

BETTY BOOP GOES TO LAW SCHOOL

BY JUDY GIERS

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Teachable Moments for Teachers ... is a regular feature of Perspectives designed to give teachers an opportunity to describe a special moment of epiphany that changed their approach to presenting a particular topic to their students. It is a companion to the Teachable Moments for Students column that provides quick and accessible answers to questions frequently asked by students and other researchers. Readers are invited to submit their own "teachable moments for teachers" to the editor of the column: Louis J. Sirico Jr., Villanova University School of Law, 299 N. Spring Mill Road, Villanova, PA 19085-1682, phone: (610) 519-7071, fax: (610) 519-6282, e-mail: sirico@law.vill.edu.

I left 10 years of law practice to teach legal research and writing to first-year law students. I expected my career change to produce at least three things: more time for my family; a huge pay cut; and a fun work environment. My first and second expectations were satisfied immediately upon my entry into academia. My third expectation was partially satisfied before classes began (my colleagues are a fun bunch), but I worried about classes. As a recovering litigator, it was not the performance nature of the classroom setting that had me worried, it was the legendary uptightness of first-year law students. I did not want to spend even four hours a week in a room full of uptight, anxious people (been there, done that). I needed an icebreaker—but given the packed nature of my syllabus, it had to be a working icebreaker. Here's what I came up with—it's a role-playing exercise that gets the students out of their chairs, working in small groups, doing silly things that everyone can laugh at *and* it teaches element-by-element analysis. We act out three vignettes. Here is the script for one of them:

Betty Boop Goes for a Drive

Cast members:

Betty Boop—the driver

Joey Webb—8-year-old boy

Techie—to roll out the ball and return all props to backstage for use by the next group (Props: ball, phone for Betty, ball cap for Joey)

Narrator—to narrate (read this script) as events unfold

Scene: Betty Boop is driving through a residential neighborhood at the posted speed limit of 25 mph. She is not paying close attention to her driving; she is humming along to the radio and putting on her lipstick using her rearview mirror. While she is thus distracted, a child's ball rolls out from between two parked cars on the right side of the street. Betty doesn't see the ball. A few seconds later, Joey Webb, age 8, dashes out to retrieve the ball. Betty is unable to stop and collides, in a glancing blow, with Joey's arm. Joey falls down, clutching his arm and yelling (not too loudly, please). Betty stops her car, rushes out to help, and realizes Joey's arm is hurt (turns out to be a hairline fracture). Betty calls an ambulance using her car phone.

End of Scene (Wild Applause)

This exercise requires some advance setup so I use it for the third class of the year. My first couple of classes are, I suspect, pretty typical legal research and writing (LR&W) fare. In the first class, I introduce the course, talk about what a case is and show how to brief one. I assign *Hodge v. Lanzar Sound, Inc.*, 966 P.2d 92 (Kan. 1998), (any failure-to-keep-a-proper-lookout case will do) and tell the students to bring a brief of that case to the next class. In the second class, we talk about the *Hodge* case. We work through the facts, the procedural posture, the rationale, and the holding. We pay particularly close attention to the duty in the case—the duty to maintain a proper lookout while driving. I assign no homework.

Since there is no homework assignment, the students arrive at the third class not knowing what to expect. The front desks are pushed back to create a "stage" area, and I have a box of props on my desk. There are two rolling chairs on the stage. Once the students have settled in, I tell them I am going out on an educational limb and they are

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coming with me. I explain that we are going to act out, argue, and decide three failure-to-keep-a-proper-lookout cases. I ask for (and usually get) 15 volunteer actors, three plaintiff's lawyers, three defense lawyers, and a bunch of jurors (this works well with my class size of 25). I divide my volunteer actors into casts for the three vignettes, hand them their scripts and props, and send them out into the hallway with instructions to read the script, decide who will play each role, and rehearse.

Then, with my lawyers and jurors still in the classroom, we write the four elements of a negligence claim on the whiteboard and identify the breach of duty as failure to keep a proper lookout. I very quickly explain what they need to know about causation and damages. I explain to the plaintiff's lawyers that each of them will represent the injured child (Joey Webb) and that their job will be to explain to the jury in two minutes or less why the facts as acted out satisfy each element of a negligence claim for failure to keep a proper lookout. I explain to the defense lawyers that they represent the driver in each case and that their job is to convince the jury that at least one element of the claim is missing. I explain to the jurors that their job will be to decide each case based upon the facts as presented in the vignette and the arguments of the lawyers.

Then the fun really begins. I go collect my actors and answer any questions they may have.

They all come into the classroom and the first group (the Betty Boop cast) acts out the vignette above. The students really go to town with this! There is much laughter, some confusion, and outrageous overacting! When the scene ends, I (acting as the judge) call the court to order and plaintiff's counsel presents his or her case, defense counsel presents his or her case, and I submit the case to the jury. The jury deliberates for a minute or two, announces its verdict (to great cheers and boos and hissing), and we move on to the next vignette.

The vignettes get progressively more complex. In the second vignette, the driver, Judge Upright, is not paying close attention but, since Joey dashes out from between parked cars immediately in front of the driver, there is some question as to whether the breach of duty caused the damage. The passenger, Sister Mary Margaret, exclaims that there was no way the judge could have avoided

Joey. In the third vignette, the driver, Carla Careful (a law student), is paying close attention, but Joey drops out of a tree above her. Carla's only warning is Joey's friends on the sidewalk gesturing up at the tree and singing the Spiderman song (a great opportunity for overacting). I have been very impressed with how well the students argue these no-breach-of-duty and lack-of-proximate-cause issues.

By the time we get through the third vignette, things are pretty relaxed. The students are laughing, I'm laughing, and we've all forgotten that law school is a high-stress, scary business. I call the class to order (a relaxed order, I admit) and we talk about what we just did. Even if they didn't get it at the beginning, by this time the students understand what it means to look at a fact scenario element by element, to argue it element by element to a jury, and to decide it based upon the presence or absence of each element.

I have used this exercise with four first-year classes so far, and it has been a big hit each year. It really helps to break the ice and get students to take chances in class. The opportunity to work with each other on something silly and completely ungraded builds a real esprit de corps that helps my LR&W students to work cooperatively with each other for the rest of the year. And, it's fun.

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