart’ of lawyering.”); *Id.* (defining empathy as the capacity to comprehend and internalize the personal world of the client).

69. See generally Nussbaum, *supra* note 39, at 277 (arguing for a humanities-based education, specifically in legal education, because studying literature is the conduit to using one’s imagination to understand another’s situation and feelings and that this skill is essential in lawyering). See also Meyer, *supra* note 3, at 569 (“[S]torytelling practice [is] rooted in . . . deep empathy, in learning how to listen.”).

fers from one's own.⁷⁰ In making her case for the use of narratives to teach legal ethics, Professor Carrie Menkel-Meadow describes how stories contribute to the development of empathy:

By bringing vividness and inducing "feelings," stories and cases are meant to make us feel more directly implicated in what we read and understand. "Feeling with" a character in a story or case allows us both to empathize or sympathize, as well as to criticize and consider what we might do differently in the same situation. Thus, the use of cases and stories is vicarious clinical experiential learning—thinking rationally and emotionally from someone else's experience, to make judgments about what is wise or proper to do in a given situation.⁷¹

Undoubtedly, from the client's perspective, an empathetic lawyer is preferable to one whose abilities are limited to technical competence, in that empathy fosters good judgment.⁷² Thus it makes sense to hone skills that promote the capacity for empathy in law school.⁷³ Professor Slocum proposes that absent adequate training, in what she refers to as "emotional competency," "we ill-prepare our students to work effectively with the complex interpersonal legal problems they will encounter in the practice of law."⁷⁴

Others have demonstrated the utility of narrative studies in developing rhetorical skills. An advocate's skillfully-told tale is compelling for judges and jurors alike, and it is the lawyer's narrative ability that enables the story to become a robust legal argument.⁷⁵ Professors Amsterdam and Bruner teach that "law lives on narrative."⁷⁶ Their con-

70. Menkel-Meadow, *supra* note 1, at 791–92.

71. *Id.* at 792.

72. See, e.g., Mark Weisberg, *What Happens When (Law) Students Write*, 27 LEGAL STUD. FORUM 421, 433 (2003) ("[T]he ability to put yourself in someone else's shoes . . . [is] one of the two essential ingredients in good judgment."); see also David W. Chen & Megan Thee Brenan, *Voters Approve of the City's Progress, Poll Finds, but Seek Empathetic Mayor*, N.Y. TIMES, July 18, 2013, at A17 ("By a clear majority, the city's [New York] voters say empathy is the most important trait in the next mayor . . .").

73. See Slocum, *supra* note 41, at 833 ("[E]ffective lawyering requires . . . emotional competencies that help form such essential lawyering skills as good judgment, sound perspective, and effective relational skills.").

74. *Id.* at 830.

75. See Becker, *supra* note 2, at 586 (discussing the value of teaching students persuasive writing techniques using narrative practices and how presenting a good story using a point of view perspective is effective in persuading the "judicial reader"); see also Westen, *supra* note 12 ("[C]ognitive science has shown, lawyers whose closing arguments tell a story win jury trials against their legal adversaries who just lay out 'the facts of the case.'").

76. AMSTERDAM & BRUNER, *supra* note 21, at 110.

clusion⁷⁷ gives emphasis to the notion that the facts appurtenant to a successful legal argument comprise a well-chosen selection from the many that are available to tell the client's story,⁷⁸ otherwise known in legal parlance as the "theory of the case."⁷⁹

Narrative competence allows the lawyer to create meaning from a client's circumstances by choosing the most salient facts relevant to a point of view that is favorable to the client's interests. One scholar surmises, "What matters most in stories at the law is how they are evaluated and implemented by listeners: police, judges, juries."⁸⁰ Achieving the optimal response from these evaluators is contingent upon rhetorical proficiency—the ability to give an account of the client's predicament with an eye to the desired outcome.⁸¹ Proponents of narrative law believe that a thorough understanding of "constructing and also construing narratives"⁸² is a critical skill for lawyers to master. These scholars highlight the importance of recognizing the role of both tellers and listeners in storytelling—how a story fits together from the teller's perspective and how it affects those who hear it.⁸³

Storytelling in law has not gone unchallenged. Professor Lisa Kern Griffin suggests that in a legal trial, storytelling interferes with its function as a crucible for finding the truth.⁸⁴ She notes that procedural and constitutional guarantees ensuring fairness require parts of

77. See BRUNER, *supra* note 19, at 31 (explaining that narratives are malleable in that there are many possible versions of a story and that we learn early-on to choose the best story for the circumstance).

78. See AMSTERDAM & BRUNER, *supra* note 21, at 110 ("[Lawyers must determine] what to make of what they hear [the facts as related by the client] . . . [T]he client's story gets recast into plights and prospects, plots and pilgrimages into possible worlds.").

79. See Becker, *supra* note 2, at 575–76 ("[T]he story behind the application of the facts to the law."); *id.* ("Literature aids a student in developing the client's point of view because by having had that familiar experience of being a reader of books, they are able to identify [with the client's story] and better develop a theme that comports with their client's point of view."); see BRUNER, *supra* note 19, at 34–35, 42–43 (describing themes as "narrative templates" or "metaphors writ large" that make for compelling legal stories owing to their universality); see also AMSTERDAM & BRUNER, *supra* note 21, at 110 (suggesting that developing the theory of the case, is a "narrative projection" of possible presentations of what happened and why and the risks involved).

80. Peter Brooks, *Narrativity of the Law*, 14 *LAW & LITERATURE* 1, 3 (2002).

81. See AMSTERDAM & BRUNER, *supra* note 21, at 14, 165–93 (discussing rhetoric in the context of lawyering, which allows lawyers to justify the crafted account in the name of serving the client, but cautioning that it requires crafting a "subtle discourse").

82. Brooks, *supra* note 80, at 3.

83. *Id.*; see also Richard H. Weisberg, *Wigmore and the Law and Literature Movement*, 21 *LAW & LITERATURE* 129, 136 (2009) ("In her everyday work, the lawyer deals with questions of narrative perspective best conveyed in novels.").

84. See Lisa Kern Griffin, *Narrative, Truth and Trial*, 101 *GEO. L.J.* 281, 302 (2013).

the account to be excluded.⁸⁵ But is it possible for storytelling to be banned from trial testimony or, for that matter, legal argument, when it is so fundamental to the way humans interact with each other and comprehend events? Amsterdam and Bruner, in quoting the noted journalist Janet Malcolm, state that it is not, because a purely factual rendition “‘runs counter to the law of language, which proscribes unregulated truth-telling and requires that our utterances tell coherent, and thus never merely true, stories.’”⁸⁶ And even Griffin admits:

[S]tories play some practical (and unobjectionable) parts in the adjudicative process. One function of stories is to provide a starting point for organizing events [a timeframe]. . . . [N]arrative [also] . . . provides both a compelling form for legal advocacy and an underlying structure for judicial decisions.⁸⁷

While many have postulated the benefits of reading and deconstructing narratives as a way to instruct students, others have debated the merits of different perspectives on storytelling pedagogy.⁸⁸ Professors Stefan H. Krieger and Serge A. Martinez comment that at this time there is ample scholarship that supports teaching storytelling skills to law students “by giving them extensive exposure to narrative and storytelling theories.”⁸⁹ But in a recent article, they propose that a practical approach is a more efficient and effective method to introduce students to the discipline.⁹⁰

Krieger and Martinez’s position is the result of an experience involving their clinical law students who were charged with representing individuals who were denied the right to vote on Election Day 2008.⁹¹ The project provided student representation to clients in on-the-spot judicial hearings. The students consulted with clients under pressure—interviews were done in the “chaotic lawyers’ room” where there was little time to construct compelling narratives to present to a judge before meeting with the next client.⁹² In observing their students, the professors noticed that as “students progressed from their

85. *See id.* at 289 (“Exclusionary rules, for example, can bar even the most probative physical evidence or most heartfelt confession if it is unconstitutionally obtained.”).

86. AMSTERDAM & BRUNER, *supra* note 21, at 110.

87. Griffin, *supra* note 84, at 290.

88. Krieger & Martinez, *supra* note 4, at 158–61.

89. *Id.* at 145.

90. *See generally id.* at 149–50 (asserting that the theoretical approach, which represents the dominant storytelling pedagogy, should be re-visited in light of recent cognitive science research suggesting practice-based teaching is consistent with optimal learning environments).

91. *Id.* at 119–21.

92. *Id.* at 121.

first case to their sixth or seventh case, their storytelling skills improved within a very short time, sometimes markedly.⁹³

In reflecting on the clinic experience and in an effort to explain the outcomes, Krieger and Martinez turned to cognitive science research to understand how the students were able to acquire storytelling proficiency in a short-term clinical experience such as the one they structured.⁹⁴ The results have inspired the proposal of an alternative method.⁹⁵ It features “a new way of teaching storytelling skills by focusing not on storytelling theory but by creating a learning environment that gives students repeated opportunities to tell stories in a short period of time while providing motivation, feedback, and support.”⁹⁶ Krieger and Martinez argue that a conceptual approach to narrative pedagogy is inconsistent with optimal learning environments, determined from studies of human cognition.⁹⁷ And furthermore, they suggest that current teaching methods are limited by the fact that mastering the concepts of narratology, so that it can be applied to lawyering, requires a time-intensive commitment that is likely not possible in a law school environment.⁹⁸ In making their case for a practice-based medium to learn narrative techniques, Krieger and Martinez offer an alternative to a theoretical approach to narrative legal pedagogy—one that is consistent with the methods discussed in the following sections of this Article.⁹⁹

III. Teaching Storytelling Techniques Using Close Reading and Reflective Writing: Families, Law, and Literature

A. Preface

Legal educators started to embrace close reading and reflective writing since these paired disciplines were recommended for inclusion in law school curricula at the 2008 American Association of Law Schools (AALS) Annual Meeting.¹⁰⁰ These studies, when used to-

93. *Id.*

94. *Id.* at 125–34.

95. *Id.* at 131–34.

96. *Id.* at 119.

97. *Id.* at 158–60.

98. *See id.* at 147.

99. *See id.* at 119; *see generally* Grose, *supra* note 8 (examining the craft of storytelling using theory and practice, and explaining theoretical and practical approaches to narrative construction in doctrinal, skills-based, and clinical course contexts).

100. *See* Parker, *supra* note 18, at 279–80; *see also* Nancy Levit, *Legal Storytelling: The Theory and the Practice—Reflective Writing Across the Curriculum*, 15 J. LEGAL WRITING INST. 253, 259–70 (2009) (discussing reflective writing in the context of legal education).

gether, are uniquely suited, insofar as they enable the “interrogation” of stories (careful reading and reflective analysis),¹⁰¹ to effectuate the law and literature movement’s founding mission to produce humane practitioners.¹⁰² The process of close reading and reflective writing has been shown to enlarge the imagination¹⁰³ and expand possibilities of perception both with respect to oneself and others—in other words, it prompts empathy.¹⁰⁴ In doing so, it creates a way for law students to view themselves in relation to their clients¹⁰⁵ and their clients’ predicaments in fresh ways,¹⁰⁶ while at the same time enabling them to be more creative and strategic advocates.¹⁰⁷ As such, these methods help students acquire skills in the service of establishing ethical, client-centered relationships¹⁰⁸ and develop strategies for compelling client advocacy.¹⁰⁹

B. Chapter One: Inspired Beginnings

In 2010, Dr. Rita Charon, executive director and founder of the Masters of Science Program in Narrative Medicine at Columbia Uni-

101. See generally Menkel-Meadow, *supra* note 1, at 798 (“[W]hat insights, knowledge, epiphanies, awareness do we gain from a particular story that helps us to understand more generally the moral boundaries of ethical law practice and justice.”).

102. See generally Weisberg, *supra* note 83, at 137 (describing the roots of the law and literature movement and Wigmore’s belief in the humanitarian aspect of legal practice—that lawyers must be educated to understand human nature).

103. See generally WHITE, *supra* note 50 (underscoring the value of close reading as it exposes the craft of creating effective written work); see also Parker, *supra* note 18, at 287–89.

104. See Helen Riess, *The Mail: Like Minded*, THE NEW YORKER, June 3, 2013, at 3 (“Empathy is a complex capacity that includes cognitive, emotional, moral and behavioral processes, not only to feel another’s pain but to imagine how one could alleviate his suffering and take rational steps to help that person.”).

105. See Menkel-Meadow, *supra* note 1, at 793 (“[T]he use of narrative expands the sight-lines of reality and imagination for moral reasoning.”).

106. See James M. Taggart, *The Mail: Like Minded*, THE NEW YORKER, June 3, 2013, at 3 (contending that narratives fashion our emotional and intellectual view of the world, which in turn enables the listener to gain an empathetic understanding of the plight of another).

107. See, e.g., Brooks, *supra* note 80, at 3 (explaining that comprehending the role of both tellers and listeners in determining how a story fits together, what it means, and how stories become effective in their listeners’ reactions and participation in them, are critical skills for lawyers to master); Weisberg, *supra* note 83, at 137 (“The legal interpreter informed by literary art better understands both the deeply personal nature of law and the manner in which this grasp of human psychology can best be expressed to further the interests either of the advocate’s client or (if she is a judge) of justice itself.”).

108. See Menkel-Meadow, *supra* note 1, at 793–94.

109. See generally McArdle, *supra* note 60, at 517 (suggesting that close examination of narrative techniques and specifically targeted writing exercises will bolster students’ advocacy skills).

versity,¹¹⁰ and her colleague Maura Spiegel, a professor of English and Comparative Literature, also at Columbia, created and taught a course in close reading and reflective writing.¹¹¹ The course was among the core components of the curriculum developed for this groundbreaking educational undertaking designed to instill a caring approach to medical practice. I was among the first class of students enrolled in this course and later graduated from the program in 2012.

