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Like a Glass Slipper on Step-Sister, How the One-Ring Rules Them All at Trial

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Like a Glass Slipper on a Step-Sister  
How the One-Ring Rules Them all at Trial  
by Cathren Koehlert-Page

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1 Thanks to all the professors in the Legal Writing Institute who offered ideas and encouragement regarding this article, to Professor Stefan Krieger and Clinic Fellow Reza Rezvani for their presentation, “One 8’ x 4’ Foam Board, 2000 Index Cards, and Total Immersion: Storyboarding As An Approach to Legal Storymaking,” which inspired this article and to Professor Krieger for his further thoughts on this idea, to Professors Steve Johansen, Ruth Anne Robbins, Louis Sirico, Chris Rideout, Deborah Borman, Linda Berger, Bruce Ching, and David Thomson for their insights on endowed objects in literature and at trial, to two-time National Book Award Nominee, Professor Rita Williams-Garcia for pointing out the endowed objects to me in my own fiction work, to writer Kim Winters for the use of her critical thesis on Endowed Objects, to writer Sarah Johnson for referring me to the fabulous Vermont College of Fine Arts forum thread on Endowed Objects, to published authors Varian Johnson and Debby Dahl Edwardson for their insights on endowed objects, to Writing Professor and poet, Julie Larios, who pointed me towards helpful resources, Professor Fred Jonassen who first mentioned the handkerchief in Othello to me, to Professor Jamila Jefferson-Jones for suggesting Monica Lewinsky’s blue dress, to Professor Leslie Rose who suggested the Barry Bonds baseball, to Attorney Kevin Givens for suggesting the Linbergh ladder, Professors Elizabeth Megale and Linda Coco and Dr. Carlo Pedrioli for their critiques, and to my research assistants, Kelly Sledgister, Angela Goodrum, Chris Cronin, John Gallagher, and Jonathan Sampas whose insights are often on par with law professors and fiction writers.
I. Introduction

It’s dark out. The clock ticks. Time is running out. It seemed like a good idea. But the sneak wasn’t supposed to be there. There’s no more time. *Hurry! Leave Now!* The sneak runs. A single clothing accessory slips loose. In the aftermath, searchers arrive on the scene. All of them ask the same question. Who was that person? Where did this missing person go? They comb the scene. They find the accessory. Perhaps it will lead to their missing person. So they ask questions. They develop a list of people to whom it might belong. One of them tries it on. But it doesn’t fit. Then the moment arrives. The sneak slips the accessory on. It fits. They have found the missing person, or perhaps not.

The story above could be Cinderella. Then again, it has elements of the trial of Lincoln assassination conspirator, Dr. Samuel Mudd. It has a few elements of the murder trial for O.J. Simpson, who the defense cast as Cinderella’s step-sister. These are just a few examples from

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2 See WANDA GAG, TALES FROM GRIMM (Coward, McCann & Geoghegan, 1981); HENRY W. HEWET, CINDERELLA 28 (Public Domain Books, Kindle ed. 2004).
more famous trials involving a piece of evidence that served as an “endowed object” in the trial narrative.

Material items appear in both our literature and our cases. If attorneys sift through the physical evidence, they can often find the one-ring, the glass slipper, or the holy grail. In literature, these items are known as endowed objects. Trial and appellate attorneys can use the literary concept of endowed objects to identify a key piece of physical evidence that weaves a thread of narrative continuity through the case and resonates in the mind of the judge or juror. An endowed object is a material object that reverberates with symbolic significance throughout the story. It creates narrative cohesion and, at trial, it can work well as a transition or a reminder of previous testimony. These symbols speak to the subconscious mind and evoke an emotional response. They develop a character.

An endowed object assumes an importance larger than itself through the characters who interact with it; indeed in ancient times, objects themselves could be accused of crimes. Some critics say that the object should be something that people can hold in

University Press, 1994) (comparing the glove to the handkerchief and Simpson to Othello); Kenneth Noble, June 11-17: An Ill Fitting Strategy, NEW YORK TIMES (June 18, 1995) (discussing how the gloves invoked the analogy of the step-sisters).

See, e.g., WILLIAM SHAKESPEARE, OTHHELLO (A handkerchief was key to the plot in this play); WILLIAMS-GARCIA, LIKE SISTERS ON THE HOMEFRONT, supra n. 5 at (Puffin Books 1995) (A cowrie shell featured prominently in this novel); Opening Statements of Mr. Hartzler and Mr. Jones. U.S. v. McVeigh, No. 96-CR-68 (D.Colo. trans. 1997), available at 1997 WL 198070 (In the trial of convicted Oklahoma bomber, Timothy McVeigh, a t-shirt figured prominently in the prosecution’s case); Closing arguments by Mr. Scheck and Mr. Cochran, PEOPLE v. SIMPSON, No. BA097211 (Cal. Super. Ct. 1995), available in 1995 WL 697930 (In the trial of acquitted murderer, Orenthal James Simpson, an ill-fitting leather glove helped to undo the prosecution’s case and resulted in the famous saying, “If it doesn’t fit, you must acquit.”)

6 Rita Williams-Garcia, Professor, Vermont College of Fine Arts, Lecture: Objects, Artifacts, and Stuff (Winter 2011) (This lecture discusses endowed objects); Kim Winters, The Things Stories Carry: How a Rope, a Loop of Red Thread, a Song-less Canary, and Other Collected Objects Can Reveal the Heart of a Story (Fall 2004) (unpublished critical thesis, Vermont College) (on file with author) (The concept of an endowed object is central to this thesis).

See Williams-Garcia, supra n.6 and Winters supra n.6

8 See Section VII infra on endowed objects and story structure.

9 See Section VII infra on endowed objects and story structure.


11 See Parts V-VII, infra.

12 See Williams-Garcia, supra n.6 and Winters supra n.6.

their hands and that the object should be touched or invoked three times to be endowed.\footnote{14}{See Liza Ketchum, Professor Vermont College of Fine Arts, Summer Residency, An Object Lesson (July 2001)(stating that the object should be touched three times and can be held in a person’s hand); Carol Bly, The Passionate, Accurate Story 159-162 (Milkweed Editions 1998)(discussing using “fascinating props” three times in a story); cf Winters, supra n.6 (contemplating objects that need not be held in one’s hands); John Gardner, supra n. 10 at 182-183 (explaining that repeated images accrue greater psychological and symbolic impact).}

Finally, although endowed objects are always symbolic\footnote{15}{James Parry Eyster, Lawyer as Artist: Using Significant Moments and Obtuse Objects to Enhance Advocacy, 14 Legal Writing: The Journal of the Legal Writing Institute 87 (2008); Williams-Garcia, supra n. 6; and Winters supra n.6.}, they are not always magical.\footnote{16}{See generally Williams-Garcia, supra n. 6(describing endowed objects and mentioning several non-magical objects such as a jar full of sand).} Trial attorneys who learn to recognize endowed objects and their traits can invoke their power at trial.

Endowed objects have been persuasive symbols in famous trials as well although the attorneys trying the case may not have realized they were creating endowed objects.\footnote{17}{See, e.g., Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 (The t-shirt in this trial is discussed in detail in Section VII infra on endowed objects and story structure); (The leather glove in this trial is discussed in detail in Subsection IX(B) infra on endowed objects turned against the proponent at trial).}

In well-known trial narratives, endowed objects include the blue dress in the Bill Clinton impeachment hearings, the Lindbergh ladder, and the glove in the O.J. Simpson murder trial.\footnote{18}{See Closing arguments by Mr. Scheck and Mr. Cochran, supra n. 5 (Orenthal Simpson’s glove); http://law2.umkc.edu/faculty/projects/ftrials/clinton/lewinskydress.html (June 21, 2012)(Monica Lewinsky’s blue dress in the President Clinton investigation); http://law2.umkc.edu/faculty/projects/ftrials/clinton/clintontrialaccount.html (June 21, 2012)(the President Clinton investigation and impeachment trial).}

These endowed objects that will naturally weave their way into a trial narrative.\footnote{19}{See Eyster, supra n. 15 at 107-108 (discussing examples of subconscious use of obtuse objects); Williams-Garcia, supra n. 6.}

By developing awareness of them, lawyers can “edit” their trial narrative to invoke the persuasive power of these objects.\footnote{20}{Cf Eyster, supra n. 15 at 95, 121 (discussing how to expose verbal images and advising lawyers to take care when using these images); see also Part IV on Process infra.}

In so doing, lawyers must link the evidence to the theory of the case and ensure that the object is relevant.\footnote{21}{Cf. Eyster, supra n. 15 at 121 (encouraging lawyers to take care with objects); Michael Smith, Advanced Legal Writing 240-242 (Aspen 2008)(explaining that metaphor should be consistent with the legal theme); see also Part IV on Process infra.}

Further, attorneys make sure that the same evidence cannot be turned against them. If the prosecution in the O.J. Simpson case had taken notes from Othello, they might have seen how the handkerchief was turned against its proponent, Iago. Instead, the leather glove in the O.J. Simpson case was similarly turned against the prosecution.\footnote{22}{See Peterson, supra n. at 790 (comparing the glove to the handkerchief and Simpson to Othello); Heinzelman, supra n.4 at 202 (comparing the glove to the handkerchief and Simpson to Othello).}

My article will present the literary concept of endowed objects, provide examples of endowed objects in literature, provide examples of endowed objects in trials, and then discuss how attorneys can identify and use evidence to create an endowed object. Part Two of this article

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See Liza Ketchum, Professor Vermont College of Fine Arts, Summer Residency, An Object Lesson (July 2001)(stating that the object should be touched three times and can be held in a person’s hand); Carol Bly, The Passionate, Accurate Story 159-162 (Milkweed Editions 1998)(discussing using “fascinating props” three times in a story); cf Winters, supra n.6 (contemplating objects that need not be held in one’s hands); John Gardner, supra n. 10 at 182-183 (explaining that repeated images accrue greater psychological and symbolic impact).

James Parry Eyster, Lawyer as Artist: Using Significant Moments and Obtuse Objects to Enhance Advocacy, 14 Legal Writing: The Journal of the Legal Writing Institute 87 (2008); Williams-Garcia, supra n. 6; and Winters supra n.6.

See generally Williams-Garcia, supra n. 6(describing endowed objects and mentioning several non-magical objects such as a jar full of sand).

See, e.g., Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 (The t-shirt in this trial is discussed in detail in Section VII infra on endowed objects and story structure); (The leather glove in this trial is discussed in detail in Subsection IX(B) infra on endowed objects turned against the proponent at trial).

