

Moral Adventures in Narrative Lawyering

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THE PURPOSE OF THIS essay is to demonstrate the positive ethical value of lawyer storytelling. Of course, the popular image is precisely the reverse. Lawyers, and trial lawyers in particular, are often condemned as deceivers and misleaders, as flimflam artists who use sly rhetorical skills to bamboozle witnesses, turning night into day. In this conception, lawyers tell stories only in order to further seduce and beguile the hapless jurors who fall prey to the advocate's tricks. Critics believe that the system would be better and more honest if the witnesses were simply asked to speak, without the distorting impact of lawyers' involvement.

In fact, as I will detail below, lawyers use the techniques of narrative construction to enhance the truth, not to hide it. A fully developed and well conceived "trial story" may actually result in an account that is "truer" in every respect than the client's uncounseled version of events.

Trial lawyers, the legal profession's ultimate

positivists, tell stories because stories work. There is nothing intrinsically valuable about storytelling at trial, other than the fact that a coherent, interesting, linear narrative has proven to be the most successful way to persuade the factfinder. If some other method worked better – singing opera, gymnastic floor exercise, emotive grunting – lawyers would adopt that approach instead.

The uncharitable, though extremely popular and certainly not irrational, perception is that attorneys are literary mercenaries, paid to concoct whatever story a gullible jury is most likely to accept.

But that view is wrong. The lawyer's art – shaping disparate accounts into a coherent story – is not an unprincipled act of creating useful fiction. It is just the opposite. An attorney tells a story not to hide or distort the truth, but rather to enable her client's expression to come closer to the truth. Language is an inherently awkward and indefinite instrument for conveying exact meaning,¹ but preci-

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¹ See, e.g., Steven Pinker, *THE LANGUAGE INSTINCT* (1994) at 57-58 (thoughts or intended meanings captured only imperfectly by language).

sion is required in courts of law. The lawyer's storytelling seeks to employ language in the way that best embodies the client's case, making sure that the client actually gets to say what he really means. Without the lawyer's storytelling, a client would be virtually incapable of accurately informing the factfinder, cast adrift in a sea of ambiguity, approximation, and imprecision.

To be sure, any tool can be misused. Some lawyers tell stories to assist in client fraud, just as other practitioners might devote their particular talents – computer programming, feats of strength, diplomacy, poetry – to either honorable or evil purposes. But as a baseline for lawyers – and excepting the out-and-out swindlers and thieves – storytelling is a noble, ethical pursuit.

I believe I can illustrate this point – surprise! – through storytelling. The following account is completely true, presented here without exaggeration. Of course, I am reporting it from my perspective because that is the only one I know. There may be another side that is perfectly reasonable and plausible (although I doubt it). My biases aside, we can still learn much about lawyering by studying how thoughtful counseling may actually result in a story that is “truer than true.”

So here goes.

CONFLICT

Arriving an hour early for my morning flight out of O'Hare, I picked up my boarding pass and looked for a place to read. There were no available seats immediately adjacent to my gate, so I headed for the circular waiting area in the middle of the concourse. I chose an empty seat at the end of an aisle. The seat next to me was also vacant, though covered with the loose sections of several newspapers. Two seats over, a man was sitting with his arms folded. I have since come to think of him as “Biff.”

I sat down and dug a book out of my brief-

case. My neighbor leaned over and said “Someone was sitting there.”

Not quite understanding what he meant, I looked around for the usual indicators that a seat is occupied. Seeing no bags or jackets, I turned my head to the speaker to ask what he meant.

Before I could make a reply, however, he said, “I'm telling you that my father is sitting there ...”

Realizing what he meant, I started to pack up my briefcase so that I could move. But Biff continued talking, now in a highly agitated tone.

“... and he's coming back.” The last word was sharp.

As I pulled the zipper on my briefcase, somewhat annoyed but not territorial, I started to tell him that I would be gone in a moment – “Hold on a minute, Mister.”

