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Using DVD Covers to Teach Weight of Authority

By Michael J. Higdon

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As a teacher, I have noticed that there are certain words (such as “assignment,” “test,” or “grades”) that I can mention that will undoubtedly get my students’ attention. However, the attention that comes from those words is rarely conducive to introducing a new concept. What I am more interested in are those things I can reference that will get my students to perk up just a bit and *in a positive way* so as to facilitate learning. One thing that seems to work quite well in that regard is any and all references to pop culture: movies, television shows, music, Paris Hilton, etc. As a result, I am constantly looking for opportunities where I can use pop culture as a means of introducing some of the more difficult legal concepts.

Not only do students enjoy hearing about and discussing pop culture, but utilizing pop culture in the classroom has other benefits as well. Most importantly, under shared knowledge theory, it is much easier to convey a new idea to someone if you can first relate it to something with which the listener is already familiar (e.g., “What do frog legs taste like?” The answer, “Chicken.”). In searching for something with which students are likely well-acquainted, pop culture is probably one of the safest bets as being something with which most of your class will already be intimately familiar. Additionally, I find that students take some degree of comfort in knowing that all they knew before law school, and that which they enjoy outside of school, is not entirely irrelevant to their new course of study. Finally, on a more practical level, I think using pop culture reminds students that you too are human—my students seem genuinely surprised that I even know who Paris Hilton is—and, thus,

helps the students relate to you more, which in turn makes it easier for you to reach your students.

One of the ways in which I have integrated pop culture into my first-year class is by using DVD covers to help remedy some of the problems students have in learning weight of authority. I find that students basically understand the need for citation; however, they struggle to understand what it is exactly that makes one source stronger than another. Furthermore, I am particularly troubled that many students, instead of seeing the logic behind weight of authority, tend to think that these principles are merely arbitrary rules that they must now memorize. To help overcome these obstacles, I analogize weight of authority to the glowing quotes that movie studios, in an effort to convince consumers to buy or rent a movie, emblazon on the covers of their DVDs. These quotes are generally taken from favorable reviews by movie critics and tend to vary widely in terms of persuasiveness, given the various forms of movie critic that exist today. As a result, I have found DVD covers to be an excellent tool for helping students grasp the complexity of weight of authority.

What follows are some specific examples that I use in my class, organized by various aspects of weight of authority. Following the examples are some exercises you can use in class to build upon this discussion and even relate those ideas back to whatever writing assignment your students may be working on.

Specific Examples of Using DVD Covers

Example 1: Strength of a Particular Source

One of the most basic lessons to teach using DVD covers is that certain sources are intrinsically stronger than others. For example, I first show the students three different DVD covers. First, there is the DVD *Secondhand Lions*, which has a quote from CNN: “A movie the whole family can enjoy.” Next, I show

them the cover to *Good Boy!*, which includes a quote from *Access Hollywood*: “One of the year’s best family films.” Finally, there is *Christmas with the Kranks*, which has a quote from Steve Chupnick of WBFF-TV, Baltimore: “A movie for the whole family.” I then ask students to tell me which citation they believe is the strongest. Even though all three quotes essentially say the same thing, students nonetheless tend to have strong opinions about which quote is more powerful. For example, most agree that the *Christmas with the Kranks* quote is the weakest simply because most have never heard of Chupnick, and the television station that he works for does not have national coverage like CNN. Between *Secondhand Lions* and *Good Boy!*, the students are split as to which has the stronger quote. Some choose the former simply because they feel that CNN is more respected than *Access Hollywood*. However, those who prefer the *Good Boy!* quote generally point out that *Access Hollywood* is a source more associated with films, and thus more of an expert on the subject, than CNN.

Although I use examples later on to build upon and explain how the students’ justifications contribute to persuasive weight, the point of this first example is simply to illustrate how any borrowed proposition, regardless of what it says, has some degree of weight based entirely on the source of that proposition. Furthermore, as demonstrated by the above example, that weight can immediately be measured against other sources.

I then use this point as my introduction to legal weight of authority. I tell the students that legal readers will be concerned initially, at least, not so much with what a case or statute says but the jurisdiction from which that case or statute arises. Thus, there is persuasive power merely in the citation sentence itself. I then move on to the following examples to illustrate more specifically what makes for a stronger legal source.