See Closing arguments by Mr. Scheck and Mr. Cochran, supra n. 5 (Orenthal Simpson’s glove); http://law2.umkc.edu/faculty/projects/ftrials/clinton/lewinskydress.html (June 21, 2012)(Monica Lewinsky’s blue dress in the President Clinton investigation); http://law2.umkc.edu/faculty/projects/ftrials/clinton/clintontrialaccount.html (June 21, 2012)(the President Clinton investigation and impeachment trial).

See Eyster, supra n. 15 at 107-108 (discussing examples of subconscious use of obtuse objects); Williams-Garcia, supra n. 6.

Cf. Eyster, supra n. 15 at 95, 121 (discussing how to expose verbal images and advising lawyers to take care when using these images); see also Part IV on Process infra.

Cf. Eyster, supra n. 15 at 121 (encouraging lawyers to take care with objects); Michael Smith, Advanced Legal Writing 240-242 (Aspen 2008)(explaining that metaphor should be consistent with the legal theme); see also Part IV on Process infra.

See Peterson, supra n. at 790 (comparing the glove to the handkerchief and Simpson to Othello); Heinzelman, supra n.4 at 202 (comparing the glove to the handkerchief and Simpson to Othello).
explains why endowed objects are useful at trial. Part Three Defines endowed objects and explains the similarities and differences between endowed objects and other symbols and illustrates the use of both in fiction and at trial. Part Four describes the process of endowing an object in both fiction narratives and legal narratives. Part Five discusses how endowed objects can develop theme in fiction and theory of the case at trial. Part Six discusses how endowed objects can create a structural through-line in story structure in fiction and litigation. Part Seven discusses how endowed objects can develop character in both fiction and litigation. Part Eight gives examples of endowed objects turned against their proponent in fiction and at trial. Part Nine discusses the ethical issues surrounding endowed objects in litigation.

II. Reasons for Using Endowed Objects

A single item can help to build a story’s structure, theme, character, and emotion. In fact, I first got the idea for this article while thinking of a way to create narrative cohesion in the trial story, which is told witness by witness rather than chronologically. I was attending the Applied Legal Storytelling conference in Denver at Sturm College of Law. Professor Stefan Krieger and Clinic Fellow Reza Rezvani were presenting their project involving using movie storyboarding techniques to plan a trial and create a good trial narrative. Professor Hugo De Rijke from the University of Plymouth, England asked, “Given that trial proceeds witness by witness, how do you divide the story into acts?”

Professor Krieger explained that each witness will have his or her own acts one through three and that those will fit into the larger whole. I started thinking that it would be nice to have some symbolic means of jogging the judge or jury’s memory of the previous Act One when a new witness returns to Act One again. That’s when I remembered all of the Vermont College MFA Program discussions about endowed objects. An endowed object can trigger the memory of a previous portion of the story in a deep and emotive way. Moreover, the object often works overtime to provide readers with a host of information.

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23 See Williams-Garcia, supra n.6 and Winters, supra n.6.
24 See generally Applied Legal Storytelling Conference (July 8, 2011) http://www.law.du.edu/index.php/storytelling-conference (Narrative structure at trial was discussed during this conference).
25 See Id.
27 Id.
28 Id.
29 See, e.g., Williams-Garcia, supra n.6 and Winters supra n.6.
30 Id.
A. In Fiction

National Book Award nominee and Coretta Scott King Award winning author, Rita Williams-Garcia explains that an object can reveal character and evoke a multitude of senses in a way that a string of words cannot.\(^{31}\) For instance, she notes that readers instantly get a different sense of a character’s step father depending on whether he arrives in a hybrid van or a corvette.\(^{32}\) If the step-father then hands the protagonist a chocolate shake that she proceeds to drink, readers sense “cold,” “chocolate smell,” “chocolate taste,” and “creaminess.”\(^{33}\) But these objects evoke more than just the senses; they evoke emotions.\(^{34}\) In fact, the objects may communicate the emotions better than most characters who are not self-aware enough to identify and verbalize their own emotional state.\(^{35}\) Despite this lack of awareness, readers require some sense of a character’s emotions, or they will get frustrated and turn away from the story.\(^{36}\) Novelist Kim Winters writes, “Clues are needed to entice and hook a reader—concrete clues that hint at the story’s heart.”\(^{37}\) A concrete item in the character’s objective world can correlate to his or her subjective state.\(^{38}\) The reader need not be aware of the symbolic meaning for these concrete items to resonate.\(^{39}\) But nonetheless, these objects are essential to hooking and holding readers.\(^{40}\)

This idea of an object as an emotionally resonate symbol has roots in other disciplines as well, and some believe that these objects connect to the dream brains and remain fairly universal.\(^{41}\) Psychologists have a similar, yet more expansive, concept referred to as a totem.\(^{42}\) Anthropologists have a related concept known as a “fetish,”\(^{43}\) which differs from the notion of “fetish” as a sexual obsession. Moreover, Psychoanalysts Carl Jung and Sigmund Freud believed that some images serve as symbols.\(^{44}\) Interestingly, the history of Jung’s study makes

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\(^{31}\) Id.

\(^{32}\) See Id.

\(^{33}\) Id.

\(^{34}\) Id.

\(^{35}\) See Winters, supra n. 6 at 11; see also, T.S. Eliot, *Hamlet and His Problems*, SACRED WOOD, ESSAYS ON POETRY AND CRITICISM (Bartlbys 2000).

\(^{36}\) See Winters supra n. 6 at 11 and T.S. Eliot supra n. 35.

\(^{37}\) See Winters supra n. 6 at 11; see also T.S. Eliot supra n. 35.

\(^{38}\) See Winters supra n. 6 at 11-12 and T.S. Eliot supra n. 35.


\(^{40}\) See Winters, supra n.6 at 11-12 and T.S. Eliot supra n. 35.

\(^{41}\) See JUNG, supra n. 39 at 301, 314, 318-319 (discussing the dream brain and symbolism).

\(^{42}\) See SIGMUND FREUD, TOTEM AND TABOO 6-7 (Digireads.com Publishing, Kindle Ed. 2009)(including animals and plants as well as objects).


\(^{44}\) JUNG, supra n. 39 at 301, 318-319; SIGMUND FREUD, DREAM PSYCHOLOGY PSYCHOANALYSIS FOR BEGINNERS 23, 42, 44 (Public Domain Books, Kindle Ed. 2009); Eyster, supra n. 15 at 107 (discussing Carl Jung’s theories regarding symbolism); Jacques de Ville, *Mythology and the Images of Justice*, 23 L. & Lit. 324, 327-28 (2011)(discussing Freud and symbolism); see DANIEL KAHNEMAN, THINKING, FAST AND SLOW 56 (Macmillan
an ouroboros\textsuperscript{45} of the study of symbols in life and literature. First there was life. Then there was
story—Greek story, tribal story, modern story. Then Jung studied life and in so doing, he studied these stories.\textsuperscript{46} Jung thought that the symbolic images in myth derive from “the
collective unconscious.”\textsuperscript{47} After Jung, Joseph Campbell studied Jung and myth.\textsuperscript{48} And then
Campbell.\textsuperscript{49} All the while, life continued and story continued, and objects weaved their way into
both. At times these objects were objects, like cigars were sometimes just cigars.\textsuperscript{50} And at times
they were symbols.\textsuperscript{51} Although Jung contends that people cannot completely decipher these
symbols because the conscious mind cannot access subconscious mind, he still contends that the
object immerses us in “‘the deepest springs of life.’”\textsuperscript{52} While Jung’s idea of a collective
unconscious is intriguing, a person need not believe in the idea to know that a story made
him or her laugh at one point and cry at another. From there, one can pinpoint what triggered the
laughing or crying, and at its root there may sometimes be an object. If it is a very popular story
or one lauded by the critics, then often there may be a consensus that some object evoked
emotion in the story and swayed the reader.

One such story is the Coretta Scott-King Honor novel, Like Sisters on the Homefront; in the
book, the family’s cowrie shells symbolize Gayle’s realization that her connection to her family
is what makes her life special; indeed, this statement itself does not convey the weight of that
connection the way that the story and its symbols do.\textsuperscript{53} In the book, teenaged Gayle already has
one baby, Emmanuel.\textsuperscript{54} After Gayle’s mother coerces her into aborting her second pregnancy,
she sends Gayle to live with relatives in the South.\textsuperscript{55} Gayle resents having to leave New York.\textsuperscript{56}
Initially, Gayle’s church-going Southern relatives stand between her and Troy, the man who

\begin{footnotes}
\footnote{An ouroboros is a snake or dragon eating its own tail. It is featured in the work of M.C. Escher and is also a
populat tattoo. See, e.g., Artist’s Market, The Works of M.C. Escher,
\footnote{See CAMPBELL, supra n. 10 at 18-19 n. 18; see also, e.g., JUNG, supra n. 39 at 301, 314 (discussing plays and poems
in his explanation of psychology).}
\footnote{JUNG, supra n. 39 at 301, 318-319; Eyster, supra n. 15 at 107 (discussing Carl Jung).}
\footnote{M. Wiese Productions 1998.}
\footnote{http://quoteinvestigator.com/2011/08/12/just-a-cigar (last visited June 21, 2012). (Reportedly, Sigmund Freud said that “sometimes a cigar is just a cigar,” but the veracity of the quotes’ origin is doubtful.).}
\footnote{See WILLIAMS-GARCIA, supra n.5.}
\end{footnotes}
impregnated her.\textsuperscript{57} She writes to Troy, and longs for his attention to make her special in some way.\textsuperscript{58}

Gayle responds accordingly when her religious Cousin Cookie explains their great-grandmother, “Great,” must do her “telling” to one special person just before she dies.\textsuperscript{59} Cookie explains,

“It’s like talking to our ancestors. . . . Cousin our past is in the Telling. Yours too.”

“Zat all? I’ll save yawl the trouble. Once we was slaves then we got free, ran the white folks out the big house and took over— teach them who not to mess with. End of story.”\textsuperscript{60}

In keeping with this cynical attitude, Gayle searches Great’s closet for money to use to return to New York.\textsuperscript{61} But a seed of the family connection forms when,

. . . she found a handkerchief with cotton seeds woven into its fabric. When she untied it all she found was a tiny cowrie shell, the kind that the ‘Back to Africa’ girls string in their dreadlocks. She rolled it between her finger and her thumb, wondering what made the shell so precious. She knotted the handkerchief as she found it and put it back in the box. . . . Nothing.\textsuperscript{62}

Resigned to her lack of funds, Gayle spends time with her cousin Connie, and Connie confides in Gayle about her crush on Stacey Alexander.\textsuperscript{63} Gayle teaches Connie to flirt.\textsuperscript{64}

Meanwhile, Gayle cares for the infirm Great.\textsuperscript{65} As the story draws near the end, Gayle helps Great into her rocker just before the scene quoted below.\textsuperscript{66}

Great was saying something, but what? Her lips moved, but no sound came out.

