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A SEARCH FOR BALANCE IN THE WHIRLWIND OF LAW SCHOOL: SPIRITUALITY FROM LAW TEACHERS

THOMAS L. SHAFFER*

Those who plan the annual meetings of the Association of American Law Schools (AALS) decided on a workshop entitled “A Search for Balance in the Whirlwind of Law School” for 2006. They invited three of us to lead a session on “Spirituality.” Other sessions included: the “Affective,” “Connection to Purpose,” “Contemplative Practices,” “Religion in Law School,” “Student Services/Counseling,” and “Teaching Methods and Grading.” “Spirituality” was the most mysterious. Even after an enjoyable ninety minutes with Professors Calvin Pang, Reginald Robinson, and the other interesting law professors who joined us, I knew only slightly what it was about.¹

I do, after half a century in them, know about “whirlwinds” in law school. The only-slightly-hackneyed metaphor says that law students, like Dorothy in the cyclone, are in a house that is being carried to Oz (in her case, from Kansas).² Dorothy’s house landed with a thud on top of a wicked witch.³ Dorothy stepped outside; the movie turned from black-and-white to technicolor, and Dorothy met the good witch, who led her, along with the scarecrow, the lion, and the tin man, down (or up) the Yellow Brick Road.⁴

Within the whirlwind we had at the AALS annual meeting in Washington, D.C., in January 2006 (originally scheduled for New Orleans), our sub-theme of Spirituality (capital “S”) seems to describe the good witch’s efforts to put Dorothy in touch with Dorothy’s spirit after she landed in Oz, so that she could get by better when she returned to Kansas.⁵ When I imagine Dorothy as a law student, the purpose of Spirituality is to make her happier in Oz and, when she gets back to Kansas, to help her be a *good* lawyer in all senses of the word—or at least a lawyer who does not make things worse.

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1. Calvin Pang, Reginald Leamon Robinson & Thomas L. Shaffer, Spirituality at the Ass’n of American Law Schools Annual Meeting: Workshop on a Search for Balance in the Whirlwind of Law School (Jan. 4, 2006).

2. See THE WIZARD OF OZ (Metro Goldwyn Mayer 1939).

3. *Id.*

4. See *id.*

5. See *id.*

A lawyer who does not make things worse, who wants to get out of or stay out of the whirlwind, and who sought answers at the AALS meeting, might have turned to an examination of feelings (the “Affective”) or to meditation (“Contemplative Practices”), which might have included things like yoga or speaking to a counselor. In earlier times, law students and their organized mentors might have turned to religion rather than to these alternatives (as David Hoffman, the founder of American legal ethics, sometimes did).⁶ From that point of view, Spirituality, in the AALS scheme, was perhaps a modern alternative for those who were not interested in seeking expressly religious or expressly therapeutic ways out of the whirlwind. I am afraid that is the conclusion that I came to when I was asked to join Professors Calvin and Robinson in the session on Spirituality.

I, who tend to dabble in narrative, could have made Spirituality what the children’s stories writer Philip Pullman made of it when he spoke on religion and education at the University of East Anglia last year: “I have the greatest difficulty in understanding what is meant by the words ‘spiritual’ or ‘spirituality’; but I think I can say something about moral education, and I think it has something to do with the way we understand stories.”⁷ Maybe Spirituality, even at AALS meetings, has something to do with the way we understand the stories referred to in the project title, or stories of law students, some of which endure even into popular television. Dorothy in Kansas is one example; Dorothy as if she had gone to law school, crossing swords with Professor Kingsfield,⁸ is another. There was not a session at the relevant time for those who wanted to talk about stories, though. So perhaps Mr. Pullman (if he had been inclined to traffic with law teachers) would have been driven to the session on religion, rather than Spirituality, which he says he cannot understand.⁹

I think I know why the planners set up a session on Spirituality (although I am guessing now, as I did then): nowadays, there needs to be, at a national professional meeting, a topic like religion, but that is *not* religion. Not the “Affective,” which sounds undisciplined (and it takes discipline to get out of

