
BY BRETT G. SCHARFFS¹

// PART ONE OF TWO //

composing conflict

the lawyer as composer



1. *I Don't Want a Lawyer*

Once in a very long while one encounters a story or anecdote that is at once dispiriting and inspiring—dispiriting in what it says about us and inspiring in what it says about what we may become. I had such an experience recently, reading a recollection of President Gordon B. Hinckley. Speaking in general conference in 1988, President Hinckley, at the time First Counselor in the First Presidency of the Church, recounted:

We live in an environment where there is much of litigation and conflict, of suing and countersuing. Even here the powers of healing may be invoked. As a young man I worked with Elder Stephen L. Richards, then of the Council of the Twelve.² When

he came into the First Presidency of the Church, he asked me to assist him with a very delicate and sensitive matter. It was fraught with most grave and serious consequences. After listening to him discuss it, I said, "President Richards, you don't want me; you want a lawyer." He said, "I am a lawyer. I don't want to litigate this. I want to compose it."³

As a lawyer—and even more as a law professor—I am dismayed and somewhat ashamed that when faced with such an important and delicate matter, Elder Richards' instincts told him that a lawyer would be the wrong person for the job, since a lawyer reflexively would want to litigate, creating dissension rather than har-

mony. Moreover, I was fascinated by the use of the word *compose*. To my ear, the use of this word in this context had an antiquated, unfamiliar ring.

Interest piqued, I surveyed several dictionaries to try to figure out what Elder Richards meant when he said he wanted to "compose" the situation. The dictionaries were filled with dozens of definitions of the word *compose*, covering a surprisingly broad array of meanings.⁴

In reflecting further upon this anecdote, I have become convinced that the idea of seeking to be a *composer* has significance for lawyers on multiple levels of meaning. Several definitions of *compose*, including the definition most likely intended by Elder Richards, identify skills—indeed, traits of character—that every lawyer should aspire to possess, especially if we are to transcend the role of hired gun or mercenary and realize our potential as healers and unifiers.

2. *The Lawyer as Composer*

There are at least five senses of the word *compose* that have significance for lawyers, including (1) to end or settle a dispute, (2) to put together, (3) to put into proper form or order, (4) to bring about a condition of repose or calmness, and (5) to create a literary, musical, or choreographic work. This article has been written in two parts. Part I focuses upon the definitions relating to conflict resolution and will discuss the first four designations of *compose*. Part II, which will appear in the next issue of the *Clark Memorandum*, will provide a more in-depth discussion of the multiple correlations between composing music and composing law.

A >> QUIETING CONFLICT

The definition of *compose* most obviously suggested by President Hinckley's story is "to end or settle (a quarrel, dispute, etc.)," "to deal with or act on so as to reduce to a minimum their differences," "to arrange a dispute, conflict of claims, etc., to settle, adjust, arrange,"⁵ or "to arrange (any matter) properly or successfully; to settle."⁶ *Black's*

Law Dictionary defines a related concept, "composition with creditors," as "[a]n agreement, made upon a sufficient consideration, between an insolvent or embarrassed debtor and his creditors, whereby the latter, for the sake of immediate or sooner payment, agree to accept a payment less than the whole amount of their Claims, to be distributed *pro rata*, in discharge and satisfaction of the whole."⁹ In this sense, to compose is to minimize differences, to end or settle a dispute, to seek common ground among parties who disagree about something.