‘What’s that, Miss Great?’

‘. . . It came from Mbeke, torn from her sister, Who told her child Mahalia, Who stole the paper with Mbeke’s slave price. . . .’

‘Stop that, Miss Great. You Tellin ain’t you?’

\textsuperscript{57} Id. at 17-20, 62.
\textsuperscript{58} Id. at 17-20, 62.
\textsuperscript{59} Id. at 75.
\textsuperscript{60} See WILLIAMS-GARCIA, supra n.5 at 75-76.
\textsuperscript{61} Id. at 86.
\textsuperscript{62} Id. at 87.
\textsuperscript{63} Id. at 98.
\textsuperscript{64} Id. at 101, 111-113.
\textsuperscript{65} Id. at 145-151.
\textsuperscript{66} Id. at 151-152.
‘It came from Mbeke, torn from her sister. . . .’

Gayle covered her ears. “I ain’t listening.”

‘What ‘they’ calls the Cotton Song be Calling Up Song. Women sing, pick cotton, call up children from long gone away, call up kinfolk from long gone away.’

‘Mbeke sang the Calling Up with her baby, Mahalia, ’lonside her, sang how they was gals in the homeland gathering cow shells by the water—’

She knew! She knew! ‘That shell tied up there in the hanky?’

But Great could not be stopped. ‘—she sang ’bout getting kotched off the land, thrown into the whale’s belly. . . .When the whale spit them out onto the land, Mbeke got torn from her sister. But Mbeke kept one cow shell in her fist and her sister kept the other. 67

The shell that Gayle once called “nothing” now bears significance.

Great continues her telling of each generation through the ages.68 She tells of a freed ancestor and Civil Rights, and then eventually,

. . .baby girl Gayle Ann blessed with Emmanuel . . .And time . . .time pass . . .es turns . . .Emanuel . . .will deliver us. . .

She fought to Tell it one last time. Her lips moved, but she was as voiceless as when she began. Finally her lips closed.69

I sobbed when I first read this portion of the book. Gayle, however, does not.70 She chants over and over to hold onto the family history.71

As the book winds to a close, Gayle places her baby in his crib.72

He made such a picture. Him. The quilt. The squares in the corners. Two shells. The opened gate. The cotton that looked like clouds. The stump.

She let out a gasp. As many times as [Emmanuel] had wet that thing up! Didn’t Cookie know that quilt belonged to the family?73

67 Id. at 153-154.
68 Id. 154.
69 Id. at 154-155.
70 Id. at 155.
71 Id.
72 Id. at 159.
73 Id.
However, the once religious Cookie is not interested in the quilt and does not understand the significance of the shells in the same way that Gayle does. Instead, Cookie wants Gayle to cover for her while she sneaks out to meet Stacie late at night. Gayle once would have done the same thing herself. But now she refuses, and tries to block Cookie’s way. Gayle tells Cookie,

“Let me save you.”

“ ‘Who,’ ” Cookie sniffled, gonna save you, Cuz?”

“ ‘Yawl,’ Gayle sobbed. ‘All yawl.’ ”

The story would not have the same emotional weight if Williams-Garcia had simply written,

Gayle really grew to love her great-grandmother after her struggles with her family. She was so sad when her great-grandmother died. But she finally understood all the family’s struggles and how sticking together was important.

Instead, the cowrie shells convey all the history that the family brought from Africa. They illustrate survivorship and show Gayle how she is part of a bigger story, the Telling. Instead, the cowrie shells convey all the history that the family brought from Africa. They illustrate survivorship and show Gayle how she is part of a bigger story, the Telling. They show the bond between the two sisters torn apart. The shell links the family and shows they will save one another no matter what harm comes their way. These things make Gayle special and important, not the loser guy who got her pregnant and left her.

B. In Law

Objects can similarly convey these kinds of subtle psychological messages in a trial narrative. Professor James Eyster advises that attorneys follow “the path blazed by Jung and Campbell” and discover objects in the client’s story that act as a talisman guarding the client through the

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74 Id. at 159.
75 Id. at 160.
76 Id. at 160-163.
77 Id. at 164.
78 Id.
79 See Id. at 153-154.
80 See Id.
81 See Id.
82 See Id. at 1-165.
83 See Ruth Anne Robbins, Harry Potter, Ruby Slippers and Merlin: Telling the Client’s Story Using the Characters and Paradigm of the Archetypal Hero’s Journey, 29 SEATTLE U. L. REV. 767, 769 (2006)(explaining that the fact-finder already has an experience base and that the metaphor is effective because it draws on that experience base); Bruce Ching, Argument, Analogy, and Audience: Using Persuasive Comparisons While Avoiding Unintended Effects, 7 J. ASS’N LEGAL WRITING DIRECTORS 311, 312 (2010). (“A well-chosen analogy accomplishes much of the work of persuasion for the advocate, because the analogy implicitly provides background information that the advocate does not have to spend time explaining.”); Berger, supra n. 10 at 277(discussing how story and metaphor have played a role in thinking, persuasion, and reasoning since Aristotle).
journey. While Eyster focuses on “obtuse objects,” which are described in more detail in Subsection III (A)(4), an object might not need to be obtuse to be endowed or to perform a role in the trial narrative. Just as the endowed object can convey a theme in a fiction and evoke emotion, it can also convey the theory of the case and evoke emotion if used wisely. For instance, the trapdoor admitted into evidence in the trial of convicted murderer, John Wayne Gacy’s house telegraphed the mass grave scene and both the victims’ and the defendant’s state of mind. This trap door led to the crawl space where Gacy took his victims. The trap door conveys messages about Gacy and his victims that mere testimony could not. Being the entry to a secret mass grave, the trap door opens to the past to remind us of death and of the terror that each victim must have felt at the end. But the door also tells Gacy’s story. The effort that Gacy expended getting people to dig the crawl space and install the trap door shows that Gacy not only premeditated the murders but that he went to great lengths to murder people. Moreover, the door reveals his lack of remorse. Gacy could shove his victims through the trap door and leave them buried and forgotten deep in the ground. Finally, the fact that he chose a mass grave shows how he defiled his victims.

In the sections below on theory of the case, structure, and character, I discuss in greater detail how an object can be used to convey each of these things.

III. Explanation and Definition of Endowed Objects

An endowed object is a special kind of symbol that has concrete and lasting persuasive power. When I first started working on this article and seeking examples, people offered up many symbols and bits of scenery. Many of these symbols were useful and could work overtime in fiction narratives and legal narratives to convey emotion or establish character. But not every

84 Eyster, supra n. 15 at 108; see also Robbins, supra. n. 83.
85 See TERRY SULLIVAN WITH PETER T. MAIKEN, KILLER CLOWN: THE JOHN WAYNE GACY MURDERS 311, 316, 332, 346, 360 (2d ed. 1993) (mentioning the burial site, the trap-door, and the digging involved in constructing the space).
87 See SULLIVAN AND MAIKEN, supra n. 85 at 308, 311-312, 332, 346, 360 (discussing all of the digging efforts and Gacy’s own acknowledgement that it demonstrated premeditation); AMIRANTE AND BRODERICK, supra n. 86 at 34-136 (discussing how Gacy shoved his victim in the trap door).
88 SULLIVAN AND MAIKEN, supra n. 85 at 311, 316 (mentioning the mass grave).
89 Id. at 308, 311-312, 332, 346, 360 (2d ed. 1993) (discussing all of the digging efforts and Gacy’s own acknowledgement that it demonstrated premeditation).
90 Id. at 308, 311-312, 332, 346, 360 (2d ed. 1993) (discussing all of the digging efforts and Gacy’s own acknowledgement that it demonstrated premeditation).
91 See AMIRANTE AND BRODERICK, supra n. 86 at 134-136 (discussing how Gacy shoved his victim in the trap door).
92 See Id. (discussing how Gacy shoved his victim in the trap door).
93 SULLIVAN AND MAIKEN, supra n. 85 at 311, 316 (mentioning the mass grave).
94 See Robbins, supra n. 83 at 769 (explaining that the fact-finder already has an experience base and that the metaphor is effective because it draws on that experience base); Ching, supra n. 83 at 312. ("A well-chosen analogy accomplishes much of the work of persuasion for the advocate, because the analogy implicitly provides
symbol or bit of back-drop is an endowed object. A symbol, a metaphor, a metonym, or an obtuse object may also be an endowed object, but these things are not always endowed objects. Similarly, an endowed object may be a prop, but the entire scene is not an endowed object. Endowed objects are single items that play a greater role in the story, and they are concrete items that a people can hold in their hands. Below endowed objects are contrasted and compared to other symbols, to metaphors, to metonyms, to objective correlative, and to obtuse objects, all of which are defined and explained below.

A. Endowed Objects as Categories of Symbols

The contrast between endowed objects and other symbols illuminates the unique characteristics of endowed objects. An endowed object is just one category of symbols used in narrative. Penguin reference defines a symbol as an object, a gesture, image, or concept that represents something else. An endowed object is a symbol, but it falls within the object category of symbols. It is also a particular type of object symbol. It has meaning beyond its own physical properties; rather the object is given meaning by the way it has been used in the story, the emotions attached to the object, and the manner in which it may symbolically stand for something other than itself.

Some other categories of symbols include objective correlative, metonym, metaphor, and obtuse object. The difference and overlap between endowed objects and these other symbols is examined below.

1. The Difference Between General Metaphors and Endowed Objects

background information that the advocate does not have to spend time explaining.”); Berger, supra n. 10 at 277 (discussing how story and metaphor have played a role in thinking, persuasion, and reasoning since Aristotle).

95 See Ketchum, supra n. 14 (stating that the object should be touched three times and can be held in a person’s hand); Bly, supra n. 14 at 159-162 (discussing using “fascinating props” three times in a story); cf Winters, supra n.6 (contemplating objects that need not be held in one’s hands); GARDNER, supra n. 10 at 182-183 (explaining that repeated images accrue greater psychological and symbolic impact).

96 Compare Williams-Garcia, supra n.6 (discussing endowed objects and their characteristics) with J.A. CUDDON, DICTIONARY OF LITERARY TERMS AND LITERARY THEORY 884-888 (Penguin Reference)(defining symbols).

97 CUDDON, supra n. 96 at 884-888.

98 Compare Williams-Garcia, supra n.6 (discussing endowed objects and their characteristics) with CUDDON, supra n. 96 at 884-888 (defining symbols).

99 Compare Williams-Garcia, supra n. 6 (discussing endowed objects and their characteristics) with CUDDON, supra n. 96 at 884-888 (defining symbols).

100 Compare Williams-Garcia, supra n.6 (discussing endowed objects and their characteristics) with CUDDON, supra n. 96 at 884-888 (defining symbols).