Biff lost his temper before I could finish. Barely controlling himself, he angrily hissed “Don't piss me off!”

Stunned at the threat of violence over so trivial a matter, I quickly grabbed my stuff and moved to another part of the waiting area.

FIRST VERSION

I am slight, short, bespectacled, and middle-aged. Biff was far taller, much stockier, and a good fifteen years younger. Words on paper cannot begin to convey how menacing his manner was as he used his voice and size to intimidate me. In the otherwise orderly airport terminal, it was alarming to realize that he was actually ready to hit me if I didn't get out of that seat quickly enough to suit him. Biff left absolutely no doubt that he was threatening me with violence, at least for the purpose of frightening me into moving faster. And, of course, it worked. (Who knows whether “airport anger” may someday replace “road rage” as the latest deadly emblem of social degradation?)

The rational response to Biff's outburst was

to move as far away as possible, doing my best to avoid him in the future – let’s call it defensive seating. But for the purpose of story development, assume instead that my own anger, frustration and petulance continued to mount even after I was out of harm’s way. Imagine that I returned home determined to get even.

Lacking the physique or weaponry to do the job personally, my best alternative would be to swear out a misdemeanor complaint. Being cautious, I would probably hesitate to go directly to the police or prosecutor. Instead, I would begin by consulting my own lawyer, just to make sure that I had a case. After hearing the facts, my attorney would no doubt tell me the definition of assault in Illinois:

A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.²

Then we would talk about how I might go about proving that I had been assaulted.³ The first few conclusions are fairly obvious. Biff certainly acted without lawful authority and I was no doubt in apprehension of receiving a battery. (It’s embarrassing to admit, but my hands were shaking. I felt scared and I probably looked scared, too.)

But now comes the hard part. Was my apprehension reasonable, or was I just overreacting? The answer to the question makes the difference between a misdemeanor and an insult, between a good case and a bad case. Let’s think about how the discussion might proceed:

ATTORNEY: What has made you so angry that you want to swear out a complaint?

CLIENT: I didn’t do anything to provoke this guy, and suddenly he was threatening to hit me.

ATTORNEY: Why do you think that he was going to hit you?

CLIENT: Because he threatened me.

ATTORNEY: What made it a threat?

CLIENT: It was obviously a threat; he was trying to scare me with his words and voice.

ATTORNEY: How can you be sure about what he was trying to do?

CLIENT: It was obvious.

And it was obvious, dammit. It was perfectly clear that he was using his size and aggressiveness to frighten me into doing what he wanted. And it was unnecessary, too, since I was happy to move as soon as I understood the situation.

The law, however, does not convict people, or even take away their money, based on assertions of obviousness. The law, for very good reasons, will only act on the basis of proven facts. The problem for me, as a client, is that I don’t know intuitively how to translate my impressions into proof. That is where my lawyer comes in. How can I tell my story in a way that will be meaningful and persuasive under the law? My lawyer will have to take me through the story again.

ATTORNEY: Why do you think that he was going to hit you?

CLIENT: Because he threatened me.

ATTORNEY: Let’s go one step at a time. Why didn’t you move when he first spoke to you?

CLIENT: He said someone “was sitting there,”

² 720 ILCS 5/12-1 (1997).

³ I could also sue Biff for the tort of assault; the elements are the same and the standard of proof is lower.

which didn't make any sense to me, so I looked around to see if anybody seemed to be coming back.

ATTORNEY: Did you refuse to move or say anything else?

CLIENT: No, I just tried to figure out what he meant.

ATTORNEY: Then he told you about his father?

CLIENT: Right, so I began gathering my stuff, but I guess I wasn't doing it fast enough.

ATTORNEY: Why do you say that?

CLIENT: Because that's when he raised his voice at me.

ATTORNEY: What did he say and how did he say it?

CLIENT: He said "... and he's coming back." But it was really the angry tone in his voice that upset me.

ATTORNEY: What do you mean by "angry tone"?

