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**SHAKESPEARE IN THE CLASSROOM: HOW AN ANNUAL
STUDENT PRODUCTION OF *KING LEAR* ADDS DIMENSION TO
TEACHING TRUSTS AND ESTATES**

KAREN E. BOXX*

*How sharper than a serpent's tooth it is
To have a thankless child!*¹

*Lear's torments are central to us, almost to all of us, since the sorrows of
generational strife are necessarily universal.*²

INTRODUCTION

I always begin the first day of my Trusts and Estates course by discussing the reasons for taking the class. While I note that some students may take the class to help in passing the bar exam or because family members have already asked them to draft wills, my list of reasons instead include: (1) exposure to the fiduciary relationship; (2) the real life ethical dilemmas faced by the lawyers; (3) learning to read and interpret state statutes; and (4) consideration of how law responds to societal changes and governs human relationships. This last reason is critical: Trusts and Estates is a unique opportunity to understand the interplay between law and society because its subject-matter is accessible to all students. They all can relate to the conflicts to be resolved in the cases, and they are able to form opinions as to how well the rules suit the needs of the range of relationships presented in the community. *King Lear*³ is the archetypal story of the tension and difficulties in parent-child and sibling relationships and reinforces the message that those relationships are the starting point and bedrock of this body of law and the vast system of rules that has been developed to resolve these conflicts.

* Professor, University of Washington School of Law. I would like to thank Helen Anderson, Mary Fan, Robert Gombiner, Todd Maybrown, and Kate O'Neill, for their helpful suggestions, and all of my former students who responded to my request for musings about their Lear experience. I have much gratitude and love for all of my students who were willing to play dress-up and to give me some of my best memories (so far) of being in the classroom.

1. WILLIAM SHAKESPEARE, *KING LEAR* 43 (Ebenezer Charlton Black ed., Ginn and Company 1911) (1608).

2. HAROLD BLOOM, *SHAKESPEARE: THE INVENTION OF THE HUMAN* 477 (1998).

3. SHAKESPEARE, *supra* note 1.

I wish I could say that I began using an in-class production of *King Lear* in my Trusts and Estates class as the result of careful thought about my pedagogical goals and integration of an understanding of “generational strife.” But no, *King Lear* arrived in my classroom by sheer luck. Over a decade ago, I was waiting in the checkout line at Barnes and Noble and saw on the sale table something called “*Shakespeare in a Box: King Lear*.”⁴ It was a kit for staging a forty-five minute version of *King Lear*, complete with scripts, a couple of rubber eyeballs, and a collapsing stage dagger. *King Lear* is the estate planner’s favorite Shakespearean tragedy, so I had to buy it. Once I got it home, the coincidence of a forty-five minute script and a fifty minute class period made me realize that I could avoid an hour of teaching by having the students perform the play, and I could justify it because *King Lear* was the premier example of estate planning gone bad. Thus began the annual *King Lear* production, which has now gone through eleven casts. Along the way, I have come to realize that a student production of *King Lear* is not only fun but incredibly useful as a teaching tool in a Trusts and Estates class. It drives home the human element that is critical in all of the stories we study in the wills and trusts cases, and it also teaches valuable skills to students and raises broader questions about the role of societal norms and expectations in inheritance law.

This Article first summarizes the plot of *King Lear* and then describes the process I use to get the play produced. It then sets forth some of the estate planning and lawyering lessons *King Lear* presents and describes some of the skills I think the play production helps develop. Finally, the Article discusses the less traditional benefits from holding an in-class performance of a play. In preparation for this Article, I emailed all the members of the *King Lear* casts and asked what they remembered about the experience and what they learned, and I have incorporated many of my former students’ responses in this discussion.

I. SYNOPSIS OF THE PLAY

In case any reader is unfamiliar with or needs a refresher on the major plot points of *King Lear*, what follows is an extremely brief synopsis that hits only the plot points that are relevant to this Article. For those of you familiar with the play, please skip this section.

King Lear is the elderly ruler of Britain.⁵ He decides to retire and turn his kingdom over to his three daughters, Cordelia, Goneril, and Regan.⁶ His plan is to divide the kingdom into thirds, but he calls the daughters in and requires that they first declare their love for him and their commitment to care for him for

4. CARL MARTIN, SHAKESPEARE IN A BOX: KING LEAR (2001).

5. SHAKESPEARE, *supra* note 1, at 2.

6. *Id.* at 5–7.