101 See Eyster, supra n. 15 at 100-113.
Although an endowed object can be a metaphor,\(^\text{102}\) it has greater power at trial than the ordinary metaphor in that it’s a physical item that a judge or juror can see and touch. As a result, the object connects these fact-finders to the story, making it seem more real. In contrast, the ordinary metaphor may seem more ephemeral. Generally, a metaphor is “a figure of speech in which one thing is described in terms of another.”\(^\text{103}\) Moreover, with respect to categorization sometimes endowed objects are metonyms instead of metaphors.\(^\text{104}\)

When an endowed object represents something other than what it is, then it is a metaphor.\(^\text{105}\) In contrast, when it is a piece of a person or thing and represents that person or thing, it might be categorized as a metonym rather than a metaphor.\(^\text{106}\) The lines between these two concepts are blurry. Metonyms and their differences from metaphor are discussed in greater detail in the next section. In any event, a metaphor is an endowed object only when it is a single physical object, and even then, it must share all of the other characteristics of endowed objects.\(^\text{107}\) Thus, the cowrie shell above from *Like Sisters on the Homefront* is a metaphor, and it can be held in a person’s hand.\(^\text{108}\) It is an endowed object.

But a narrative can include a metaphor that still triggers emotion and memory even though the metaphor is not an endowed object.\(^\text{109}\) For instance, the Chestnut Tree song in 1984 is a metaphor for how Winston and Julia betray one another.\(^\text{110}\) It jogs the readers’ memory, links an early scene with a later one,\(^\text{111}\) and may make the reader cry; at least it made this reader cry. In the book, Winston lives in a dystopian world with a totalitarian government that crushes “thoughtcrime,” thoughts that could threaten social structure.\(^\text{112}\) Winston is an ordinary worker with an intense phobia of rats.\(^\text{113}\) But he is fascinated with former counterrevolutionaries, Jones, Aaronson, and Rutherford.\(^\text{114}\) He visits the cafe where they congregated, the Chestnut Tree.\(^\text{115}\) In that cafe, the “telescreens” play a song.

Under the spreading chestnut tree

\(^{102}\) Compare Williams-Garcia, *supra* n.6 (discussing endowed objects and their characteristics) with Cuddon, *supra* n. 96 at 884-888 (defining symbols).

\(^{103}\) Cuddon, *supra* n. 96.

\(^{104}\) Compare Williams-Garcia, *supra* n.6 at with Cuddon, *supra* n. 96 at 507 (defining metonyms).

\(^{105}\) Compare Williams-Garcia, *supra* n.6 with Cuddon, *supra* n. 96 at 507 (defining metaphors).

\(^{106}\) Compare Williams-Garcia, *supra* n.6 with Cuddon, *supra* n. 96 at 507 (Penguin Reference 1998)(defining metonyms and metaphors).

\(^{107}\) Compare Williams-Garcia, *supra* n.6 with Cuddon, *supra* n. 96 at 507 (defining metaphors).

\(^{108}\) Compare Williams-Garcia, *supra* n.6 at 87, 153-154 with Cuddon, *supra* n. 96 at 507 (defining metaphors).

\(^{109}\) See generally Robbins, *supra* n. 83 at 769 (explaining that the fact-finder already has an experience base and that the metaphor is effective because it draws on that experience base); Ching, *supra* n. 83 at 312. (“A well-chosen analogy accomplishes much of the work of persuasion for the advocate, because the analogy implicitly provides background information that the advocate does not have to spend time explaining.”); Berger, *supra* n. 10 at 277(discussing how story and metaphor have played a role in thinking, persuasion, and reasoning since Aristotle).

\(^{110}\) George Orwell, 1984 172,177, 629 (Houghton Mifflin Harcourt, Kindle Ed. 2008).

\(^{111}\) Id. at 172, 177, 629.

\(^{112}\) Id. at 1-637.

\(^{113}\) Id. at 316-318.

\(^{114}\) See id. at 172.

\(^{115}\) Id. at 177.
I sold you and you sold me:  
There lie they, and here lie we  
Under the spreading chestnut tree.\textsuperscript{116}

As the song played, Winston noticed tears in Rutherford’s eyes.\textsuperscript{117} But he does not understand the full significance of those tears or heed the warning behind them.\textsuperscript{118}

Later, Winston himself becomes a dissident and engages in an affair with a woman named Julia.\textsuperscript{119} Soon the thought police arrest Winston and Julia.\textsuperscript{120} The thought police agent, O’Brien, tortures Winston and Julia with their greatest fears.\textsuperscript{121} O’Brien threatens to place a mask with a cage full of rats on Winston’s face.\textsuperscript{122} O’Brien details what will happen.\textsuperscript{123} He shows Winston the rats.\textsuperscript{124} Then he approaches Winston with the mask.\textsuperscript{125}

Winston shouts, “Do it to Julia! Do it to Julia! Not me! Julia! I don't care what you do to her. Tear her face off, strip her to the bones. Not me! Julia! Not me!”\textsuperscript{126}

He betrays Julia, and she betrays him.\textsuperscript{127}

At the end, Winston returns to the Chestnut Tree again and hears the song play.\textsuperscript{128} Winston’s eyes welled up with tears just as Rutherford’s once did.\textsuperscript{129}

The song has new meaning for Winston and for the reader.\textsuperscript{130} Winston sold Julia.\textsuperscript{131} Love was not enough.\textsuperscript{132} Big Brother has broken him, and he has given up dissidence and rebellion.\textsuperscript{133}

I cried the first time I read this scene, that’s part of the power of metaphor.

However, the cafe and even the song are not endowed objects because they are not things that a character can hold in his or her hand.\textsuperscript{134} General metaphors might still be useful at trial in some

\textsuperscript{116} Id.  
\textsuperscript{117} Id.  
\textsuperscript{118} Id. at 177-629.  
\textsuperscript{119} Id. at 266-629.  
\textsuperscript{120} Id. 486, 513.  
\textsuperscript{121} Id. at 608-613, 625.  
\textsuperscript{122} Id. at 608-613.  
\textsuperscript{123} Id.  
\textsuperscript{124} Id.  
\textsuperscript{125} Id. at 612-613.  
\textsuperscript{126} Id. at 614.  
\textsuperscript{127} See Id. at 625, 4429.  
\textsuperscript{128} Id. at 629.  
\textsuperscript{129} Id. at 629.  
\textsuperscript{130} Id.  
\textsuperscript{131} See Id. at 625, 629.  
\textsuperscript{132} Id.  
\textsuperscript{133} Id.  
\textsuperscript{134} See Williams-Garcia, supra n.6 (describing endowed objects); see also Ketchum, supra n. 14 (stating that the object should be touched three times and can be held in a person’s hand); BLY, supra n. 14 at 159-162 (discussing
instances.135 All metaphors speak to our dream brains, to that subconscious place where we make a thousand connections and conclusions without even realizing it.136 But endowed objects are particularly powerful metaphors because characters in a story can interact with them.137

Moreover, weaving an endowed object narrative around a key piece of physical evidence at trial can be useful because jurors can see the object. The past is ephemeral just as the Chestnut Tree song is ephemeral. But an object is tangible. It connects judges and jurors back to an elusive past and anchors it in today. For instance, John Wilkes Booth’s boot made it more probable that Dr. Samuel Mudd conspired with Booth to assassinate President Abraham Lincoln.138 Dr. Mudd denied being a co-conspirator and denied knowing John Wilkes Booth.139 However, when the military investigator tracking Booth came to search Dr. Mudd’s house, Mudd’s wife gave him Booth’s boot.140 The boot was inscribed with the name “J. Wilkes.”141 Just as Cinderella left her slipper, Booth left his boot.142 The boot represents Booth and proved that Mudd knew Booth and had aided him as he fled the scene of the murder.143 Dr. Mudd was convicted and sent to Dry Tortugas.144

The boot shows that it was more likely than not that Mudd not only knew Booth but also provided him medical aid when Booth was fleeing the authorities after murdering Lincoln.145 Given that Mudd did not turn in Booth, a suspect accused of killing the president, the boot further tends to prove a conspiracy.146 Thus the object with its probative and symbolic power is more tangible than Winston’s song.147

135 See Robbins, supra n. 83 at 769 (explaining that the fact-finder already has an experience base and that the metaphor is effective because it draws on that experience base); Ching, supra n. 83 at 312. (“A well-chosen analogy accomplishes much of the work of persuasion for the advocate, because the analogy implicitly provides background information that the advocate does not have to spend time explaining.”); Berger, supra n. 10 at 277 (discussing how story and metaphor have played a role in thinking, persuasion, and reasoning since Aristotle).
136 See Robbins, supra n. 83 at 769 (explaining that the fact-finder already has an experience base and that the metaphor is effective because it draws on that experience base); Ching, supra n. 83 at 312. (“A well-chosen analogy accomplishes much of the work of persuasion for the advocate, because the analogy implicitly provides background information that the advocate does not have to spend time explaining.”); Berger, supra n. 10 at 277 (discussing how story and metaphor have played a role in thinking, persuasion, and reasoning since Aristotle).
137 See generally Williams-Garcia, supra n.6 (discussing endowed objects and their characteristics).
138 Aitken, supra n. 3 at 53.
139 See Williams, supra n. 3 at 263.
140 Aitken, supra n. 3 at 53.
141 Aitken, supra n. 3 at 53.
142 Compare GAG, supra n. 2 with Aitken, supra n. 3 at 53.
143 See Aitken, supra n. 3 at 53 (discussing the boot and the conviction).
144 Aitken, supra n. 3 at 55.
145 See Aitken, supra n. 3 at 53-55; see also Williams, supra n. 3 at, 263; University of Missouri-Kansas City School of Law, Famous American Trials, The Lincoln Assassination Conspiracy, Dr. Samuel A. Mudd, http://law2.umkc.edu/faculty/projects/ftpfrials/lincolnconspiracy/mudd.html (last accessed July 3, 2012).
146 See Aitken, supra n. 3 at 53-55; see also Williams, supra n. 3 at, 263; University of Missouri-Kansas City School of Law, Famous American Trials, The Lincoln Assassination Conspiracy, Dr. Samuel A. Mudd, http://law2.umkc.edu/faculty/projects/ftpfrials/lincolnconspiracy/mudd.html (last accessed July 3, 2012).
147 Compare Orwell, supra n.110 at 625 with Aitken, supra n. 3 at 53.
2. The Difference Between Metonyms and Endowed Objects

Just as an endowed object differs from the ordinary metaphor, it differs from the ordinary metonyms. An endowed object can be a metonym. However, not all endowed objects are metonyms. A metonym is a name or a single attribute of a thing that stands for the entire thing; the part represents the whole. For instance, “the Crown” stands for the monarchy. A mere reference to the “the Crown” or “the bench” is not an endowed object. Moreover, those references will not have the same impact at trial as an object that fact-finders can see and hold.

a. Endowed Object Metonyms in Fiction

Where a metonym becomes endowed, the lines between metonyms and metaphors might be blurry. The object stands in not just for a character but for the theme, for so many emotions, and for so many relationships.

