Another (Star) War(s) Story

Monday, August 01, 2011

If you're looking for legal analysis, tune in tomorrow. What follows is a mere memoir.

It's the same old story. Literally. Find a litigator and you'll find a war story. Lawyers are quick to tell tales about their battles of yore, especially when the stories culminate in victory. Most of these war stories end up being self-aggrandizing -- ham-handed ways of informing clients, colleagues, or opponents that the lawyer is successful and should be respected and/or feared.

Telling stories is part and parcel of a litigator's job. Persuading juries and judges requires us to go beyond logic. We don't just tell stories; we retell stories. The listener has heard these stories before and is predisposed to believe them. In college we took classes in folklore and mythology (affectionately called "Fairy Tales for Football Players") and ancient epics ("Heroes for Zeroes") where we learned that there are patterns of stories that recur throughout the history of civilization. For example, **The Iliad**, **Gilgamesh**, and **Beowulf** follow the pattern of absence, devastation, substitute death, return, and then (temporary) victory. It has something to do with the agricultural cycle, when the barrenness of Winter terrorized our ancestors, and they thought some sort of sacrifice was needed to ensure the return of Spring and crops. You've no doubt bumped into other story patterns. There are stories of journey, where someone goes on a road that is both literal and a metaphor for self-discovery, such as **The Odyssey**, **Huckleberry Finn**, and **On the Road**. There is also the journey through life, with growth, initiation, and maturity. Our high school English teacher taught us that this genre was called bildungsroman by the literati. (Think of **David Copperfield**, **A Separate Peace**, and **The Kite Runner**.)

Successful modern stories, such as the Harry Potter yarns, exploit these patterns. For those of us who started listening to music on vinyl rather than iTunes, we think of the "Star Wars" movies and how they have been explicitly connected to the old patterns. There have been comparisons done between Potter and "Star Wars", and not just in terms of box office revenues. Potter might win out because all the movies were adequate, while even the most hard core "Star Wars" nerd has trouble stomaching the prequel trilogy. Our friends at the Abnormal Use blog definitively addressed whether the prequel trilogy constitutes a defective product here, complete with legal citations. The sheer awfulness of "The Phantom Menace"

makes us wonder whether a menace resides in one person having too much creative control. Group-think offers its own dangers, but there's something to be said -- in both movies and trials -- in gathering collective thoughts and resolving tensions.

By every available test, "Star Wars" simply worked. It thrilled us, it stayed with us, and it made scads of money. Williams Goldman is famous for saying that in Hollywood "nobody knows anything," but everybody had an explanation for why "Star Wars" was such a monstrous hit. George Lucas issued an explanation with intellectual cache when he acknowledged a debt to the anthropologist Joseph Campbell, whose **Hero of a Thousand Faces** recounts the patterns that exist in ancient epics as well as late 20th Century space operas. There's usually a guide (Obi Wan Kenobi), a shape-shifter of dubious loyalty (Han Solo), a quest (duh), and a Wookie. (Okay, maybe not always a Wookie, but at least some sidekick.)

There was a terrific article in last week's **Wall Street Journal** on "Hollywood Frontiers: Outer Space and the Wild West." It was provoked by the new "Cowboys and Aliens" movie. The article describes how Lucas, in imagining "Star Wars," "wanted to invent a new mythology, a thrilling story with noble lessons, the kind that Westerns once served up but weren't around to do anymore." The **WSJ** article then points out parallels between "Star Wars" and the John Ford western, "The Searchers." We had forgotten that in "The Empire Strikes Back" the bounty hunter, Boba Fett, wears spurs.

Whatever you might think of the merits of the story-pattern thesis, or the catastrophe called Jar Jar Binks, for a lot of us AARP members "Star Wars" remains a big deal. The first (yeah, yeah, it's called episode IV, but it remains the first in our hearts) "Star Wars" movie came out at the beginning of the Summer of 1977, that last semi-innocent interval before we headed off to college. In that sense, it represents for us a transitional moment. That same transition is at the heart of "American Graffiti," Lucas's earlier -- and, we'd argue, even better -- movie. "American Graffiti" is a myth set in one night about people growing up. (By contrast, "Shampoo" (1975) is a one night myth about somebody who does not want to grow up. We miss the movie-myth-making ambitions of the 1970s. If you haven't seen the documentary **Easy Riders, Raging Bulls**, then go out and get it. Drop those interrogatories and epidemiology articles and see that movie.)