the rest of his days before he gives them their land.⁷ Goneril and Regan comply, but Cordelia, the only daughter whose love for her father is true, refuses to participate, because she believes her love for him speaks for itself.⁸ Lear is furious that Cordelia refuses to fawn over him like her sisters, and he disinherits her.⁹ One of Cordelia's suitors, the King of France, accepts her even without a dowry and they leave.¹⁰ Kent, Lear's advisor, tells him he was making a mistake to disinherit Cordelia.¹¹ This infuriates Lear even more and he banishes Kent.¹² Gloucester, another member of Lear's court, has two sons: Edgar, who is legitimate, and Edmund, who is not.¹³ Edmund is angry that he will not inherit and plots against his brother.¹⁴ He convinces Gloucester that Edgar is planning to kill Gloucester.¹⁵ Once Lear has given his entire kingdom away to Goneril and Regan, he shows up with his entourage at first one daughter's home and then the other, but they both refuse to accommodate his entourage.¹⁶ He realizes his mistake and starts wandering the heath, going mad.¹⁷ Edmund meanwhile continues his plotting and takes up romantically with both Goneril and Regan, who are both married.¹⁸ Gloucester tries to help Lear, angering Goneril and Regan, who then blind him by removing his eyeballs¹⁹ (a favorite scene of the students). Eventually, Cordelia returns with a French army to fight a war with Britain, but Edmund and his army defeat them and take Cordelia prisoner.²⁰ Cordelia dies in prison, and Lear dies out of grief upon learning of Cordelia's death.²¹ Goneril poisons Regan and then kills herself out of jealousy over Edmund.²² Edgar kills Edmund, Gloucester dies as well, and the only characters left standing are Edgar, Kent, and Goneril's husband Albany, who was a good but somewhat ineffective guy throughout the play.²³

7. *See id.* at 6–7.

8. *Id.* at 7.

9. *Id.* at 8.

10. *See* SHAKESPEARE, *supra* note 1, at 17.

11. *Id.* at 11.

12. *Id.* at 13.

13. *See id.* at 4.

14. *Id.* at 20.

15. SHAKESPEARE, *supra* note 1, at 23.

16. *Id.* at 28–29.

17. *Id.* at 43–44.

18. *See id.* at 159–60.

19. *Id.* at 113.

20. *See* SHAKESPEARE, *supra* note 1, at 164.

21. *Id.* at 181–83.

22. *Id.* at 168–69, 177–78.

23. *Id.* at 182–83.

II. THE MECHANICS

At the beginning of the quarter,²⁴ I ask for volunteers for the *King Lear* production. The *Shakespeare in a Box* abbreviated script uses fifteen cast members, including a director, so it helps to set the maximum number of participants. If there are fewer volunteers, then they can double up on some of the more minor roles. The incentive for volunteering is that the volunteers get three days' worth of class participation points.²⁵

Once I have the necessary volunteers, I ask them to select a director, and I meet with the director to give the script to him or her and offer recordings of past years' performances and access to my Lear costume and prop box.²⁶ I make clear that I will no longer be involved and that all decisions are left up to them, unless they have particular issues that require my help or input. I ask that they choose a day towards the end of the quarter for the performance. I suggest that they can take whatever creative license they choose in the production but require that they cannot stray very far from the actual dialogue of the play. The first few productions were literal productions, set in the actual era of the original play, but as the years have gone by, students have begun to use themes and have set the play in different times. We have had a Western version, a vampire version, a "Mad Men" version, and a version recasting Lear as Michael Jackson and the rest of the cast as people from Michael Jackson's life, produced shortly after Michael Jackson's death.²⁷

I had to begin setting the restriction on adhering to the play's dialogue after the year the students chose Jersey Shore as their theme²⁸ and rewrote the dialogue to make it a bit too off-color.²⁹ Students will often have audio-visual

24. At the University of Washington School of Law, we are on the quarter system rather than the semester system. *Academic Calendar 2013–2014*, UNIVERSITY OF WASHINGTON SCHOOL OF LAW, <http://www.law.washington.edu/Students/Calendar.aspx> (last visited Dec. 31, 2013).

25. I use the audience response system, or "clickers," and students can get a total of three points a day for correctly answering polling questions during class. Those points count for ten percent of the students' final grades. See Paul L. Caron & Rafael Gely, *Taking Back the Law School Classroom: Using Technology to Foster Active Student Learning*, 54 J. LEGAL EDUC. 551, 560 (2004) (explaining the use of the clickers in the law school classroom).

26. See MARTIN, *supra* note 4. Over the years, students have given me random props and costumes after the performance was over.

27. See Brooks Barnes, *A Star Idolized and Haunted, Michael Jackson Dies at 50*, N.Y. TIMES, June 26, 2009, at A1.

28. See E-mail from Adella Wright to Karen E. Boxx (July 7, 2013, 16:37) (on file with author). It was remarkable how well *King Lear* fit with this setting. Lear's kingdom was a boxing ring.