6. David Hoffman’s prolific publications often included a turn to religion, an interest that he fed while acting as a reporter covering Sunday services in Baltimore, attending a different church every week and listening to the different preachers. He wrote about the sermons as if he were covering plays, and often as critically. See DAVID HOFFMAN, A COURSE OF LEGAL STUDY: RESPECTFULLY ADDRESSED TO THE STUDENTS OF LAW IN THE UNITED STATES 38–77 (1817); DAVID HOFFMAN, VIATOR: OR, A PEEP INTO MY NOTEBOOK (1841). On Hoffman as the founder of American legal ethics, see THOMAS L. SHAFFER, AMERICAN LEGAL ETHICS: TEXT, READINGS, AND DISCUSSION TOPICS 59–164 (1985); Maxwell Bloomfield, *David Hoffman and the Shaping of a Republican Legal Culture*, 38 MD. L. REV. 673 (1979).

7. Laura Miller, *Far From Narnia*, THE NEW YORKER, Dec. 26, 2005, at 52.

8. See THE PAPER CHASE (Twentieth Century Fox 1973).

9. See Miller, *supra* note 7, at 52.

the whirlwind) and not “Connection to Purpose,” which sounds too much like business school. I am guessing the planners saw Spirituality as a substitute for religion for those law students who need balance in the whirlwind but who are not going to go to a church or temple to achieve it. That is, Spirituality sounds like religion, but is not religion. I think back, when I guess this way about the AALS, to the years that I spent as a member of a different professional organization where I served on the board of directors for a time. Then, the organization was called The Society for Religion in Higher Education (SRHE). Later, SRHE went through a transformation, perhaps like the one that carried the AALS into Spirituality. It took religion out of its name and substituted values, thereby becoming The Society for Values in Higher Education.

“I definitely want to be a lawyer and a good one,” a student of mine wrote in his journal, “but I will also have family and friends . . . who will expect me to be responsive to their needs and sorrows.”¹⁰ Spirituality in law school, as I am thinking of it, would suggest that this student add clients to the list of those who expect a lawyer to be responsive to their needs—and to learn how to do that while figuring out a way to hold on to the person who came to law school.

Part of this is helping a law student do something about the SOBs on the faculty. In *The Paper Chase*,¹¹ a well-known movie about first-year law students at Harvard University, Professor Kingsfield hands a coin to a first-year student who had just tried to answer one of Kingsfield’s devious questions, and says, “Call your mother, and tell her there is serious doubt about you ever becoming a lawyer.”¹² My friend Bill Geimer, when he taught law at Washington and Lee, spoke of one of his teachers at Chapel Hill, whose student questioned the ethics of a judicial decision they were talking about. The teacher said, “Ethics, schmethics. Ethics is for Episcopalians.” One of my students wrote in her journal, “There have been times when I just feel that I’m never going to say anything again, because every time I do, I get in deeper and feel worse.”¹³ She could have checked with the nearest Episcopalian, I suppose. Spirituality would have been an alternative.

Karl Llewellyn in his celebrated book *The Bramble Bush*,¹⁴ spoke to students such as the one Kingsfield sent to the phone. He said, “The hardest job of the first year is to lop off your common sense, to knock your ethics into temporary anesthesia. Your view of social policy, your sense of justice—to

10. Many of these student journal entries are in THOMAS L. SHAFFER & ROBERT S. REDMOUNT, *LAWYERS, LAW STUDENTS AND PEOPLE* (1977), and in Robert T. Grismer & Thomas L. Shaffer, *Experience-Based Teaching Methods of Legal Counseling*, 19 CLEV. ST. L. REV. 448 (1970).

11. See *THE PAPER CHASE*, *supra* note 8.

12. *Id.*

13. See *supra* note 10.

14. K. N. LLEWELLYN, *THE BRAMBLE BUSH: ON OUR LAW AND ITS STUDY* (Oceana Publ'ns 1996) (1930).

knock these out of you along with woozy thinking . . .”¹⁵ In other words, law school says to put aside what you bring from your family, your town, your closest friends, and your religious congregation—and learn to think like a lawyer. The mission of Spirituality, on the other hand, is to counter that bad instruction, without forcing you back to church.