CLIENT: Well, I really can't describe it any better. You just know when someone is angry.

ATTORNEY: Let's continue, then. What happened next?

CLIENT: I said, "Hold on a minute, Mister."

ATTORNEY: Why did you say that?

CLIENT: Because I had to gather my stuff up in order to move.

ATTORNEY: It sounds like you were a little

annoyed?

CLIENT: I was a little annoyed. He was rushing me for no reason.

ATTORNEY: Then what happened?

CLIENT: That's when he threatened me.

ATTORNEY: I think we need to do this part step-by-step. What did he say, exactly?

CLIENT: He said, "Don't piss me off."

ATTORNEY: What was his tone of voice?

CLIENT: Angry and loud.

ATTORNEY: Did he do anything with his hands?

CLIENT: Yes, he made a fist.

ATTORNEY: Did he move his fist?

CLIENT: He clenched it and sort of shook it a little.

ATTORNEY: Did he swing it or put it in your face?

CLIENT: No.

ATTORNEY: Did he move his body?

CLIENT: He raised himself up in his seat.

ATTORNEY: Did he stand up?

CLIENT: No. He just lifted his backside a little bit off of the chair and leaned over.

ATTORNEY: Which way did he lean?

CLIENT: He leaned toward me.

ATTORNEY: Was his fist still clenched when he leaned toward you? the story.

CLIENT: Yes.

ATTORNEY: Did he clench it while he was leaning?

CLIENT: Yes.

ATTORNEY: Did he say "Don't piss me off" while he was leaning toward you with his fist clenched?

CLIENT: Yes.

ATTORNEY: Did he ever leave his seat?

CLIENT: I don't think so.

ATTORNEY: Did you wait around to see whether he was going to leave his seat?

CLIENT: No, I got up and left as quickly as I could.

ATTORNEY: How long did all of this last?

CLIENT: Maybe a minute; not much longer.

ATTORNEY: Are you certain he was threatening you?

CLIENT: Absolutely. Do you think I have a case?

ATTORNEY: I believe that you felt threatened and I think it was reasonable. You might have a case.

CLIENT: Why wouldn't I have a case?

ATTORNEY: It depends on the other side of

You can see from my lawyer's questions that she is starting to think in terms of developing a persuasive trial story. My initial, self-generated account was adequate to explain my reason for seeking counsel, but it left too much unsaid to be useful in court. I began with an impressionistic, conclusory narrative about a perceived threat. I believe it is true. I want to tell it truthfully, but also meaningfully and persuasively. That is where my lawyer steps in.

There is more to story construction, however, than simply the addition of important details. A persuasive story will need to have

all, or most, of the following characteristics: (1) it is told about people who have reasons for the way they act; (2) it accounts for or explains all of the known or undeniable facts; (3) it is told by credible witnesses; (4) it is supported by details; (5) it accords with common sense and contains no implausible elements; and (6) it is organized in a way that makes each succeeding fact increasingly more likely.⁴

For present purposes, let us focus on the first characteristic. To succeed at trial, my case will need to include the reasons for the way that the participants acted. Of course, there were only two participants, Biff and myself, and I have already explained to counsel my own reasons for sitting, pausing, and eventually moving. But that leaves a gap.

Why was Biff so aggressive? Of course, I cannot look into Biff's mind to see what actually prompted him to behave as he did. And, strictly speaking, Biff's motive would not actually be essential to my case. I only need to prove that he acted in a certain way, placing me in reasonable apprehension of receiving a battery. But my case will be stronger, more believable, if I can supply a plausible reason for Biff's aggression. After all, everyone has been in an airport at some time or another, but almost no

⁴ Steven Lubet, *MODERN TRIAL ADVOCACY* (2d ed. 1997) at 1-2.

one has ever been assaulted over an empty seat. So in many ways my story suggests a counter-intuitive scenario. To justify a verdict, then, the factfinder will probably want to know why Biff reacted in such an unusual fashion.