Example 2: The Number of Sources in Accord

One of the problems we have all encountered with first-year students is their belief that they need only find one source to justify the claim they are making.

Students have trouble understanding that having only one citation creates doubt as to whether the legal proposition is well established or whether the writer simply stumbled upon a maverick case.

Again, DVD covers can help illustrate this problem to students. For example, I first show my students the DVD cover for *March of the Penguins*, which contains glowing quotes from *Newsweek*, *The New York Times*, and *Ebert and Roeper*. I then show them the VHS cover (as it is not even available in DVD) to *Ishtar*, which has only one quote from the *Washington Post*: “A Sand Blast!” When asked which is likely to be the better movie, assuming you only had the cover of the DVD to go by, students almost always select *March of the Penguins*. The students justify their selection by pointing out that the larger number of positive quotes on *March of the Penguins* makes them feel more confident that the movie is one that they would enjoy.

Furthermore, once the students see that even a movie like *Ishtar*, which is generally regarded as one of the worst movies ever,¹ can find a favorable quote somewhere, they see how merely relying on one legal citation can create doubt in the legal reader’s mind.

Example 3: Geographical Scope/Jurisdiction

Although movie reviewers do not have “jurisdictions” as we may define that concept in legal writing, DVD covers can nonetheless teach students the basic principles underlying jurisdiction and how jurisdiction influences weight of authority.

For example, the DVD cover to *Dude, Where’s My Car?* has only one quote (i.e., “Wildly Hilarious!”), and the source of that quote is from the *Arizona Daily Star*, a newspaper that serves the Tucson, Arizona, community. After showing the DVD cover to students, I ask them to pretend that they live in Tucson and, based upon that fact, whether they would be persuaded by the “Wildly Hilarious!” quote. Responses are mixed as students say that

¹ I make an effort to choose “bad” films as they tend to make for a more fun discussion. Thus, you will see several such films referenced in my examples.

“Students have trouble understanding that having only one citation creates doubt as to whether the legal proposition is well established or whether the writer simply stumbled upon a maverick case.”

“I then use this point to show how a non-mandatory source can be extremely persuasive if the author of that source is somehow viewed as an expert in the matter under discussion.”

it would depend on how well they respected the newspaper (i.e., good review of Example 1). Also, some students are skeptical based on the fact that the DVD cover only has one source (good review of Example 2). However, when I then ask students to pretend that they live in South Carolina, they all respond that they would be even less persuaded by the quote from the *Arizona Daily Star*. When asked to explain their answer, the students respond that Tucson is so far removed from South Carolina as to have little relevance. When then asked what kind of sources might tempt a South Carolinian, they suggest South Carolina newspapers and national sources.

With this discussion as a backdrop, it is then but a small leap to lead students through the principles of state and federal jurisdiction. Just as a citizen of South Carolina may not be that interested in what a Tucson newspaper thinks of a particular movie, a South Carolina court is not going to be motivated to rule a certain way solely because an Arizona court found it necessary to do so. This analogy then sets the stage for a discussion of persuasive versus mandatory authority.

Example 4: What Makes Nonbinding Authority Persuasive

One of the rules we try to instill in our students when writing any document is to know your reader. Although citation is all about knowing your reader and what will motivate that person, students have difficulty gauging when and how to use persuasive authority in a legal document. The following two examples may be of help.

In the first example, I show the students the DVD cover to *The General's Daughter*, which has a quote from *Wireless Magazine*: “A Top-Notch, Edge-of-Your-Seat, Suspense Thriller.” Students immediately respond that they are not impressed as most have never heard of *Wireless Magazine*. However, I ask them to pretend that they are buying a movie as a gift for a friend, and that friend is a huge fan of suspense thrillers. Now when asked if they would be persuaded by the quote, they respond a bit more favorably. This example is entirely analogous to a non-mandatory case that is

nonetheless persuasive because it is so closely related to the subject matter (i.e., the cause of action, an unusual factual situation, a peculiarly situated party, etc.) for which I may be looking.