“In the end,” one of my students wrote in his journal, “what difference does it make if someone knows what your fears are or how you feel about them? . . . I get a kind of monotonous and sickening feeling when I think about that. I want to leave.”¹⁶ Another student wrote, “I have seen what law school means, and it frightens me. People lose whatever humanity they possess, or allow it to become suppressed so they can make out.”¹⁷

Modern students take warning from modern Kingsfields, even when the modern Kingsfields are more subtle. One of my students said, “I’m an infant in the study of law, but even a child recognizes extreme dangers.”¹⁸ *The Paper Chase*’s most famous character, Hart, said Kingsfield ruled his mind,¹⁹ which I guess is what my student meant when he spoke of extreme dangers. The worst of that is that the SOBs teach young people to be Kingsfields to one another: “The logical, rational lawyer appears to be gaining among my classmates,”²⁰ said one of the student journals: “I wonder what my own reaction will be. I fear that perhaps my own weaknesses will draw me into a pattern similar to theirs. I am hoping that I can keep my head together.”²¹ He went on to assume that practicing lawyers would be like his teachers. “Lawyers are so warped as to lose a human perspective,”²² he wrote. Ultimately, the student said that he needed a break.

In Hart’s case, four or five first-year law students managed to find limited company in their study group, but as the semester wore on, it became clear that they were beginning to treat one another the way Kingsfield treated them in their Contracts class.²³ One of my students wrote, “It’s easy to bury your love and let your selfish nature possess your actions, especially in the law school atmosphere. The faces we put on for those we want to impress are faces that fulfill a need in each of us. But this need can be fulfilled in many other ways which speak of love and not selfishness. I hope that my life will speak of love and not selfishness.”²⁴ Then she seemed to have paused a moment before

15. *Id.* at 116.

16. *See supra* note 10.

17. *See id.*

18. *See id.*

19. *See* THE PAPER CHASE, *supra* note 8.

20. *See supra* note 10.

21. *See id.*

22. *See id.*

23. *See* THE PAPER CHASE, *supra* note 8.

24. *See supra* note 10.

continuing to write: “These heavy thoughts are a real drag, unless one is able to laugh at oneself and make light of those things that others consider heavy.”²⁵

Hart was not able to laugh at first or to make light of Kingsfield, but he got a girlfriend (played in the movie version by Lindsay Wagner).²⁶ That helped him to adjust. In my case, it was my good wife and our three little boys; we lived with other couples and families in the student-housing section that Notre Dame had built for veterans out of remodeled World War II prisoner-of-war barracks. My family helped me more than I was willing to let them know. They helped me to avoid wondering, as another of my students did: “I wonder if one could be a lawyer and live ‘outside the law’ to some degree. I’ve seen . . . people sacrifice everything for their jobs—and in the end they find out they really didn’t like the jobs.”²⁷

I think the student that I just quoted was also wondering whether law practice is like law school. If I had known enough to respond helpfully in those days, I would have said, “Well, law practice is like law school somewhat, but there are fewer SOBs in law practice.” I am now, in my old age, a legal-aid lawyer in a rust-belt Midwestern community with a bar of about one thousand lawyers, few of whom are what that student feared he would become. We have a few SOB lawyers certainly, and we have had a few SOB judges who rose through the ranks. One of them, before whom I had many a stressful moment, has since passed away. I look at his portrait on the courthouse wall, and I wish him well, wherever he is. But I’m glad he is out of the courthouse.