The program was an outgrowth of Dr. Charon and Professor Spiegel's work in workshops (featuring close reading and reflective writing) with medical students at Columbia University, College of Physicians and Surgeons, and with a host of practicing physicians, nurses, social workers, and other caregivers.¹¹² As a consequence of their experiences, they concluded that while these methods were effective, a more academic and institutional approach to close reading and reflective writing pedagogy was necessary. They hoped that their initiative would spawn a coterie of individuals capable of teaching and practicing these skills in a variety of settings, ultimately improving the delivery of human services.¹¹³ With this in mind, Dr. Charon and Professor Spiegel launched their graduate program and began teaching close reading and reflective writing in earnest.¹¹⁴ As a result of my exposure to these gifted teachers, I began to think seriously about how I might teach such a course in a law school environment.

I was presented with the opportunity to teach such a course through the practicum component of Charon and Spiegel's close reading and reflective writing course, which requires students to design a curriculum incorporating close reading and reflective writing theory and practice. In my case, I developed a teaching module for students enrolled in the Child Advocacy Clinic, Adolescent Representation Project, at Columbia Law School.¹¹⁵ I taught the module as a

110. Program in Narrative Medicine, *Leadership*, COLUM. U. MED. CENTER, <http://www.narrativemedicine.org/leadership.html> (last visited Sept. 14, 2014).

111. *See id.*

112. *See id.*; *see also* Program in Narrative Medicine, *Workshops*, COLUM. U. MED. CENTER, <http://www.narrativemedicine.org/workshops.html> (last visited Sept. 14, 2014) [hereinafter *Workshops*] (describing the objectives of the workshop, which are focused on helping participants develop effective techniques for listening attentively, understanding the perspectives of others, truthful representation, and reflective reasoning).

113. *See Workshops*, *supra* note 112.

114. *See id.*

115. *Clinical Education: Adolescent Representation Clinic*, COLUM. L. SCH., <http://web.law.columbia.edu/clinics/child-advocacy-clinic> (last visited Sept. 14, 2014) ("The Child Advocacy Clinic (currently Adolescent Representation Clinic) launched a project in 2006 to represent youth, ranging in age from 16 to 23, aging out of foster care or other institutional settings. Their issues extend across a broad spectrum of needs, including:

graduate student and for two years after graduating from the program. The module later morphed into a semester-long course that I continue to teach at the University of Baltimore School of Law.¹¹⁶ The accounts of what transpired during my tenure teaching this course, which will be discussed later in this Article, include observations made and anecdotes excerpted from both versions of the course.

Charon and Spiegel's conviction, that augmenting professional education by exposing students to endeavors involving the humanities,¹¹⁷ presaged recent concerns by scholars who posit that more practical courses catering to the job market eclipse college and graduate-level studies in the humanities.¹¹⁸ Commenting on this trend in an opinion piece in the *New York Times*, Verlyn Klinkenborg, a professor of writing, asserts that it does not bode well for the future—his students, he explains, are deficient in “writing clearly, simply, with attention and openness to their own thoughts”¹¹⁹ Klinkenborg's view sparked a good deal of commentary as evidenced in the significant number of follow-up letters to the editor favoring his position.¹²⁰ The first of the several published letters perhaps says it best in expressing support for:

[F]ostering [students' imagination], for requiring them to read the best poetry and fiction of Western (and other) cultures and for helping students [to develop] the lifelong skill of clear writing based on their own thinking. The problems facing our country have less to do with the technical competence of our work force than with the [failures] of our leaders and many citizens to understand the values, institutions and reciprocal commitments that bind a society together and link the future of our democracy to the

housing and homelessness prevention; teen parenting; health and health benefits; income and support benefits; education, tuition, and financial aid benefits; financial planning; civil rights including LGBTQ issues; job training and career planning; and domestic violence.”).

116. *Elective Courses*, U. BALT. L. SCH., <http://law.ubalt.edu/academics/jd-program/courseofferings/electivecourses.cfm> (last visited Oct. 23, 2013) (describing the Families, Law, and Literature course); see *supra* Part III; *infra* Part IV.

117. *Humanity Definition*, OXFORD DICTIONARIES, http://www.oxforddictionaries.com/us/definition/american_english/humanity (last visited Sept. 14, 2014) (“Learning or literature concerned with human culture, especially literature, history, art, music, and philosophy.”).

118. See Jennifer Levitz & Douglas Belkin, *Humanities Fall From Favor*, WALL ST. J. (June 6, 2013, 12:35 AM), <http://online.wsj.com/news/articles/SB10001424127887324069104578527642373232184> (commenting on the trend at Harvard University as well as other institutions of higher education).

119. Verlyn Klinkenborg, *The Decline and Fall of the English Major*, N.Y. TIMES, June 23, 2013, at SR10.

120. See Stephan L. Kass, Letter to the Editor, *Why the Humanities Matter*, N.Y. TIMES, June 28, 2013, at A26.

dreams, welfare and rights of people throughout the world. The study of history, philosophy, *literature* and foreign languages is essential for that understanding.¹²¹

Clearly, the foregoing opinion channels White's view of the value of kindling one's imagination in the practice of law¹²² through reading literature and invokes the visionary work of Charon and Spiegel in their quest to invigorate medical education with a humanities perspective. While some note the drastic decrease in the number of students pursuing humanities and its potential downfall in favor,¹²³ this may be a premature conclusion. At least in medicine and law, the humanities appear to be, as of now, alive and well.

C. Chapter Two: Families, Law, and Literature—The Birth of a Course

It is well-settled that family law cases are complex,¹²⁴ posing both emotional and analytical challenges for law students and lawyers alike.¹²⁵ And stories of families and children often, given their content,¹²⁶ evoke an array of potent feelings, thus they are a useful vehicle for stimulating students to explore the emotive challenges that they call forth. Robin Wellford Slocum, writing on the need to educate emotionally competent lawyers, maintains that “weaving emotions into appropriate class discussions seems to provide students with a richer and more meaningful context from which they can imagine, and then problem-solve.”¹²⁷ Stories inspire students to envision human dilemmas in ways that prompt them to question assumptions they have about their clients.¹²⁸ In sum, the impetus to create a family

121. *Id.* (emphasis added).

122. See generally WHITE, *supra* note 50, at xix–xxiv.

123. See, e.g., Levitz & Belkin, *supra* note 118.

124. See Barbara A. Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law: A Blueprint to Construct a Unified Family Court*, 71 S. CAL. L. REV. 469, 471–73 (1998) (“Family law cases focus on some of the most intimate, emotional, and all-encompassing aspects of parties’ personal lives.”).

125. See CAROL SANGER, FAMILY LAW STORIES 6 (Carol Sanger ed., 2008) (characterizing family law cases as concerning real people and their struggles, and conflicting feelings, including desires and grudges, and noting that the cases highlighted in this text serve to demonstrate the interconnectedness of personal decisions and relationships with the law and its ability to impact and frame them).

126. See generally TONI MORRISON, THE BLUEST EYE (Knopf Doubleday Publishing Group 2007) (1970) (chronicling the tale of an emotionally and physically abused child living in poverty); ADRIAN NICOLE LE BLANC, RANDOM FAMILY (2003) (describing the lives of children and families in the South Bronx neighborhood of New York City).

127. Slocum, *supra* note 41, at 849.

128. One student remarked, after having read Perri Klass's essay *Baby Talk*, that she would never again make judgments about teenage mothers. PERRI KLASS, *Baby Talk*, in A

law-focused, storytelling course that would incorporate Charon and Spiegel's close reading and reflective writing techniques took root as a result of my exposure to their teaching, as well as my belief that it is both a necessary and relevant undertaking for law students interested in family law.

The course description for Families, Law, and Literature encapsulates its principles and practices:

The relationship between law and literature is founded on the notion that an understanding of stories—how they are constructed and told—is beneficial to lawyers in their representation of clients. Clients' stories lie at the heart of a legal case and effective lawyering involves using these narratives to the client's best advantage. The most recent versions of law and literature courses include the teaching of close reading and reflective writing skills—tools utilized in narrative studies. These methods have the potential to enrich and enliven the attorney-client relationship with empathetic understanding, promote ethical decision making, develop in the student a professional voice and identity, and advance strategies for legal advocacy. The process of close reading and reflective writing enlarges the imagination and expands possibilities of perception both with respect to oneself and to others. In doing so, it creates for law students a way to think about themselves in relation to their clients and their clients' predicaments in fresh ways. This course will involve the study of narrative accounts of children and families (novels, memoirs and essays) using close reading and reflective writing methods to facilitate the examination of these texts as they relate to lawyering. In addition to class discussions of the assigned reading materials, students will practice in class reflective writing involving exercises based upon the reading material.¹²⁹

In making use of the practices that enable critical examination of literary texts (close reading) and introspective writing relating to themes that arise in the assigned texts (reflective writing), the course utilizes both the theory and practice of storytelling.¹³⁰ Narrative theory and its corresponding techniques, such as plot, timeframe, setting, character, and point of view, are exposed through focused reading of excerpts from the assigned literary texts.¹³¹ Writing reflectively on topics inspired by the reading assignments allows students to practice

NOT ENTIRELY BENIGN PROCEDURE: FOUR YEARS AS A MEDICAL STUDENT 97–102 (The Putnam Berkley Group Inc. 1987).

129. *Elective Courses*, U. BALT. L. SCH., <http://law.ubalt.edu/academics/jd-program/courseofferings/electivecourses.cfm> (last visited Oct. 23, 2013) (describing the Families, Law, and Literature course).

130. See generally Krieger & Martinez, *supra* note 4 (calling for a re-examination of the dominant storytelling pedagogy and recommending that it incorporate practice-based learning opportunities).

131. Syllabus, Families, Law, and Literature, U. BALT. L. SCH. (on file with author).

their storytelling skills through written work that is insightful in nature. In turn, reflective writing exercises allow students to derive a more in-depth understanding from the story that can be applied to specific lawyering situations.¹³² In this way, by merging theory with practice, the Families, Law, and Literature course bridges the divide between theoretical and experiential ways of teaching narrative law.¹³³

Cognitive learning theorists have documented that close reading and reflective writing enable optimal learning activities and environments in a legal studies context. These pursuits and milieus include “Repeated Experiences with Clear Goals, Gradual Increases in Complexity, Feedback, and Motivating Environment.”¹³⁴ Gemmette recommends specifically that “law and literature professors now need to encourage a change within the law school curricula to facilitate and create more opportunities for students to write more often, to receive more feedback from both professors and peers, to experience the activity of writing in a non-graded, non-threatening environment. . . .”¹³⁵ Clearly, from the account below describing the methods and practices involved in teaching the course, it will become evident that these learning activities are apposite to close reading and reflective writing.

D. Chapter Three: The Methods

1. Close Reading

Close reading embraces the “capacity to read deeply, expansively, and rigorously so as to recognize the writer and (here, the dividend) the reader in relation to that writer.”¹³⁶ Literary theorists, I. A. Richards among them,¹³⁷ contend that the practice of close reading obtains psychological dividends for its adherents, in that detailed textual analysis using language to expose meaning brings forth a “clarification of one’s own thoughts and feelings.”¹³⁸ According to Professor Menkel-Meadow, teaching law students narrative analysis, enabled by

132. See, e.g., Slocum, *supra* note 41, at 831 (underscoring the importance of emotional competency as a lawyering skill).

133. See Krieger & Martinez, *supra* note 4, at 147–49.

134. See *id.* at 131–34 (“[R]esearch on schemas, deliberate practice, and flow demonstrates the significance of particular kinds of activities and environments to the learning process.”).

135. Gemmette, *Symposium on Legal Education*, *supra* note 2, at 675.

136. Syllabus, Close Reading and Reflective Writing, COLUM. UNIV. (Spring 2010) (on file with author).

137. See generally Richards, *supra* note 17 (demonstrating Richards’s foundational relationship to close reading as a method of literary criticism).

138. Syllabus, *supra* note 136.

close reading methods, makes it possible to examine stories by paying particular attention to emphasizing the responsibilities of a lawyer— “[H]elp[ing] us to understand more generally the moral boundaries of ethical law practice and justice.”¹³⁹

The study of how narratives are constructed and analyzed through reading closely also helps students to understand the plight of others. “Martha Nussbaum has argued that the study of narratives is essential in legal education: ‘the imagination of human predicaments is like a muscle: it atrophies unless it is constantly used. And the imagination of human distress . . . is an important part of the lawyer’s equipment.’”¹⁴⁰ As such, the attorney who can discern and reconstruct the facts of her client’s case into a story format not only develops and retains her empathetic muscle, but also is enabled, through the deft deployment of narrative techniques, to convey the client’s plight convincingly to others.

James Boyd White maintains that close reading benefits one’s writing and analytical skills and, in turn, pertains to the practice of law.¹⁴¹ In reflecting on his undergraduate studies in English literature, White mentions that he was trained in the close reading of literary texts and that it served him well in his professional life as a lawyer.¹⁴² He observed that “learning to read and judge the best literature” was a worthy goal for the mind, and that the opportunity to read such great literary works helped him understand how language could be used to its utmost advantage.¹⁴³

Professors Amsterdam and Bruner view narrative law as a means to reimagine legal issues and outcomes. They claim that the “most vivid insights into the law” are likely to come from a close reading of a literary manuscript.¹⁴⁴ As a consequence, students also learn that law is a product of cultural ways of being and not merely an abstract set of rules by which to govern human affairs.¹⁴⁵

The benefits that are derived from the close reading method used in legal education are similar to those that have been reported by medical educators who have incorporated practices from the narra-

139. Menkel-Meadow, *supra* note 1, at 798.

140. McArdle, *supra* note 18, at 248.

141. White, *supra* note 37, at 35–38.

142. *See id.* at 31–34.