As a second example, I show my class the DVD cover to *The Butterfly Effect*, which is graced with a quote from Kurt Loder of MTV News: “A complex and witheringly powerful film.” When asked what they think, the class is generally divided. Some do not know who Loder is, and others, who do know who he is, could not care less what he thinks. However, some students point out that *The Butterfly Effect* was a movie intended for young adults and, given Loder’s association with MTV, which is also geared toward younger adults, those students seem to value his opinion a bit more in regard to this movie. I then use this point to show how a non-mandatory source can be extremely persuasive if the author of that source is somehow viewed as an expert in the matter under discussion. Legal examples would include citing to Delaware cases involving the law of corporations or citing to a nationally recognized expert like Arthur L. Corbin of *Corbin on Contracts*.

Example 5: Questionable Authority

One of the final lessons that DVD covers can teach students about weight of authority is one of the most important. Specifically, students must learn that the best sources to use are those that can withstand scrutiny. Thus, cases that have been called into question, overruled, deal with completely different issues, etc., are to be avoided. Not only are these sources not persuasive, but they can undermine your entire argument and/or your reputation as a trustworthy lawyer.

One of the ways I introduce students to this danger is with the DVD cover to *White Chicks*. Now, first of all, the DVD has no quotes anywhere on the cover. (I always enjoy asking students what they can infer from that omission.) However, on the back is a quote by Shawn Edwards, who describes *White Chicks* as “The Funniest Comedy of the Year!” Other than the fact that many students have seen this movie and vehemently disagree with Edwards’

assessment, most do not see a problem with the quote. However, I then point out some of Edwards' other reviews. For example, Edwards, whom PopCult Magazine describes as "possibly the most enthusiastic man in the entire world,"² said this about *The Chronicles of Riddick*: "One of the best sci-fi films ever! Extraordinary! A true classic not to be missed! Vin Diesel is ecstatically superb." Furthermore, Edwards had the following to say about Britney Spears' 2001 foray into acting: "*Crossroads* is a perfect teen dream. It has everything that makes a movie totally cool: laughs, adventure, spirit, hot music, drama and of course BRITNEY! Britney rocks! She is like a comet. A talent of her magnitude only comes around once in a lifetime and you can't take your eyes off her when she is on screen in this totally cool and delightfully hip movie."

Additionally, as *Variety* pointed out,³ Edwards dubbed the movie *Barbershop 2* as "The best comedy of the year!" on February 6, 2004 (i.e., barely a month into the year). His naming of *White Chicks* as "The funniest comedy of the year!" came on July 9, 2004. Less than a month later, he declared *Little Black Book* to be "The best romantic comedy of the year!"

I then ask students, based on what I just told them, whether they would want to use a favorable quote from Edwards on a DVD cover. The response: "No!"

Exercises

After going through the above examples, there are a number of exercises you can do to build upon these principles. For example, you can show the students some additional DVD covers and ask them to put them in order of persuasiveness based solely on "weight of authority." Of, if you are

feeling a bit more creative, you can select a movie that only recently opened, find a number of critical reviews of that film from a variety of sources, and then ask students to design a DVD cover. To make the exercise even more challenging, you can select a film that is getting panned by the critics. Finally, if you are feeling extremely creative, you can take your memo/brief problem and ask the students to create a "DVD cover" in which they have to find the best quotes from cases to showcase on the cover.

Conclusion

In my experience, using DVD covers to teach the weight of authority has been a successful teaching technique. Students tend to enjoy the exercises and each exercise anchors a number of important concepts. First, relating the concept of citation to something so well-known in their everyday lives helps the students grasp these principles more quickly and see the logic behind weight of authority. Second, examining these DVD illustrations and looking at the possible motives for including certain sources help students improve their critical thinking and reading skills. Finally, what makes me the biggest fan of this approach is that these exercises create a really fun class!

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“ [E]xamining these DVD illustrations and looking at the possible motives for including certain sources help students improve their critical thinking and reading skills. ”

² <www.popcultmag.com/passingfancies/bottomfive/moviecritics/moviecritics1.html> (last visited June 27, 2006).

³ <www.variety.com/article/VR1117917018?categoryid=4&cs=1> (last visited June 27, 2006).