“Spirituality,” as I am defining it—helping our students to get in touch with their feelings, to grow, and to accept themselves as children of God—has an educational agenda as well as this therapeutic agenda. I suppose the *method* of Spirituality in law school is connecting students with their spiritual selves, but the *object* is to help them be humane to the clients they will serve. It is important to see this as education and as a dimension of Spirituality, because viewing it in that way is how the topic can take *clients* into account. I first began to see this dimension when I got interested in teaching counseling in law school. I went to Joe Simons, a young priest-psychologist who worked in the counseling center at Notre Dame, and asked him to help me plan a course in legal counseling. He asked me whether I wanted my students to know about Freud or to be sensitized. I opted for sensitized, and he offered to co-teach the seminar.²⁸

25. *See id.*

26. *See* THE PAPER CHASE, *supra* note 8. I omit from consideration the television series based on the novel; I thought the Kingsfield character there was unacceptably cuddly.

27. *See supra* note 10.

28. If Joe and I had had to put our goals into a syllabus, we would have said that sensitivity, like Spirituality, aims at putting the learner in touch with her own feelings, so that she can learn to pay attention to the feelings of her clients. And that it operates—both as learning and, incidentally, therapeutically—person to person.

Our course was entitled “Psychological Aspects of Legal Counseling.” The students came to call it the Psychedelic Seminar, probably because we taught it as a Rogerian encounter group; maybe, too, because we invited the wives of our students to join us.²⁹ My wife Nancy joined in, as did a colleague of Joe Simons, Sister Jeanne Reidy. Our method, faithful to Rogerian dogma, was person to person. When we met for our first session, no one set the agenda; neither Joe nor I said anything. We sat there in silence until one of the students spoke up, and then we proceeded to talk about what that student said. That is the way Carl Rogers started his therapy sessions, too; I have him on tape. He said, “I personally don’t think much of trying to give insights to another person. I think that either frightening or futile.”³⁰

The results were certainly educational, and, unlike the rest of law school, they were personal. Those young couples have been friends of Nancy’s and mine for almost forty years, very close friends some of them. After fifty years in legal education, the Psychedelic Seminar remains my favorite bit of teaching. Joe Simons and Jeanne Reidy fell in love, by the way. They left religious life, got married, moved to California, taught college courses, and wrote books together on humanistic psychology.³¹ Having lost our academic colleagues to romance, the next year Nancy and I found another young psychologist-priest to work with us—Father Bob Grismer. Bob and I later published the results of our collaboration.³²

Joe Simons and I did not tell the Dean that we were teaching sensitivity. We said it was “skills training,” and later found that is what it really was. Teaching sensitivity is “skills training,” when you remember that most lawyers spend a majority of their time with clients, and lawyers who treat people well do better than those who do not. One of our students went downtown and, he said, “I talked to a lot of lawyers.” He came back to report that “some of them I am just . . . turned off by. Because I think they’re only there to hear their own words.” We at least taught him to recognize those lawyers when he saw them.

The positive effects of teaching sensitivity can be seen in the students’ journals. One student wrote, “It seems to me that, if I could shut off my

29. Notre Dame Law School was all men in those days—not even any nuns. It is no longer all men, thank God.

30. See generally CARL R. ROGERS, *CLIENT-CENTERED THERAPY: ITS CURRENT PRACTICE, IMPLICATIONS, AND THEORY* (1951); CARL R. ROGERS, *ON BECOMING A PERSON: A THERAPIST’S VIEW OF PSYCHOTHERAPY* (1961).

31. See JOSEPH SIMONS & JEANNE REIDY, *THE HUMAN ART OF COUNSELING* (1971); JOSEPH SIMONS & JEANNE REIDY, *THE RISK OF FREEDOM* (1970); JOSEPH SIMONS & JEANNE REIDY, *WISDOM’S CHILD: EXPLORING ADULT IMMATUREITY* (1969); see also JOSEPH B. SIMONS, *RETREAT DYNAMICS* (1967); JOSEPH SIMONS & JEANNE REIDY, *C.H.M., THE RISK OF LOVING* (1968).