29. In addition to several four-letter words, they changed Lear's line "every inch a king" to "all eight inches a king." SPAKESPEARE, *supra* note 1, at 144. Of course, the play itself has several racy lines. For example, in the first scene of the play Gloucester introduces us to his bastard son Edmund: "[T]hough this knave came something saucily into the world before he was

enhancements, such as power point slides, soundtracks, and sound effects, which I assist with in setting up. I also ask them to prepare a program with the cast list and whatever else they want to include, and I take care of having it copied for the class. Before the production, I send the class a link to a synopsis of the play, and I usually include a link to an article on *King Lear* and estate planning.³⁰

III. WHAT KING LEAR TEACHES ABOUT ESTATE PLANNING AND LAWYERING

So many of the cases in Trusts and Estates casebooks involve fights among family members, and the ability of family members to turn on each other is to me a key lesson for the students. A lawyer practicing in this area must be sensitive to that fact and avoid the assumption that family members will treat each other with love and generosity. This is particularly critical in the planning process. Clients often want to assume that their children will always get along or that the children truly love their stepmother and will be generous when serving as her trustee after their father passes away. Estate planning lawyers are often in the difficult position of warning their clients of the potential for strife and the need to include protective measures in the estate plan.³¹ Lear was convinced that his older daughters would keep their promises to allow him to board with them with a full entourage, but they promptly reneged on those promises once they had control of their father's property. Gloucester's family situation illustrates another potential for dangerous assumptions. Gloucester had two sons, Edmund and Edgar, but only Edgar was legitimate. Gloucester assumed that Edmund accepted his position, but of course Edmund, one of the greatest and coldest of Shakespearean villains,³² held extreme resentment towards his father and brother for his outcast status.³³ This is particularly relevant for modern families, even though the concept of illegitimacy no

sent for, yet was his mother fair; there was good sport at his making, and the whoreson must be acknowledged." WILLIAM SHAKESPEARE, SHAKESPEARE IN A BOX: KING LEAR act 1, sc. 1 (Workman Publishing 2001) (1608).

30. Examples of articles that help students put the play in the class context include: Donald Carroll, *If Lear Had a Lawyer*, LINCOLN CENTER THEATER REVIEW, http://65.36.160.215/article.cfm?id_article=22088565&page=1&id_issue=96015738 (last visited Dec. 31, 2013); G. Warren Whitaker, *Classic Issues in Family Succession Planning*, 17 PROB. PROP., Jan./Feb. 2003, at 32; Thomas E. Tyner, *Shakespeare's King Lear and the Importance of Good Legal Drafting*, 66 WASH. ST. B. NEWS., Apr. 2012, at 22.

31. See GRANT GORDON & NIGEL NICHOLSON, FAMILY WARS: CLASSIC CONFLICTS IN FAMILY BUSINESS AND HOW TO DEAL WITH THEM 6 (2008).

32. See Dennis Abrams, *The Play's The Thing*, WORDPRESS (Dec. 29, 2013), <http://theplays.theblog.wordpress.com/> ("the coldest personage in all Shakespeare").

33. "Why bastard? wherefore base? When my dimensions are as well compact, My mind as generous, and my shape as true, As honest madam's issue? . . . Well then, Legitimate Edgar, I must have your land . . . Now gods, stand up for bastards!" SHAKESPEARE, *supra* note 29, at act 1, sc. 2.

longer exists,³⁴ because in blended families certain children can be favored. Rupert Murdoch's family situation is a well-publicized example. In 2006, he surprised his wife, Wendi Murdoch, by announcing in an interview that his two children with Wendi would receive diminished voting rights compared to the rights of his older children from previous marriages.³⁵ This was a contentious issue in their marriage and the children's interest in the family trusts is likely to play a role in his pending divorce.³⁶

This is an important lesson for future litigators, as well. Submerged resentments must be dealt with or the parties will never agree to settle or even make rational decisions about mundane strategic matters. Lawyers often take an objective, reasonable person view of a case and think their job is to present the options to the client based on that view. However, if the lawyer does not also factor in the client's emotional stake in the case and the underlying issues that the client is trying to resolve using the surrogate of a legal dispute, the client's decisions will not make sense to the lawyer and the lawyer's advice will be inadequate. This problem is not uncommon in estate litigation, where successful, intelligent, middle-aged clients appear to be making irrational decisions and the reason behind those decisions are "mom always loved him best" resentments that still fester.

The events that flow from Lear's decisions and Gloucester's blindness to Edmund's resentment also illustrate that in the planning process, lawyers need to think through all possible outcomes and the effects on the parties involved rather than just focusing on accomplishing the client's goals. One of the justifications for allowing individuals the right to devise property at death is that it provides incentives to the younger generation to care for their elders.³⁷ Lear discovered this the hard way; once Lear divested himself of his kingdom, Goneril and Regan immediately violated their promises of care and Lear was left to wander the heath. Of course, some facing the grueling task of care giving for an elderly parent may sympathize with Goneril and Regan's

34. See UNIF. PROBATE CODE § 2-118 (amended 2010).

35. Peter Lattman & Amy Chozick, *Wendi Murdoch Hires a New Lawyer, Suggesting a Divorce May Turn Messy*, N.Y. TIMES, July 30, 2013, at B3.