For a lawyer, the impulse to create conflict and discord can be very great. Trial lawyers are familiar with the thrill of victory that comes with a favorable verdict, the more so when the facts or law make the case difficult. Many lawyers may feel a guilty affinity with the Wall Street attorney who confessed, "The greatest thrill is to win when you are wrong."¹⁰ It is easy and seductive to view litigation, and to a lesser extent a broader range of legal negotiations, as a zero sum game. Professor Leonard Pertnoy

has lamented the prevalence of prosecutors who “are known only to seek convictions and gain another notch on their gun belts.”¹¹ Voicing a similar concern, Judge R. J. Gerber notes that, “In playing the adversary role, the litigator may become an amoral technician committed to winning the adversary battle by any means at hand.”¹² Mahatma Gandhi described the destructive effects of such a mind-set as follows:

*I saw that the litigation, if it were persisted in, would ruin the plaintiff and the defendant, who were relatives and both belonged to the same city. . . . [I]t might go on indefinitely and to no advantage of either party. . . . In the meantime, mutual ill-will was steadily increasing. I became disgusted with the profession.*¹³

Make no mistake, at times one needs a lawyer who will skillfully, intelligently, and relentlessly fight to protect one’s interests. When we emphasize the peacemaking or conflict-resolving role of lawyers, we may do so at the expense of our client’s interests. There is a risk that lawyers can anoint themselves judge and jury when they seek to generate what they see as a fair or desirable outcome, rather than vigorously defending the rights and interests of their client. On the other hand, striking a win-at-all-costs adversarial posture can also undermine rather than serve our clients’ interests.

Knowing when to litigate and when to compose conflict is an important lawyerly skill.¹⁴ Former Chief Justice Warren Burger observed, “One reason our courts have become overburdened is that Americans are increasingly turning to the courts for relief from a range of personal distresses and anxieties. Remedies for personal wrongs that once were considered the responsibility of institutions other than the courts are now boldly asserted as legal ‘entitlements.’ The courts have been expected to fill the void created by the decline of church, family and neighborhood unity.”¹⁵ One can only imagine that the tendency identified by Chief Justice Burger has gotten worse in the 20 years since he spoke those words.

We may think that settlement is a tactic appropriate to or reflective of a position of weakness and litigation appropriate to a position of strength. But this would be a damaging oversimplification. Engaging in

good faith settlement efforts does not foreclose the possibility of aggressive litigation, and litigating aggressively will sometimes put one in a stronger position to effect a favorable settlement. But an obsession with tactics and winning may pose an obstacle for the lawyer seeing and sensing opportunities to compose a conflict.

Karon O. Bowdre has urged,

*Attorneys should once again embrace the traditional role of “bealers of human conflict,” of peacemaking. Sometimes the best approach for the client would be to acknowledge her part in the conflict (every dispute has two sides), accept responsibility and apologize. For another client, the best counsel may be to overlook a wrong instead of destroying a relationship, or to practice true forgiveness. To lead our clients to points of confession and forgiveness, we must help them see people and relationships as more important than always exercising all our legal rights.*¹⁶

Abraham Lincoln had the following advice for lawyers: “Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser—in fees, expenses, and waste of time. As a peacemaker, the lawyer has a superior opportunity of being a good man.”¹⁷

B >> PUTTING TOGETHER

Another meaning of the word *compose* is “to put together, make up. To make by putting together parts or elements; to make up, form, frame, fashion, construct, produce.”¹⁸ Related meanings include “to make up of disparate parts or elements,”¹⁹ to “constitute,”²⁰ and “to form by putting together; fashion.”²¹ Composition is the creative process of putting together disparate elements, to fashion or construct an end product.

Lawyers have many opportunities to bring people together. Judge Ralph Mabey has suggested that lawyers can serve as unifiers, bringing parties together who may not know or trust each other into mutually beneficial relationships.²² Judge Mabey explains, “Take the example of two parties who are entering into a contract. They’ve got different interests. One wants to sell high, the other wants to buy low. One wants to sell for cash, the other wants to buy on terms. The contract laws of this country allow them to be brought together.