143. *Id.* at 32–33.

144. AMSTERDAM & BRUNER, *supra* note 21, at 5.

145. *See* BRUNER, *supra* note 19, at 50 (asserting that the law will not be effective if it is seen as out of harmony with local culture, and for that reason laws are reflective of their cultural context).

tive medicine movement into their curricula.¹⁴⁶ In both cases—in legal and in medical education—the goal of exposing students to close reading is to make professional practice more caring and principled.¹⁴⁷ In legal education, this enlightened approach expands upon the task of teaching students to “interpret authoritative texts and observe life through the lens of law,”¹⁴⁸ by also directing students to consider law through the prism of the human condition. And in the specific realm of lawyering, according to White, Amsterdam, and Bruner, this way of thinking helps to promote the lawyer’s capacity to use language to its maximum effect in client advocacy and to use her imagination to gain insight into her client’s circumstances.¹⁴⁹

2. Reflective Writing

Legal writing courses are pervasive in U.S. law schools—all schools offer at least one and many offer several.¹⁵⁰ Legal writing, having become a discipline in and of itself, has joined the realm of law school pedagogy, and, as a corollary, has garnered its share of scholarly attention in academic literature¹⁵¹ and discussion forums.¹⁵² A testament to its burgeoning academic prominence was a panel discussion entitled, “Writing Across the Curriculum: Professional Communication and the Writing That Supports It,” that took place during the annual meeting of the AALS, Section on Legal Writing, Reasoning, and Research, in New York City in 2008.¹⁵³ Papers published in re-

146. See generally Sayantani DasGupta, *Articles*, <http://www.sayantanidasgupta.com/articles.html> (last visited Oct. 23, 2013) (chronicling articles demonstrating evidence of the benefits of narrative medicine’s principles and practices); see also BRUNER, *supra* note 19, at 105–06 (referring to the Program in Narrative Medicine at the College of Physicians and Surgeons, Columbia University’s School of Medicine, and its positive effect on medical education).

147. See generally *Workshops*, *supra* note 112 (stating that one of the objectives is to make students more empathetic through close reading and reflective writing).

148. Parker, *supra* note 18, at 279.

149. See White, *supra* note 37, at 37–38; see WHITE, *supra* note 50, at 3–10; AMSTERDAM & BRUNER, *supra* note 21, at 110.

150. See, e.g., *Legal Research and Writing Curriculum*, IIT CHI-KENT C. L., <http://www.kentlaw.iit.edu/academics/jd-program/legal-research-and-writing-program/curriculum> (last visited Jan. 6, 2013); *Legal Writing and Student Scholarship*, GEO. L., <http://www.law.georgetown.edu/academics/academic-programs/legal-writing-scholarship/index.cfm> (last visited Jan. 6, 2013); *Legal Writing at Duke Law School*, DUKE L. SCH., <http://law.duke.edu/curriculum/legalwrit/> (last visited Jan. 6, 2013) (offering courses featuring White’s techniques).

151. See, e.g., J. ASS’N. LEGAL WRITING DIRECTORS; J. LEGAL WRITING INST.; LEGAL WRITING; SCRIBES J. LEGAL WRITING (law journals focused on publishing scholarly legal writing).

152. See Levit, *supra* note 100, at 254–55.

153. *Id.* at 253.

sponse to the panel elaborate on the value of courses featuring storytelling and reflective or expressive writing exercises aimed at developing lawyering competencies.¹⁵⁴ For example, one presenter at the meeting articulated several benefits for students who have been exposed to an expressive writing class. She summarized them as follows:

Writing is a tool for constructing meaning. Writing provides a vehicle for reflection and a discipline to focus thinking and perhaps to liberate thought. . . . Reflective-writing assignments encourage students to connect with parts of themselves they may be silencing during their law school experience . . . and develop the self-awareness that is the foundation of professional integrity.¹⁵⁵

This way of thinking about legal writing is a departure from what had been the prevailing curriculum. For the most part, law school writing courses were aimed at teaching students to write standard legal documents, albeit more recently with a focus on incorporating writing components in “doctrinal courses to deepen students’ subject-matter knowledge and analytic skill, and improve their proficiency in professional writing conventions.”¹⁵⁶ On the horizon, however, (as a likely result of the reflective writing initiative spawned in 2008 by the AALS) is another dimension of legal writing pedagogy—one that emphasizes “non-formal” writing, including the reflective genre.¹⁵⁷ Proponents of this venture point to scholarship supporting the conclusion that professional education is enhanced when students are required to “produce non-transactional, critically reflective writing.”¹⁵⁸ Andrea McArdle posits that reflective writing affords the writer the opportunity to “lay claim to an insight.”¹⁵⁹ Based upon the work of cognitive psychologists, professional education scholar, Janet Emig, concludes that “higher order cognitive functions seem to develop most fully through reading, writing, listening, and speaking, particularly writing, because it expands our thinking and makes it concrete by memorializing it in a visible product.”¹⁶⁰ Most certainly, this form of writing is a potent teaching tool in legal education as it is likely to help law students make thoughtful and strategic judgments

154. *See id.* at 253–55.

155. Parker, *supra* note 18, at 290–91.

156. McArdle, *supra* note 18, at 243.

157. *Id.* at 243–45.

158. *Id.* at 245.

159. *Id.* at 246.

160. *Id.* at 245.

about how to portray the facts and circumstances of their clients' cases.¹⁶¹

Similarly, I found in my teaching that reflective writing exercises inevitably involve an element of surprise (an "aha" moment) in that the student learns something about herself that has been previously unrealized in her conscious thought process. Insights gained from writing reflectively have helped my students to access and enlarge their own experiences and also connect with others more genuinely and effectively. The psychoanalyst, Hans Loewald, attributed such benefits to reflective endeavors and practices.¹⁶² Accordingly, and consistent with Professor Parker's view that reflective writing enables students to connect with parts of themselves suppressed during their legal education,¹⁶³ Loewald expresses the process likewise. He explains how writing enables the writer to see her thoughts in a visual form, thereby allowing them to emerge in a context external to the self; in this way, thoughts become more comprehensible to the writer as well as to others.¹⁶⁴

Arguably, reflective writing is consistent with current goals and objectives for legal education. For one, the crux of legal education is to develop in law students the facility to think critically and to communicate effectively:

A central task for law students is learning to think as lawyers think. To accomplish this task, students must create their own understanding of the law as they interpret authoritative texts and observe life through the lens of the law. This process of creative discovery requires both imagination and discipline.¹⁶⁵

As legal education evolves, there is an increasing acknowledgment of the benefits of expressive writing to achieve these ends.¹⁶⁶

161. See Tyler & Mullen, *supra* note 63, at 329 (chronicling a story-telling project featuring an opportunity for students to write introspectively about their cases and asserting that the results of the enterprise suggested that there was an increase seen in program participants regarding the extent to which they internalized and found meaning from the clinic experience, which would impact their clinical practice); see also McArdle, *supra* note 18, at 245 ("Scholars of professional education conclude that adult learners tend to learn more and more deeply when their assignments require them to produce non-transactional, critically reflective writing.").

162. HANS W. LOEWALD, PAPERS ON PSYCHOANALYSIS 367-69 (Yale University Press ed., 1980).

163. See Parker, *supra* note 18, at 284-85.

164. Dr. Rita Charon, Close Reading and Reflective Writing, COLUM. UNIV., Spring 2010 (referencing LOEWALD, *supra* note 162, at 285).

165. Parker, *supra* note 18, at 285.

166. See Gerdy, *supra* note 67, at 56-57 ("In addition to class discussions, professors can assign writing exercises to help students reflect on clients, compassion, and empathy . . .

The notion that reflective writing promotes law students' critical thinking capacities has recently been tested in a clinical legal education setting.¹⁶⁷ Professors Jo A. Tyler and Faith Mullen, "intrigued by the potential of stories, and in particular storytelling, to foster analysis and synthesis that could enrich the clinical experience," studied the effects of a project that involved having students retell their clients' stories outside of their supervisor's presence.¹⁶⁸ Their findings affirm the value of student engagement in reflective legal practice:

The results of this project suggest an increase in the degree to which participants in the clinical legal education program internalized and made meaning from their clinical experience in ways that can matter upon entry into practice.¹⁶⁹

Although critical thinking is a necessary component of legal analysis, rational thought processes cannot be completely severed from the lawyer's emotions. Neuro-scientific discoveries have confirmed that emotional and rational cerebral mechanisms are inextricably linked.¹⁷⁰ Simply stated, rational thought is always accompanied by an emotional overlay, whether acknowledged or not.¹⁷¹ Consequently, legal education that ignores the emotional component of lawyering is incomplete at best.¹⁷² Slocum suggests that absent ways to help law students to comprehend their own "emotional drives and needs that underlie all human communication,"¹⁷³ their communication skills will be compromised.¹⁷⁴ Furthermore, she posits that promoting emotional competency in law school enables lawyers to counsel their clients effectively:

[W]e cannot expect our students to be successful in dissuading clients from imprudent, and even unethical, conduct when the students lack an understanding of the emotional needs that are

[and] to write personal narratives about their own experiences with the law or similar situations.").

167. See generally Tyler & Mullen, *supra* note 63 (reporting on the outcome of a project the authors undertook whereby students were required to tell their clients' stories after meeting with them in order to demonstrate the utility of teaching students narrative competencies).

168. Tyler & Mullen, *supra* note 63, at 284–85.

169. *Id.* at 329.

170. See Slocum, *supra* note 41, at 829 (explaining that modern neuroscience research has clarified that the portions of the brain governing emotional and rational thought are so interrelated as to preclude rational thought without the influence of emotions).

171. *Id.*

172. See *id.* at 830.

173. *Id.* at 840.

174. *Id.*

driving clients' unwise demands and lack the skill-set to respond with an emotionally appropriate response.¹⁷⁵

As the science of thinking has become better understood, it makes sense to adjust legal pedagogy accordingly by focusing on the development of both emotional and analytical aptitudes in service of optimizing lawyering skills. The foregoing discussion and the accounts of students' experiences with reflective writing that follow indicate how reflective writing encourages the development of both emotional competencies (inclusive of empathy and self-awareness) as well as analytical abilities.

3. Post Script-Reflective Writing: A Cautionary Tale

Notwithstanding the solid support for including reflective writing exercises in law school courses, it can be a challenging undertaking. Among the students I have taught and from whom I received feedback,¹⁷⁶ a small percentage expressed ongoing difficulty with the work.¹⁷⁷ Their resistance to the writing exercises appears to center around what the students perceive as the risk of self-exposure,¹⁷⁸ whether it would reveal insecurity about their professional capacities or some other aspect of their lives that they would otherwise choose not to disclose. Moreover, while the unexpected nature of a law school course that includes reflective writing is a welcome change for most students, for the hesitant ones, it is inconsistent with what they imagined the law school curriculum to include.¹⁷⁹

Professors J. Christopher Rideout and Jill Ramsfield, both teachers of legal writing, have chronicled their experiences in teaching law students to write introspectively.¹⁸⁰ Their article discusses the challenges facing a writer and the primary source from which these obstacles spring:

175. *Id.*

176. The excerpts from student papers that are discussed in this article include those submitted by students in the 2012, 2013, and 2014 spring semesters and in course evaluations submitted by the same students.

177. These expressions were articulated during class discussions of writing exercises and based on my unrecorded recollections.

178. These statements were drawn from class discussions following written exercises completed by students.

179. See Excerpt from Student Paper, *Families, Law, and Literature*, Spring 2012 (on file with author). This notion is based on excerpts from students' end-of-semester reflective writing papers explaining that it was a welcome and unexpected departure from traditional law school courses.

180. See generally J. Christopher Rideout & Jill J. Ramsfield, *Legal Writing: The View From Within*, 61 *MERCER L. REV.* 705 (2010) (explaining that it is necessary to view the identity of a legal writer "as a discursual identity").

Why is writing hard to do? For lots of reasons, most people would say. But if pressed, the majority would acknowledge that among those reasons, writing in general is hard to do because your self is on the line when you write. Writing is an act of self-expression and, in turn, self-revelation. Writing involves the self.¹⁸¹

Professor Spiegel has spoken of the resistance to self-expression she has encountered among medical students when she assigns expository writing exercises.¹⁸² She too attributes their reluctance to the ostensible high stakes that are involved insofar as doctors are expected to be confident; any expression of uncertainty that would arise in a reflective exercise would seemingly call into question the student's professional bona fides.¹⁸³

My students' anxiety about writing in response to the prompts reflected a similar theme; I suspect they also believed that their very "selves" were being exposed, when faced with an introspective writing prompt. And, it became evident from their writing that those selves lacked confidence either about their abilities to be successful law students or capable professionals.¹⁸⁴ The essays written by reluctant students were, more often than not, prefaced with self-critiques that expressed a negative view of the worthiness of their written reflections and what these accounts said about them.¹⁸⁵ Not surprisingly, law and medical students have very high expectations for their performance. In their view, to display a lack of assuredness about how well one is prepared for professional practice is a chance not worth taking—anything other than perfection, in their writing skills or what their writing reveals about them, is not acceptable to these high-achievers.