George Lucas has been reasonably clear about the origins of "American Graffiti" and how it depicts different aspects of his high school personality. As a teenager, he wanted to race cars like the Milner character. But Lucas got into a terrible car accident and decided to go in a different direction. He eventually went to film school. He did pretty well. He made some good movies. And he made lots and lots of money. He snookered the movie studio by holding onto the merchandising rights to "Star Wars." Remember those R2D2 and Lando Calrissian "action figures" you played with in second grade? Some of the profits went to Lucas's Industrial Light and Magic. It's a legendary deal, sort of like Microsoft holding onto the rights to its software when it entered into that early license with IBM.

Some people think "Star Wars" is what put an end to that hypercreative 70s era of film-making. Computerized graphics and explosions supplanted personal artistry. Given its enormous cultural and economic impact, one would think that the the origins of "Star Wars" would be well-documented. One would be wrong. To our cynical ears, the Joseph Campbell attribution sounds like post hoc pomposity. We doubt Lucas was thinking of Patroklos when he had Darth Vader slay Obi Wan Kenobi. At the same time, we doubt Lucas was a space trooper or Ewok when he was in high school. Where did the "Star Wars" idea come from?

That gets us to our story-within-a-story. About ten years ago we had a product liability death case that moved toward trial at the speed of light. The decedent's family was fired up and there wasn't going to be any settlement. We were in the process of wrapping up discovery when we became fixated on deposing the estranged 75 year old sister of the decedent. The specifics elude us now, but we thought she might offer some lifestyle testimony that could support an alternate causation or assumption of the risk defense. One problem: the sister had no desire to participate in our jolly little lawsuit. We subpoenaed her for a deposition. Standing in the foyer of her North Philly row house, she growled at the process server that there was no way she would show up at the deposition. Cheap talk. We'll see about that.

On the day of the deposition, the court reporter arrived promptly. Then came an attorney from the plaintiff law firm. It wasn't the lead lawyer. Instead, it was a guy who played a relatively minor role on the case. They apparently weren't taking this deposition too seriously. The plaintiff lawyer was an older guy, though he hadn't been a lawyer too long. He had done other things, about which we were soon going to hear. He was a nice guy with a rumpled tie and a ready laugh. The three of us sat in the conference room for about 15 minutes and we began to

get the idea that the sister meant what she said. So we went on the record, explained who was there and, more important, who wasn't there, and we agreed we'd make some phone calls, wait about an hour, and then see whether this deposition was an exercise in futility.

Have you ever been in a similar setting, sitting around with a small group of people, and you almost instantly can size up whether these are people you like? Luckily, both the court reporter and the plaintiff lawyer were friendly and funny. We had time to kill (not a swell turn of phrase considering the nature of the case, but give us a break), and we started chatting and telling stories. Maybe there was a little of that braggadocio alluded to above. "I clobbered a deponent once by doing X"/"We got a stinging verdict against Y corporation"/"Let me tell you how I beat up the Iron Sheik in Pontiac, Michigan," etc.

It turned out that the plaintiff lawyer had been in Southern California for several years, just as we had. But while we were prosecuting meth dealers, he was working in The Industry. He had gone to USC film school and worked for Francis Ford Coppola. Maybe you heard of Coppola: director of "The Godfather 1 &2" (let's pretend there was no 3), "The Conversation," and "Apocalypse Now"; screenwriter on "The Great Gatsby"; and maker of fine wines. Maybe you haven't heard of one of his early films, "The Rain People." It's a minor classic, a quirky road movie that has been more appreciated than seen. The cast included James Caan and Robert Duvall. That was the movie that this plaintiff lawyer worked on before he ever dreamed of being a plaintiff lawyer. He was a production assistant. Whatever that entails, it's nothing glamorous. But he got a close-up view of the movie-making process and he hung around with some interesting people. One of those people was a young guy who had also gone to USC film school and served as an intern on an earlier Coppola movie, "Finian's Rainbow." That young guy was George Lucas.