. . . They are unified and enabled to work together for their separate interests—unified by the law. . . . If the purpose of the law is *e pluribus unum*, then the purpose of a lawyer is to effect *e pluribus unum*.”²³

The ability to bring together disparate elements is also evident in lawyers skilled at putting together complex business relationships such as large project finance transactions.²⁴ Many lawyers are adept at creating complexity out of what appear to be simple situations; a far more uncommon skill is the ability to create simplicity out of messy and complex situations.²⁵

Lawyers can also bring people together by creating relationships with clear expectations and obligations, foreseeing likely points of tension or difficulty, and planning ways to address them. According to Edward D. Re, “[L]awyers must appreciate and expand their role as counselors. As counselors, lawyers can play a crucial role in avoiding controversy and litigation. Effective counseling minimizes the likelihood of conflict between parties by stabilizing relationships and promoting understanding and cooperation. Lawyers as counselors, in the words of Chief Justice Burger, provide the ‘solvents and lubricants which reduce the frictions of our complex society.’”²⁶

C >> CREATING COHERENCE

A third, closely related, definition of *compose* is “to put into proper form or order; to compose laws into a coherent system.”²⁷ The *Oxford English Dictionary* includes the definition “to put together (parts or elements) so as to make up a whole; spec. in artistic use, to arrange artistically the elements of a landscape or painting.”²⁸ To the idea of bringing disparate elements together, this definition adds a sense of creating a proper fit, unity, and coherence. A beautiful composition not only brings together a variety of components, it brings them together in a way that creates a sense of balance, wholeness, and integrity. Just as a painting can be skillfully composed, a legal argument can be crafted in such a way that it has persuasive force.

A lawyer composes in this sense when he finds unity or coherence in a line of cases, creating a justification for a desired outcome. In an introductory text on legal reasoning and writing, Professor Richard K. Neumann, Jr., notes:



HEN LOOKING AT AN ARTISTIC
MASTERPIECE, SUCH AS A PAINTING BY CARAVAGGIO OR VERMEER, WE ARE OFTEN
STRUCK BY THE SENSE THAT EVERY ELEMENT OF THE COMPOSITION IS WHERE IT BELONGS.

*To turn [a bundle of cases] into a unified whole, [the lawyer] must step back and ask [himself] what, under the surface, the cases really have in common. [The lawyer] must identify the threads that appear . . . tie the threads together, and organize the analysis around the threads themselves (rather than around the individual cases). The [judge] cares more about the threads than about the cases, and an individual case is important only to the extent that it teaches something about the thread.*²⁹

Trial lawyers compose in this sense when they strive to create a coherent story, or “theory of the case,” that accounts for a disparate and complex set of facts. Lieutenant Colonel James L. Pohl describes this form of composition, stating,

Accurately developing the proper theory of the case is the most critical aspect of trial preparation because the theory drives every aspect of every stage of the trial. [It] is the destination for the case. All evidence, objections, questions, and every other part of the trial presentation must support

*the theory. . . . [The theory] is the emotional or equitable “book” that convinces. . . . The theory of the case as a unifying theme assists not only in pre-trial preparation but also in making decisions during the beat of battle itself. . . . [Developing a proper theory of the case] leads to an integrated, cohesive presentation to the factfinder.*³⁰

Artistic composition depends upon a good eye for how things fit together into a portrayal that is pleasing. One hallmark of great art is that it has a sense of unity and harmony. When looking at an artistic masterpiece, such as a painting by Caravaggio or Vermeer, we are often struck by the sense that every element of the composition is where it belongs, a characteristic that the artist Frank Stella has described as Caravaggio’s “overwhelming, invented coherence.”³¹ Stella notes, “We have a notion that naïve or bad art breaks down into parts that are irrational, unable to add up to a sustainable whole. . . . In great art all the relationships sparkle, radiating coher-

ence.” Expressing a similar sentiment, the artist Hans Hofmann has said, “My ideal is to form and to paint as Schubert sings his songs and as Beethoven creates a world in sounds. . . . Pictorial homogeneity of the composition—plastic unity—is developed by lawfully governed inner necessities. From this derives the rhythm, the personal expression in the work.”³²