Imagine a continued session with my lawyer:

ATTORNEY: Can you think of any reason why he might have reacted so violently?

CLIENT: He's probably an anti-intellectual who loves to attack university professors.

ATTORNEY: That seems unlikely. Any other ideas?

CLIENT: Maybe he is simply a psychopath?

ATTORNEY: I suppose that's possible. Did you see him threaten anyone else or acting in any other irrational fashion?

CLIENT: No, I didn't. Say, doesn't crack cocaine make people violent?

ATTORNEY: It does, but there's the same drawback as with the psychopath theory.

CLIENT: Well, the real problem seems to be that his actions were just inexplicable. No one reacts that way!

ATTORNEY: If "no one" reacts that way, then you'll have a tough time convincing the jury that he reacted that way. Get it? You have to tell them why someone – meaning Biff – really did react that way.

And now it is time for a little bit of lawyering. The client came to the meeting believing that his own actions were wholly reasonable and that Biff was entirely and exclusively to blame. In the case of violent threats, however, the law does not impose such a strict burden on would-be plaintiffs or complainants. In this

case, I can prevail in court *even if I was inconsiderate or rude* so long as Biff's response was disproportionate or unreasonable. In other words, you are not allowed to threaten violence simply because someone has been discourteous. With that in mind, let us return to the story-framing interview.

ATTORNEY: Do you think Biff might have felt that you were disrespecting him?

CLIENT: I suppose it's possible. I didn't really understand what he was asking until the second or third time he said it.

ATTORNEY: It would be rude, don't you think, to refuse to give the seat back to Biff's father?

CLIENT: Yes, that would be very rude. But that's not what I did.

ATTORNEY: Well, let's try to look at it from Biff's angle, just for a moment. He did ask you three times before you moved?

CLIENT: Not really, but I guess he could have seen it that way. Still, there was no reason for him to threaten me with his fist.

ATTORNEY: Exactly. He might have had a reason to be annoyed, but not to become violent. That's your best case.

And now the story has taken shape. I sat down in what appeared to be an empty seat. Biff wanted me to move, but he didn't make himself very well understood. I tried to respond, but in the minute or so it took me to figure out what he meant, Biff had become livid. I probably, though unintentionally, made things worse when I said "Hold on a minute, Mister," which he might have mistaken as a refusal to move. But his reaction was out of all proportion to anything I did. He raised his

voice, began to lift himself from his seat, leaned toward me, and threatened me with a clenched fist.

Of course, there will be more to the trial story than the simple outline above. My lawyer will want to me fill in more details and to emphasize how quickly everything happened. I will also need to explain exactly why I believed that I was in “reasonable apprehension of receiving a battery.” And if we file a civil case I will also have to say something about damages. Finally, my lawyer will also want to develop a theme, a shorthand introduction to the case that invokes conscience or moral force. A few possibilities spring immediately to mind. Maybe, “You can’t solve your problems with your fists.” Counsel will no doubt come up with a better theme by the time the case gets to trial.

The most important thing about my lawyer’s trial story, however, is that it is absolutely faithful to the events as I experienced them. Counsel has made my case stronger and more compelling, but not at any cost to the truth. That is, she has fulfilled the client-centered ethical obligations of the advocate as well as the system-centered duties of an officer of the court.⁵

THE OTHER SIDE

Imagine now that my lawyer encouraged me to pursue the case and that the appropriate prosecutor agreed. Biff has been charged with misdemeanor assault, or perhaps served with a civil summons.⁶ In either case, his first step would also be to consult a lawyer. Biff’s story, we can certainly assume, will not be the same as mine. As he tells it, he is no doubt entirely innocent of any wrongdoing, and I am an overwrought seat-stealer.

Let us consider the initial conversation between Biff and his newly retained lawyer:

LAWYER: This guy says that you threatened him at O’Hare. Did you actually do that?

BIFF: Not really.

LAWYER: What do you mean by “not really”?

