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## **Bleak House: Narratives in Literature and Law School**

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JOHN J. OSBORN

*Bleak House*: Narratives in Literature and  
Law School

ABOUT THE AUTHOR: John J. Osborn is a professor of law and Distinguished Scholar in Residence at the University of San Francisco School of Law. He is the author of several novels including *The Paper Chase*, *The Associates*, and *The Man Who Owned New York*. Professor Osborn received his J.D. from Harvard Law School and clerked for the U.S. Court of Appeals for the Third Circuit. This essay is adapted from the keynote address he gave on February 16, 2007, at the Symposium on Writing About the Law co-sponsored by the Program in Law & Journalism at New York Law School and the *New York Law School Law Review*.

When I started work, after clerking on the Third Circuit, it was at a Wall Street law firm at Number One Wall Street. As I drove in from Kennedy Airport to Manhattan this evening after a twenty-year absence, it brought me back to the time that I first saw the Manhattan skyline. I began to feel intimidated just looking at it. Before I was on the bridge into Manhattan, I was nervous.

New York seemed so incredibly huge: How would I ever be able to carve out a meaningful life in such a place? Would my story be lost among the millions of others? I ended up, though, realizing that New York City is actually a wonderful place in which to live and work. It gives you an incredible number of choices—tools if you will—from which you can construct a life.

The process and importance of creating personal stories is the subject of this essay. I intend to consider the importance of personal narrative, and how it is shaped within the context of literature and law school. As a way to access this broad issue, I would like to answer three more limited questions.

My first question is, why the double narrative in Charles Dickens's *Bleak House*?<sup>1</sup> *Bleak House* is probably the most important literary work about the law. It is unique in that Dickens tells the book in alternating chapters, one in the third-person, and one in the first. Why does Dickens employ that strategy?

My second question is, why do law students hate law school? There are exceptions, of course, but generally law school students actually hate law school.<sup>2</sup> There are many surveys that show this.<sup>3</sup> Law students, for example, hate law school much more than medical students hate medical school.<sup>4</sup> Why?

My third and final question is, why did I write the last chapter of *The Paper Chase*?<sup>5</sup> I had an incredible gift when I wrote *The Paper Chase*, which was that I knew where the book was going. The book was going to end after the last contracts class with James Hart walking across the Harvard Law School lawn and bumping into Professor Kingsfield, and in an emotional manner saying to him, "Professor Kingsfield, I want you to know that contracts meant something to me. I want you to know that you meant something to me." And King-

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1. CHARLES DICKENS, *BLEAK HOUSE* 1 (2002 Modern Library Paperback ed., Modern Library 2002) (1853).
  2. See DOUGLAS E. LITOWITZ, *THE DESTRUCTION OF YOUNG LAWYERS: BEYOND ONE L* 32 (2006).
  3. *Id.* at 32 (citations omitted).
  4. See, e.g., Matthew M. Dammeyer & Narina Nunez, *Anxiety and Depression Among Law Students: Current Knowledge and Future Directions*, 23 *LAW AND HUMAN BEHAV.* 55 (1999); Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 *J. LEGAL EDUC.* 112, 114–15 (2002); Stephen B. Shanfield & G. Andrew H. Benjamin, *Psychiatric Distress in Law Students*, 35 *J. LEGAL EDUC.* 65, 66–71 (1985); Nancy J. Soonpaa, *Stress in Law Students: A Comparative Study of First-Year, Second-Year, and Third-Year Students*, 36 *CONN. L. REV.* 353, 359–60 (2004). See generally Marilyn Heins, Shirley Nickols Fahey & Roger C. Henderson, *Law Students and Medical Students: A Comparison of Perceived Stress*, 33 *J. LEGAL EDUC.* 511 (1983).
  5. JOHN J. OSBORN, *THE PAPER CHASE* (Special Anniversary Edition, Whitston Publishing Company, Inc. 2003) (1971).

sfield was going to look at him as if from a distance and say, “What was your name?”