Lucas was clearly a guy on the move. He was, to say the least, confident. Maybe he was doing flunky work on "The Rain People," but he knew he was headed for the big time. His student film at USC, "THX-1138," was remarkable and had attracted a lot of notice. It would later become a commercial picture starring Robert Duvall. Coppola supplied much of the financing for THX-1138 and would lose his investment. That placed him in so much financial distress that he felt compelled to do a little potboiler movie about gangsters. So, even if we had no other reason to remember Lucas or THX-1138, we'd owe them for The Godfather.

Lucas seems to remember THX-1138 fondly. Look for a THX-1138 license plate in "American Graffiti." Speaking of "American Graffiti," Lucas let it be known to everyone on "The Rain People" shoot that he intended to make a movie about rock n' roll and fast cars. Sure.

According to this plaintiff lawyer, Lucas was a nice guy even if he could sometimes come across as being full of himself. Why shouldn't he have been full of himself? If Lucas thought he was destined to be a great filmmaker, he wasn't wrong. And if he had been sitting around the conference room table with us waiting for the old-lady-who-wasn't-there, he probably would have dazzled us with his storytelling.

Now here's where the story gets interesting. As mentioned above, "The Rain People" was a road movie. The cast and crew crossed most of America to tell the story of a disenchanted housewife fleeing the comforts of suburbia. There wasn't much comfort for the crew, who endured flea-bag conditions and close quarters. Our new friend had gotten to know Lucas pretty well and they would share space, share thoughts, and share books. Somewhere in Nebraska, the future plaintiff lawyer finished reading the 1960 Heinlein sci-fi novel **Starship Troopers** and tossed it to Lucas. Lucas read the book. He read it quickly. He read it enthusiastically. When he was finished, he told our plaintiff lawyer that he absolutely loved **Starship Troopers** and saw wonderful cinematic possibilities. Indeed, after Lucas would finish his rock n' roll epic, he would turn his sights on outer space. Just think of the special effects!

By now, an hour-plus had gone by in our underpopulated conference room. We couldn't get a hold of our witness. It was time to go back on the record and declare defeat. The deposition was a dud. But wait a minute. We had to ask the guy on the other side of the table: "Are you saying that you are indirectly responsible for "Star Wars"? For that great scene at the Mos Eisely Cantina? For the Millennium Falcon? For Yoda and his backward syntax? And, most of all, for that scene where a scantily-clad Princess Leia is chained to Jabba the Hut?"

"Hmmm," he said, "when you put it that way, I guess I should get some of the credit, at least for inspiration." The court reporter and I stared at him with open jaws (to mention another 70s cinema classic).

The deposition of the old lady never happened. The trial took place a couple of months later. A Philly jury sat through testimony for eight days, collected one free lunch, and then delivered a

defense verdict. (See? This *is* another one of those self-aggrandizing war stories.) The Lucas buddyroo had a very small role in the trial, and we never ran into him afterwards. Last we checked, he moved on to, ahem, solo practice and then left the law entirely. He might even have returned to LA and the entertainment business. Goodness knows, there's plenty of legal-themed television shows and movies out there, and they could use a good script doctor. Anyone who has worked with the likes of Coppola and Lucas has a decent pedigree.

The lingering question is whether the story is true. A recent internet search shows that the guy was on the level about his education and work experience. Lucas made a movie about the making of "The Rain People." Naturally, it's on YouTube. There are several scenes in Pennsylvania, Tennessee, and, yes, Nebraska. And, yes, the plaintiff lawyer shows up in the credits. But beyond that we haven't been able to confirm or contradict the story. Lucas has several times mentioned "Flash Gordon" and Kurosawa's "Hidden Fortress" as source materials. **Starship Troopers** (which, by the way, was ultimately made into a decent movie by someone else 20 years after "Star Wars") was referenced in a couple of items about Lucas, but as a point of contrast rather than as seed of an idea.

Whether the plaintiff lawyer's account of Hollywood immortality is true or not (and when have we ever known a plaintiff lawyer to tell an untruth?) we like the story. It makes us smile. It reminds us of a case a decade back with a happy ending. It reminds us of a nice, light moment spent around a conference table. It reminds us of the Summer of 1977, just before life began to get serious. It reminds us of our youth, which exists long ago in a galaxy far, far away.