Speaking of the lawyer’s role in creating coherence out of apparent confusion, musician and lawyer Daniel Kornstein strikes a similar note:

To be sure, law often seems chaotic and confused, an incomprehensible and incoherent welter of apparently contradictory and ever-changing rules, traditions, and practices. The confusion is heightened by the increasing number and complexity of laws reaching into every corner of our lives and made necessary by improving technology and changed social policies. And yet, despite this apparent cacophony of laws, there may well be mysterious harmonies, rhythms, and relationships to be



discerned. [Lawyers must] bear the “music of the laws”—to see the interconnectedness of apparently unrelated legal phenomena.³³

This definition’s emphasis on putting things in their proper place also accentuates lowly craft skills such as visualizing, planning, and drafting, seemingly mundane obsessions such as accuracy and precision, and important virtues such as integrity.³⁴ As a young transactional lawyer at a large metropolitan firm, I sometimes felt like a well-paid proofreader. Getting it right—whether you are working on a prospectus for the sale of securities, a contract, or a stock certificate—is an absolutely essential skill for a young lawyer. An accomplished lawyer friend of mine is fond of telling young associates that the key to being a good lawyer is to realize that the first 90 percent takes 90 percent of the time, and the last 10 percent takes 90 percent of the time.

D >> ENGENDERING REPOSE

A fourth definition of *compose* is “to bring (the body, mind, or emotions) to a condition of repose, calmness, etc.; calm; quiet,”³⁵ “to free from agitation: calm, settle,”³⁶ “to adjust the body or mind to any attitude, esp. that of repose; to calm or quiet disturbance,”³⁷ “to address or dispose (esp. the mind, oneself) calmly and collectedly to or for an action or state, or to do something,”³⁸ or “to set in proper order, or in a position of rest; to arrange, adjust; e.g., to set (the body) in the posture of sleep or repose.”³⁹ This sense of the word is captured in the curt directive: “Compose yourself!” And as we all know, sometimes it is no easy task to pull oneself together, let alone to help someone else do so.

Some lawyers seem to be expert in creating and fostering contention and agitation. Others, whether in negotiations or in litigation, are able to create a sense of calmness.⁴⁰ The renowned lawyer Arthur Liman confessed that “[t]rial craft and trial work always brought me, I admit, a great personal ‘high,’ the testing period that, for the lawyer, demands the most intense concentration, vigilance, and control. But it is in that other function, that of counselor, that I think the lawyer may well perform his highest service.”⁴¹ Liman notes that clients are often fearful and vulnerable when they find themselves in

need of the help of lawyers. “Behind my desk,” Liman explains, “hangs a 19th-century Old Testament sampler that [my wife] Ellen found for me in a flea market. It is from the Book of Isaiah, and it reads, ‘Fear Thou Not, For I Am With Thee.’ To me, the quotation expresses perfectly what every lawyer should strive for in the lawyer-client relationship.”⁴² One of the great services we can provide our clients is to be with them in times of distress and need, to serve and help them, and to help create a sense of calmness, peace, and reconciliation.

3. Composing Conflict

I am convinced that there is an important lesson for lawyers in the fact that when Elder Richards needed someone with extreme tact, good judgment, imagination, and a desire to find a creative and healing solution to a difficult and delicate problem, his instincts told him he did not want a lawyer, since the goal was to *compose* the situation. President Hinckley describes what happened next:

*We directed our efforts to that end, and wonderful results followed. Money was saved, much of it. Embarrassment was avoided. The work was moved forward without fanfare or headlines. Wounds were closed. The healing powers of the Master, the principles of the gospel of Jesus Christ, were invoked in a delicate and difficult situation to compose what otherwise could have become a catastrophe.*⁴³

As a profession we should be troubled if reasonable people facing similar situations are justified in believing that a lawyer is exactly the wrong sort of person for dealing with tasks of unusual complexity and sensitivity.