It gave me a tremendous power, knowing where the book would end, knowing where all the various strands of the story would converge. But when I got to that point, when the final scene had been written, I realized I had to keep writing. There was one more chapter that needed to be written, but I didn’t know why; I just intuitively realized the book had to have a final, new chapter. I think I have solved it now. I think I know why I wrote that last chapter. I’m going to tell you why here.

These are the three questions that I am going to address in this essay. I am hopeful that as I address them, we will discover some insight into personal narrative in the context of law school.

First, *Bleak House* and the double narrative. Those who have read this book will remember that Dickens writes it in alternating chapters. One voice is in the third-person. This is Dickens ranging far and wide over England, traveling the countryside, taking us into the homes of the richest and most powerful and into the slums and the dwellings of the most humble and poverty-stricken, giving us a classic picture of what England was like at a specific moment. The other narrative is written in the first-person. In this narrative Esther Summerson tells her personal story. How different are these alternating narratives? Here is the classic second paragraph to *Bleak House* from the third-person narrative:

Fog everywhere. Fog up the river, where it flows among green aits and meadows; fog down the river, where it rolls defiled among the tiers of shipping, and the waterside pollutions of a great (and dirty) city. Fog on the Essex marshes, fog on the Kentish heights. Fog creeping in the cabooses of collier-brigs; fog lying out on the yards, and hovering in the rigging of great ships. . . .<sup>6</sup>

Contrast that powerful, confident voice with the alternating first-person narrative. Here is how Esther’s story begins:

I have a great deal of difficulty in beginning to write my portion of these pages, for I know I am not clever. I always knew that. I can remember, when I was a very little girl indeed, I used to say to my doll, when we were alone together, “Now Dolly, I am not clever, you know very well, and you must be patient with me, like a dear!”<sup>7</sup>

As Esther begins her story, she is timid and awkward. Why does Dickens provide these contrasting narratives? Let’s look at Esther’s story. Esther is an orphan. She is being raised by an evil godmother. Esther doesn’t know her par-

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6. CHARLES DICKENS, *BLEAK HOUSE* 1 (2002 Modern Library Paperback ed., Modern Library 2002) (1853).

7. *Id.* at 16.

ents. She doesn't know her relatives. She doesn't know anything except that she is the result of a great evil, an evil that nobody will explain to her.

Every year on her birthday, her cruel aunt has her sit down and says to her, "It would have been far better, little Esther, that you had had no birthday; that you had never been born!"<sup>8</sup> In other words, Esther has been a victim of child abuse. It's so bad that when she finally leaves, she takes her doll and buries it, feeling that she does not deserve to have even this one companion.

The book unfolds in a classic Dickensian way. It's basically a detective story, with Esther gradually learning the details of her life, such as where she came from, who her mother is, and who her father is. As Esther puts the pieces of her life together, the narrative changes. Esther, as she tells her story, becomes more confident.

Instead of just reacting to people, letting life push her wherever it wishes, she begins to take charge. She begins to be proactive. She begins, indeed, to take over her story. What is Dickens saying here? He is telling the readers that knowing their stories is important to their self-respect. They need to know their narratives.

But Dickens is making another point as well. Why does he need Esther to tell her story? Because as Esther tells the story, her voice changes, the way she actually recounts her story changes. She becomes a forceful storyteller. She becomes a confident storyteller. Dickens wants the reader to feel that change, and he does that through the first-person narrative. He wants you to actually feel the change in Esther as you read, and if you follow the book carefully, you can see that progress.

Dickens has a pre-Freudian idea. He's not only saying that it's important to know your story, but he's also saying that it's important to *tell* your story. In telling your story, you will make yourself mentally healthy. It is a very ingenious idea for somebody writing in the 1850s, which by the way was an incredible era.

Around the same time, Darwin was writing a story too, and his story would change everybody's story. Abraham Lincoln, who was one of Darwin's and Dickens's heroes, was about to change the story of America. It was an incredible time to be alive. I think that Dickens's insight is really quite brilliant, but so was the era when he was writing.

Let me now turn to the second issue, the issue about law students. Why aren't they happier? Because law students are told something about narrative when they come to law school.

