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REACHING THE VISUAL LEARNER: TEACHING PROPERTY THROUGH ART

Learning theorists have demonstrated that people vary in the manner in which they absorb, process, and recall what they are taught. Verbal learners, a group that constitutes about 30% of the general population, learn by hearing. They benefit from class lectures and from discussion of class materials in study groups or in oral presentations, but chafe at written assignments. Experiential learners—about 5% of the population—learn by doing and touching, and clinical work, role-playing exercises, and moot court are their best instructional modalities. Visual learners—the remaining 65% of the population—need to see what they are learning, and while they have difficulty following oral lectures they perform well at written assignments and readily recall material they have read.

The implications of variance in learning styles are particularly significant for legal educators. Empirical research supports the conclusions that when students are matched with teaching methods that complement their learning styles their absorption and retention is significantly enhanced. However, law professors who rely upon the Socratic method or more traditional lecturing techniques, as do the majority of those who teach doctrinal courses, particularly in the first-year curriculum, may be satisfying the pedagogical needs of their verbal learners without adequately engaging their kinesthetic or visual students, who comprise a majority of their classes. Students for whom traditional teaching methods are unsatisfactory may not only learn less but may suffer motivational problems and enjoy the law school experience less than their peers.

Moreover, variations in learning styles have been linked to gender: women tend to be more visually oriented than men, who are generally more kinesthetic, and consequently female

students are systematically more prone to suffer the deleterious effects of learning style-teaching method mismatch than men. However, sixteen years after the American Bar Association Commission on Women in the Profession suggested to law schools that "the first-year curriculum would be improved by the use of greater variety of teaching methods in light of the diversity of learning styles in the student body[,]" the typical first-year doctrinal course remains a predominantly verbal domain. In some degree this is a function of the subject matter. After all, law is a bibliocentric profession, and words are the coin of the realm. But we need not seek the radical transformation of the law to teach to the entire class.

During my first week of the fall semester in late August 2002, while I was preparing to teach Property for the first time, my wife, Amy, a professional artist, inquired as to the content of the next day's lesson, which centered upon one of the seminal cases in property and federal Indian law, Johnson v. M'Intosh [23 U.S. (8 Wheat.) 542 (1823)]. After recounting for her the chain-of-title problem and describing to her the herculean efforts of Chief Justice John Marshall to rationalize the seizure of Indian land and prevent clouds from forming over all the land titles granted by the United States while at the same time preventing the most normatively unattractive extension of his holding in subsequent cases, Amy retired to her studio. An hour later she returned with her interpretation of the case in the form of an original painting (see attached). "Why don't you show it to your class?" she urged me. The next day, I did.

At the beginning of class, I placed her painting on an easel at the front of the class and advised students of an optional exercise: they could examine the painting, ponder it in relation to the case and the other material we had covered thus far in the course, and write a short (no more than two page) reaction paper. Of my 103 students, 46 wrote papers; of those 46, 37 were female.

Reactions clustered around three principal themes. Nearly one-third of respondents simply described correspondence between elements of the painting and themes from Johnson. Another quarter attempted to identify and evaluate the moral judgment of the artist. The most

interesting papers, however, were drawn from the third group of respondents who took the opportunity to express their own ethical, moral, and legal judgments.

Some sought to offer justification for Marshall's opinion. "For the betterment of the country, we had to do this," said one student. Another commented that the painting was an attempt to foist upon the class a "revisitionist treatment of history" that "ignore[d] the all-too-prevalent stories of massacres perpetrated by Indians against unsuspecting settlers."

Many more were dismayed to think that the pursuit of justice might not always be the animating force behind judicial decisionmaking. "It makes me believe that . . . I might be in the wrong profession if we are looking for peace in this life or the next," one student wrote. "This painting captures the fact that government gets to make up the rules as it goes along." One student suggested that the painting was an antidote to a false representation of history upon which not only our legal system but our system of legal education rests: "The left side of the painting illustrates a pleasant transfer of land titles, which is what students are taught in our schools; the right side illustrates the true legal history of land acquisition and relations with Indian peoples."

Others were even more harsh: "The placement of Chief Justice Marshall in the center of the painting is symbolic of the centrality of our legal system in terms of responsibility for legitimizing genocide." "It is really disgusting to read about how the Indians were treated by the government since day one, but only when you create a visual representation of it does the full horror become apparent." " "We wanted the land and were willing to acquire it—by any means necessary." "The painting illustrates better than words the clash between the politics and the law of the country on the one hand and morality on the other."

Still other commentators reported that the painting illustrated transformational potential in the law. "Initially, I resented the law for its apparent outward lack of emotion . . . for those that have suffered injustice. But . . . I now understand that even two hundred years ago there were those that wished to break this cycle." "This painting requires us to question why the law

is the way it is, why decisions are as they are, and how to change the law, or at least understand it more."

Finally, one student stated quite plainly that the painting "helped give me another cue to remember the cases and another way to mentally represent what I learned." Several students were pleasantly surprised that there was a place for art anywhere in the legal academy.

Each week throughout the remainder of the semester I presented a series of other paintings my wife executed to illustrate themes, doctrines, and cases, most notably *State v. Shack*, 277 A.2d 369 (N.J. 1971), a famous case concerning access to private property, *Boomer v. Atlantic Cement Co, Inc*, 309 N.Y.S.2d 312 (1970), a landmark nuisance case, and *Fontainebleau Hotel Corp. v. Forty Five Twenty Five, Inc*. (114 So. 2d 357 (Fla. Dist. Ct. App. 1959), a decision affirming the absence of a right to sunlight in American jurisprudence. Student responses matched the general pattern established in regard to *Johnson*. Each week, students would eagerly await the next painting, and it was clear that the use of art to teach property was enhancing student interest and participation in their legal education.

At the end of the semester I asked students to fill out a survey concerning their experience with the reaction papers. Students were asked a single question—"Please indicate your assessment of the degree to which the paintings, and the writing of the reaction papers in response, aided in your learning the course material."—and were instructed to select a number from 1 to 5, where 1 indicated "useless," 2 "not very helpful," 3 "somewhat helpful", 4 "very helpful," and 5 "indispensable." The average student response was 4.2. Students were also given the opportunity to make open-ended comments; one student indicated that "during the exam I'll have those pictures in my head, and it has made organizing the class so much more effective!"

It is difficult to generalize from these informal findings. Not all students participated in the exercise, and to be sure those who did are a self-selected group. It may well be that visual learners, hungry for an opportunity to marry their learning style with their legal education, are

overrepresented in the sample. Art may not help all students learn the law, and evidence that my wife's work did so is still largely anecdotal. Moreover, it is difficult to replicate these findings. Not every law professor will be so fortunate as to have a spouse who can paint and who is as generous of his or her time as is mine! Still, other visual materials can be put to service to the same end.

Finally, the purpose of using art to teach property was never to develop or test a theory but rather to fulfil the obligation to teach to the entire class, a duty that requires us as legal educators to stretch ourselves, and sometimes even our spouses' canvases. I am grateful to Amy for helping me to reach my visual learners, and grateful to my students for their interest and involvement.