Professor Mark Weisberg, also a legal writing professor, has written about what he noticed when law students were asked to write reflectively and about the strategies he found to be useful in overcoming students' reluctance to do so.¹⁸⁶ Weisberg suggests that law students' voices are inhibited as a result of their early legal training.¹⁸⁷ He explains:

181. *Id.* at 705.

182. Interview with Professor Maura Spiegel, COLUM. UNIV. (Mar. 15, 2011).

183. *Id.*

184. See Weisberg, *supra* note 72, at 425 ("But for the less confident, such a banquet of offerings [reflective writing assignments tied to literature] can be daunting, yet another occasion for their internal critics to remind them of their deficiencies, to warn them against taking risks.").

185. Student accounts, such as these, have been a fairly consistent theme over the span I have taught this course.

186. See Weisberg, *supra* note 72, at 421.

187. *Id.* at 424.

It begins with their education and then their initial experience in law school Most of the models to which students are exposed . . . offer no relief or remedy for the jargon and abstractions. But I think the primary reason is fear: fear of failing, fear of being wrong or looking foolish, fear of being judged.¹⁸⁸

Correspondingly, Spiegel remarks that the medical students she teaches are expected to be all-knowing and confident, or at least that is what they demand from themselves.¹⁸⁹ And that any acknowledgement of insecurity they might reveal in a writing exercise, about the challenges they face both in the classroom and most especially in their clinical rotations, is too threatening to make known.¹⁹⁰

Weisberg proposes a number of approaches to encourage law students to “step forward” and write.¹⁹¹ It includes writing prompts such as: “Describe or imagine an experience you or someone else once had: of judging someone, of being in a social relationship, of being educated.”¹⁹² Additionally, he recommends utilizing peer examples and the classroom community “[to encourage] writers to risk being present in what they write,”¹⁹³ and to respond to students’ writing assignments by giving information that is enlightening, yet at the same time, non-judgmental. Specifically, he recommends telling student writers “what their readers see or hear in their text, leaving them [the students] to decide whether they’re pleased with what those readers experienced.”¹⁹⁴ By and large, the writing prompts I use are consistent with Weisberg’s themes. I follow his lead in giving feedback, which has also prompted students to critique each other’s writing in the same way. In my classroom, students may say to a fellow classmate, for example, “I hear in your writing the frustration you must have felt when that happened.” Such feedback reveals to student writers the effect of their writing on others (as Weisberg has counseled), as well as facilitates the “aha” moments of reflective writing to which I previously referred.

In addition to creating a supportive environment for writing, it is equally important to prepare students for what to expect from the introspective writing process itself—how it will unfold in the classroom setting. For one, I make clear at the outset that the extent to which students disclose personal information in their essays is entirely

188. *Id.*

189. *See* Interview with Professor Maura Spiegel, *supra* note 182.

190. *Id.*

191. Weisberg, *supra* note 72, at 424.

192. *Id.* at 425.

193. *Id.* at 427.

194. *Id.* at 428.

up to them. And that it is wise to think about how many intimate details they wish to reveal to others. These comments are meant to quell what I believe to be students' misapprehensions about my expectations for their writing—that the more they reveal, the more their writing will be valued. Overall, I consider carefully the nature of the prompts (whether purely introspective or more advocacy-specific)¹⁹⁵ and also how best to introduce them (making certain that students understand the boundaries of the exercise and the choices they have in how to participate). Finally, in preparing students for these exercises, I also stress that disclosures made in class are to be kept confidential ensuring that the classroom environment is a safe place for telling personal stories.

Few students over the years resist the practice of reflective writing (that which is not “focused explicitly on legal topics”),¹⁹⁶ but no small number wonder about “whether they can transfer what they’ve learned to their legal work.”¹⁹⁷ Weisberg proposes that this form of writing has specific benefits for law students: it prompts students to engage in “first-order thinking,” that which is “intuitive and creative,”¹⁹⁸ to become more confident and to be less judgmental.¹⁹⁹ Finally Weisberg posits:

One other quality that contributes to a meaningful professional life is the capacity to reflect on and learn from our experiences. Without it, I think we risk repeating our mistakes, becoming habituated to a set of practices that, for all we know, may be based on a set of faulty assumptions about professional, social and personal life. Reflective writing may be no panacea, but it helps establish a rhythm of experience and reflection which may act as a corrective to some aspects of legal education and law practice that make us so often prey to pathology.²⁰⁰

While these questions of relevancy to the legal profession arise at the outset, few students complete the course still having the same con-

195. I have over the years modified the extent to which the prompts are by and large introspective, by including more explicitly rhetorical prompts as well.

196. Weisberg, *supra* note 72, at 429.

197. *Id.*

198. *Id.* at 429–30 (citing PETER ELBOW, *EMBRACING CONTRARIES: EXPLORATIONS IN LEARNING AND TEACHING* 55 (1986)).

199. *See id.* at 433. One student, in the spring of 2012, commented in relation to the discussion of Perri Klass's essay *Baby Talk*, which makes reference to Dr. Klass's biased views about teen mothers. The student, based upon a reflective writing exercise paired with this text, said that the reading assignment and the writing exercise prompted her to become aware of her inclination to make judgments about her clients and that she would be mindful of this propensity in the future and attempt to overcome it. *See* KLASS, *supra* note 128, at 97–102.

200. Weisberg, *supra* note 72, at 433–34.

cerns regarding self-exposure as will be demonstrated in subsequent sections of this Article.

E. Chapter Four: The Texts

The case for reading good literature has been made by scholars of English and law alike. Professor of English, Verlyn Klinkenborg, writing on the topic, has said that students' engagement with literature—what is generally accepted as “the books and writers we agree are worth studying,” is the basis for writing that is “clear, direct, [and] humane”²⁰¹ Current discourse in narrative law suggests that reading works of respected writers encourages these writing abilities.²⁰² Reading stories, therefore, is instructive about how to tell them.²⁰³ It enables students to understand the components of narratives—plot, timeframe, setting, character, and point of view—as they exist in the context of a literary work.²⁰⁴ The critical examination of a well-crafted story also enables empathy for the story's subject (which is presumptively translatable to a client),²⁰⁵ analytical skills,²⁰⁶ and writing proficiency.²⁰⁷ Accordingly, reading literature should be an essential component of legal education as it promotes these requisite lawyering skills.

The entire scope of the assigned readings for Families, Law, and Literature includes: *Minding the Law*,²⁰⁸ *Making Stories, Law, Literature, Life*,²⁰⁹ *Stop Time*,²¹⁰ “Father” in *Dogs Bark, but the Caravan Rolls On*,

201. Klinkenborg, *supra* note 119.

202. See Interview with the Honorable Albert J. Matricciani, Jr., Associate Judge (Ret.), Court of Special Appeals of Maryland (noting that appellate lawyers could learn from good fiction writers and journalists in crafting convincing briefs).

203. See Rappaport, *supra* note 4, at 268.

204. See generally *id.* (describing a method of teaching students effective legal writing through the examination narrative techniques in works of fiction).

205. See generally Koehlert-Page, *supra* note 29 (asserting that lawyers can learn from examining storytelling techniques as to how to create empathy for one's client); see also Rob Atkinson, *Law as a Learned Profession*, 52 S.C. L. REV. 621, 636 (2001) (“I think the experience of empathy through reading is widely enough shared, and likely enough genuine, to warrant recommending great books as a plausible, if unproven, source of empathy.”).

206. Weisberg, *supra* note 83, at 135–38. Richard Weisberg has identified “lessons about interpretation” that are learned from narrative studies and that may be applied to legal analysis. These include: “Learning How People Understand the World.” Weisberg suggests that the study of narratives serves to broaden the lawyer's outlook (or “imagination” in White's words) to more effectively analyze the client's story. *Id.*

207. See White, *supra* note 37, at 36–38.

208. AMSTERDAM & BRUNER, *supra* note 21, at 110.

209. BRUNER, *supra* note 19.

210. FRANK CONROY, *STOP TIME* (1967).

Observations Then and Now,²¹¹ *City of One*,²¹² *Silver Sparrow*,²¹³ “Baby Talk” in *A Not Entirely Benign Procedure: Four Years As A Medical Student*,²¹⁴ *Random Family*,²¹⁵ *Iphigenia in Forest Hills: Anatomy of a Murder Trial*,²¹⁶ *So Long, See You Tomorrow*,²¹⁷ and *The Bluest Eye*.²¹⁸

The texts are chosen to introduce students to literary accounts of families and children and to showcase various literary genres, which among others on the syllabus are: fictional narratives of childhood, such as *The Bluest Eye* and *Silver Sparrow*; memoirs including *City of One* and the autobiographical essay, “Father”; as well as *Random Family*, an expansive journalistic rendering of family life in a poor neighborhood in the Bronx. These readings are a departure from the usual Law and Literature Canon (selections that mostly feature legal themes);²¹⁹ the most frequently chosen among them are, Herman Melville’s *Billy Budd* and William Shakespeare’s *Measure for Measure*.²²⁰ For the most part, with the exception of *Iphigenia in Forest Hills, Anatomy of a Murder Trial*,²²¹ the thematic underpinnings of the narratives included in the Families, Law, and Literature course syllabus have no particular relationship to the law.

There is support for using non-legal stories in law and literature courses.²²² Gemmette’s review of law and literature syllabi led her to comment on the ever-evolving law and literature reading list.²²³ She has stated that “the Law and Literature Canon never ‘is,’ rather it is in a perpetual state of ‘becoming.’”²²⁴ Furthermore, it has been my ex-

211. FRANK CONROY, *Father, in DOGS BARK, BUT THE CARAVAN ROLLS ON, OBSERVATIONS THEN AND NOW* (2002).

212. FRANCINE COURNOIS, *CITY OF ONE* (2000).

213. TAYARI JONES, *SILVER SPARROW* (2011).

214. KLASS, *supra* note 128, at 97–102.

215. LE BLANC, *supra* note 126.

216. JANET MALCOLM, *IPHIGENIA IN FOREST HILLS: ANATOMY OF A MURDER TRIAL* (2011).

217. WILLIAM MAXWELL, *SO LONG, SEE YOU TOMORROW* (Vintage Books 1980).

218. MORRISON, *supra* note 126.

219. See Gemmette, *Symposium on Legal Education*, *supra* note 2, at 686–90 (listing the most recommended works of fiction in order of the frequency with which they appeared on the reading lists (whether recommended or assigned) of the courses surveyed).

220. *Id.* at 686 (noting that *Billy Budd* appeared on 30 surveys, while *Measure for Measure* appeared on 23).

221. MALCOLM, *supra* note 216.

222. See Tovino, *supra* note 39, at 228, 246 (taking the lead from courses that teach medical students medical ethics through literary works absent explicit medical themes, Professor Tovino suggests that George Eliot’s work, *MIDDLEMARCH*, would provide helpful instruction to health law students studying the legal limits on doctor kickbacks and self-referrals).

223. See Gemmette, *Symposium on Legal Education*, *supra* note 2, at 690.

224. *Id.*

perience that, in reading non-legally themed texts, students find deeper meaning because they are not distracted by the legal issues. In doing so, they are free to attend to the human aspects of the story (moral/ethical dilemmas, family dynamics, human frailties, and other of life's quandaries) that these narratives portray. Bruner and Amsterdam's course, *Lawyering Theory Seminar: Crime and Punishment, Vengeance and Forgiveness*, is another case in point.²²⁵ It explores issues related to the death penalty (its purpose, application, and moral/ethical implications) through literature, most of which is devoid of legal themes.²²⁶ One of their students, writing of her experience, commented on the choice of texts for the course as follows:

The variety of texts we encountered contributed to a nuanced, complicated understanding of the issues and allowed for incredible insights into human culture, psychology and law The structure and content of this course allowed me to get deep into the human psyche and understand—intellectually and emotionally—where people on all sides of the death penalty issue are coming from Other classes try to get you to think through [the] issues, but only to a certain level of depth, and almost never accounting for people's . . . lived experiences.²²⁷

Similarly, a student in the *Families, Law, and Literature* course remarked:

This course helped me to “feel” again by recognizing the people-aspect of being a lawyer which you often forget about by your third year of law school[.] I think the course is best explained as transforming your “I’m going to be a great lawyer when I graduate” attitude into . . . “I’m going to be the best lawyer for my client”

225. I was a participant-observer in the course during the fall semester of 2010. At the end of the semester, I distributed a course evaluation in which I asked students to comment on the reading assignments. The reading assignments included novels (GRAHAM GREENE, *BRIGHTON ROCK* (1938) and HERMAN MELVILLE, *BILLY BUDD* (1924)), plays (AGAMEMNON and WILLIAM SHAKESPEARE, *TITUS ANDRONICUS*), poetry (DANTE ALIGHIERI, *THE DIVINE COMEDY, HELL, cantos xxxii–xxxiv* (1555)), law review articles, excerpts from scholarly writings on the death penalty, selections from trial transcripts featuring prosecutorial and defense arguments, a US Supreme Court opinion (*Gregg v. Georgia*, 428 U.S. 153 (1976)), and films (*DEAD MAN WALKING* (Gramercy Pictures 1995), *MYSTIC RIVER* (Warner Bros Pictures 2003) and *MONSTER* (DEJ Productions 2003)). I also surveyed the students on a number of evaluative measures with respect to the effect of the course on their lawyering skills, e.g., empathy, self-awareness, problem-solving and rhetorical proficiency, as well as the extent to which the course fostered moral/ethical awareness and the development of a professional identity.