They are told that they are entering a completely different world. Everything that they have done up to law school is irrelevant. They're going to think a different way. They're going to think like lawyers. They're going to participate in class in a different way. They're going to be called on rather than raise their

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8. *Id.* at 18.

hand when they have something to say. They're even going to sit in a different way. They're going to sit according to a seating chart. What I'm suggesting to you is that their narrative has been taken away from them. Their narrative has been stolen.

Following on Dickens's insight, law students must find a way to get that narrative back and to be able to tell it in their own language, just like Esther did in *Bleak House*. It's interesting that even at the law school where I am currently teaching, the University of San Francisco ("USF"), these same issues arise. It is interesting because USF is one of the most nurturing law schools in the country.

But it is not immune to these pressures. For example, USF has an official law website that the students visit. On the website, professors can provide knowledge and assistance to the students. But a few years ago, the students decided to start their own website. They put their own content on it, which included their own evaluations of their professors, and even their notes and outlines of various classes. And they also posted study aids for use with examinations.

You can imagine what happened in the faculty meeting after this student-run website was discovered. At least four professors argued that the students had no right to create their own website. These professors thought it was very important to control the information that reached law students. In reality, of course, the law students were doing a healthy thing. They were taking their narrative back.

As a law professor at USF, I get a research assistant. It's wonderful. I can send my research assistant out to do anything I want. One afternoon, I said to my research assistant, "I would like you to go and get me every article that's been written about *Bleak House* by a law professor." He said, "Yes, sir, I'm on the case." I said, "Get me a representative sampling of articles written by English professors about *Bleak House* as well. Start with the most current, and move backwards, that kind of thing." He said, "Yes, sir" and he charged out there.

My research assistant is incredibly enthusiastic. He never asked me, "Why am I researching *Bleak House*? I thought I was going to do research on contracts or wills and trusts." Not a word, he just charged out to the library. He came back with a mountain of material and a very interesting discovery.

Law professors do not understand narrative. They don't get narrative, and thanks to my research assistant, I can actually prove that to you. Let me give you some representative quotes.

A typical English professor described *Bleak House*'s portrayal of Esther as an "accurate and acute . . . pre-Freudian study of an emotionally starved, illegitimate young woman."<sup>9</sup> He nails it. He knows exactly what *Bleak House* is about.

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9. GRAHAM STOREY, CHARLES DICKENS: BLEAK HOUSE 22 (1987) (referring to the work of Q.D. Leavis).

Now consider the law professors. Here is a typical law professor response: “Approximately half of the chapters are narrated by one of the major characters, Esther Summerson, and the remainder are in the voice of a third-person narrator. The Summerson chapters center around the Chancery proceeding called *Jarndyce v. Jarndyce*.”<sup>10</sup> What he is saying is that Esther’s whole half of the book is about a law case.

Here is another law professor: “Bleak House presents two related story lines. The first story line involves the Jarndyce family, who have fallen on hard times because their fortune is tied up in a Will dispute in the Court of Chancery. . . . Thus, one plot line follows the life of the Jarndyce household. . . . The second plot line in Bleak House involves Sir Leicester and Lady Dedlock.”<sup>11</sup>

This author doesn’t even mention Esther as part of the book, and yet she is its narrator. The book is the story of Esther’s life, and the law professors can’t see that; they can’t see what’s in front of them. I could go on and on, but that gives you an idea. *Bleak House* is a dense book, but the law professors are denser.

The question is, why can’t they see the narrative in one of the great works of art about the law? I think one of the reasons is that the law professors’ story, their narrative, ends in law school. In a sense, it’s hard for them to see beyond law school. For the students, law school is just a blip, just a short pit stop on the broad narrative of their life. But for law professors, law school is the end of the line.

What the law professors need to do is realize how their narrative differs from that of their students, and how to incorporate the students’ lives into the classroom discussion. I have had fifty-year-old law students who have had wonderful careers before they went to law school. Did we ever ask them what they thought? Did we ever ask them, “What does your experience bring to this contract case we are discussing?” No, we never do that. We think that their experience is the equivalent to that of some twenty-one-year-old student fresh out of college.

Instead of using their history to inform us, we ask them to cleanse their minds of everything prior to law school so we can get them to think like lawyers. It is impossible, of course, and not productive.

