

Courting Illusions

BY JUSTINE GUDENAS

You're a practical person. If clients expect magic, you caution them to get real. But in actuality, what are you talking about?

You're largely paid to manipulate words. As sad proof, can you count the number of cases that have turned on the meaning of a single word? Probably not. There are too many. But what are they, these structures so fragile, so excruciatingly sensitive to context? Some semantics experts have given up entirely. They conclude that meaning cannot exist in words at all but only in our individual minds, trapped there forever. Too bad that a client can be put to death depending on how you convince the court "intent" is to be construed.

But although clients see that the judge construing their "intent" is clothed in the garb of a wizard, they don't want you quoting Oliver Wendell Holmes that certainty itself is an illusion. Or telling them that our legal system is founded on another one: that all men are created equal. For without it the society we desire crumbles; the impetus to level the playing field (the basis for civil rights legislation and litigation) vanishes.

Clients want solutions. Unless they're the ones being accused, they don't care about neuroscientists arguing that our basis for responsibility and punishment – free will – is an illusion. Nor do they care that according to physicists, we are all just Big Bang stardust that seems to exist only because some subatomic particle, oscillating trillions of times a second unable to make up its mind, eventually decides to let there be matter.

No. Clients want to know who pays and how much.

So they probably won't want to know how even more illusory the practice of law is becoming. And I don't mean the way we treat intellectual property as something objective, solid and three-dimensional – even though it's really part of the formless void we struggle to shape. Because, to advance the trade of everything capable of being traded in our new global economy, even property law now has to be conceived as a dephysicalized relation between persons.

What I mean can be seen in the title of an article on the American Bar Association website, which asks, "How Real Are Virtual Law Firms?" They are, it turns out, very real indeed.

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Virtual firms lack a physical office and their personnel might consist of just one person in pajamas tapping on a laptop keyboard. But that's OK. To pass as reality you need only produce an effect that seems real enough.

I was reminded of a 2007 Lower Manhattan play *Losing Something*, in which a high-definition video system projected holographic images of characters on the stage who acted alongside the live performers. The audience – even those sitting in the front rows – experienced no difference between the two.

Also promoted on the ABA website is outsourcing. What is one of the reasons why? It helps small firms, even the one-lawyer-in-pajamas variety, create the illusion of power. And this illusion is good.

By having them appear to be national or global players, outsourcing is supposed to improve lawyers by providing them with more time for lawyering instead of revenue-raising (a worry expected to be paramount for brick-and-mortar firms in 2013). Why not? *Illusion Works*, an outsourcing software development

company calls itself.

And yet in this seeking of ever-vaster illusion, it's not only your clients who are, shall we say, led to believe in your greatness. As Norman Mailer said, in an interview before he died, technology makes people seem to themselves more important and larger than they really are. That is, it deludes the user. The magician believes his own magic. ■



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