

MOCKINGBIRDS, MOVIES, BOOKS AND ETHICS

By Janyce C. Katz and Geoffrey Stern

Atticus Finch's speech to the jury trying Tom Robinson,¹ in pertinent part:

There is one way in this country in which all men are created equal – there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court. Our courts have their faults, as does any human institution, but in this country our courts are the great levelers, and in our courts all men are treated equally.

Books and movies can inform about law, legal ethics, professionalism and substance abuse while providing entertainment and, when so doing, hold the attention of the viewer or reader and slip information and raise questions that the average presenter of a lecture cannot do.

For example, take the drunk, ambulance-chasing attorney played by Paul Newman in Sidney Lumet's version of "The Verdict," whose stumbling stupor and failure to remember clients shows lawyers exactly why substance abuse is problematic. The 1982 movie, adapted by David Mamet from a novel by Barry Reed, also depicts an attorney so eager to redeem his professional collapse that he acts without consent of his client and another attorney so determined to win the case for his client that he sends in someone to spy on the Newman character and report back on his strategy for winning the case. What a perfect movie to showcase the importance of understanding the ethics and professionalism standards of the profession when dealing with clients and planning a case strategy! You could also see the problems substance abuse cause both attorneys and their clients.

Harper Lee first published *To Kill a Mockingbird* fifty-one years ago, on July 11, 1960, before Congress passed major Civil Rights legislation and when newspapers still published advertisements for homes in restricted and nonrestricted sections. She allegedly began writing the book just after *Brown v. Board of Education*, during the years when the federal courts were attempting to dismantle segregation based upon state-passed laws. She set her book in the early 1930's, in a fictional small town in the Deep South, (Maycomb, Alabama) so as to somewhat hide her views on race-relations in the '50s and '60s. The 1931 trial of the Scottsboro Boys has many similarities to the trial of the fictional Tom Robinson – and it is thought to have influenced Harper Lee.

In 1962, Paramount Studios released a movie based upon Harper Lee's book. Gregory Peck played Atticus Finch, a role for which he won an Oscar. Mary Badham played Scout and was nominated for an Oscar for her acting.² Robert Duvall appears in his first movie as the pale, mentally handicapped Boo Radley. The movie also won an Oscar for Best Art Direction (set decoration, black and white); and an Oscar for best screenplay adoption of material from another medium for Horton Foote.

Both the movie and the book show the Alabama town of the 1930's through the eyes of Jean Louis Finch or Scout, the young daughter of one of its leading citizens, Atticus Finch. Atticus Finch is a lawyer, state assemblyman, related to plantation owners, one

of the founders of the community and through them, directly and indirectly, everyone in Maycomb. The book and movie depict Scout's growing awareness of a sometimes cruel world in which the legal process does not always result in Justice.

From her father, Scout learns the importance of treating each client professionally and providing competent representation to a client, even when the deck is stacked and the client has few resources. Scout finds out that her father has accepted the judge's assignment of the case of a black laborer, Tom Robinson, accused of raping a white woman. She learns that the outcome of the case is a forgone conclusion, because the woman is white and the man black. She discovers that even though the community already has judged the case, her father is committed to his profession and the justice system.

With her youthful innocence, Scout humanizes a mob, bent on lynching Tom Robinson before his trial. She thereby saves her father, who, book in his hand, symbolizes the role of the lawyer and the law standing between his client and raging injustice. She also hears her father close Robinson's trial, telling the jurors that the court system is where all men are equal – or, at least, should be treated equally.

Scout also learns to treat clients with respect, even when they have no money and can only pay with produce grown on their farms. She finds out that it is not right to make fun of someone who doesn't know how to eat as a middle class person would and whose lack of money for lunch causes him embarrassment in school.

The movie as well as the book have sparked many articles and books analyzing and debating about its many themes, subplots and issues. Focusing in on only those that are related to professionalism and ethics, the movie raises many critical issues worth discussion. For example, the year is 1935 and on April 1, 1935, the U.S. Supreme Court issued *Norris v. State of Alabama*³ where one of the Scottsboro boy's conviction was reversed because the exclusion of all persons of the African race, solely because of their color, resulted in a denial of equal protection to the defendant. Atticus does not challenge the composition of the jury trying Tom Robinson. Another theme is the way in which prejudice can cripple the judicial system. The representation of a client even when the case is hopeless is another major theme.

Just a quick glance at a few provisions of the Ohio Rules of Professional Conduct show how *To Kill a Mockingbird* can illustrate these provisions for lawyers trying to figure out how one should and should not behave.

The traditional view of Atticus Finch is that he believes in a rational justice system that treats each person with substantial equality, and he represents all that is rational and just. If we assume that the Finch character is heroic, the preamble to the Ohio Rules of Professional Conduct describes him perfectly. For example, the Preamble says that "a lawyer not only represents clients but has a special responsibility for the quality of justice." This includes providing a client with an informed understanding of the client's legal rights and obligations as well as an explanation of the practical implications.

The lawyer, like Atticus Finch, should be competent, prompt, diligent and loyal. His or her conduct should “conform to the requirements of the law, both in professional service to clients and in the lawyer’s business and personal affairs.” A lawyer should use the law’s procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials. “[I]t is also a lawyer’s duty to uphold legal process.”

Atticus Finch provided his client with a credible defense even though the community in which he lived could not understand why he did so. Perhaps, he should have gone further and challenged the all-white, all-poor-farmer jury that convicted Robinson. Perhaps, given the location and the year, such a step would have lessened Robinson’s slim chance to be acquitted even more. In any case, Finch met 1.1 of the Ohio Rule of Professional Conduct, which mandates that an attorney provide competent representation to a client, with competent representation meaning that the lawyer has “the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”

After reading or watching *To Kill A Mockingbird*, one can review the Ohio Rules of Professional Conduct and these standards of professionalism; then analyze how Finch’s conduct comports with them. This is an excellent and interesting way to gain understanding of how to act ethically and professionally as a member of the legal profession.

¹ *To Kill A Mockingbird* (Harperperennial Modern Classics 2010 edition) at p. 234-235.

² At the time, she was the youngest person nominated for an Oscar. Her older brother, John Badham, is a film producer.

³ 294 U.S. 600.



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