226. See Course Description, *supra* note 66; see also *supra* Part III.E (describing the required texts for the course).

227. See Student Course Evaluation for *Lawyering Theory Seminar: Crime and Punishment, Vengeance, and Forgiveness* (Dec. 9, 2010) (on file with author).

outlook. My self-motivation has expanded to motivation for my client's needs²²⁸

Family law is a legal enterprise that demands, for one, a sophisticated understanding of family structure and function.²²⁹ It is especially important to direct students' attention to family dynamics and the experiences of families in difficult situations, so that they are better able to develop strategies for effective legal advocacy. In contested custody cases, for example, the best-interests-of-the-child standard governs legal decision-making.²³⁰ And yet, this guideline requires a fact-based analysis²³¹ to which "the decisionmakers' beliefs and values" are applied.²³² Surely, this situation demands a compelling narrative to persuade a judge to rule in the client's favor.²³³ Seemingly, students who have been given the opportunity to read, critique, and reflect upon family stories are better able to understand the inevitably complex family circumstances inherent in family law cases.²³⁴ Further, in deconstructing stories to examine narrative elements, they become conversant in representing their clients' contemporary stories with the hope of overcoming the outmoded stories that have previously driven judicial decision making.²³⁵

228. E-mail from Student to Author (May 2, 2012, 10:37 EDT) (on file with author).

229. See Linda L. Berger, *How Embedded Knowledge Structures Affect Judicial Decision Making: A Rhetorical Analysis of Metaphor, Narrative, and Imagination in Child Custody*, 18 S. CAL. INTERDISC. L.J. 259, 259–60 (asserting that contemporary family law practice requires an understanding of the complexities of education, race, and class as they influence family structure and function).

230. See *id.* at 282–83 (explaining the evolution of the best interests standard).

231. MARTIN GUGGENHEIM, *WHAT'S WRONG WITH CHILDREN'S RIGHTS* 152 (2005) (noting the factors for analysis include: the relationship and interactions between the parent and child, and the child and his siblings, while extending also to any other person who may have a significant effect upon what may be in the child's best interest).

232. *Id.* at 40.

233. See Berger, *supra* note 229, at 260 ("[T]he best interests of the child standard [is] . . . cluttered with outmoded metaphors, simplistic images, and unexamined narratives [which] interferes with the ability of judges to attend to complex and radical transformations of parent-child relationships. The Article proposes that practicing lawyers and scholars use rhetorical analysis first to uncover the symbols and stories that affect judicial decision making and then to construct arguments that may overcome deeply rooted constraints . . .").

234. See *generally id.* (making the case for educating lawyers to become better family advocates through the critical analysis of the outmoded narratives that affect child custody decision making so that they can make compelling arguments in favor of decisions that take into account modern family structures and function).

235. See Berger, *supra* note 229, at 305–07.

In addition to the assigned readings cited above, the students also read poetry chosen to complement the texts.²³⁶ The poem “Help,”²³⁷ for instance, is paired with *Random Family*. The families, around which this narrative revolves, are constantly challenged by their impoverished and drug-ridden environment and most efforts to help them are stymied by a myriad of factors.²³⁸ The poem distills, in a way that prose could not, the overwhelming feeling of hopelessness that confronts any thoughtful reader of the book and also certainly any lawyer who tried to *help* the families portrayed. In the words of the poem, the evocative nature of poetry is illustrated as follows:

Imagine help
 as a syllable,
 awkward, but utterable.
 How would it work
 And in which distress?

 It’s hard,
 coming from a planet
 where if we needed something
 we had it.²³⁹

Commenting on the role of poetry in the modern law and literature movement, one scholar notes, “Poetry has garnered scant attention”²⁴⁰ Weisberg, however, champions its inclusion in law and literature courses noting that “the poetic method provokes us, as customary learning does not, to highlight the linguistic, sensory aspects of every part of our craft.”²⁴¹ At least one federal judge is influenced by poetry; in a recent news article, U.S. Federal District Court Judge Edward Korman mentioned the effect of a particular poem in guiding his approach to deciding cases.²⁴² The journalist, in recounting the interview, quotes the judge thus:

236. Alexandra J. Roberts, Book Review, *Constructing a Canon of Law-Related Poetry*, 90 TEX. L. REV. 1507, 1532–33 (2012).

237. KAY RYAN, *Help*, in SAY UNCLE 26 (Grove Press 2000) (1991).

238. See *id.*; see also LE BLANC, *supra* note 126, at 405–06.

239. RYAN, *supra* note 237, at 26.

240. Roberts, *supra* note 236, at 1508.

241. *Id.* at 1532 (citing Daniel J. Kornstein, *The Law and Literature*, N.Y. ST. B.J. 34, 36 (1994) (quoting Richard Weisberg)).

242. Pam Belluck, *Behind Scolding of the F.D.A., a Complex and Gentle Judge*, N.Y. TIMES, June 14, 2013, <http://www.nytimes.com/2013/06/15/health/behind-scolding-of-the-fda-a-complex-and-gentle-judge.html>.

Then he mentioned a poem, “The Calf-Path” by Sam Walter Foss, about how a crooked path made by a wayward calf ended up becoming an official road followed by everyone for centuries. “For men are prone to go it blind/ Along the calf-paths of the mind,” the poem reads. “The law depends on precedent, but I think judges don’t stop often enough to think about whether the path should be followed,” Judge Korman said, adding, “I try and straighten the calf’s path.”²⁴³

IV. The Students: An Account from Their Point of View

In the end, it may be the students’ appraisals that are most useful in assessing the merits of the proposed teaching methods. Their views are discernible from their essays, which are assigned at the midterm and the conclusion of the semester,²⁴⁴ and their end-of-semester evaluations,²⁴⁵ where students rate the readings based on the degree to which each furthered lawyering capacities such as empathy, advocacy, and ethical awareness. Student reactions to the reading assignments are also apparent from class discussions, and as students become more comfortable with the class format, they are increasingly forthcoming with opinions about what they have read.²⁴⁶ One student remarked, in a reflective paper, that the classroom environment enhanced the interactive dynamics among his classmates. Referencing the seminar format, he asserted:

I felt that this [the format for class discussion] imparted a feeling of comfort and equality among everyone in the room. Additionally, usually in a traditional classroom setting, the words of the professor are unquestioned[;] however[,] in this setting I felt that all opin-

243. *Id.*

244. Syllabus, Families, Law, and Literature (on file with author).

[S]tudents are required to write two papers—a midterm and a final paper. The midterm paper should be a 1,200 word analysis of a passage from a text that we have examined in class which features one of the narrative techniques mentioned above—how it is used to depict a family’s story and its effect on you, the reader. The final paper should set forth in 2,500 words your reflections on the course—the extent of its influence on how you will interact with and represent your clients with specific mention of how the readings we have considered during the semester have advanced these aspects of lawyering.

Id.

245. See Appendix, Student Course Evaluation, Families, Law, and Literature (on file with author).

246. See Excerpt from Student Paper, Families, Law, and Literature, May 2012 (on file with author); Excerpt from Student Paper, from Families, Law, and Literature, May 2014 (on file with author).

ions could be questioned, examined, and expounded upon, no matter who the speaker was.²⁴⁷

The texts most favored over the years include *Foster*,²⁴⁸ “Baby Talk,”²⁴⁹ and *Random Family*.²⁵⁰ *Foster* represents for the students an unexpected departure from stories of foster care.²⁵¹ One student said that she felt a great relief in that this account of foster care represented a positive experience—noting that nothing “scary” happened.²⁵² Bruner expressed that narratives provide the opportunity to consider what might be possible in terms of an alternative turn of events.²⁵³ *Foster* affords that occasion;²⁵⁴ it is the story of a young girl who is placed in a kinship care situation with loving relatives who are more indulgent of her physical and emotional needs than are her birth parents.²⁵⁵ The story’s end, in which the child is returned to her biological mother and father by the reluctant foster parents,²⁵⁶ facilitated students’ insights about the conundrum of foster care when it benefits the child. The narrative calls into question conventional views about foster care placement itself; that it is often a bleak or harmful experience.²⁵⁷ *Foster* compels students to consider the many points of view involved in foster care situations: those of biological parents, foster parents, foster children, and siblings that may be left behind.²⁵⁸ The story also prompts students to consider how to gauge what is best

247. Excerpt from Student Paper, Families, Law, and Literature, Spring 2012 (on file with author).

248. Claire Keegan, *Foster*, in *THE BEST AMERICAN SHORT STORIES 2011* 136–62 (Geraldine Brooks & Heidi Pitlor eds., 2011).

249. KLASS, *supra* note 128, at 97–102.

250. LE BLANC, *supra* note 126.

251. Keegan, *supra* note 248.

252. Student Discussion, Families, Law, and Literature. The story in *Foster* opens up the opportunity to consider an alternative narrative of foster care—one which highlights the effect of severing bonds forged between foster children and their foster parents.

253. BRUNER, *supra* 19, at 48–49 (“[A]ny writer or playwright will assure you, his task is to imagine, to explore possibility. . . . The challenge of literary narrative is to open possibilities without diminishing the seeming reality of the actual.”).

254. See Keegan, *supra* note 248.

255. See e.g., *id.* at 153 (“Kinsella takes my hand in his. As he does, I realize that my father has never once held my hand It’s a hard feeling, but as we walk along, I settle and let the difference between my life at home and the one I have here be.”).

256. *Id.* at 160–62.

257. COURNOS, *supra* note 212, at 28 (“‘What’s it like there?’ I asked him one weekend when he was home visiting. ‘I live in a basement. They don’t give me enough to eat. They feed me with the dog.’”).

258. See generally Keegan, *supra* note 248 (portraying a positive foster care placement in which the foster parents and the child form a significant and positive relationship, and as a result the child’s return to her biological family is fraught with conflicted feelings on the part of the child, her parents, and her foster parents).

for the child protagonist—either placement in a home where she is the privileged only child or returning her to her large and over-burdened, but loving family.²⁵⁹ During the wrap-up to the discussion of *Foster*,²⁶⁰ students are requested to imagine what happens next and to write a short essay on the topic as a postscript to the story.²⁶¹ Some have speculated that all ends well, while others have reckoned that the strains on the family of origin would disadvantage the child.²⁶²

“Baby Talk” provides students with the opportunity to consider their professional selves.²⁶³ Professor Timothy Floyd contends that narratives help students develop a professional identity and calls for a curriculum that “emphasize[s] narrative.”²⁶⁴ Klass’s essay, “Baby Talk,” presents several interpersonal encounters between a medical student and her clinic patients.²⁶⁵ Using chronicles of patient interviews during her clinical training, Dr. Klass illustrates the frustrations associated with listening to patients’ stories, while attempting to reconcile her own anxieties about these encounters.²⁶⁶ Klass’s essay was selected for the law and literature course despite its context, the doctor-patient relationship, because through her accounts of the missteps she makes in talking with her patients, she depicts quite well the pitfalls encountered in communications between the helper and the person seeking help.²⁶⁷ In her descriptions of conversations with her teenage patients, Dr. Klass captures the vexed perspective of a young professional seeking to define herself as a physician; in other words, to carve out a professional way of being. Students have responded positively to the story as Klass’s depictions of her miscommunications are so strikingly obvious and instructive. One student remarked that she expected to

259. *Id.* at 136–41.

260. *Id.*

261. See Introductory Memorandum, Families, Law, and Literature, Class Six (on file with author). The writing prompt paired with *Foster* is: “Write what happens next.”

262. See *id.* In writing in response to the prompt “Write what happens next,” one student projected that the biological father’s drinking had escalated, leading to physical abuse of the children.

263. KLASS, *supra* note 128, at 97–102.

264. Timothy W. Floyd, *Moral Vision, Moral Courage, and the Formation of the Lawyer’s Professional Identity*, 28 MISS. C. L. REV. 339, 347–48 (2009); see also Deborah L. Rhode, *Teaching Legal Ethics*, 51 ST. LOUIS U. L.J. 1043, 1053 (2007) (recommending the incorporation of literature, TV clips, and films to bolster courses in legal ethics and to help students to develop a professional identity).

265. KLASS, *supra* note 128, at 97–102.

266. See *id.* at 97 (expressing frustration about a client’s response to her advice and her own capacity to find a solution).

267. See generally *id.* at 97–102 (documenting Klass’s insights as to her judgmental attitudes about her patients’ circumstances, i.e., that they chose not to have an abortion).

frame the essay to hang on her office wall to remind her of how not to interact with her clients.²⁶⁸

Random Family compels students to grapple with the trials of providing aid to indigent families.²⁶⁹ While students have found keeping track of the multiple characters and their complicated relationships frustrating, they ultimately come to understand that the story makes clear the extreme challenges they would face in pursuing family law in a public interest milieu, an area in which many of my students expect to practice.²⁷⁰ Furthermore, the pairing of *Random Family*²⁷¹ with the poem “Help,”²⁷² previously excerpted, deepens the students’ experience of how the ability to help, in the end, may elude them.