36. See *id.*

37. See 1 JEREMY BENTHAM, BENTHAM'S THEORY OF LEGISLATION 244 (Étienne Dumont & Charles Milner Atkinson eds. 1914) ("When the sands are swiftly ebbing in the hour-glass of life, we should foster every form of support, and it is not without advantage that interest should then be found to serve as a monitor to duty"); HENDRIK HARTOG, SOMEDAY ALL THIS WILL BE YOURS: A HISTORY OF INHERITANCE AND OLD AGE 78–79 (2012); Adam J. Hirsch & William K.S. Wang, *A Qualitative Theory of the Dead Hand*, 68 IND. L.J. 1, 10 (1992); Barbara R. Hauser, *Death Duties and Immortality: Why Civilization Needs Inheritances*, 34 REAL PROP. PROB. & TR. J. 363, 398–99 (1999).

reaction.³⁸ Adella Wright, who graduated in 2011, now a family law attorney, said that *King Lear* taught her to be conscious of the potential consequences of rights and property granted to the different parties when negotiating resolution of disputes in her practice.³⁹

Lear's angry reaction to Cordelia's refusal to give a testimonial of her love could be viewed as a typical reaction from a vain old man, but Professor Kenji Yoshino has an interesting alternate interpretation. He posits that the traditional law would require that the kingdom be given to the eldest daughter, Goneril, and Lear's solution to get around this and provide for his favorite daughter, Cordelia, was to divide the kingdom on a test of "merit," which was a public declaration of love.⁴⁰ It was meant to be ceremonial, a legal fiction not unlike those often used by courts,⁴¹ but Cordelia was unwilling to play along with the pretense.⁴² This interpretation of the characters' motivation offers an opportunity to discuss legal fictions and why courts often find them to be necessary.

Lear's dilemma presents an opportunity for creativity in the planning process. Lear's initial plan of divesting himself of his kingdom before his death could have been improved with only a modicum of legal advice. Estate planners usually have the opposite problem: although lifetime gifts have many tax advantages over holding the property until death,⁴³ clients are reluctant to give up control of their property before death. Lear, however, was anxious to shed the responsibilities of running the country. Successful family business owners face the same dilemma of succession planning—how to turn the reins over to the next generation smoothly so that the business will continue to

38. See Suzanne Koven, *The Guilt of Caring for Elderly Parents*, BOS. GLOBE, Feb. 25, 2013, <http://www.bostonglobe.com/lifestyle/health-wellness/2013/02/25/practice-why-does-caring-for-elderly-parents-sometimes-make-feel-guilty/0hCDtDEi4HSOyUmVkdLQOK/story.html>.

39. E-mail from Wright, *supra* note 28.

40. KENJI YOSHINO, *A THOUSAND TIMES MORE FAIR* 212 (2011).

41. A constructive trust is an example of this. Imposition of a constructive trust does not actually create a trust, but uses the trust concept of division of legal title and beneficial interest to acknowledge a wrongdoer's legal claim to property and still force the wrongdoer to turn the property over to the party who was cheated.

42. YOSHINO, *supra* note 40, at 215.

43. The federal gift tax is tax exclusive, meaning that the tax owing is calculated on what the donee receives, and is paid from other funds of the donor, and the federal estate tax is tax inclusive, meaning that the tax is calculated on the entire estate and then paid from the estate, reducing what the beneficiaries receive. The result is a smaller effective tax rate for gifts. See RAY D. MADOFF, CORNELIA R. TENNEY, MARTIN A. HALL & LISA N. MINGOLLA, *PRACTICAL GUIDE TO ESTATE PLANNING* 8003 (2012 ed. 2011). Also, any appreciation of the property between the time of the gift and the donor's death will not be taxed. *Id.* There are, of course, some disadvantages to lifetime gifts, such as carryover instead of stepped up basis. *Id.* at 5031.

prosper.⁴⁴ Unfortunately, less than a third of family owned businesses continue successfully into the second generation and only ten percent last into the third generation.⁴⁵

Lear's solution was disastrous, and any number of alternative approaches could have been used. For example, Lear could have put his property into trust, retaining enough of an interest to support his needs. He could have allowed the daughters to act as trustees, so that he could observe how well they worked together to manage the kingdom. Family business succession plans must be tailored to the family and the business involved, and experts advise that the personalities of the potential successors and the type of business be considered.⁴⁶ There are multiple solutions, depending on whether there will be family member owners not active in business management, and whether family members active in the business will share management authority. For example, Malcolm Forbes left fifty-one percent of Forbes magazine to his son Steve, and the rest was divided equally among his four other children, because he believed that dividing control among the children would lead to infighting and a void in clear leadership.⁴⁷ Malcolm Forbes discussed his plan with his children before his death and had their agreement.⁴⁸ Lear's decision to divide the kingdom equally between the daughters, on the other hand, could easily have led to conflict and even war between the sisters, if Edmund had not accelerated their demise.⁴⁹

Other estate planning solutions that have been suggested for Lear include: a deed with a reserved life estate and a detailed description of the obligations to board his retinue;⁵⁰ a series of trusts, one for each daughter and one for Lear, with Lear holding the power to revoke any of the trusts;⁵¹ and putting Cordelia's one-third in a trust for Lear for life, with the remainder to Cordelia's children or to Cordelia if she reconciled with her father.⁵² In her Pulitzer Prize winning adaptation of the Lear story, *A Thousand Acres*,⁵³ Jane Smiley sets the family in present day. The father has decided to transfer his thousand-acre farm into a family corporation and give the stock to the

44. See George Stalk & Henry Foley, *Avoid the Traps That Can Destroy Family Businesses*, 26 HARV. BUS. REV., Jan.–Feb. 2012, at 25, 25.