The biggest challenge facing lawyers is to avoid settling for what Bruce Ackerman has described as “a self-trivializing conception of lawyering.”⁴⁴ Professor Ackerman maintains, “The challenge is to build a life in the here and now—one worthy of ourselves, our fellow citizens and the law itself. Easier said than done. And many of us will fail in the attempt.”⁴⁵ I do not mean to suggest that conceiving of the lawyer as a composer exhausts, or even best captures, what it means to be a lawyer. Lawyers have many roles, and there are multiple ways of conceptualizing the lawyer’s work.⁴⁶ But having what Karl

Llewellyn called “situation sense” is something that great lawyers have in common.⁴⁷ And a lawyer with situation sense will have, among many skills, those captured by the word *compose*—understanding when and how to settle conflicts, how to bring together varied and disparate parts and parties, how to create coherence and bring things into proper form, and how to engender repose, soothe agitation, and quiet volatile situations.

The most common meaning of the word *compose*, of course, is to create or formulate a piece of music. This sense of the word might seem particularly distant from the work of lawyers. In the second part of this article, however, I will suggest that there are important lessons that lawyers can learn from the art and discipline of composing music.

ENDNOTES

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- 2 The Council of the Twelve, along with the First Presidency (the president of the Church and two counselors), comprise the highest governing bodies of the Church. 1 ENCYCLOPEDIA OF MORMONISM 327 (Daniel H. Ludlow ed., 1992).
- 3 Gordon B. Hinckley, *The Healing Power of Christ*, ENSIGN, Nov. 1988, at 52, 54. Elder Dallin H. Oaks, in a chapter on litigation in his book *The Lord’s Way*, reproduces this story and observes, “Since litigation almost inevitably involves contention and is prevented by reconciliation and forgiveness, these teachings stand as a strong direction for Latter-day Saints to use every reasonable means to compose their differences and avoid litigation with their fellow members or others.” DALLIN H. OAKS, *THE LORD’S WAY* 176–77 (1991).
- 4 See MERRIAM WEBSTER COLLEGIATE DICTIONARY 236 (10th ed. 1994) [hereinafter WEBSTER]; RANDOM HOUSE COLLEGE DICTIONARY 276 (1972) [hereinafter RANDOM HOUSE]; 2 THE OXFORD ENGLISH DICTIONARY 733–34 (1978) [hereinafter OED]; BLACK’S LAW DICTIONARY 259 (5th ed., 1979) [hereinafter BLACK’S LAW DICTIONARY].
- 5 RANDOM HOUSE, *supra* note 4, at 276.
- 6 WEBSTER, *supra* note 4, at 236.

7 OED, *supra* note 4, at 733.

8 *Id.*

9 BLACK'S LAW DICTIONARY, *supra* note 4, at 259.

10 See R. J. Gerber, *Victory vs. Truth: The Adversary System and Its Ethics*, 19 ARIZ. ST. L.J. 3, 3 (1987) (quoting anonymous source).

11 Leonard Pertnoy, *Order in the Court*, 43 SYRACUSE L. REV. 1159, 1160 (1992).

12 *Id.* at 4.

13 M. KATSH, *TAKING SIDES: CLASHING VIEWS ON LEGAL ISSUES* 14 (2d ed. 1986) (quoting Gandhi's autobiography).

14 See, e.g., Thomas W. Porter, Jr., *The Spirit and the Law*, 26 FORDHAM URB. L.J. 1155, 1163–65 (1999) (discussing dual lawyerly roles of advocate and peacemaker).