32. Grismer & Shaffer, *supra* note 10.

insides, I could be a reasonably successful lawyer. I could understand enough to get by and do rather well. But I can't shut off my insides."³³ Another wrote, as we were finishing the first Psychedelic Seminar,

I find that I can be more alive with people [than] I ever thought I could be. And it doesn't only relate to this group, because I've noticed it in terms of other people at school, people who normally I would just say "Hi" to. I've just taken time and sat down and talked to [them], even if it's just for five minutes. I think [too, that] it has sort of broken down this caste system that I had. I think I would tend to give people more of a chance [now], instead of categorizing them. I think if there's anything this course has done, it has done that. It has [also] given me a sort of excuse to say what I needed to say, and at the same time taught me that I really don't need an excuse.³⁴

I have used what I learned from these friends in courses with other titles. I use psychedelic devices in bits and pieces in teaching Property, Wills & Trusts, and business courses, in orientation sessions with incoming students, and in Continuing Legal Education (CLE) programs for practicing lawyers. My own experience is that a human-relations approach to teaching offers an alternative to being an SOB, which I admit that I have tried, and which I am not good at. My experience has been like that of Elwood P. Dowd, friend of the giant rabbit (actually a pooka), "Harvey."³⁵ Dr. Chumley criticized Elwood for lacking righteous indignation, and Elwood replied, "My mother told me, 'Elwood, in this life, you can be oh, so smart, or oh, so pleasant.' I have tried smart. I recommend pleasant."³⁶

If I know what "Spirituality" means, our Psychedelic Seminar was a spiritual success. "People," one of our students said, "find each other more interesting than books."³⁷ The Seminar is how I became a fan of "T Groups"³⁸ and became trained as a group leader (what the Rogerians in those days called a "facilitator"). I did a fair amount of work with groups in business. And I expanded my own skills to borrow devices a pure Rogerian would not use. I have used those unorthodox devices in teaching mainline law school courses and with groups of student-lawyers in the Clinic. Some of those deviant experiences include:

Group Building. One way to use these methods in a large class is to build groups, and one way to build groups is to give each group, as it builds from three to about twelve, interpersonal tasks. Suppose, for example, that I have fifty students in a Wills & Trusts class, and I want them to practice the counseling skill of "active listening." First, I might do a very brief

33. See *supra* note 10.

34. See *id.*

35. HARVEY (Universal International Pictures 1950).

36. *Id.*

37. See *supra* note 10.

38. T-Groups are the same as Encounter Groups. The "T" means training.

introduction that shows some technique (maybe from a Carl Rogers tape),³⁹ and explains that the skill turns on what Rogers called “unconditional positive regard,” and that it is useful when the agenda is talking to people about their wills.

- Start with groups of three (and there is some value in letting students take the risk of forming their own groups of three). One person (who is given a script on the side) is to be the client and describe what she is bringing to her lawyer—this student is the star in the psychodrama. Another student is to be the lawyer, and the last student is to observe and comment (later) on what the lawyer did.
- The observer is there to listen to the lawyer, tell him how he did, and then to tell him what she thinks; the client is there to be asked what she thinks.
- Then each group of three joins another group of three and the six of them talk together about how they have done. Then each group of six joins another group of six, and a visit from the teacher helps continue what the psychologists call “processing.”⁴⁰

Journals. All of the quotations that I have used here have been from student journals.⁴¹ My friend, colleague, and teacher Bob Rodes has become a master of the journal device in his required third-year course in Legal Ethics. Each of Bob’s eighty or ninety students gives him a journal entry every week. Bob carries bundles of journals to his office, around the school, and home with him. He writes responses in the margins and returns each marked-up journal before the next class. When (as in Bob’s case) the only point of evaluation is whether the journal writer is being faithful to his own task, journals are an avenue to self-awareness, and that is what Spirituality aims for.

When I followed Bob’s example, as I taught Professional Responsibility at Valparaiso University in one recent year, I identified a theme or topic from the weekly submissions that I got, identified four or five student submissions that addressed that theme or topic, and set up a panel of the writers to present their ideas to the class from behind a panel-of-experts table in the front of the room for discussion among themselves and with the rest of the class. On a good day, it was similar to a break-out session at an AALS meeting or a Baptist Sunday school.