Even though most students have found value in each of the readings, some texts appeared to be less accessible than others. In particular, Frank Conroy’s memoir, *Stop Time*,²⁷³ posed challenges to interpretation; students had difficulty relating to a young boy whose childhood dates back to a different era (the late 1940s).²⁷⁴ The quaint nature of young Frank’s adolescent angst and rebellion, as a result of the time in which he grew up,²⁷⁵ seemed to complicate the students’ capacity to empathize with his predicaments. Also, the memoir, at times, is abstract in that it presents dreamscapes that obscure the plot. What garnered the students’ attention, however, is the writer’s relationship to his father and how, at different times in his life, his impressions of that relationship changed.²⁷⁶

The reading selection that followed *Stop Time* in the syllabus, Conroy’s essay, “Father,”²⁷⁷ aids the students in comprehending the work—causing them to consider the effects of absentee parents, as well as what constitutes the “good enough” parent. As future family law attorneys, the views of an adult child reflecting on a father who essentially deserted his family provide a useful perspective from which to consider family law issues, namely that no matter the quality of the

268. This statement is based on my recollection of comments made during class discussion.

269. LE BLANC, *supra* note 126, at 405–06.

270. *See id.* at 163–66 (describing the challenges facing teenage mothers with children born of several fathers who themselves were products of a similar family constellation).

271. *Id.*

272. RYAN, *supra* note 237.

273. CONROY, *supra* note 210.

274. *Id.* at 5–8.

275. *Id.*

276. *See generally id.* (describing the author’s relationship with his father in specific instances throughout the book).

277. CONROY, *supra* note 211.

parent-child relationship, it is formative in a child's life. "Father"²⁷⁸ is introduced to the students in an introductory memorandum as follows:

Frank Conroy's essay "Father" is contained in a collection of articles and essays the author wrote over a period of twenty-five years. Among the pieces in the volume are three essays on the subject of fatherhood—a topic which clearly occupied Conroy for much of his literary life. In his critically acclaimed memoir, *Stop Time*,²⁷⁹ the story begins with a depiction of the elder Conroy as seen through the eyes of young Frank—an encounter with his father that would be his last. . . . The literary references to fathers and mothers contained in our readings demonstrate the enduring influence of parents, no matter their physical absence or their capacities to rear children.²⁸⁰

Owing to the students' mixed response to *Stop Time*,²⁸¹ I have since replaced it with the novel *Silver Sparrow*,²⁸² featuring a father who is a bigamist. While it is too soon to comment definitively on the substitution, *Silver Sparrow*²⁸³ has sparked substantive discussions about the paternal role. Likewise, it has provided an opportunity for students to develop a story (based upon the character in the novel) that challenges criminal punishment for bigamy. As I look to the future, I expect that the syllabus will continue to evolve to the extent that the reading assignments will change according to their efficacy in facilitating narrative utility, competency, and insights into family law practice. As Gemmette suggests, the Law and Literature Canon remains subject to revision.²⁸⁴

A. Class Preparation

As previously noted, the weekly reading assignments, which are the primary means of engaging students in the close reading and reflective writing exercises, are introduced with explanatory memoranda. These written materials are useful reading guides for students as they prepare for class, particularly in that they focus the students' attention on the narrative feature that the text has been chosen to illustrate. For example, Frank Conroy's essay, "Father," was selected,

278. *Id.*

279. See CONROY, *supra* note 210.

280. Introductory Memorandum, Families, Law, and Literature, Class Nine (on file with author).

281. CONROY, *supra* note 210.

282. JONES, *supra* note 213.

283. *Id.*

284. See Gemmette, *Symposium on Legal Education*, *supra* note 2, at 690.

in part, to illustrate character: “Father”²⁸⁵ showcases the art of character development. Conroy’s descriptive writing techniques enable the reader to imagine his father as seen through the eyes of his adult son.”²⁸⁶ And, for the purpose of point of view analysis, *Foster*²⁸⁷ is among the texts selected to that end.

The most obvious narrative technique featured in this story is . . . point of view. The foster care experience is related in the child’s voice—each encounter with her new situation is presented in such a way as to convey how a child processes what she does not completely understand.²⁸⁸

Additionally, the memoranda call attention to other aspects of effective storytelling. They serve as meaningful background for approaching the material. The prefatory memorandum for *Iphigenia in Forest Hills, Anatomy of a Murder Trial*, for instance, highlights ambiguity and its role in the story:

In the end, the facts that were introduced in the author’s narrative of the murder trial are but the overlay of a complex web of tales related to what happened and why. Malcolm’s overarching chronicle is quite different from the one the jury heard, owing to evidentiary constraints as well as her inclusion of meticulously detailed viewpoints. The author’s presentation of accounts gleaned from multiple characters serves to [highlight ambiguity—how these individual accounts make the story told at trial less absolute] . . . calling into question what really happened and how it could be explained.²⁸⁹

In each case, the memoranda emphasize the utility of narrative techniques in advocacy contexts.²⁹⁰ Among these featured techniques is characterization,²⁹¹ because it figures prominently in client representation—often as a means to garner empathy for the client’s circumstances.²⁹² Students learn that client *representation* may be thought

285. CONROY, *supra* note 211.

286. Introductory Memorandum, Families, Law, and Literature, Class Nine (on file with author). “Father” showcases the art of character development. Conroy’s descriptive writing techniques enable the reader to imagine his father as seen through the eyes of his adult son.”

287. Keegan, *supra* note 248.

288. Introductory Memorandum, Families, Law, and Literature, Class Six (on file with author).

289. Memorandum, Families, Law, and Literature, Class Three (on file with author); *see* MALCOLM, *supra* note 216.

290. *See generally* Rappaport, *supra* note 4, at 287 (“[T]he literary elements of character, setting, plot, and theme (with a small dose of tone) are important components to legal writing.”); *see also* BRUNER, *supra* note 19, at 47–51.

291. BALDICK, *supra* note 20, at 52 (“The representation of persons in narrative and dramatic works.”).

292. Koehlert-Page, *supra* note 29, at 405.

of alternatively as characterization (in narrative parlance); developing the client's character allows the attorney to *represent* the client as a human being. In contrast, point-of-view-focused memoranda address how the character is developed in the assigned material by portraying how she thinks. Professor Cathren Koehlert-Page has written about point-of-view techniques for appellate brief writing, asserting that "in crafting an appellate brief, lawyers can adapt fiction techniques to place judges in the client's point of view."²⁹³ And insofar as ambiguity is concerned, Bruner explains the reason for its importance in narrative. He says that it animates one's capacity to imagine possible explanations for what happened and why²⁹⁴—which arguably would be significant in raising issues of doubt in a criminal proceeding or possible outcomes in a custody or child welfare case.

Overall, the students who have taken the course validate the benefit of these introductory materials.²⁹⁵ Students have documented in their course evaluations that the background memoranda are useful adjuncts to the assigned readings.²⁹⁶

B. Classroom Structure and Activities

1. Structure

The course is conducted in a seminar format. The optimal class size is twelve students, although I have taught it with enrollments numbering as many as seventeen and as few as four. One student has described the class as follows:

What struck me immediately on the first day of class was not only the small class size, but the positioning of the classroom. While I did not think about it at the time, it perhaps subconsciously had a profound effect on me. The students were not facing a professor as per a traditional classroom setting; rather, we were all seated in a circle, which to me, symbolically made us all equal in the discussion. I felt very comfortable being seated in this manner: I could make eye contact easily with people who were speaking²⁹⁷

293. *Id.* at 400.

294. *See* BRUNER, *supra* note 19, at 51 ("Literary narrative 'subjunctivizes' reality . . . making room not only for what is but for what might be or might have been.")

295. *See* Course Evaluations, Families, Law, and Literature, Spring 2012. Students are invited to complete a confidential online course evaluation (under the auspices of the law school) for each course at the conclusion of the semester.

296. *See id.* Credit also is due to Professors Anthony Amsterdam and Jerome Bruner who distributed similar introductory materials to students in their seminar, *Lawyering Theory Seminar, Crime and Punishment, Vengeance, and Forgiveness*.

297. Excerpt from Student Paper, Families, Law, and Literature, Spring 2012 (on file with author).

2. Activities—Class Discussions

Class discussions frequently begin with an example of a narrative technique featured for discussion that day—some are from sources other than the assigned readings. The quotation below is one such example. In a class devoted to examining timeframe, I read to the students an excerpt of its use by the author, Louise Erdrich. The passage of time as depicted in her novel, *The Round House*, tracks the seasons of a garden:

When the warm rain falls in June, said my father, and the lilacs burst open. Then she will come downstairs. She loves the scent of the lilacs. An old stand of bushes planted by the reservation farm agent bloomed against the south end of the yard. My mother missed its glory. The flimsy faces of her pansies blazed and then the wild prairie roses in the ditches bloomed an innocent pink. She missed those too.²⁹⁸

The segment is used to explain the extent of the protagonist's mother's seclusion in her bedroom after she had been brutally raped. In addition to calling forth reading material we had previously considered, it prompts the students to consider the various ways that time can be expressed, whether poetically through the seasons (as in Erdrich's case), in years,²⁹⁹ or by the ticking clock.³⁰⁰ I teach that the passage of time underscores the momentum of the story (the plot) serving to engage listeners in a quest to know what happens next,³⁰¹ and that it also functions as a way to organize the story into a comprehensible arrangement of facts.³⁰²

After the introductory reading, our discussions then address the students' selections from the texts, which they read aloud to the class. Students are encouraged to use the close reading method to critique the passage by selecting specific words and phrases that are particularly meaningful in not only showcasing a narrative feature, but also its effect on the reader/listener.

298. LOUISE ERDRICH, *THE ROUND HOUSE* 85 (2012).

299. See COUNOS, *supra* note 212, at 22–47 (demonstrating the passage of time by demarcating segments of the author's life expressed in years, e.g., Chapter 1, Disappearances (1948–1953)).

300. See Adam Liptak & Michael Moss, *The 2004 Campaign: The North Carolina Senator; In Trial Work, Edwards Left A Trademark*, N.Y. TIMES, Jan. 31, 2004, <http://www.nytimes.com/2004/01/31/us/2004-campaign-north-carolina-senator-trial-work-edwards-left-trademark.html?pagewanted=all&src=pm>. John Edwards, in trying a medical malpractice case, chose to mark time for the jury by noting the minutes that elapsed during a difficult birth to underscore the baby's struggle for survival. *Id.*

301. See AMSTERDAM & BRUNER, *supra* note 21, at 1–4.

302. See Griffin, *supra* note 84, at 290.

During a discussion of *The Bluest Eye*,³⁰³ one student chose a portion of the text to illustrate the development of the character Cholly, and how in her estimation the passage humanized this father who had sexually abused his young daughter. The passage, in his future wife Pauline's words, shows their young love:

So when Cholly come up and tickled my foot, it was like them berries, that lemonade, them streaks of green the june bugs made, all come together. Cholly was thin then, with real light eyes. He used to whistle, and when I heerd him, shivers come on my skin.³⁰⁴

The student shared how the excerpt made her think about strategies she might use to defend a client, such as Cholly, who had committed what would indeed be viewed by a jury as an indefensible crime.³⁰⁵ She pointed out that the author's way of relating this moment in time could be used to show that at some point in this character's life he was lovable and thereby human despite his inhumane actions.³⁰⁶ This comment demonstrates the evolution of students' critical thinking capacities (the comment was made during the final class discussion of the semester). This type of analysis is encouraged from the outset of the course; students discuss during each class how the narrative technique in question could be applied to lawyering. These discussions enable such spontaneous and creative applications to emerge as a result of students becoming more adept at narrative interrogation as the course progresses.

As mentioned earlier, point-of-view narration is highlighted in many of the readings; students in the class develop a facility for applying a point-of-view outlook to client representation. In doing so, they are able to understand that point of view is a way for lawyers to develop empathy for their clients (by attending carefully to the client's story to ascertain how the client sees her situation) and to relate that perspective convincingly fosters empathy for the client in court proceedings or policy-making arenas. Reading stories from that standpoint enables law students to begin to imagine and appreciate the client's circumstances, and in showcasing this, how a client's predicament can become one that engenders fellow-feelings in others. Consequently, students are able to realize the power of point of view as an

303. MORRISON, *supra* note 126.

304. *Id.* at 115.

305. Student Discussion, Families, Law, and Literature (on file with author).

306. See Mosi Secret, *Passionate Speeches in Court Over Life Term or Death for a Killer of Two Detectives*, N.Y. TIMES, July 24, 2013, at A17 (chronicling the closing arguments in a federal death penalty case in which David Stern, the lawyer for the defendant, Mr. Wilson, attempted to humanize his client).

advocacy tool—telling the story of what happened as the client has experienced it makes the client more relatable to others, whether judges, jurors, or other authorities.³⁰⁷

I also make use of close reading to emphasize other expedient narrative techniques—in particular, how to maximize the effect of a story using a minimal number of words. Anthony Shadid, a well-regarded journalist, said that “[t]he best journalism is sometimes about footnotes—when we write small to say something big’”³⁰⁸—to make an impact, words must be used economically and chosen with care. *Random Family* showcases what Shadid counseled. Students read in class and parse the short passage below, noting how the writer communicates concisely the depth and breadth of the character’s travails, nonetheless inspiring empathy for this child’s plight.

But Mercedes had already had more than enough hardship and fear and humiliation for several lifetimes—nights in unsafe buildings; cold waits on hard benches of homeless shelters, police stations, courtrooms, and welfare offices; she’d been uprooted eight times in eight years.³⁰⁹

After reading this passage closely, students have little difficulty in making connections as to how it could be used to explain the character’s recalcitrant behavior to a judge in a juvenile justice or child-in-need-of-assistance proceeding.