BIFF: Well, I wasn’t going to do anything.

LAWYER: But did you threaten to do anything?

BIFF: He wouldn’t get out of my father’s seat.

LAWYER: Come on Biff, did you threaten him or not?

BIFF: Just enough to get him to move. I wasn’t really going to hit him or anything, you know.

Biff and his lawyer have a problem because they are not exactly speaking the same language. When the lawyer says “threaten” he is thinking “place him in reasonable apprehension of receiving a battery.” But to Biff, threaten means something like “give the guy an urgent message that he ought to move his ass pronto.” Compounding the problem, Biff seems to think that his actual intention – to hit or not to hit – makes a difference. The lawyer knows, however, that Biff’s apparent intentions matter far more than his real ones.

From this early uncertainty the lawyer must now begin to develop his own trial story. Since Biff’s “mental reservation” is not a valid defense, the lawyer will probably want to go to work on the “reasonable apprehension” angle.

⁵ I use this term in its generic sense, meaning a lawyer who has obligations to the administration of justice. The somewhat hoary concept of lawyer as actual court-officer has been long discredited. See Steven Lubet & Cathryn Stewart, *A “Public Assets” Theory of Lawyers’ Pro Bono Obligations*, 145 U. PA. L. REV. 1245, 1258-59 (1997).

⁶ I will explain later how I would have discovered his full name and address.

LAWYER: I have to tell you, Biff, that it is illegal to threaten someone with violence, even if you don't really mean to go through with it. The law is going to look at whether he thought you were threatening to hit him.

BIFF: Well, I wasn't going to hit him right there in the airport.

LAWYER: Do you think he realized that?

BIFF: We were in an airport, and I didn't even ask him to step outside.

LAWYER: Maybe we ought to go through it step by step. When did you first see the guy?

BIFF: When he sat down in my father's seat. He didn't even ask if it was taken.

LAWYER: So what did you do?

BIFF: I just told him someone was sitting there.

LAWYER: What did he do?

BIFF: Nothing. He just kept sitting there, like I didn't mean anything to him.

LAWYER: What happened after that?

BIFF: I said, "My father was sitting there and he's coming back," and he said "Hold on a minute, Mister," which really pissed me off.

LAWYER: Why did that piss you off?

BIFF: Because he had a really snotty tone of voice and it was like he wasn't going to get up. I asked him twice and he still wasn't moving.

LAWYER: Then what did you do?

BIFF: I looked him in the eye and said, "Don't

piss me off."

LAWYER: Why did you say that?

BIFF: Because he was pissing me off.

LAWYER: Then what happened.

BIFF: He got this shocked look on his face, like I said a dirty word or something, and he grabbed his stuff and moved in a hurry.

LAWYER: Biff, did you raise your voice?

BIFF: I guess I probably did. That's not illegal, is it?

LAWYER: Did you ever say you were going to hit him if he didn't move?

BIFF: No.

LAWYER: Did you ever leave your seat while he was sitting there?

BIFF: No.

LAWYER: Did you make any threatening gestures?

BIFF: No.

LAWYER: Help me out a little, then. What would make him think you were threatening him?

BIFF: He was afraid of me. I could tell by looking at him. Maybe he's the nervous type.

The story is getting better, but it still has problems. Biff makes it clear that he became upset about the seat incident. The interloper was acting like a jerk, in Biff's opinion, which was just cause at least for anger. The lawyer is worried. The angrier Biff seems to have been,

the more likely it becomes that he actually committed an assault. For his part, Biff can't see that he did anything wrong. The seat was being saved and he did what was necessary to get me to move. This calls for a little more lawyering.

LAWYER: Let's try it this way, Biff. Did you expect the man to move after you asked him the first time?

BIFF: Sure. There were plenty of seats, so why wouldn't he move?

LAWYER: Did you threaten him or raise your voice?

BIFF: No, I didn't.

LAWYER: Why did you think he was going to move?