However, some might distinguish metonyms from metaphors since a metaphor is a whole thing that represents another separate whole thing. For instance, in Ernest Hemingway’s *A Moveable Feast*, the pilot fish that clears the way for other fish might be said to be a metaphor that represents Hemingway himself who explored, wrote of his explorations, and cleared the way for others. The pilot fish is not a part of Hemingway in the way that a metonym can be a part of a person.

In contrast, Ysa’s skirt in the novel *Every Time a Rainbow Dies* is both an endowed object and a metonym. And it works overtime in the novel. In the book, the protagonist, Thulani, finds a

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148 Compare Williams-Garcia, *supra* n.6 (describing characteristics of endowed objects) with Cuddon, *supra* n. 96 at 507, 510 (This dictionary defines “metonymy,” the practice of using a metonym, as opposed to defining metonyms themselves.).

149 Compare Williams-Garcia, *supra* n.6 (describing characteristics of endowed objects) with Cuddon, *supra* n. 96 at 507, 510 (This dictionary defines “metonymy,” the practice of using a metonym, as opposed to defining metonyms themselves.).

150 Berger, *supra* n. 10 at 283; *Cf.* Cuddon, *supra* n. 96 at 510 (This dictionary defines “metonymy,” the practice of using a metonym, as opposed to defining metonyms themselves.).

151 Id.


153 See Berger, *supra* n. 10 at 284.

154 Ernest Hemingway, *A Moveable Feast* 213- 220 (Scribner 2009); Interview with Bonnie Dubner, in Orlando Florida (January 20, 2012).

155 Compare Hemingway, *supra* n.154 at 213- 220 with Cuddon, *supra* n. 96 at 507, 510 (This dictionary defines “metonymy,” the practice of using a metonym, as opposed to defining metonyms themselves.).

156 Williams-Garcia, *supra* n. 152 at 17-18.

157 See Johnson, *supra* n. 152 (describing all of the story-work performed by the skirt).
girl in an alley who has been raped. He later finds the girl’s skirt. The skirt represents the
girl, Ysa, who Thulani comes to view not solely for her rape trauma but as a whole person. Thulani first finds the skirt in an alley after Ysa’s rape in the passage below,

He stood up and dusted off the grit from his hands on his shorts. It was then that he saw some figure billowing up from the ground on the side of the Dumpster. He approached it carefully, for it seemed alive. Thulani grabbed the moving thing. His fingers discovered it was merely a piece of cloth.

The thin material slid through his fingers like silk, but it wasn’t silk. It was a fine cotton. Almost sheer. He couldn’t imagine why this fine cloth had been thrown away. When he held it up to the sky, he could see by the way the bottom danced in the breeze that it was a skirt.

Instantly he knew it was hers. … He pictured her wearing it.

He opened the skirt fully. It was a free-flowing skirt that was tied, not zippered or buttoned. The tie, a simple strip, had been ripped, yet managed to hang on to the body of the skirt by a few loose threads.

Examining how the dress serves as an endowed object that represents Ysa, Novelist Varian Johnson points out the parallels between the dress and Ysa. Just a few pages before the scene above,

He was alone in the alley, except for her.

He approached her carefully. She was alive but not fully conscious. He could also see that she wasn’t a woman, but a girl, like any girl he’d go to school with.

They had left her with her legs still open and no clothes on, except for ripped panties at her ankles. Her top, bright and pink with skinny straps, had been torn from her body. Her plum-colored nipples were sticking out. Her vagina, a crushed rose, was fully exposed, its

158 WILLIAMS-GARCIA, supra n. 152 at 8-10.
159 Id. at 16-18.
160 Johnson, supra n. 152; WILLIAMS-GARCIA, supra n.152 at 17-18.
161 WILLIAMS-GARCIA, supra n.152 at 17-18.
162 A graduate of Vermont College of Fine Arts MFA program in Writing for Children and Young Adults and a former student of Rita Williams-Garcia, Varian Johnson has taught as a professor at St. Edwards University and has taught and presented Texas State University. His book, MY LIFE AS A RHOMBUS, was named to the Texas Library Association Tayshas High School Reading List and made the New York Public Library “Stuff for the Teen Age” list. VARIAN JOHNSON MY LIFE AS A RHOMBUS (Flux 2007). His most recent novel, SAVING MADDIE, was recognized as the Bank Street College of Education Best Children’s Book of 2011. VARIAN JOHNSON, SAVING MADDIE (Delacorte Press 2010). He is also the co-founder of The Brown Bookshelf, an online community who work to recognize established and up-coming African-American authors of children’s and young adult literature. See http://varianjohnson.com/bio/html (last accessed July 1, 2012).
163Johnson, supra n. 152.
petals dripping blood. Her face had been messed up. One eye was swollen shut, and her lip was busted.  

Johnson explains the parallels between these two scenes. Thulani discovers the dress by the dumpster just as he finds Ysa in the alley. He approaches both the dress and Ysa carefully. The dress seems alive, and Ysa is alive but only semi-conscious. The dress is not silk but normal, everyday cotton. Similarly, Ysa is not a woman but a girl like any normal, everyday girl with whom Thulani attends school. The dress is almost sheer, and Ysa is almost nude. Likewise, the dress is ripped, and Ysa has swollen eye and a busted lip. Johnson concludes, “Ysa’s dress doesn’t represent the abstract. It represents Ysa.”

Johnson notes how the author painstakingly describes all of Ysa’s colors. However, the dress appears colorless initially. Not until the chapter’s end does Williams-Garcia reveal the dress’s beauty. Johnson writes,

“At the Dumpster, he could not fully appreciate the colors. The indigo. The turquoise. The violet and the gold. But now, in his bed with the lights turned off, he saw the design, which was the pattern of a peacock in full fan.”

In the silence and privacy of his bedroom, away from the dark, dirty alley, Thulani truly sees this beautiful, colorful dress.

Thulani truly sees Ysa.

Thus the dress is a metonym. It is a part of Ysa, and it also represents her. However, not all endowed objects are metonyms. For instance, in The Picture of Dorian Gray, an artist paints a portrait of Dorian Gray. Gray stays ever young and beautiful, but the picture

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164 Williams-Garcia, supra n.152 at 8-9.
165 Johnson, supra n. 152.
166 Id.
167 Id.
168 Id.
169 Id.
170 Id.
171 Id.
172 Id.
173 Id.
174 Id.
175 Id.
176 Id.
177 Johnson, supra n.152 (quoting Williams-Garcia, supra n.152 at 20-21).
178 Compare Williams-Garcia, supra n.6 (describing characteristics of endowed objects) with Cuddon, supra n. 96 at 507, 510 (This dictionary defines “metonymy,” the practice of using a metonym, as opposed to defining metonyms themselves.).
grows ugly with each foul act Gray performs.\textsuperscript{180} The picture is an endowed object and a symbol.\textsuperscript{181} It represents Gray, but it is not a part of a larger whole the way it would be if it were an article of his clothing or a part of his body.\textsuperscript{182}

Likewise, not every metonym mentioned in a story will become an endowed object.\textsuperscript{183} For instance, a great many narratives may mention “The Crown” in passing or refer to “the bench to represent the judiciary.”\textsuperscript{184} But these items will only take on greater significance if they are touched or invoked repeatedly like the skirt in \textit{Every Time A Rainbow Dies}.\textsuperscript{185}

\textbf{b. Endowed Object Metonyms in Law}

Endowed object metonyms are already playing a role in trial narratives and have been for ages. For instance, such a metonym linked Dr. Samuel Mudd to the Lincoln assassination conspiracy.\textsuperscript{186} As mentioned above, John Wilkes Booth’s boot left at Mudd’s house demonstrated that Mudd did know Booth.\textsuperscript{187} Just as Cinderella left her slipper, Booth left his boot.\textsuperscript{188} The boot represents Booth and proved that Mudd knew Booth and had aided him as he fled the scene of the murder.\textsuperscript{189} The tangibility of the boot stands in for Booth’s physical presence at Mudd’s house. Thus Dr. Mudd was convicted for conspiring to assassinate Lincoln.\textsuperscript{190}

\textbf{3. The Difference between Objective Correlative and Endowed Objects}

This tangibility is also why endowed objectives can be even more powerful than objective correlative. Both endowed objects and objective correlative are ways of revealing a character’s

\begin{tabular}{l}
\textsuperscript{180} \textit{See Id}. \\
\textsuperscript{181} \textit{Compare Id. with Williams-Garcia, supra n.6}. \\
\textsuperscript{182} \textit{See Wilde, supra n. 179}. \\
\textsuperscript{183} \textit{Compare Williams-Garcia, supra n.6 (describing characteristics of endowed objects) with Cuddon, supra n. 96 at 507, 510 (This dictionary defines “metonymy,” the practice of using a metonym, as opposed to defining metonyms themselves.).} \\
\textsuperscript{184} \textit{See, e.g., In re Code of Judicial Conduct (Fin. Disclosure), 377 So. 2d 1156, 1157 (Fla. 1979). (”The question arises as to whether new judges must file within 30 days of their appointment to the \textit{bench}, in accordance with this provision...”)[emphasis added]; Hill v. State, 696 So. 2d 798, 799 (Fla. Dist. Ct. App. 1997). (”Thus, actual physical presence at the \textit{bench} is not a constitutional requirement, but simply a procedure created by a rule of court to assure total compliance with due process...”)[emphasis added].} \\
\textsuperscript{185} \textit{Compare Williams-Garcia, supra n.6 (describing characteristics of endowed objects) with \textit{Williams-Garcia, supra} n.152 (the book containing the skirt) with Johnson, \textit{supra} n.152 (discussing the symbolic importance of the skirt)}. \\
\textsuperscript{186} \textit{See Aitken, supra n. 3 at 53}. \\
\textsuperscript{187} \textit{See Aitken, supra n. 3 at 53-55; see also Williams, supra n. 3 at, 263; University of Missouri-Kansas City School of Law, Famous American Trials, The Lincoln Assassination Conspiracy, Dr. Samuel A. Mudd, \textbf{http://law2.umkc.edu/faculty/projects/fttrials/lincolnconspiracy/mudd.html} (last accessed July 3, 2012).} \\
\textsuperscript{188} \textit{Compare GAG, supra n. 2 with Aitken, supra n. 3 at 53}. \\
\textsuperscript{189} \textit{Cf. Aitken, supra n. 3 at 53-55; see also Williams, supra n. 3 at, 263; University of Missouri-Kansas City School of Law, Famous American Trials, The Lincoln Assassination Conspiracy, Dr. Samuel A. Mudd, Aitken, \textit{supra} n. 3 at 53-55.}\end{tabular}
subconscious emotional and psychological state, and both can be essential to stories. But objective correlative is a way of revealing that emotional state through the whole scene whereas an endowed object is a single object. T.S. Eliot coined the term “objective correlative.” Eliot in his essay on Hamlet writes,

The only way of expressing emotion in the form of art is by finding an “objective correlative”; in other words, a set of objects, a situation, a chain of events which shall be the formula of that particular emotion; such that when the external facts, which must terminate in sensory experience, are given, the emotion is immediately evoked.