15 Warren Burger, *Isn't There a Better Way?*, 68 A.B.A. J. 274, 275 (1982).

16 Karon O. Bowdre, *Law Practice: A Place for Moral Values*, 57 ALA. L. REV. 158, 162 (1996) (footnotes omitted).

17 Abraham Lincoln, *Notes for a Law Lecture (July 1, 1850)*, in *THE LIFE AND WRITINGS OF ABRAHAM LINCOLN* 329 (Philip Van Doren Stern ed., 1940). See also The Honorable Edward D. Re, *The Lawyer as Counselor and the Prevention of Litigation*, 31 CATH. U. L. REV. 685, 691 (1982) ("In the role of Counselor, the lawyer serves as an instrument of peace."); Phyllis E. Bernard, *Community and Conscience: The Dynamic Challenge of Lawyers' Ethics in Tribal Peacemaking*, 27 U. TOL. L. REV. 821 (1996) (exploring Native American tribal peacemaking as innovation in alternative dispute resolution, focusing not only on resolving immediate legal disputes, but also in healing human relationships).

18 OED, *supra* note 4, at 733.

19 RANDOM HOUSE, *supra* note 4, at 276.

20 WEBSTER, *supra* note 4, at 236.

21 *Id.*

22 See Ralph Mabey, *Just Lawyers*, CLARK MEMORANDUM, Spring 2000, at 2, 4–5.

23 *Id.* at 4–5.

24 "The most salient characteristic of project finance transactions is their large scale. To take one example, the cost of construction of a power plant [through project finance] will often reach several hundred million dollars, and these large dollar amounts entail correspondingly large scales in other facets of the transactions. . . . [T]he number of financing parties is large (e.g., bondholders, subordinated bondholders, syndicates of bank lenders, trustees and collateral agents . . . the duration of the transactions is large (easily a decade or more). And as a result of all the foregoing, the volume of documentation and number of legal issues presented by the transaction is also quite large. . . . Despite this complexity, one can usefully conceive of project finance transactions as taking a simple, schematic shape: that of a bow tie or butterfly." Carl S. Bjerre, *International Project*

Finance Transactions: Selected Issues Under Revised Article 9, 73 AM. BANKR. L.J. 261, 263–64 (1999).

- 25 For an insightful commentary on the interplay between simplicity and complexity in the legal arena see Peter Schuck, *Legal Complexity: Some Causes, Consequences, and Cures*, 42 DUKE L.J. 1 (1992).
- 26 Edward D. Re, *The Causes of Popular Dissatisfaction with the Legal Profession*, 68 ST. JOHN'S L. REV. 85, 118 (1994).
- 27 RANDOM HOUSE, *supra* note 4, at 276.
- 28 OED, *supra* note 4, at 733.
- 29 RICHARD K. NEUMANN, JR., *LEGAL REASONING AND LEGAL WRITING: STRUCTURE, STRATEGY, AND STYLE* 131 (3rd ed. 1998). But as Neumann explains, the lawyer must not only be able to synthesize or distill a coherent legal principle from a line of cases, he must also be able to harmonize conflicting decisions and integrate both helpful and adverse precedent in a process of reconciliation. See *id.* at 132.
- 30 Lieutenant Colonel James L. Pohl, *Trial Plan: From the Rear . . . March!*, 1998 ARMY LAW., June, 1998, at 21, 21–22. Daniel Kornstein maintains, "A trial, that most dramatic of legal events, couples story-telling and analysis. Preparing witnesses, giving opening and closing statements, the substance and sequence of witnesses' testimony, the nature and order of questions on direct and cross-examination, the use of documentary and demonstrative evidence—all these are designed to narrate the most compelling version of events possible. At the same time, throughout the trial there will be evidentiary issues, procedural points and substantive disagreements that require argument and analysis by the lawyer. Litigation is filled with this variety of legal thought processes." Daniel J. Kornstein, *The Double Life of Wallace Stevens: Is Law Ever the "Necessary Angel" of Creative Art?* 41 N.Y.L. SCH. L. REV. 1187, 1275 (1997). See also Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411 (1989); Toni M. Massuro, *Empathy, Legal Storytelling, and the Rule of Law: New Words, Old Wounds*, 87 MICH. L. REV. 2099 (1989); Sandra C. McKenzie, *Storytelling: A Different Voice for Legal Scholarship*, 41 KAN. L. REV. 251 (1992).
- 31 FRANK STELLA, *WORKING SPACE* 141 (1986).
- 32 Hans Hofmann, *Texts and Lectures by Hans Hofmann*, in CYNTHIA GOODMAN, *HANS HOFMANN* (1990), at 163–64.
- 33 DANIEL KORNSTEIN, *THE MUSIC OF THE LAWS* 13–14 (1982).
- 34 The principles of composition are the structural relationships used to bring an artwork's formal elements together into a well-made, integrated whole or composition. Although somewhat less tangible than the formal elements of line, color, shape, and space, these structural elements nevertheless constitute an important feature of every drawing, painting, and sculpture." LARRY SMOLUCHA, *THE VISUAL ARTS COMPAN-*