Pencil and Paper. Personal questions and mental exercises in books put students in touch with their own feelings and the feelings of their clients. These are not as good as working with real people in the Clinic, of course; nor

39. See *supra* note 30 and accompanying text.

40. The selfish personal misgiving that I have from group-building is that it gets lonely not being in the middle of things from the beginning. The biggest pay-off is that I learn a lot when I have enough sense to pay attention to the groups of twelve.

41. All journal quotations have been taken with permission.

are they as good as group methods in the law school. But they turn the agenda to the personal and interpersonal, and they help a lawyer get in touch with what he or she is up to. There are course-oriented examples in the text book that I co-authored with Carol Mooney and Amy Boettcher, entitled *The Planning and Drafting of Wills and Trusts*,⁴² as well as in Jim Elkins's and my *Nutshell* on legal interviewing and counseling.⁴³ Here is an example out of the latter, considering Rogers's active-listening practice and then comparing the lawyer skills exalted in Casner and Leach's classic casebook in Property⁴⁴ with what my co-authors Jim Elkins and Bob Redmount⁴⁵ learned from Rogers and came to see as legal counseling skills:

PROPERTY LAWYER

- Fact Conscious
- Relevance Conscious
- Foresightful
- Comprehensive
- Verbally Sophisticated
- Orally Aggressive
- Thorough

LEGAL COUNSELOR

- Perceptive to Verbal and Non-Verbal Signals
- Empathic, Congruent
- Resilient
- Listening
- Open
- Reflective, Accurate in Summarizing
- Accepting and Caring

I have also come up with pencil-and-paper exercises that are meant to alert students to the human dimensions of substantive property law and the substantive law of wills, trusts, and future interests. They are based on practical experience, as well as psychological and clinical studies on death attitudes, attitudes toward property, and attitudes toward being dependent (as a client is asked to be when she visits a lawyer to, say, clear title to her home or draft her will). These are in our planning and drafting book, now in its fifth edition.⁴⁶ In the wills and trusts course, and in working with student-lawyers who draft wills for people in the Clinic, the doctrinal agenda is that a client

42. See THOMAS L. SHAFFER ET AL., *THE PLANNING AND DRAFTING OF WILLS AND TRUSTS* (5th ed. 2007).

43. See THOMAS L. SHAFFER & JAMES R. ELKINS, *LEGAL INTERVIEWING AND COUNSELING IN A NUTSHELL* 65–76 (4th ed. 2005).

44. See A. JAMES CASNER & W. BARTON LEACH, *CASES AND TEXT ON PROPERTY* (2d ed. 1969).

45. For example, see the active-listening exercises in SHAFFER & ELKINS, *supra* note 43. See also Sherman J. Clark, *Law as Communitarian Virtue Ethics*, 53 *BUFF. L. REV.* 757, 770 (2005):

Or, do we want to reach people? If so, we may need an occasion to lay aside the comforting water-tightness of our empirical demonstrations and the appealing order of our normative systems. We may need to find a way to talk to people about what the law means to them.

46. SHAFFER & ELKINS, *supra* note 43.

making her will cannot take her property with her, she cannot even visit it later to see how it is being used, and she is not going to have to pay taxes on it. Her lawyer needs, in my view, to stop and think what the law-office job is about. He should not guess at what the real, live-for-now, human agenda is. He should find out about that from his client, and his client may have to learn from him to take on the task of explaining what the agenda is.

I think of an old friend, a pillar of the bar who taught in the law school setting. He was asked by a grandmother how to distribute her property among two living children and the three grandchildren of another deceased child. My friend did not skip a beat before replying, "What you do is give a third to each of your children and a ninth to each grandchild. That's the way it's done." He took a rich human adventure and converted it immediately into the English Statute of Distributions of 1663. It was as if, to quote the poet, he had his lunch eaten by a threshing machine.