45. *Id.*

46. See Charles D. Fox, IV, *Putting the Horse Before the Cart: Non-Tax Issues in Business Succession Planning*, 44 U. MIAMI HECKERLING INST. ON EST. PLAN. ¶ 902 (2010).

47. *Id.* at ¶ 903.3.

48. *Id.*

49. YOSHINO, *supra* note 40, at 211.

50. Tyner, *supra* note 30, at 24.

51. Whitaker, *supra* note 30, at 33.

52. Carroll, *supra* note 30.

53. See *infra* note 54 and accompanying text.

daughters to save on estate taxes.⁵⁴ The results were as disastrous as in the original play, so the novel gives a contemporary view of poorly considered estate planning.

Lear's inability to listen to trusted advisors provides another important lesson. In the opening act, after Lear angrily disinherits Cordelia, Kent begs Lear to reconsider "[t]his hideous rashness," but Kent's reward is to be banished.⁵⁵ This is a good lesson for aspiring lawyers. The lawyer's job is often to deliver bad news to a client, and to advise the client against a certain course of action. Clients often react negatively to such advice, particularly clients who are in positions of power and who are used to getting their way.⁵⁶ This is one of those difficult situations without easy solutions that lawyers have to confront. A Washington state trial court judge, Judge Suzanne Barnett, as dictum in an order imposing sanctions on a law firm, gave the following difficult but excellent advice:

Those who are privileged to serve at the bar must, from time to time, be reminded that they are licensed as attorneys and counselors at law. It is not sufficient to search for a way to do the bidding of an influential client. It is unprofessional to accept at face value the emotional claims of one who, as in this case, is powerful, unaccustomed to being questioned, and who feels he has been wronged. It is incumbent upon an attorney and counselor at law to develop, maintain, and impart a necessary emotional distance from the client's

54. JANE SMILEY, *A THOUSAND ACRES* (1991). The use of a family entity to transfer property during life and save estate taxes is a common technique, but the limited partnership and limited liability corporation are the most common forms used. See JOHN R. PRICE & SAMUEL A. DONALDSON, *PRICE ON CONTEMPORARY ESTATE PLANNING* § 11.1 (2009 ed. 2008). The father in the book included a forfeiture clause in the pre-incorporation agreement, providing he could take back the shares for "mismanagement or abuse." While that probably was not a good idea for the tax planning, it allowed him to later sue his daughters, and such a clause would have come in handy for Lear.

55. SHAKESPEARE, *supra* note 1, at 11. Professor Yoshino interprets Lear's rejection of Kent differently. If Lear was using the love testimonials as a justification for giving Cordelia a share, and she refused to participate, he was bound by the rule of law to disinherit her. YOSHINO, *supra* note 40, at 218–19 ("Even when he abhors the outcome, Lear abides by the legal procedure to which he has committed himself.").

56. In Katherine Graham's biography, she tells of the relationship between her husband Phil Graham and his lawyer. Phil Graham was the publisher and co-owner of the Washington Post and suffered from bipolar disorder. He had left his wife for another woman and asked his lawyer to prepare a will leaving his estate to this woman and to his children. The lawyer knew that Graham did not have capacity to make a will but complied "for the purpose of retaining a relationship with him and exercising what influence [the lawyer] could over him to get him back to his old life." He prepared a memo stating that Graham was not competent, in his opinion, and he testified to that after Graham's death. KATHARINE GRAHAM, *PERSONAL HISTORY* 335 (first vintage books ed. 1997). In other words, the lawyer knew that a powerful but unstable man like Phil Graham would not accept his lawyer's advice. The lawyer's actions were questionable, however, as he himself admitted.

personal situation. Attorneys must be prepared to conduct an educated and enlightened analysis and to say ‘no’ to their clients when the circumstances so dictate.⁵⁷

Kent’s fate illustrates the unfortunate truth that following Judge Barnett’s advice means risking banishment. Professor Robert Lawry has suggested another approach to counseling a client like Lear. He describes a scenario where client Rex Lear has asked the lawyer to draft a will disinheriting Cordelia, and he suggests the lawyer use his longstanding relationship with Lear to reason with him:

Rex, you are distraught. Cordelia has always been the apple of your eye. You know in your heart of hearts she loves you deeply and truly. Don’t do this. Remember, too, Cordelia is the only one unmarried and without an income. She still needs to get through college and medical school. She needs your help more than the older children. Don’t you have an obligation to provide for her education at least? You did see Regan through college; and Goneril beyond that, through to her MBA. Can you be less scrupulous in fulfilling your parental duty to her? Sleep on this awhile. Let’s have lunch next week and talk about it again.⁵⁸

Professor Lawry acknowledges that “refusing to go along quickly and more quietly with a client’s desires” may get you fired, which means not only lost fees but also lost opportunity to counsel the client into better decisions.⁵⁹ Lawyers faced with this situation often use the tactic of presenting less drastic alternatives to the client. The possible estate plans discussed above, such as holding Cordelia’s share in a trust for Lear, instead of dividing it between her sisters, giving her a chance to redeem herself, is the type of solution that often appeals to clients disappointed with a child but hopeful for a reconciliation.

One year, the cast decided to switch the genders and produce “Queen Lear.”⁶⁰ The change was a bit jarring.⁶¹ The student playing Queen Lear, Richelle Little, who graduated in 2007, stated:

57. *Kirlan Venture Capital v. Regis*, No. 00–2–14333–8, 2003 WL 25718518, at *19 (Wash. Super. Ct. Oct. 15, 2003).

58. Robert P. Lawry, *The Central Moral Tradition of Lawyering*, 19 HOFSTRA L. REV. 311, 356–57 (1990).

59. *Id.* at 358. Of course, there is also the dilemma of whether the lawyer should impose his or her own sense of morality onto the client’s decisions. See JAMES GOULD COZZENS, *THE JUST AND THE UNJUST* 432 (1942) (“The intention to realize is not the intention of the Court, nor the intention of Abner Coates, Counselor at Law. In ethics and morals their intentions may be demonstrably better and wiser and fairer than the testator’s intention. You’ve been saying, in effect, that you’d like to devise a better and juster disposal of [the testator’s] goods. You have no right to do it.”).

60. One of my favorite aspects of this production was the costume choice of Queen Lear’s sons. One of the students playing a son was a “trekkie” and brought Star Trek costumes for the three sons.

Trying to read through the play in these gender-reversed roles was enlightening, because it highlighted the patriarchal origins of our system of intestate succession. I remember some of the lines didn't quite fit, because the law wouldn't have applied in the same way to our characters in the genders we had assigned to them. It was a stretch, and it felt both awkward and revealing to speak Shakespeare's words while trying to act out a play that better fit our modern world view."⁶²

There has been feminist criticism of the play⁶³ and the gender switch brought the role of gender politics into the forefront. The issue of how gender affects the decision-making in the trusts and estates context is another recurring theme in a Trusts and Estates class,⁶⁴ and *King Lear*, even when played without the gender reversal, certainly offers a context to discuss the relevance of gender roles.

The list of lawyering lessons one can draw from *King Lear* are numerous, and these are only illustrations of the many directions the play can take a Trusts and Estates class. However, the ultimate lesson of *King Lear* for a Trusts and Estates class might be Professor Yoshino's explanation for why Cordelia dies. Samuel Johnson considered Cordelia's death a senseless act of cruelty⁶⁵ and there was sufficient outcry over the death of the purest character that a popular revised version of the play had Cordelia surviving.⁶⁶ But Professor Yoshino believes that Shakespeare has Cordelia die, not as a gratuitous act of cruelty on the audience, but to drive home the inevitability of death for all of us and the ultimate injustice of death.⁶⁷ Death is a central fact in virtually every case read in the class, death is the elephant in the room that estate planners must refer to obliquely when dealing with clients, and having a front row seat to the reality of death can take a toll on estate planners. The final lesson that Professor Yoshino draws from *King Lear* is that Lear through the

61. The shortened version of the script we use does not include Lear's vicious attack on the female gender in act 4, sc. 4. That would have been extremely difficult to use in "Queen Lear."

62. E-mail from Richelle Little to Karen E. Boxx (July 8, 2013, 14:41) (on file with author).

63. Coppélia Kahn, *The Absent Mother in King Lear*, in *REWRITING THE RENAISSANCE: THE DISCOURSES OF SEXUAL DIFFERENCE IN EARLY MODERN EUROPE* 33, 33 (Margaret W. Ferguson, Maureen Quilligan & Nancy J. Vickers eds., 1986); Kathleen McLuskie, *The Patriarchal Bard: Feminist Criticism and Shakespeare: King Lear and Measure for Measure*, in *POLITICAL SHAKESPEARE: ESSAYS IN CULTURAL MATERIALISM* 88, 88 (Jonathan Dollimore & Alan Sinfield eds., 2d ed. 1994).

64. See, e.g., *In re Strittmater's Estate*, 53 A.2d 205 (N.J. 1947); *In re Will of Moses*, 227 So.2d 829 (Miss. 1969) (Both cases are discussed in the Dukeminier and Sitkoff casebook. *JESSE DUKMINIER & ROBERT H. SITKOFF, WILLS, TRUSTS, AND ESTATES* 275, 297 (9th ed. 2013)).