The temperature of the air, the objects in the room or on the landscape, the color, feel, and smell of everything, and the characters’ interactions with all of these things and one another reveal psychological states.

a. In Fiction

In a lecture often raved about by Vermont College MFA Professors and Alumni, Professor and National Book Award winning novelist Tim Wynne-Jones discussed objective correlative and presented a passage he had written based on an exercise in John Gardner’s The Art of Fiction. The exercise instructs, “Describe a lake as seen by a young man who had just committed a murder. Do not mention the murder.” Depending on the murderer and how he or she felt about the murder, the lake may look very different. Most readers might expect the lake to be murky and holding secrets. But it could seem like baptismal water.

In literature, Leo Tolstoy effectively uses objective correlative in the culmination of Anna Karenina. Anna has left her husband and is ruined in aristocratic Russian society. But she

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191 Compare Williams-Garcia, supra n.6 (describing characteristics of endowed objects) with Tim Wynne Jones, Professor, Vermont College of Fine Arts, Summer 2006 MFA WYCA Residency Lecture: Tell it Slant (Summer 2006)(discussing objective correlative).
192 Compare Wynne Jones, supra n. (discussing the concept of objective correlative) with Williams-Garcia, supra n.6 (describing traits of endowed objects) with GARDNER, supra n. 10 at 36-37(discussing all the emotion and character traits conveyed by a description of a barn) with Winters, supra n.6 at 11-12 (explaining that objective correlative and endowed objects are different).
193 T.S. ELIOT, Hamlet and His Problems, SACRED WOOD, ESSAYS ON POETRY AND CRITICISM (Bartlbs 2000).
194 Id.
195 Tim Wynne Jones, Professor, Vermont College of Fine Arts, Summer 2006 MFA WYCA Residency Lecture: Tell it Slant (Summer 2006).
196 Id.
197 GARDNER, supra n. at 203.
198 See GARDNER supra n. at 36-37 (“One does not simply describe a barn. . . . One describes a barn as seen by someone in a particular mood. . . .”).
199 Cf. GARDNER supra n. at 36-37 (describing the changes and emotional significance of a description of a barn right after a murder).
200 Cf. Id.
201 See generally LEO TOLSTOY, ANNA KARENINA 814-816 (Joel Carmichael trans., Bantam Books 1981); see also Cf. Letter from Leo Tolstoy to N.N. Strakhov (Apr. 23, 1876), in C.J.G. TURNER, A KARENINA COMPANION 41-42 (1993) (“If I
has finally realized that her lover Vronsky’s passion for her is rooted in his own vanity and offers none of the promise or escape that she had hoped. Tolstoy lays the foundation for Anna’s next move with this scene,

When the train came into the station Anna went out with the crowd of other passengers, and moving away from them as though they were lepers she stopped on the platform, trying to remember why she had come there and what she had intended to do. Everything that had seemed possible to her before was now too hard to imagine, especially in the noisy crowd of these monstrous people who would not leave her in peace. Either the porters would come running up to her offering their services, or the young men, clattering in their heels along the platform boards and talking in loud voices, would look her up and down, or the people she met would be walking on the wrong side.

On the surface, this passage is about a crowded train station. But underneath the surface, the passage reveals Anna’s state of mind. In the next couple of pages after the passage, Anna commits suicide by throwing herself in front of the train. The “noisy crowd” and “monstrous people” represent all the gossipers who have cast Anna out from society. The porter represents her staff and thus her wealth, which can do nothing to save her from her troubles. And the young men represent Vronsky; they are of no real help. She is left with no purpose, no place to go, and no one to turn to, so she ends her life. But if Tolstoy had written just that, then the writing would have sounded trite. Moreover, the passage would not have rung true because typically a person’s thoughts reflect less awareness.

While an endowed object can similarly telegraph a character’s state of mind and emotion, it is not the same thing as objective correlative. An endowed object is a single object from the scene. It may even be a part of an overall objective correlative, but unlike objective correlative it is just one thing that a person can hold in his or her hand. It does not include the whole environment.

203 Id.
204 Id. at 814.
205 Id.
206 See Id.
207 Id. at 816.
208 See Id. at 814.
209 See Id.
210 See Id.
211 See Id.
212 Cf. Wynne-Jones, supra n. 196 (illustrating how ridiculous obvious emotional statements can sound in writing and demonstrating how objective correlative reveals emotion and state of mind more effectively).
213 Cf. Wynne-Jones, supra n. 196 (illustrating how ridiculous obvious emotional statements can sound in writing and demonstrating how objective correlative reveals emotion and state of mind more effectively).
214 See Winters, supra n.6.
215 Winters, supra n.6 at 11.
216 Winters, supra n.6 at 11.
217 Winters, supra n.6 at 11-12.
In her critical thesis on endowed objects, writer Kim Winters notes, “while the objective correlative offers an elegant way to elicit a subjective response, it does not account for the power or grace of a single object to do the job.”

Both categories of symbols resonate in both litigation narratives and fiction narratives. But the single object may stand more clearly for one certain thing and may often work as a great trigger not just of the memory of what happened before but of the emotions around the memory.

b. In Law

Moreover, at trial, an object can sometimes be stronger proof than objective correlative. An object can be introduced into evidence, and the fact-finders can see it with their own eyes. In contrast, often objective correlative evidence is in the form of witness testimony. A judge or jury can question the credibility of a witness, but it is hard for them to doubt what they can see with their own eyes. Moreover, while objective correlative is a useful concept, at times, it may pose greater challenges than an endowed object. Even if the objective correlative evidence is relevant, at times, it might confuse or unfairly prejudice the jury. Imagine that a murder witness testified,

It was a foggy day, a cold day. Surely the lake was cold. Cold and dark. I stared at the lake and wondered whether anything could live there at all. It was like a pool of oil. Even the grass around it was dead. The wind rustled my coat. The cold bit through my scarfs and wool.

\footnote{Winters, supra n.6 at 11.}
\footnote{See Williams-Garcia, supra n.6; Winters, supra n.6.}
\footnote{See, e.g., U.S. v. Moreno, 933 F.2d 362, 375 (6th Cir. 1991), cert. denied, 502 U.S. 895, 112 S. Ct. 265, 116 L. Ed. 2d 218 (1991)(holding that an actual firearm as opposed to a photograph could be admitted at trial); People v. Blue, 189 Ill. 2d 99, 122, 724 N.E.2d 920, 932 (2000)(holding that clothes can be admitted into evidence when their probative value does not outweigh prejudice).}
\footnote{See, e.g., U.S. v. Gloster, 185 F.3d 910, 913 (D.C. Cir. 1999)(emphasizing “the persuasive power of the concrete”).}
\footnote{Fed. R. Evid. 402; Fed. R. Evid. 401.}
\footnote{See Fed. R. Evid. 403 (disallowing evidence where an unfair danger of prejudice exists).}
If Garrison Keillor did not step in to argue that the witness was copying his Guy Noir sketch, opposing counsel would likely object to relevance. The proponent of the evidence can hardly respond, “Your honor, it is relevant because it symbolizes the feelings about the victim’s death.” Unless state of mind is an issue, this symbolism could be prejudicial.

Yet a single object may sometimes be probative in and of itself, as illustrated by the discussion above regarding John Wilkes Booth’s boot. The boot shows that it was more likely than not that Mudd not only knew Booth but provided him medical aid when Booth was fleeing the authorities after the murder. Given that Mudd did not turn in Booth, a suspect accused of killing the president, the boot further tends to prove a conspiracy. Thus the object with its probative and symbolic power can come into evidence.

4. Endowed Objects’ Relationship to Obtuse Objects

An endowed object might be an obtuse object, but it is possible that not all endowed objects are necessarily obtuse objects. Law Professor James Parry Eyster discusses the art concept of the obtuse object in his article, Lawyer as Artist: Using Significant Moments and Obtuse Objects to Enhance Advocacy. Eyster encourages lawyers to recognize obtuse objects to introduce into the trial narrative. Before starting my article and talking with Professor Ruth Anne Robbins about it, I was not familiar with obtuse objects, perhaps because the concept seems to derive from art rather than literature, which is one difference between the two ideas. The concepts are related nonetheless. According to art critics, successful still-life paintings and photos typically have a surprising element that contradicts the otherwise coherent pattern and unsettles the viewers’ expectations. “Thus, a single missed stitch in a beautiful embroidery, Marilyn
Monroe’s birthmark, and one overcooked entree in the midst of a tasty feast all seem more perfect because of their flaws.”240 Eyster describes this incongruent item as an “obtuse object.”241

Unlike the obtuse object, an endowed object need not be incongruent with the rest of the scene, but it can be. However, the endowed object should not be incongruent with the story itself.242 If that sort of incongruence is required to make an object obtuse, then the two objects will never overlap.

a. In Fiction

However, as Eyster describes an obtuse object and discusses how it can be symbolically used at trial, it seems that some objects might be both obtuse within the image of the scene and endowed for purposes of the overall story.243 For instance, in Every Time a Rainbow Dies, Ysa’s skirt, mentioned above in the section on metonyms, could be both an obtuse and an endowed object.244 The colorful skirt flutters in the wind.245 One gets the sense that it is made of some fine material.246 It seems out of place in the alley.247 The alley is not merely dark and dirty; it is a place where a girl has been raped.248 Yet the skirt itself is beautiful.249 It contrasts the alley.250 This obtuseness seems to be what draws Thulani to the skirt and likely might be what peaks readers’ curiosity as well.251 Thus the skirt is likely an obtuse object, and the discussion above illustrates how the skirt is endowed and how it represents Ysa herself.252 That being said, while the skirt is incongruent with the alley, it adds to the narrative cohesion of the story itself.253