ION 97 (1996). "Composition is a process—the act of composing or organizing the plastic elements of art. . . . [A]rtistic composition takes place according to aesthetic principles such as proportion and scale, unity, balance, and rhythm. When we use principles of organization such as these, beautiful works are created. . . . LOIS FICHNER-RATHUS, *UNDERSTANDING ART* (5th ed. 1998).

- 35 RANDOM HOUSE, *supra* note 4, at 276.
- 36 WEBSTER, *supra* note 4, at 236.
- 37 OED, *supra* note 4, at 733.
- 38 *Id.*
- 39 *Id.*
- 40 Recently there has been a surge of interest in "therapeutic jurisprudence," which focuses upon the connection between law and mental health, and advocates lawyering in a way that minimizes anti-therapeutic consequences and facilitates the achievement of therapeutic ones. See, e.g., Dennis P. Stolle, David B. Wexler, Bruce J. Winick & Edward A. Dauer, *Integrating Preventative Law and Therapeutic Jurisprudence: A Law and Psychology Based Approach to Lawyering*, 34 CAL. W. L. REV. 15, 18 (1997); see generally David B. Wexler, *An Introduction to Therapeutic Jurisprudence*, in DAVID B. WEXLER, *THERAPEUTIC JURISPRUDENCE: THE LAW AS A THERAPEUTIC AGENT* 3 (1990); DAVID B. WEXLER & BRUCE J. WINICK, *LAW IN A THERAPEUTIC KEY: DEVELOPMENTS IN THERAPEUTIC JURISPRUDENCE* (1996).
- 41 ARTHUR L. LIMAN, *LAWYER; A LIFE OF COUNSEL AND CONTROVERSY* 63 (1998).
- 42 *Id.* at 63–64.
- 43 Gordon B. Hinckley, *supra* note 3, at 54.
- 44 Bruce A. Ackerman, *Commencement Remarks*, YALE L. REP., Spring/Summer 1982, at 6.
- 45 *Id.*
- 46 See Ronald J. Gilson & Robert H. Mnookin, *Disputing Through Agents: Conflict and Cooperation Between Lawyers in Litigation*, 94 COLUM. L. REV. 509 (1994) (lawyer as peacemaker, advocate, client's agent, gladiator, and cooperative problem solver); Margaret Ann Wilson et al., *Mentor, Mercenary or Melding: An Empirical Inquiry Into the Role of the Lawyer*, 28 LOY. U. CHI. L.J. 373 (1996) (lawyer as counselor contrasted with lawyer as hired gun).
- 47 KARL LLEWELLYN, *THE COMMON LAW TRADITION: DECIDING APPEALS* 222 (1960).

ART CREDITS

PAGE 3

Johannes Vermeer, *Christ in the House of Martha and Mary*, National Galleries of Scotland.

PAGE 7

Johannes Vermeer, *Woman Holding a Balance*, Widener Collection, photograph © 2002 Board of Trustees, National Gallery of Art, Washington.