65. SAMUEL JOHNSON, *SAMUEL JOHNSON ON SHAKESPEARE* 98 (W.K. Wimsatt, Jr. ed., 1960) (1747).

66. *THE OXFORD SHAKESPEARE: THE HISTORY OF KING LEAR* 62–63 (Stanley Wells ed., 2000).

67. YOSHINO, *supra* note 40, at 231.

course of the play and finally at death has moved from reliance on law to reliance on justice and finally to reliance on love, which is the essential premise of Professor Paul Kahn's interpretation of *King Lear*.⁶⁸

IV. SKILLS TRAINING FOR THE CAST

Law schools are currently feeling pressure to change the curriculum and incorporate more skills-oriented practices.⁶⁹ I have always considered it a challenge to include interactive exercises in the Trusts and Estates class because there is simply too much material to cover.⁷⁰ A production of *King Lear* may not seem to develop lawyering skills, but my own observations and comments from students contradict that assumption. Planning a production with a group and performing before a class fits within "active learning," a broad term used to describe learning strategies that involve student activity and engagement in the learning process.⁷¹ The goal of this approach to learning is "to improve significantly people's abilities to become active learners who seek to understand complex subject matter and are better prepared to transfer what they have learned to new problems and settings."⁷² Law professors have been encouraged to use active learning for several years, since the Institute for Law School Teaching recommended adoption of the seven principles for good practice in undergraduate education, which were developed in the 1980s and which included active learning as one of the principles.⁷³

One of the core skills that law professors are being encouraged to incorporate is collaboration,⁷⁴ and several former students noted that the *King Lear* production is a rare opportunity for a noncompetitive collaborative experience. As Brittany Stevens, who graduated in 2009, observed:

I didn't really like law school because I found it overly competitive and relatively isolating. While practicing law is still a little lonely at times, I am finding it to be far more collaborative and less competitive with my co-workers

68. PAUL W. KAHN, *LAW AND LOVE: THE TRIALS OF KING LEAR* xii, xix (2000).

69. Ethan Bronner, *A Call for Drastic Change in Educating New Lawyers*, N.Y. TIMES, Feb. 11, 2013, at A11.

70. At the University of Washington, the Wills and Trusts class was eight quarter credits in the eighties but has now shrunk to 5 quarter credits.

71. Michael Prince, *Does Active Learning Work? A Review of the Research*, 93 J. ENGINEERING EDUC. 223 (2004).

72. HOW PEOPLE LEARN: BRAIN, MIND, EXPERIENCE, AND SCHOOL 13 (John D. Bransford, Ann L. Brown & Rodney R. Cocking eds., expanded ed. 2000).

73. See Gerald F. Hess, *Seven Principles for Good Practice in Legal Education: History and Overview*, 49 J. LEGAL EDUC. 367 (1999); Gerald F. Hess, *Principle 3: Good Practice Encourages Active Learning*, 49 J. LEGAL EDUC. 401 (1999).

74. Janet Weinstein et al., *Teaching Teamwork to Law Students*, 63 J. LEGAL EDUC. 36, 36 (2013).

than I was led to believe in law school. Performing *King Lear* was a little glimpse of the collaboration that I have come to find and enjoy in practice.⁷⁵

In addition to teamwork, the *King Lear* production offers the cast public speaking and oral story-telling practice.⁷⁶ Creativity is a primary skill that gets exercised in putting on the play. Creativity is unquestionably a critical skill of good lawyering, and yet there are so few opportunities in law school for students to nurture their creative sides. My own observations of how enthusiastically students jump into the task, and the incredibly clever twists they have incorporated into these productions⁷⁷ has made me realize how hungry law students are for the opportunity to show their creativity. Students whom I have known only as downcast eyes behind a laptop have transformed into incredible comedic actors.⁷⁸ Every year it inspires me to find other opportunities for students to be more actively involved in the learning of the entire class.

V. THE PLAY AS AN EFFECTIVE TEACHING METHOD FOR THE REST OF THE CLASS

While the lion's share of skills training advantages goes to those students involved in the production, the play also enhances the learning environment for the rest of the class. "Boredom may be the largest pedagogical obstacle to teaching."⁷⁹ A student is much more likely to remember when the lesson is connected with something novel like a play, a guest speaker, or a different location.⁸⁰

Active learning includes active self-monitoring by students to determine whether they are able to transfer their newly acquired knowledge to new situations and apply that knowledge as an expert would to solve problems.⁸¹

75. E-mail from Brittany Stevens to Karen E. Boxx (July 11, 2013, 09:01) (on file with author).

76. See GERRY SPENCE, *WIN YOUR CASE: HOW TO PRESENT, PERSUADE, PREVAIL—EVERY PLACE, EVERY TIME* 86 (2005) ("If we are to be successful in presenting our case we must not only discover its story, we must become good storytellers as well. Every trial . . . every argument for justice is a story.").