3. Activities—In-Class Writing Exercises

Commenting on his use of storytelling techniques in teaching law students how to write persuasively, Bret Rappaport advises:

It is axiomatic that the best method of teaching is not simply didactic instruction; rather it is to create an awakening and moving experience for the students so that the content has meaning to them. Accordingly, the methods of teaching law students about the power of storytelling should be integrated into the legal-writing curriculum in ways that may draw students into the process.³¹⁰

In that vein, following discussions of the week’s literary selection, students engage in reflective writing in response to a prompt related

307. See Koehlert-Page, *supra* note 29, at 404–10 (defining point of view as the frame of reference from which the viewer or reader experiences the story, and that as a result of incorporating this narrative technique, judges are likely to find appellate briefs more persuasive); see also Westen, *supra* note 12 (“[R]esearch in cognitive science has shown, lawyers whose closing arguments tell a story win jury trials against their legal adversaries who just lay out ‘the facts of the case.’”).

308. Editorial, *Anthony Shadid*, N.Y. TIMES, Feb. 17, 2012, <http://www.nytimes.com/2012/02/18/opinion/anthony-shadid.html>.

309. LE BLANC, *supra* note 126, at 374.

310. Rappaport, *supra* note 4, at 283.

to the reading assignment. As will be evident in this section, students derive many insights from these weekly writing exercises.

The reflective writing exercises vary over the years, depending upon the texts specified in the syllabus for the particular semester. Past prompts include those directed towards introspective themes. For example, the prompt “Write about a time when you felt misunderstood by your client,” has been paired with the Klass essay, “Baby Talk”;³¹¹ “Write about a time when you refused an offer of help,” and, “Write about your home,” have been paired with the Toni Morrison novel *The Bluest Eye*,³¹² and “Write about what instructions for living you were given and by whom,” which corresponds to the Cournos memoir, *City of One*.³¹³ These writing stimuli allow students to use storytelling in law school in a way that has been, for the most part, absent from traditional legal education.³¹⁴ One commentator remarks that “students are rarely asked to tell stories that matter to them. Additionally, there are surprisingly few accounts of students as storytellers.”³¹⁵ Another scholar suggests that “[p]ersonal experience is a classic method to open minds to learning.”³¹⁶

Writing prompts are also directed toward critical thinking about case-specific issues designed to engage students in developing case theories and rhetorical skills. They have included “Write Michelle’s story,” which accompanies Malcolm’s journalistic exposition, *Iphigenia in Forest Hills, Anatomy of a Murder Trial*³¹⁷ (meant to illustrate case theory), and “Write a closing argument defending the character, James Witherspoon³¹⁸ against a bigamy charge,” which has been used in conjunction with Jones’s *Silver Sparrow*.³¹⁹

Before giving the prompt, I read a portion of the accompanying story, which is selected to evoke a specific reflection. What follows are

311. See KLASS, *supra* note 128, at 97–102.

312. See MORRISON, *supra* note 126.

313. See COURNOS, *supra* note 212.

314. *But see generally* James R. Elkins, *Writing Our Lives: Making Introspective Writing a Part of Legal Education*, 29 WILLAMETTE L. REV. 45 (documenting his experience with integrating introspective writing into his law school teaching curriculum).

315. Tyler & Mullen, *supra* note 63, at 297–98 (explaining that student journals have been the rare exception to the phenomenon). *But see generally* SCOTT TUROW, ONE L: THE TURBULENT TRUE STORY OF A FIRST YEAR AT HARVARD LAW SCHOOL (1997) (chronicling the author’s reflections on his first year of law school).

316. Rappaport, *supra* note 4, at 283.

317. MALCOLM, *supra* note 216, at 16–19, 153–55.

318. See JONES, *supra* note 213, at 3.

319. *Id.*

several excerpts from the texts as examples. In *The Bluest Eye*,³²⁰ (used as a prelude to the prompt, “Write about your home”), Morrison describes Pecola Breedlove’s (the protagonist’s) home in this way:

There was a living room, which the family called the front room, and the bedroom, where all the living was done. In the front room were two sofas, an upright piano, and a tiny artificial Christmas tree which had been there, decorated and dust-laden for two years. The bedroom had three beds: a narrow iron bed for Sammy, fourteen years old, another for Pecola, eleven years old, and a double bed for Cholly and Mrs. Breedlove. . . . The kitchen was in the back of this apartment, a separate room. There were no bath facilities.³²¹

Students write for ten minutes after I have read the prompt and the relevant excerpt.

The Morrison passage and the prompt that follows evoke a variety of memories of home—whether it is a description of a specific room,³²² an event that had occurred there,³²³ or a person who had resided in the household.³²⁴ As students read their written reflections on home aloud, it becomes clear that they begin to develop a deeper sense of its meaning; students portray home as not merely a physical place, but the embodiment of one’s identity, which is, according to one student, “why it feels like such a betrayal when the old home is sold or destroyed.”³²⁵ What is more, “[I] learned from two other students’ written work that home is a permanent location, which often appears in dreams long after it is no longer [inhabited] by the dreamer.”³²⁶ Students have written about home using various means to describe it, but in all cases, the act of writing about home yielded an insight as shown below:

Another student described how her mother had been careful to remind her and her siblings to refer to where they lived as home and not a house. Apparently, her mother had moved many times as a child, thus the concept of home had a very different meaning

320. MORRISON, *supra* note 126.

321. *Id.* at 34–35.

322. See Judith D. Moran & Claudia Land, Close Reading, Reflective Writing, and Legal Advocacy (Mar. 9, 2010) (field notes) (on file with authors) (“One student said when she went home to her parents’ two-bedroom apartment, that ‘her room was exactly the same—hand-me-down furniture, ugly brown carpet, 200 classical Barbie dolls still in the closet.’”).

323. See *id.* (explaining that one student wrote about the destruction of her home by a tornado and its impact on her memory of home).

324. See *id.* (“[A] student read that her memory of home was seeing her grandfather sitting in a green chair looking out the window as she came home from school. Whenever she sees that particular shade of green she thinks of her grandfather. Her brother now has the chair because no one could bear to get rid of it after the grandfather died.”).

325. *Id.*

326. *Id.*

from house. The same student described carefully her own apartment—the colors she had chosen for the rooms, the paintings on the walls, and other furnishings [A] student mentioned that she was overcome with [an] unexpected sadness during the exercise, when she realized that her client (a foster child who had lived in several houses during her childhood) would have had difficulty writing about home—“He never really had one,” she said.³²⁷

The writing exercise involving reflections about home, and specifically in the instance above, allows students to ponder the many dislocations from home that their clients may experience, such as spending time in foster care, and to envision the possible effects of such transient living conditions.³²⁸ The unfolding of these perceptions speaks to Elkins’s reference to the need for the more “truthful” and “revealing”³²⁹ telling that is required for good lawyering. In providing students with the opportunity to revisit an experience (either a client’s or their own) through writing about it, they are enabled to view their clients in ways that will advance effective client relationships and legal advocacy on their behalf.

Another writing exercise featured an introduction using an excerpt from *Iphigenia in Forest Hills, Anatomy of a Murder Trial*,³³⁰ in which the author, Janet Malcolm, describes her encounter with Michelle Malakov, the child at the center of a contentious custody case that led to her father’s murder—the trial is the centerpiece of the book:

A child on a tricycle, peddling vigorously and laughing in a forced and exaggerated manner, preceded them. It was Michelle. . . . Walking to the subway I swore at myself. Had I stayed in Khaika’s garden another minute, I would have had the chance to observe Michelle in the heart of her feared father’s family. But perhaps my glimpse of her face distorted by mirthless laughter sufficed for my journalist’s purpose. I thought I got the message.³³¹

In responding to the prompt to “Write Michelle’s story,”³³² the students showcase their imaginative faculties. One student wrote from the perspective of Michelle as a teenager looking back with bitterness

327. Judith D. Moran (2011) (unpublished field notes) (on file with author).

328. Students enrolled in the Child Advocacy Clinic, Adolescent Representation Project, counsel many clients who have been raised in multiple foster homes.

329. Elkins, *supra* note 314, at 47.

330. MALCOLM, *supra* note 216.

331. *Id.* at 127–28.

332. This prompt is open-ended to invite students’ imaginations. The context for the discussion is to highlight the fact that the child, Michelle, is largely absent from the narrative. While many decisions are made about her circumstances, e.g., custody and kinship care, her views are neither solicited nor considered; see MALCOLM, *supra* note 216, at 61–64 (describing Michelle’s “Dickensian ordeal” moving through the child welfare system and

on what had befallen her: both parents gone from her life forever.³³³ Another likened herself to the six-year-old Michelle, recalling a time when she (the student) rode her own tricycle, innocent of the knowledge that her parents would soon divorce.³³⁴ While a third presented an emotionally guarded Michelle—one who denied the effects of her present reality as a defense against the terrors she anticipated for her future.³³⁵

The written work produced by the students, and read aloud by them over the years, has brought forth revelatory material that is significant in its substance and depth. These essays provide useful insights for the class to consider (one student, in reflecting on the course, appreciated the opportunity to hear the range of viewpoints expressed in her classmates' written work).³³⁶ These writings also demonstrate the potential of the reflective writing method to enable students to be more effective advocates.³³⁷

The students' essays are equally noteworthy in the degree to which they demonstrate spontaneity and, for the most part, a willingness to disclose personal experiences. Many students have reported that these reflections arose in their thoughts and prose without conscious awareness or provocation.³³⁸ The entire process confirms James Elkins's notions about the value of, and for many lawyers the need to engage in, introspective writing: "There is a strong, and I believe, pervasive need, of clients and lawyers to tell their stories as well as to live them."³³⁹

Professor Elkins's observation has been borne out time and again. In the class devoted to Perri Klass's essay, "Baby Talk," written during her days as a medical student, we focus on a selection from the text in which Dr. Klass revisits an interaction with a patient (a preg-

how the only person (her treating psychologist) who seemed to understand Michelle and was capable of speaking from her perspective, was disregarded).

333. This information is based on recollections from class discussions where students shared their written work with the class.

334. *Id.*

335. *Id.*

336. See Excerpt from Student Paper, Families, Law, and Literature, May 2014 (on file with author).

337. See generally Parker, *supra* note 18, at 290–91 ("Expressive writing is integral to the process of developing critical understanding and provides a deliberate practice in reflection, itself an essential professional skill.")

338. See LOEWALD, *supra* note 162, at 368–70.

339. James Elkins, *Lawyer as Writer: Introspective Writing*, <http://myweb.wvnet.edu/~jelkins/writeshop/writeshop/introspective.html> (last visited Sept. 19, 2014) (musing on the value of introspective writing in personal journals).

nant teenager), that highlights the divide that separated them.³⁴⁰ During discussions among students that follow the reading, they unburden themselves of the inevitable pent-up frustrations that result from representing immature and disadvantaged clients similar to Dr. Klass's young patients. They have pondered the specific difficulties they experience, largely revolving around their clients' non-compliance with procedural issues (keeping appointments) and substantive matters (comprehending and heeding legal advice).³⁴¹ The reflective writing exercise, "Write about a time when you felt misunderstood by your client," (paired with the Klass essay) has uncovered insights about the lawyer-client relationship that had been unavailable to many students on a conscious level prior to the writing exercise. One student related her dilemma as follows:

While giving thought to finding the proper balance between advising and "bossing" her client who reacted badly to her efforts, this student wondered where she went wrong and how she could have redrawn the line between giving advice and telling someone how to live life. She also, somewhat later in the class, stated that she thought that the fact that she was only three years older than her client had exacerbated the situation.³⁴²

Likewise, Dr. Klass writes about advice-giving in a professional context—the awkward position of a burgeoning professional is evident in one of the patient interactions she relates in her essay:

But you need to gain weight when you're pregnant. . . . "Are you kidding me?" she says, with scorn . . . I was seventeen myself once, and pretty damn scornful, and I have trouble finding a tone of voice that I think will work.³⁴³

These examples highlight an oft-neglected issue in professional education—helping students to contend with the "nature of the professional role and their own emerging professional identities."³⁴⁴ This aspect of legal education was emphasized in a study by the Carnegie Foundation for the Advancement of Teaching.³⁴⁵ One of the recommendations in the study is to foster the "formation of a professional

340. KLASS, *supra* note 128, at 97.

341. These concerns were voiced most especially by students enrolled in the Child Advocacy Clinic, Adolescent Representation Project, in which the course was an embedded module.

342. Moran & Land, *supra* note 322.

343. KLASS, *supra* note 128, at 97.

344. See Floyd, *supra* note 264, at 349 (citing David C. Leach, M.D., former Executive Director and CEO of the Accreditation Council for Graduate Medical Education, in commenting on medical education with respect to the extent to which it addresses the development of *all* the necessary aspects of a physician's professional identity).

345. See *id.* at 346.

identity.”³⁴⁶ Professor Timothy Floyd, in addressing how best to implement the Carnegie mandate to that end, has said that among the essential pedagogical interventions is providing students with opportunities for reflection.³⁴⁷ He writes:

Law school is so much about the cognitive and the analytical that it is easy to neglect the inner life. Law students are on an inner journey to a new way of being in the world. [They] should be encouraged to grapple with issues of meaning, identity and purpose³⁴⁸

Clearly, based on what I have observed in my teaching experience, Floyd’s thinking has demonstrable merit—giving students the chance for introspection about their lives as lawyers aids in the formation of a professional self.