I’m suggesting that it is perfectly natural for law students to be like Esther and take back their narrative. Why? Because they know that it is the healthy thing to do. If they don’t, they will just wallow in their hatred of law school.

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10. Daniel H. Lowenstein, *The Failure of the Act: Conceptions of Law in The Merchant of Venice, Bleak House, Les Misérables, and Richard Weisberg’s Poethics*, 15 CARDOZO L. REV. 1139, 1183 (1994).

11. Michael K. McChrystal, *At the Foot of the Master: What Charles Dickens Got Right About What Lawyers do Wrong*, 78 OR. L. REV. 393, 394 (1999); see also Maureen E. Markey, *Charles Dickens’ Bleak House: Mr. Tulkinghorn as a Successful Literary Lawyer*, 14 ST. THOMAS L. REV. 689 (2002); William Joseph Wagner, *The Pursuit of the Hunt, Interrupted: Changing Literary Images of the Law*, 49 CATH. U. L. REV. 945 (2000); Larry M. Wertheim, *Law, Literature and Morality in the Novels of Charles Dickens*, 20 WM. MITCHELL L. REV. 111 (1994).

I would like to describe a bit of my own law school experience. I went to law school during the late-1960s, early-1970s. It was an exciting time. Students took over the Harvard Yard. Law students even had a sit-in at the law library. Nobody had had a sit-in at Harvard Law School before, and the law professors came to the library and gave us cookies. Those were the kind of protests we had at Harvard Law School. But it was something. We were at least trying to think for ourselves for the very first time. We were trying to change our story, take control of it.

It was during this time that I started writing a little novel about a law student and his tyrannical contracts professor. It was actually quite a lot of work. I went to the associate dean and asked if I could do an independent study that would entail writing the novel. As I understood the rules, a third-year law student could get credit for independent work in almost any area.

So, I went to the associate dean and I said, "I'd like to do an independent study." He said, "What's it about?" I said, "Well, I'm writing a story about this Harvard Law student and his tyrannical professor. Isn't it great?" He said, "Absolutely not, law students are forbidden to write about the Harvard Law School. Not only will we not give you credit, but we will not allow it to be made public." I said, "How does that work? What's the game?" He said, "Out of my office, Osborn."

We just generally didn't get along, to be honest with you. There I was, feeling mistreated once again by the Harvard Law School. So I decided I would perform a lawyerly function and read the university regulations. I discovered that if you were in a graduate school—and the law school qualified as a graduate school—you had a right to take an independent study course if a senior professor at the college was willing to supervise you one-on-one. Those were the clear rules.

There was a famous professor at Harvard College named William Alfred who had written a play called *Hogan's Goat*, which gave Faye Dunaway her start. (Later on, I would meet Faye Dunaway, and that would be another story.) Anyway, I heard he was a great guy.

I called him up and I said, "Professor Alfred, I'm a third-year law student. I'm writing this book called *The Paper Chase*, and I'm wondering if you would take me on as an independent study. I have to warn you," I said, "I know I'm supposed to have taken all these prerequisites. I haven't taken them." Professor Alfred said, "No problem. I'll take you." I said, "Well, sir, shouldn't I bring you some of my work so you can see it?" "No, I don't want to see your work," he said.

That was it. He said, "Just bring the forms for me to sign." So I did, and he signed them. I took them back to the associate dean with the regulation, and he didn't have any choice. He had to let me take it. It turned out to be one of the greatest semesters I ever had in my life. Alfred was an incredible teacher, immensely helpful.



At the end of my time with Bill Alfred, I said to him, “Do you think there’s any chance this will get published?” And he said, “John, this is going to get published immediately.” But he added, “You’re too immature. You should work on it for another several years, and you’ll feel better about yourself and the book.”

I said, “Well, I think I’ll see if it can get published immediately. Could you give me the name of a publisher?” He said, “I’ll give you two.” He gave me the names of the head of the fiction department at Houghton Mifflin in Boston and the head of the fiction department at Farrar, Straus and Giroux. He was just an incredibly supportive guy, and he was right—it did get bought immediately.