This is an aging law teacher's take on Spirituality. It needs to have appended to it a theological warning suggested by Rabbi Arnold Jacob Wolf: "Something profound is missing [in spirituality], and I believe it is precisely the communal, the historical, the great Jewish Legacy of collective social responsibility."⁴⁷ "We get so mired in the self that we are losing sight of the sacred,"⁴⁸ notably the sacred other that is right in front of us—students in our case—clients in our students' cases. Spirituality invites lonely individuality and the mistake that says, as the suicidal philosopher in the Woody Allen movie thought, that each of us is the sum total of his lonely choices.⁴⁹ One of the lessons I have taken from my adventures in humanistic psychology is that, while my best source in learning about people is myself, the best place to learn about myself is people.

It has occurred to me, working with student-lawyers on real clients' wills, that Rabbi Wolf's warning discourages the battery of questions that estate-planning lawyers are taught to visit on their clients. (Some even use questionnaires, as if one's client were at the welfare office filling out forms rather than talking to—*talking to*—a lawyer.) There is something about planning to be a lawyer, or about "Socratic" instruction in law school, or about lawyers on television, that tends toward interrogation rather than toward interest and concern. How about, instead of questions, saying to the person

47. Arnold Jacob Wolf, *Against Spirituality*, 50 JUDAISM 362, 363 (2001).

48. *Id.* at 365; see also Eolene M. Boyd-MacMillan, *Awkward Relations: Should the Field of Spirituality Distance Itself from Theology?*, CSSR BULL., Sept.-Nov. 2004, at 61; Marie A. Failing, *Message from the Section Chair*, NEWSLETTER (Prof'l Responsibility Section of the Ass'n of American Law Schools, St. Paul, Minn.), Fall 2005, at 2 ("A . . . dilemma for us is to broaden our students' imaginations about how they can find or create the kind of community they need to sustain their professional lives."); Frederick Mark Gedicks, *Spirituality, Fundamentalism, Liberty: Religion at the End of Modernity*, 54 DEPAUL L. REV. 1197 (2005).

49. See CRIMES AND MISDEMEANORS (Orion Pictures 1989).

who wants to make a will, “Tell me about your family. Tell me about your property. Let’s talk about what is to happen after you die.” Especially when the agenda in an interview regarding the preparation of a client’s will touches on highly sensitive and personal topics, active listening is a powerful skill to have, if only because it is inherently sympathetic.

The other day, one of my charges in the Clinic came to me concerned because her client, a late-middle-aged widow, kept changing her mind as our student-lawyer came up with will drafts for her. The student-lawyer, frustrated with what she thought was a client wasting her busy-law-student’s time, asked me, “Does the Clinic have policies on clients who keep changing their minds?” This young woman is a warm, sensitive person; she has no problem respecting her clients—but, as I say, she was frustrated with this client. Under some inspiration or other, I asked my young friend, “How long has it been since this lady’s husband died?” My young friend answered, “Thirteen months.” And with uncharacteristic Jungian insight, I thought to say, “She’s grieving.” Spirituality would say that it would have been a good idea to consult my Jungian self sooner and to suggest that my young friend begin her first meeting with her client by offering to talk about her client’s recent widowhood, about how she was proceeding with what the counselors call her “grief work.”

I thought later about my own discussions with clients who were having a hard time making up their minds on distribution of their estates among adult children, and even on restrictions on distribution to one child when the shares are equal. (Empirical data has suggested for decades that, in America, clients think it is immoral to distribute wealth unequally among children, and a substantial number think it is immoral to impose restrictions—things such as spendthrift clauses on trust distributions—on some children but not on others).⁵⁰ I thought of a particular client of mine, a late-middle-aged mother like my young friend’s client, who burst into tears at the prospect of imposing a trust on the share going to one of her three children who could not hold on to his money.

What I want to say to my student in the whirlwind, as her house heads through the air for Oz, is this: Tending to your spirit will legitimate and protect the aspirations you had as you first came to find yourself among law professors; tending to your spirit is a way to learn lawyer skills that are at least as vital to your professional life as drafting and cross-examination are; tending to your spirit builds relationships, and relationships are a way to be and a way to learn how to be; and I hope to be here to help you find ways to tend to your spirit, woozy thinking and all.

50. See THOMAS L. SHAFFER, *DEATH, PROPERTY, AND LAWYERS* (1970).