77. One of my all-time favorites: in the Michael Jackson version, Gloucester had been recast as Lionel Richie. At a point in the script, Lear is calling for Gloucester, and Gloucester/Lionel Richie appears, singing, "Hello, is it me you're looking for?" Another all-time favorite: towards the end of the play, a student who was working behind the scenes was sitting in the front row and took a call on his cell phone. I was horrified, until he started responding to the caller, "what, Goneril killed Regan? And then killed herself?"

78. I am pleasantly surprised to discover that many students have prior acting experience, and that some students whose performances stand out have no formal training.

79. Jana Hackathorn et al., *All Kidding Aside: Humor Increases Learning at Knowledge and Comprehension Levels*, 11 J. SCHOLARSHIP TEACHING & LEARNING, Dec. 2011, at 116, 116.

80. ERIC JENSEN, *TEACHING WITH THE BRAIN IN MIND* 110–11 (1998).

81. *HOW PEOPLE LEARN: BRAIN, MIND, EXPERIENCE, AND SCHOOL*, *supra* note 72, at 67.

The performance gets the students' attention, and comes at a time when the students are trying to organize what they have learned so far in the course. They can now watch the play with a different perspective than what they would have had at the beginning of the course. This not only allows them to apply what they have learned to a new scenario not tailored for a specific issue as the cases in the casebook are, but also can transform their view of themselves as observers informed in the legal system. I also talk about celebrity news that comes up during the course as it relates to trusts and estates, and send the students links to entertaining stories that have trusts and estates aspects. I do this because I think it helps students learn to enjoy viewing the world as a lawyer.⁸²

VI. THE INTANGIBLE BENEFITS

The foregoing discussion describes a few justifications for my annual *King Lear* production, but if I am being honest, my real reason is because it is fun. Lawyers are notoriously unhappy, as a recent *Forbes* article confirmed.⁸³ My personal belief is that much of this misery is self-inflicted. Lawyers have a tendency to take themselves too seriously, and this may be a side effect of the serious tone of law school. I advise students to take the work seriously but not to take themselves too seriously. In order to love your career as a lawyer, you should be able to appreciate the fun side—the absurdity of these real-life stories, the boundless eccentricity of the people that the legal system tries to contain and regulate. And dressing in costume and role-playing those humans whose choices are the subject of rules they study is an excellent way to expose them to that viewpoint.

I will end with a few student testimonials that reinforce this point. Adella Wright, who graduated in 2011, noted: “[T]he experience was just a rush of energy at a time where that law school burn out was starting to mix with bar exam dread. I think working on that play gave my brain some much needed cross-training after getting a bit stuck in nose-to-the-grindstone mode.”⁸⁴ Brian Quirk's, who graduated in 2009, only critique of his *King Lear* experience was “Professor Boxx's unwillingness to financially back the cast's Broadway

82. See George M. Slavich & Philip G. Zimbardo, *Transformational Teaching: Theoretical Underpinnings, Basic Principles, and Core Methods*, 24 EDUC. PSYCHOL. REV. 569, 576 (2012) (“We define transformational teaching as the expressed or unexpressed goal to *increase students' mastery of key course concepts while transforming their learning-related attitudes, values, beliefs, and skills.*”).

83. Jacquelyn Smith, *The Happiest and Unhappiest Jobs in America*, FORBES (Mar. 22, 2013, 2:55 PM), <http://www.forbes.com/sites/jacquelynsmith/2013/03/22/the-happiest-and-unhappiest-jobs-in-america/>.

84. E-mail from Wright, *supra* note 28.

venture.”⁸⁵ I just hope that they derived from the experience some enthusiasm for the law.⁸⁶

A response from Ivy Fioretti, who graduated in 2009 and who played the Fool, sums up the both the benefits of exposure to Shakespeare and the benefits of grown-up fun:

Playing Lear's Fool was the most relevant thing I did in law school; I rely on the Fool's wisdom daily:

‘He that has and a little tiny wit—
With hey, ho, the wind and the rain,—
Must make content with his fortunes fit,
For the rain it raineth every day’

Pearls of wisdom for one who limped over the finish line to graduate into a recessionary dearth of employment, who ekes out a living serving the bankrupt and the divorcing victims of outrageous fortune! Thank you for providing a creative oasis in the middle of law school that enabled us to indulge in a little playing—a very humane thing for a teacher to do in a schedule devoid of recess.⁸⁷

85. E-mail from Brian Quirk to Karen E. Boxx (July 6, 2013, 13:18) (on file with author).

86. One student, on the morning of the *King Lear* performance, told me that her boyfriend, seeing her leaving for school in an outrageous costume, asked her what kind of law school she went to, and she answered, “[A]n AWESOME law school.”

87. E-mail from Ivy Fioretti to Karen E. Boxx (July 19, 2013, 17:29) (on file with author).