BIFF: Because it was no big deal. Like I said, there were plenty of seats.

LAWYER: What were you wearing, Biff?

BIFF: Jeans and a tee-shirt, and my American Legion hat.

LAWYER: What was the other man wearing?

BIFF: A suit and a fancy tie.

LAWYER: Were you angry when you asked him to move the second time?

BIFF: Not really. I couldn't figure out why he was being such a jerk, especially after I told him it was my father's seat, but I still figured he would move.

LAWYER: Did you say anything threatening when you asked him to move the second time?

BIFF: No, I just told him that my father was

coming back.

LAWYER: Did you still think he was going to move?

BIFF: Sure.

LAWYER: Is that when he said something?

BIFF: Right, and it pissed me off. Especially the crappy way he said "Mister," like he was more important than me because he was wearing a suit and tie.

LAWYER: Is there a difference between being angry and being pissed off?

BIFF: Yes. And I was just pissed.

The story is now taking better shape. Two slightly unreasonable people had words with each other. Biff used one form of mildly insulting language – "pissed" – just as the seat snatcher used condescending sarcasm – "Mister." The words were more heated than they really needed to be, but neither one was violent. Maybe the people were from different social classes, and that would explain why they had some trouble understanding each other. Biff's lawyer is probably already thinking of a trial theme, perhaps "Just a misunderstanding."

RESOLUTION

Astute readers will have already noticed that Biff's story left out one extremely salient event – his clenched fist. Leaning over and shaking his fist gives some physicality to Biff's actions. Why was that fact in my account but not in his?

There are several viable explanations for the crucial disparity between the two narratives. Perhaps one of us is lying. I can guarantee you, however, that I am telling the truth. As to Biff, we'll never know. Our only post-airport in-

formation about him comes entirely from my imagination. It would seem downright unsporting for me to write Biff's story and then accuse him of lying to his own lawyer. In fairness, we ought at least to explore some other possibilities.

It could be that Biff clenched his fist without realizing it. Or he could have been tightening his hand to control himself, not recognizing it as a threatening gesture. Or he could just have forgotten about it, since it didn't mean much to him at the time. In any event, Biff doesn't think that he waved his fist at me, and his lawyer believes him.

Recognizing the centrality of the contradictory testimony, it is almost certain that the outcome of any trial will turn on the "fist question." If Biff did indeed lean over and shake a fist in my face, then he committed an assault and I can win. Without the fist it would seem that I am just a hypersensitive whiner, and I should lose.

Lawyers call this a credibility question. There are no other witnesses, so the verdict will go to whichever one of us turns out to be the most believable. But if that is the case, what was all the fuss about trial stories? Biff and I will each take the stand, the jury will decide who to believe, and that will be the end of it. We should hardly need lawyers at all. Wrong. As it turns out, the trial story is an essential aspect of believability.

Juries (and judges) make their credibility determinations in a number of different ways. Consciously or subconsciously, they consider demeanor, body language, speech patterns, voice inflections, and a host of other "indicators," some of which are reliable and some of which are not.⁷ If Biff takes the stand and comes across as a bullying hothead, the jury will probably believe me. On the other hand, if I seem like an arrogant, pompous putz, the jury will be inclined to go with Biff. Though

lawyers have been known to spend hours "sandpapering" their client's deportment, the fact is that there is usually very little a lawyer can do to change a bully into a sweetie (or a stuffed-shirt into a regular guy), especially in the face of cross-examination.

But outward affect is only one component of credibility. If it cannot be disguised, it can be accommodated. And that is where the trial story becomes crucial. Let's say that Biff, all preparation to the contrary, just cannot help looking tough and overbearing. So long as he doesn't actually lose his temper on the stand, his lawyer will argue something along these lines:

Sure he's a big, strong, blunt guy – but that doesn't mean he was out to hurt anybody. Big guys are allowed to save seats for their fathers. If you look at all the facts of the case you will realize that he didn't threaten anyone with his fist.