While reflective writing enables students to *feel* what it is like to be an evolving legal professional, in attempting to resolve issues of meaning and purpose both with respect to themselves and their clients, it also spurs the development of practice-based skills. The writing prompts are equally compelling learning tools in this regard; writing exercises have also featured directives to create opening statements, closing statements, and policy arguments using characters in the assigned stories. For example, students, working in pairs, wrote a closing statement for the defense in a case against a bigamist whose story was told in *Silver Sparrow*. The written responses to the prompt, “Write Michelle Malakov’s story,” the child at the center of her parents’ acrimonious divorce and custody dispute (related in *Iphigenia in Forest Hills, Anatomy of a Murder Trial*),³⁴⁹ sparked the students’ awareness about another practical issue: developing a theory of the case (how a custody decision may have led to a homicide). What is more, they were encouraged to think about an aspect that had largely been ignored—how the child’s voice had been left out of the legal process and the effect of its absence. Jo Tyler and Faith Mullen, in writing about their storytelling project with clinical law students, have similarly recounted their students’ responses to writing stories about their clients.³⁵⁰ One of their student’s comments demonstrates the same insight about how a child’s voice is often absent in cases where chil-

346. *Id.* at 346–47. The report is titled “Educating Lawyers: Preparation for the Profession of Law.”

347. *See id.* at 346–50.

348. *Id.* at 349–50.

349. *See* MALCOLM, *supra* note 216, at 16–18 (noting that the acrimony between Michelle’s parents over the changed child custody disposition became the alleged motive for the murder).

350. *See* Tyler & Mullen, *supra* note 63, at 312–25.

dren are concerned: “I think the biggest thing I realized is that we had kind of lost a little bit of the focus about the child.”³⁵¹

The classes devoted to constructing opening and closing statements likewise prompted students to remark on the utility of these exercises. One student, concurrently enrolled in a trial advocacy course, said she felt that the Families, Law, and Literature course had a powerful synergistic effect, enabling her to perform better in the trial advocacy presentations she was required to prepare.³⁵² She later commented, at the end of the course, that she recommends that the two courses be taken in the same semester.³⁵³

Many students articulate the benefits of the in-class, reflective writing exercises in a written seminar evaluation form that is distributed at the end of the course.³⁵⁴ The positive comments reflected in the evaluations include that students gain a more nuanced understanding of their work with clients and enjoy the opportunity to write without fear of criticism relating to style, substance, or the injection of self.³⁵⁵ It is noteworthy that comments along these lines are mirrored by Professor Elkins’s students, as they too considered the effect of writing reflectively in the journals for his legal writing classes at West Virginia University College of Law.³⁵⁶ One of Elkins’s students attributed his enlightened perspectives on lawyering to the writing assignments: “Without regard to the purpose of this journal, the process of drafting it over the semester has been a valuable experience in itself. I have thought about things in depth, whereas without the journal, I would

351. *See id.* at 313.

352. This statement is based on my recollection of comments made during class discussion.

353. This statement is based on my recollection of comments made during class discussion; *see* Griffin, *supra* note 84, at 297 (“The trial advocacy literature includes both implicit and explicit references to narrative theory, with terms that closely track its core insights.”).

354. Evaluation, Close Reading, Reflective Writing, and Legal Advocacy, COLUM.L. SCH., April 2010 (on file with author) (“Class discussions (and revelations [via reflective writing]) led me to consider and reflect upon law school, my clinical experiences and legal practice generally in a way I likely would not have done for years, if at all . . . and (I) will at the very least be much more aware of what I bring into client relationships.”).

355. *See* Levit, *supra* note 100, at 262; *id.* at 254 (“Students who have been taught to cleanse their writing of all first-person perspectives may have difficulty developing into storytellers who have their own opinions.”).

356. *See generally* THOMAS L. SHAFFER & JAMES R. ELKINS, LEGAL INTERVIEWING AND COUNSELING 338–51 (2005). Student reflections stated that writing in journals allowed them to come to terms with their own thoughts and write for themselves, which was beneficial to students both personally and professionally. *See also* Elkins, *supra* note 314, at 49 (explaining his work to incorporate introspective writing into a law school curriculum and including student comments on the journaling exercises he required).

merely have let them pass.”³⁵⁷ Expressing a parallel thought, one of my students wrote, reflecting on the course in a course evaluation: “Now I am able to be more reflective about how both my and my clients’ life experiences impact our relationship and perceptions about it.”³⁵⁸ Also, the reflective writing opportunities were appreciated for “the chance to express [oneself] through non-graded writing.”³⁵⁹ Elkins’s students said that in their experience writing in law school is driven by “pleasing the professor.”³⁶⁰ Evidently, the students valued the freedom of making journal entries because it allowed them to engage in unbridled self-disclosure.³⁶¹

Overall, the methods used to teach the Families, Law, and Literature course are directed towards graduated levels of complexity, repetition, feedback, and motivation—consistent with Krieger and Martinez’s application of current learning theory to their storytelling course.³⁶² First, students are introduced to a basic storytelling principle: “Listening is the fulcrum from which effective storytelling is launched.”³⁶³ The principle is illustrated in “Baby Talk.”³⁶⁴ The essay exposes how the stories Dr. Klass tells are thematically related to what happens when professionals do not listen closely to their clients’ stories. The related writing prompt to “Write about a time when you felt misunderstood by your client” is designed to invite students to consider the challenges inherent in interpersonal communication.

As the course proceeds, the assigned readings and associated classroom discussions become increasingly complex;³⁶⁵ by the end of the semester, the students are capable of making sophisticated observations and real-world applications.³⁶⁶ Second, the close reading and reflective writing exercises are not only repetitive (we engage in them weekly), but the memoranda distributed to the class in anticipation of each week’s discussion articulate the goals for the reading assign-

357. Elkins, *supra* note 314, at 62.

358. Course Evaluation, Families, Law, and Literature, April 2010 (on file with author).

359. *Id.*

360. Elkins, *supra* note 314, at 57.

361. *Id.* at 59.

362. See Krieger & Martinez, *supra* note 4, at 162 (“[C]ognitive science research should play a role in the design and implementation of storytelling teaching methods . . .”).

363. See Memorandum, Families, Law, and Literature, Class Two (on file with author).

364. KLASS, *supra* note 128.

365. See Krieger & Martinez, *supra* note 4, at 132 (recommending gradual increases in complexity among the significant activities that have been shown to be conducive to the learning process).

366. *Supra* Part IV.B.2 (illustrating the depth of students’ insights, particularly the previous account of a student’s comment about a way of using character development in an advocacy context, as showcased in THE BLUEST EYE).

ments, whether they are associated with how point of view works or how to organize an effective argument using timeframes. The regularity and predictability with which classroom discussions and exercises are conducted, and the clarity of the goals that are set for each week's class, are consistent with the value of repetition and specificity for learning.³⁶⁷ Lastly, students receive regular feedback about their writing—their work is read aloud in each class and open to critique by their fellow classmates. The critiques are given with an eye to pinpointing specifics: the storytelling techniques that were used and their impact. I also make certain to praise students' efforts, to motivate them, and to model such encouragement on the part of others in the class.³⁶⁸ Moreover, the writing exercises are always introduced as opportunities to learn from each other about the effect of the stories on those who listen to them.³⁶⁹

Conclusion

Long before there was law or literature, there were stories.³⁷⁰ It is said that storytelling is a primal enterprise that pre-dated literacy.³⁷¹

Our brains evolved to “expect” stories with a particular structure, with protagonists and villains, a hill to be climbed or a battle to be fought. Our species existed for more than 100,000 years before the earliest signs of literacy, and another 5,000 years would pass before the majority of humans would know how to read and write. Stories were the primary way our ancestors transmitted knowledge and values.³⁷²

Jerome Bruner maintains that making stories was “man’s” way of gaining mastery over the circumstances of his life.³⁷³ In this way, the stories and their outcomes lent predictability to unexpected events. With the advent of technology enabling a myriad of methods for trans-

367. See Krieger & Martinez, *supra* note 4, at 127–31 (“[R]esearch on schemas, deliberate practice, and flow demonstrates the significance of particular kinds of activities and environments to the learning process.”).

368. See Close Reading, Reflective Writing, and Legal Advocacy, Class One, COLUM. L. SCH. (Feb. 8, 2011) (field notes) (“In these exercises, the writing itself is not subject to critique or judgment—the thoughts and feelings and your willingness to communicate them to others through your writing is what is important and will benefit both you individually and your fellow students collectively.”).

369. See generally Weisberg, *supra* note 72, at 425–28 (describing interventions that encourage students' efforts at writing).

370. See Westen, *supra* note 12 (“Stories were the primary way our ancestors transmitted knowledge and value.”).

371. See *id.*

372. *Id.*

373. See BRUNER, *supra* note 19, at 28–31 (“[I]t is our narrative gift that gives us the power to make sense of things when they don't.”).

mitting information, there may be, more than ever, a need for the continuity of narrative communication—a means to “give order to our hectic world.”³⁷⁴ The same may be said for explaining human predicaments as they are manifest in legal cases³⁷⁵ or in policy-making arenas;³⁷⁶ lawyers make more compelling and convincing presentations when they are in narrative formats.³⁷⁷

In this Article, I traced the arc of the law and literature movement, a story in itself, from its early beginnings in the eighteenth century through the present storytelling movement.³⁷⁸ I documented and discussed the lawyering capacities that are strengthened by exposing law students to narrative accounts and to the elements of their construction.³⁷⁹ I summarized ways of teaching the art of storytelling to law students that are currently in use. And I detailed an approach I use to teach the craft that employs close reading and reflective writing—methods that are beginning to gain favor in legal storytelling pedagogy.³⁸⁰ These methods combine both theoretical (exposing the elements of narrative construction) and practical (writing stories) approaches. As teaching tools, their individual potency is bolstered by their pairing.

The most important part of this Article, however, is the story the students tell—their reflections on the course and what it has inspired in their thinking about the law and its practice.³⁸¹ In their words, and with the aid of field notes prompting my own recollections, I have attempted to give an accurate account of their experiences. These

374. Alissa Quart, *The Thinking Person's Entertainment*, N.Y. TIMES, Jan. 12, 2013, at SR4.

375. See BRUNER, *supra* note 19, at 90–91 (explaining that making stories is our method for coping with the surprises and idiosyncratic facets of human nature and behavior that runs counter to the norm (unlawful) is thus made more comprehensible through narrative domestication).

376. See Gerney, *supra* note 13 (chronicling the writer's epiphany in mounting an effective gun control initiative which involved him telling a personal story).

377. Westen, *supra* note 12 (explaining that lawyers are more persuasive when they present arguments in a narrative format); see also Levit, *supra* note 13, at 758–59 (describing the persuasive nature of narratives that has been documented by cognitive neuroscientists).

378. *Supra* Parts I and II.

379. *Supra* Part II.

380. See McArdle, *supra* note 18, at 249 (citing, by way of relevance to legal pedagogy, the close reading and reflective writing methods employed in the Narrative Medicine Program at Columbia Presbyterian College of Physicians and Surgeons); see also Elkins, *supra* note 314, at 45 (documenting the value of introspective writing in law school); see generally White, *supra* note 37, at 32–38 (describing the benefits of close reading).

381. *Supra* Part IV.

documentations show the very tangible outcomes derived from the course.

Since I began teaching Families, Law, and Literature, legal education is once again undergoing scrutiny. With the advent of the bleak job market for law school graduates resulting from the 2008 financial crisis, law schools are beginning to retool their curricular offerings, making them more practical.³⁸² Some even have argued for reducing law school to two years instead of three.³⁸³ A law student, who opposes this proposal, makes a compelling argument for jettisoning such a scheme in that he says it would result in all breadth and no depth.³⁸⁴ Reflecting upon what he believes law schools should provide by way of an education, he writes:

Yet the J.D. was originally intended to encompass not just the study of law but the whole social context in which law takes place, the study of the “whole field of man as a social being,” as one university president ambitiously put it. In a world that already conceives of lawyers as failing to look past laws and cases to the human beings they govern, such depth should be required, not optional.³⁸⁵

A two-year course of study surely would diminish the thrust of the law and literature movement and squander its humanizing potential for legal education. It would, as a matter of course, supplant literary studies in service of more practice-based pedagogy. And as a result, there would be no room for storytelling and the introduction to the “whole social context,” it makes possible.³⁸⁶

382. See Peter Latham, *N.Y.U. Law Plans Overhaul of Students' Third Year*, N.Y. TIMES DEALBOOK, Oct. 16, 2012, at B1, <http://dealbook.nytimes.com/2012/10/16/n-y-u-law-plans-overhaul-of-students-third-year/> (explaining that the school has embarked on a curricular overhaul, which will include new practice-based learning in the final two semesters, in order to cope with increasing tuition and a depressed job market).

N.Y.U. Law is the latest law school to alter its academic program significantly. Stanford Law School recently completed comprehensive changes to its third-year curriculum, with a focus on allowing students to pursue joint degrees. Washington and Lee University School of Law scrapped its traditional third-year curriculum in 2009, replacing it with a mix of clinics and outside internships. “There is a growing disconnect between what law schools are offering and what the marketplace is demanding in the 21st century,” said Evan R. Chesler, the presiding partner of the law firm Cravath, Swaine & Moore and a trustee of N.Y.U. Law. “The changes we’re rolling out seek to address that.”

Id.

383. See Bill Watson, Editorial, *How Much Law School Is Enough?*, N.Y. TIMES, Jan. 26, 2013, at A18 (commenting on an Op-Ed from Jan. 18, 2013, titled “Make Law Schools Earn a Third Year,” proposing that law school be reduced from three to two years).

384. See *id.*

385. *Id.*

386. *Id.*

In closing, I propose that infusing legal education with literary studies results in the all-important depth to which the aforementioned student refers. As this Article is meant as a story in which students are the protagonists, it is fitting that the story ends with a student's voice. As legal educators, we should take heed.