240 Eyster, supra n. 15 at 102.
241 Eyster, supra n. 15 at 102.
242 See Williams-Garcia, supra n.6 (explaining how endowed objects illustrate character and theme).
243 Compare Eyster, supra n. 15 at 100-16 (describing the concept of obtuse objects and explaining how they can represent themes in a legal narrative) with Williams-Garcia, supra n.6 describing the concept of endowed objects and explaining how they can represent themes in a fiction narrative).
244 Compare Eyster, supra n. 15 at 100-16 (describing the concept of obtuse objects and explaining how they can represent themes in a legal narrative) with Williams-Garcia, supra n.6 describing the concept of endowed objects and explaining how they can represent themes in a fiction narrative) with WILLIAMS-GARCIA, supra n.152 at 6-11, 17-18.
245 WILLIAMS-GARCIA, supra n.152 at 17-18.
246 Id. at 6-11, 17-18.
247 Id. at 17-18.
248 Id. at 6-11, 17-18.
249 Id. at 17-18.
250 Id. at 6-11, 17-18.
251 See WILLIAMS-GARCIA, supra n.152 at 6-11, 17-18.
252 Compare Eyster, supra n. 15 at 102-04(describing the concept of obtuse objects and explaining how they seem incongruent with the scene) with Williams-Garcia, supra n.6 describing the concept of endowed objects and explaining how they can represent themes in a fiction narrative) with WILLIAMS-GARCIA, supra n.152 at 6-11, 17-18, with Johnson, supra n. 152.
253 Compare Eyster, supra n. 15 at 102-04(describing the concept of obtuse objects and explaining how they seem incongruent with the scene) with Williams-Garcia, supra n.6 (describing the concept of endowed objects and explaining how they can represent themes in a fiction narrative) with WILLIAMS-GARCIA, supra n.152 at 6-11, 17-18, with Johnson, supra n.152 (explaining how the skirt highlights the novel’s theme).
However, it is possible that an endowed object might not need to be as incongruent as an obtuse object although the object will likely always be unique in some way. For instance, in the discussion above regarding how endowed objects resonate, the cowrie shell from *Like Sisters on the Home Front* might not necessarily be an obtuse object. It is in a box full of other odds and ends and seems to belong in the box and seems to belong to the old woman who saved these artifacts. Similarly, in *The Natural*, Roy Hobbs baseball bat does not seem obtuse. He is a baseball player, so viewers expect him to have a bat.

**b. In Law**

It seems possible that a piece of evidence could serve as both an obtuse object and an endowed object in a trial narrative. Eyster’s own example of a tortured asylum seeker’s book bag appears to be both. Eyster tells the story of two students in his immigration law clinic who represented a woman who claimed political persecution and sought asylum. The students both indicated that they were struggling to relate to the client and to her story. The rape and beatings were brutal and overwhelmed the students’ imaginations. The woman was from a central African country and was the sister of pro-democracy political party members. As a result of her family’s political affiliations, her brothers had been murdered. She had been raped and beaten by soldiers. Unfortunately, this story was too alien to students, thus, seemed abstract. But finally, in one of their interviews, the client remarked that her book bag was stolen during the attack. The bag’s existence and loss surprised the students. Being students themselves, the bag’s theft implied a loss of security far more relatable for the students. The client was now someone like them, and they zealously represented her.

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254 *Compare* Eyster, *supra* n. 15 at 102-04 describing the concept of obtuse objects and explaining how they seem incongruent with the scene) with Williams-Garcia, *supra* n.6 (describing the concept of endowed objects and explaining how they can represent themes in a fiction narrative).

255 *Compare* WILLIAMS-GARCIA, *supra* n. at 87, 153-154 (the scene with the cowrie shells) with Eyster, *supra* n. 15 at 102-04 (explaining the incongruence of obtuse objects).

256 See WILLIAMS-GARCIA, *supra* n. at 87.

257 Compare Eyster, *supra* n. 15 at 102-04 (describing the concept of obtuse objects and explaining how they seem incongruent with the scene) with The Natural, BluRay (Sony Pictures Home Entertainment 2010).

258 The Natural, BluRay (Sony Pictures Home Entertainment 2010).

259 Compare Eyster, *supra* n. 15 at 102-04, 113-14 (describing the concept of obtuse objects and explaining how they seem incongruent with the scene) with Williams-Garcia, *supra* n.6 (describing the concept of endowed objects and explaining how they can represent themes in a fiction narrative).

260 Eyster, *supra* n. 15 at 113-14.

261 Id.

262 Id.

263 Id.

264 Id.

265 Id.

266 Id.

267 Id.

268 Id.

269 Id.

270 Id.
Eyster classifies the bag as an obtuse object.\textsuperscript{271} These American students were trying to wrap their minds around the idea of a country where people are murdered for their political associations.\textsuperscript{272} Then something from their own lives appeared in the story, an ordinary book bag representing upwardly mobile expectations.\textsuperscript{273} It contrasts with the scene.\textsuperscript{274}

The bag is also an endowed object. In the woman’s narrative, the bag stands for all the things that she has lost.\textsuperscript{275} She has lost an education and thus lost the chance at a successful future in her country.\textsuperscript{276} But the bag also contains ideas, and in her country, her family was punished for independent ideas.\textsuperscript{277} The bag is a single object, and it stands for something larger than itself.\textsuperscript{278} Although Eyster does not discuss in detail how often the bag is mentioned in the narrative, presumably, it took on a larger role after the interview.\textsuperscript{279}

Regardless, those who are using this article would do well to study Eyster’s article as well as its rich with advice on painting pictures for the fact-finder.\textsuperscript{280}

B. How an Object Becomes Endowed

While there may be some overlap between endowed objects and the objects above, an endowed object must go through a process in the story to become endowed.\textsuperscript{281} An endowed object may begin its life as an ordinary object, or it may be imbued with symbolism in its creation.\textsuperscript{282} If the object is ordinary, it is in some way activated or imbued and then takes on special meaning with each interaction.\textsuperscript{283} In fact a similar concept exists in theatre when actors activate a prop by interacting with it and directors shine a spotlight on it.\textsuperscript{284}

The activation may take place in several steps involving the forging of the object perhaps out of materials imbued with significance, the ensorcelling of the object in some ceremony, the chanting or inscribing of “magic words,” or the simple interaction with the object.\textsuperscript{285} For

\begin{itemize}
\item \textsuperscript{271} Id.
\item \textsuperscript{272} Id.
\item \textsuperscript{273} Id.
\item \textsuperscript{274} Id.
\item \textsuperscript{275} Compare Id. (discussing how the bag is an obtuse object and telling the story of the bag) with Williams-Garcia, supra n.6 (describing the concept of endowed objects and explaining how they can represent themes in a fiction narrative)
\item \textsuperscript{276}Eyster, supra n. 15 at 113-14 (discussing importance of obtuse objects to bring a story close to home).
\item \textsuperscript{277} Id.
\item \textsuperscript{278} Id.
\item \textsuperscript{279} See Id. (discussing importance of obtuse objects to bring a story close to home).
\item \textsuperscript{280} See generally Eyster, supra n. 15 at , (2008) (discussing use of artistry techniques in legal advocacy).
\item \textsuperscript{281} See Williams-Garcia, supra n. 6; Winters, supra n. 6; see also Taylor Simpson-Wood, One Approach to Teaching Maritime Law: The Admiralty Classroom as a Stage, 55 St. Louis UNIV. L.J. 601, 610 (Winter 2011)(discussing the endowment of props in the classroom).
\item \textsuperscript{282} See Williams-Garcia, supra n. 6; Winters, supra n.6.
\item \textsuperscript{283} See Williams-Garcia, supra n. 6; Winters, supra n. 6.
\item \textsuperscript{284} See Andrew Sofer, The Stage Life of Props (University of Michigan Press 2003); Winters, supra n.6 at 11-12.
\item \textsuperscript{285} Cf. Sofer, supra n. 284; Winters, supra n.6 at 11-12.
\end{itemize}
instance, in the *Lord of the Rings*, Sauron forges the ring in the fires of Mordor and imbues it with his malice. He inscribes it with the words, “One ring to rule them all. One ring to find them. One ring to bring them all and in the darkness and bind them in the land of Mordor where Shadows lie.” Each time the ring is used for gain, it is activated, first by Sauron in his war, later by King Isildor who is killed due to the ring, then by Golem who withers under the ring’s spell, next by Bilbo Baggins who nearly turns evil, and finally by Frodo Baggins who calls darkness to him every time he wears the ring.

Similarly, in Cinderella, the glass slippers are first charmed through the magic spell used by the fairy-Godmother to conjure the slippers. Cinderella then activates the slippers when she wears them to the ball. Cinderella beguiles the prince and leaves behind a token of her essence, a single slipper.

This endowment can even occur in contemporary realistic fiction. For example, in *The Natural*, Roy Hobb’s bat is endowed in several parts. First, his father dies by the tree from which the bat is carved. Then the tree is struck by lightning. Roy inscribes the bat with a lightning bolt. But when Roy hits the cover off the ball in his first major league game, the bat truly becomes endowed. Afterwards, the ball boy asks Roy to help him make a bat like Roy’s.

This ensorcelling exists in the real world just as it does in the fanciful mind of an artist, and that which exists in the real world exists in legal cases. For instance, Oklahoma City bomber Timothy McVeigh inscribed the words “sic semper tyrannis,” thus always to tyrants, on the t-shirt he wore to the Oklahoma City bombing. This t-shirt was activated when he wore it to the bombing; it became imbued with residue from the making of explosives.

In other instances, a person might imbue an object with status. For example, in the “murder-necklace” case, cocaine-dealer and music producer Naron Celestine, aka Cole or Cold, had an 18

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287 *Id.*
288 *Id.*
289 *Id.*
290 *Id.*
291 *Id.*
292 *The Natural*, BluRay (Sony Pictures Home Entertainment 2010).
293 *Id.*
294 *Id.*
295 *Id.*
296 *Id.*
297 Compare *Opening Statements of Mr. Hartzler and Mr. Jones* at 9 U.S. v. McVeigh, No. 96-CR-68 (D.Colo. trans. 1997), available at 1997 WL 198070 (discussing the origin of the phrase) with *Opening Statements of Mr. Hartzler and Mr. Jones* at 40-41 U.S. v. McVeigh, No. 96-CR-68 (D.Colo. trans. 1997) (explaining the meaning of the term and offering a different explanation of its origin).
298 Compare *Opening Statements of Mr. Hartzler and Mr. Jones*, supra n. 5 (mentioning that McVeigh wore the shirt to the bombing) with *Examination of Steven Burmeister* at 32-40, U.S. v. McVeigh, No. 96-CR-68 (D.Colo. trans. 1997), available at 1997 WL 257567.
karak, diamond encrusted medallion made. Upon it, he had inscribed raised white gold letters that spelled out the name of his production company, ‘3rd Wall ent. A young man named Joe Young, Jr. stole the necklace just as Lord of the Rings’ King Isildor stole the one-ring from Sauron. Just as the antagonist Sauron pursued those who stole his ring, “Cold” put out a hit on Young, who was killed.