In the same vein, imagine (completely contrary to fact, I promise you) that I testify with a supercilious smirk on my face. The prosecutor will have her task cut out for her, but she will still be able to make an argument:

Okay, he's a professor and he acts like a professor. But he certainly didn't hurt anybody. If you look at all the facts of the case you will realize that Biff just lost his temper and assaulted him with his fist.

In other words, the lawyers will each bolster the credibility of their clients by invoking the facts of the case, saying, in effect, "believe my client about the fist because he tells a logically coherent story about everything else."

On my side, a winning trial story will not only show what happened. It will also present Biff as the sort of person who would, in that situation, threaten someone with his fist. My personality quirks – a little aloof, a little hard of hearing, slow to react, annoyed at his unnecessary insistence – will be deployed to explain

⁷ See Lubet, *MODERN TRIAL ADVOCACY*, *supra* at 42-43.

Biff's mounting anger and eventual near-explosion. Far from portraying me as blameless, the prosecutor will opt to show Biff's mounting overreaction to slight, or even trivial provocations. As the prosecutor will explain, it will be far more credible to concede that I might actually have irritated Biff, than it would be to insist that he is a completely erratic madman.

And what does this say about truth or ethics? If you review my trial story, you will see that it does not contain a single element, a single phrase, even a single thought that is not true. In fact, it is more truthful than it would have been without an attorney's intervention, since my original, emotional inclination was to portray myself as the dazed, innocent victim of an inexplicable maniac. By looking closely at both sides of the encounter, however, careful counsel was able to help me say what I really meant.

Win or lose, that's got to be good lawyering.

EPILOGUE

Throughout the preceding sections of this essay I have done what I could to present the events objectively. I have tried to credit Biff's story as much as possible – going so far as to allow the possibility that I might have acted like an arrogant putz. In order to analyze the lawyering for both sides, it was important to accept the variable nature of perceived reality. Here and there, of course, it was impossible to avoid vouching for myself, though I tried always to make it apparent when that was happening. If the reader detects other unacknowledged instances of reporting bias, I can only plead human frailty.

Now, however, the story is over and the point is made. I am therefore at liberty to provide more information, this time exclusively from my point of view. Because, you see, the events did not end when I hurried away from the contested seat.

As explained earlier, I encountered Biff in a general waiting area in the middle of the con-

course; there was no way to tell where he would be boarding. After he threatened me, I moved to another seat from which I could keep an eye on him as well as on my gate. When my flight was called, I waited to see what Biff was doing. As you have probably guessed by now, we were on the same plane.

Boarding after Biff, I made a note of his seat number so that I could alert the flight attendant to keep an eye on him. (I truly feared his erratic behavior in a way that I probably have not fully conveyed. For the subsequent purpose of my hypothetical complaint, the knowledge of his seat number would probably also allow my counsel to discover his identity.) Fortunately, the flight was uneventful, though I did take the precaution of waiting for Biff to deplane before I left my seat.

It turned out, however, that it was not so easy to avoid Biff entirely. He and several friends stood talking in a large group right in the middle of the concourse. I stopped and tried to figure out what to do. Part of me wanted to move straight forward, asking them (politely) to get out of the way. Part of me said that I should avoid him at all cost, however such furtive circumnavigation might damage my dignity. I probably stopped and stared. (Actually, I definitely stopped and stared, in part because I wanted to read the words on Biff's cap. The idea for this essay had already occurred to me and I thought that the cap would provide an interesting detail.)

Biff saw me. He literally shouted across the concourse: "If you've got a problem with me we're going to go at it right here, you fucking worm." So it turns out that I was right in the first place – the guy was a raving psychopath.

Stunned again, I realized that a man has to do what a man has to do. I hurried out of the airport and began composing this piece in my head. All in all, I'd rather write than fight.

As for Biff, I don't expect that I will ever see him again. But judging from his temperament, I hope he knows a talented attorney. 