Let me return to the last chapter. As I wrote the last Kingsfield-Hart scene, it didn’t feel right. There was something else I needed to say, and I was sitting there thinking: “What is it? How am I supposed to end the book?”

Then I wrote the last chapter where Susan and Hart go to Kingsfield’s summer house on the Cape and the grades arrive and Hart decides that he’s going to sail his grades out to sea and not open the envelope.

The reason he does that, I’ve discovered, which probably has occurred to you by now, is because Hart is taking back his narrative. He does not want the law school to define him as a person. He doesn’t want that grade to be who he is. He doesn’t need to know the grade to know who he is. He’s taking back his story.

In the book, we never know how Hart did in his contracts class. Actually, you should know that he got an A. It should be implicit, but we don’t actually know. I don’t say it. In the script, we didn’t do it either. We shot the movie, and the studio came back and said, “Hey, how did Hart do in contracts?” I said, “I’ll tell you. He got an A.” The studio said, “You’ve got to put that in the movie.” I said, “No.”

John Houseman, who played Professor Kingsfield in the movie, was a wonderful guy, one of the most famous movie producers ever, and then later, the head of the Juilliard School and a recipient of hundreds of awards. The studio went to Houseman and said, “Mr. Houseman, we’d like you to shoot this scene where you grade Hart’s exam and you put an A on it.” And he said, “No. Osborn doesn’t like that idea, and neither do I.” The studio said, “You must do it.” And Houseman said, “Listen, I’m too old and too rich to put up with this bullshit,” and he walked out of the office.

That was a classic Houseman statement. So the studio used a double. You never see Houseman’s face when Kingsfield grades Hart’s exam. You just see someone else’s hands wearing a similar suit. They used footage from another Houseman scene too. But you never see him actually signing it because he wouldn’t.

Let me add one more thing about John Houseman. In the movie and television show, we were trying to say something revolutionary: that it’s okay to like books. I wrote an entire episode that takes place in the library called “Scavenger Hunt.” It’s all about finding the right books, finding the right citations.

How did that episode ever get on the air? It got on because of John Houseman. He was powerful enough to protect the television show from the studio. They said, for example, they would not allow us to shoot the episode about the scavenger hunt. Instead, they wanted an episode where Hart meets the daughter of a Mafia don. But Houseman was powerful enough to stand up to them and get the episodes he wanted made. He allowed us to create a television show that said it's okay to be smart. It's okay to study. It's okay to go to the library.

By the way, did Kingsfield know Hart's name when he asked Hart what his name was? Of course he did. Hart is the best student in contracts, he's having an affair with Kingsfield's daughter, and they have interacted many times. The trick in the book, though, is to make you believe, against your better judgment, that perhaps Kingsfield didn't know Hart's name.

In summary, just like Hart, I want you to pay attention and think about your own narratives and how important they are, how important it is to control them and even to talk about them. You will discover that there are strong forces trying to force your story, your narrative, along familiar boring lines. For example, there are tremendous monetary incentives to go to work on Wall Street and then make partner in a law firm. And you will be told, for example, that if you take time off—time to write books, or travel, or paint, or whatever—that you will be left out of the partnership track. That is not true, but you will be told it. I implore you to question these choices. You can always get back on track. I've done it many, many times.

When I left my teaching job to go to work on *The Paper Chase* television show, the dean of my law school was incredibly angry, and essentially said, "You'll never work in academia again." But that was not true.

I would like to add a final thought directed to law students. Law school does not have to be a "bleak house" of isolation and misery. If you follow in Esther's footsteps, it can even be enjoyable. But like Esther, you must tell your own story in your own way. You cannot let law school force its story on you, just as Esther's evil godmother tried to force a story of shame on a helpless child. If Esther, a young child, could find and then expound a personal narrative, so can you.

Of course, this was difficult for Esther, and it will be difficult for you. As long as grades are important, it will be very hard for students to actually rebel against a law school. If you control the labeling process, then you're in a position of power. However, after you get a job, it doesn't matter what your grades were. All you've got to do is get one job, and you can get one job. It may take you a while, but you can do it. So forget about your grades. Throw your envelopes away. Throw them into the Hudson River. Don't open them.