IV. The Process of Locating and Creating Endowed Objects

A. The Writer’s Process

Ernest Hemingway once said, “there is nothing to writing. All you do is sit down at a typewriter and bleed.” A writer probably cannot hope for a more accurate set of instructions for the storytelling process because there is not a precise formula. Story-crafters vary in their processes. Some start with an outline, flow chart, or research. Others write from the first sentence to last. Others write fragments here and there. Still others may write a draft, toss it out, and begin anew. Storytellers processes may even vary from one work to the next. Thus the best a student of story can hope for are examples of the end product, tips and tricks that may have worked for given writers, and a list of a few commonalities in the process.

With respect to endowed objects, writers have offered a few of those tips and tricks. Often the process of endowing an object may be recursive, just as the writing process itself is recursive. The writer visits the dream brain, jots down some fragments, reads with a critical eye and/or seeks critiques, flags those items that seem problematic, visits the dream brain again, and repeats the whole process in circles until the writing and the object resonate. During that portion where the writer reads with a critical eye, the writer might remember what he or she has learned about

[300]Id.
[301]Compare Lord of the Rings, supra n. 286 with Demer, supra n. 299.
[302]Compare Lord of the Rings, supra n. 286 with Demer, supra n. 299.
[305]Id.
[306]Id.
[307]Id.
[308]Id. The author of this article has used this method. It is emotionally difficult to start an entire draft over from the beginning. But the new version received much better critical praise.
objects and make notes. Then when revisiting the dream brain, the writer might take a good look at the object.

The endowed objects may initially appear in a narrative via subconscious choice, however, the good writer will further explore and edit the story to create the proper resonance. In the beginning, most good writers likely do not sit down and say, “I’m going to create an endowed object in my story.” Rather, fiction writers speak of objects simply appearing in their stories. Carl Jung believed the artist or poet often used images that had symbolic meaning outside the creator’s conscious. As novelist and writer of The Art of Fiction, John Gardner, explains, an author “begins to brood over what he’s written, reading it over and over …[the author] discovers odd tics that his unconscious has sent up to him, perhaps curious accidental repetitions of imagery.” In analyzing this process, Jung’s description of the artists’ method sounds almost as though it spring from a dream that holds subconscious symbolism that is fairly universal. Jung speaks of “compulsive artistic choices” controlled by “unconscious will.”

Sometimes the writer may have created an endowed object and does not even realize it until after the fact. For instance, in a novel that I am currently revising, I included an endowed object and did not know it until after completing the novel and revising. My protagonist Cori is being molested by her step-father. He gives her enabler-Mom a rhinestone belt buckle. The belt buckle just stumbled into the story; it was just something that I saw the characters doing. But I did not realize how handy the belt buckle would be until after I revised a go nowhere chapter. That chapter followed one where Cori told her mother about the abuse. Mom called her a liar and poured dish-water down her throat. The next chapter floundered. Cori got drunk, threw-up, and did nothing. My Vermont College advisor, Rita Williams-Garcia, called me out. Professor Williams-Garcia found it pretty unbelievable that after all that anger, Cori would get drunk and do nothing. Moreover, she pointed out that the story had lost momentum. So I stepped into Cori’s character. She was angry. She wanted to do something, but there was nothing she

309 In describing process, accomplished writers often speak of choices springing from their subconscious or their dream brain. See, e.g., ROBERT OLEN BUTLER, FROM WHERE YOU DREAM 13 (Grove Press 2005) (“Art comes from your subconscious. It comes from the white hot center of you.”); see also Janet Burroway, INTRODUCTION to ROBERT OLEN BUTLER, FROM WHERE YOU DREAM 2 (Grove Press 2005) (“And it is the realm of unconscious rather than that of technique or intellect that the writer seeks fictional truth.”).

310 See, e.g., BUTLER supra n.309 at 13 (“Art comes from your subconscious. It comes from the white hot center of you.”); Burroway, supra n. at 2-5.

311 See Williams-Garcia, supra n.6 (speaking about how objects work best when the writer is least aware of them).

312 JUNG, supra n. 39 at 301, 314, 318-319, 321.

313 GARDNER, supra n. 10 at 69; see also Burroway supra n. at 2 (“And it is the realm of unconscious rather than that of technique or intellect that the writer seeks fictional truth.”).

314 JUNG, supra n. 39 at 301, 314, 318-319, 321.

315 See JUNG, supra n. 39 at 301, 314, 318-319, 321; Eyster, supra n. 15 at 107 (discussing Carl Jung and symbolism); see also Burroway supra n. at 2 (discussing the role of unconscious in art).

316 See JUNG, supra n. 39 at 301, 314, 318-319, 321.


318 Id.

319 Id.
could do without consequences.\textsuperscript{320} Her rage had no place to go.\textsuperscript{321} That’s when I saw the belt buckle in Cori’s living room.

It taunted her. Cori grabbed it and threw it. It landed on the linoleum in the kitchen and clattered.

Ha! Stupid country belt buckle. Cori shot up from the couch and stomped into the kitchen. One of the rhinestones twinkled on the floor. She snatched the buckle and tromped into the garage. She threw it back down on the cement. She stomped on it. She smashed it with her foot. No more rhinestones would come loose. She seized it and threw it again. It clattered.\textsuperscript{322}

I did not set out to create a symbol. Only after I wrote this portion did I realize that the tacky belt buckle represented the manner in which Mom would sell-out her teenaged daughter for fairly worthless material junk. I still did not even know that the buckle was an endowed object until I started working on this article.

Although the writer’s subconscious may initially deliver the object, it’s dangerous to stop after the subconscious vomits words upon the page in a first draft. In these instances, the end result is likely to seem more like receiving snippets of someone else’s disjointed dream.\textsuperscript{323} Maybe it’s tempting for writers to believe that they are gifted and do not need to edit. However, while the good writer may be gifted, he or she also edits.\textsuperscript{324} For instance, Hemingway re-wrote the last chapter of \textit{A Farewell to Arms} seventeen times.\textsuperscript{325}

With respect to endowed objects, that revision can sometimes mean focusing on the glass slipper and axing the diamond earrings, the satin gloves, and the silk stockings, and at other times it can mean diving more deeply into the dream brain to explore the object anew.\textsuperscript{326}

With respect to separating the wheat from the chaff, stories will have objects. But a good story does not hoard.\textsuperscript{327} Rita Williams-Garcia advises writers,

They fill in scenery. They perform everyday tasks both vital and mundane. . . Still there is a danger of amassing too much stuff. Then it becomes clutter. Is it just as it is on the surface or will it tie into the plot in some way? If it doesn’t tie into the plot the way suggested, then the reader is left with a niggling feeling.

\textsuperscript{320} Id.
\textsuperscript{321} Id.
\textsuperscript{322} Id.
\textsuperscript{323} Cf. BUTLER supra n.309 at 118 (warning against “over-confident” writing).
\textsuperscript{324} See EUGENE VOLOKH, ACADEMIC LEGAL WRITING 105-109 (Foundation Press 4th ed. 2003).
\textsuperscript{325} JEFFREY MYERS, HEMINGWAY, A BIOGRAPHY 215 (Macmillan 1985).
\textsuperscript{326} See BUTLER, supra n.309 at 12; See also Burroway, supra n.309 at 2-5 (discussing exploring the dream brain to discover story).
\textsuperscript{327} See Wiliams-Garcia, supra. n. 6.
During the throes of writing, it can all be quite exciting as we are collecting material for our scenes. As we think about what lies beneath the object it can become amusing. As we learn about them our characters develop exponentially. We collect and employ objects to help tell ourselves first the story. Then we have a house full of things related to the main characters. We understand the journey of the character.

Then we can sit down with the manuscript to take stock of the warehouse of things. Does it work or does it add to the pile?\(^{328}\)

In other words, the writer should determine whether the object is central to character or theme in some way.\(^{329}\)

Once the rare treasure is found, the writer then must explore its meaning. Although writers may be tempted to deliberately plot their use of these objects through use of the rules and definitions included here, a writer might instead use those in self-critique to flag places where the object is absent or awkward.\(^{330}\) In that phase, the writer might follow the advice of author Carol Bly in her book, The Passionate Accurate Story; Bly recommends listing all of the objects that appear in a draft and finding the ones that are the most interesting.\(^{331}\) Bly recommends that the writer should use the object at least three times.\(^{332}\) Rather than approaching the object in too formulaic a fashion, the writer may flag the object but then re-visit the dream anew. In fact, Pulitzer-prize-winning-novelist Robert Olen Butler explains that technical flaws are the symptoms of bad writing, but that the cause is the failure to explore the dream.\(^{333}\) He instructs writers to explore art in a “moment-to-moment sensual experience.”\(^{334}\) Butler asserts, “Art comes from your subconscious. It comes from the white hot center of you.”\(^{335}\) So he advises invoking a trance and exploring the work with all the senses,\(^{336}\) which means exploring the object’s role in the scene with all the senses. Echoing this advice, Rita Williams-Garcia advised me several times to go back into the scene, back inside the character, and think about what the character really feels and sees.\(^{337}\) That’s when the objects often reappear for me.

Creating an awareness of the characteristics of an object aids this process.\(^{338}\) However, deliberately creating an endowed object is likely to result in an unnatural feel.\(^{339}\) The writer runs

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\(^{328}\)See Id.

\(^{329}\)See Id.

\(^{330}\)Cf. Id. (Advising applying the rules of objects to the editing phase).

\(^{331}\)BLY, supra n. 14 at 159.

\(^{332}\)Id. at 159.

\(^{333}\)See BUTLER, supra n.309 at 114-115.

\(^{334}\)See BUTLER, supra n.309 at 12. See also Burroway, supra n.309 at 2-5 (discussing invoking the dream brain to develop story).

\(^{335}\)BUTLER, supra n.309 at 12.

\(^{336}\)BUTLER, supra n.309 at 12-21.

\(^{337}\)Id.

\(^{338}\)See Williams-Garcia, supra n. 6.
the risk of heavy-handedness or what Williams-Garcia refers to as “the After-School Special Effect.” As literary critic and acclaimed novelist, John Gardner writes, “Good description is symbolic not because the writer plants symbols in it but because, by working in the proper way, he forces symbols still largely mysterious to him up into his conscious mind where, little by little, as his fiction progresses, he can work with them and finally understand them.”

However, the screenwriter for the movie, The Polar Bear King, seems not to have heeded Gardner’s advice and to have both forced an endowed object into the story and failed to explore it sufficiently. At the beginning of the movie, a witch turns Prince Valemon into a Polar Bear. Shortly thereafter, he meets the youngest princess of Winterland, and just a few seconds after he meets her, he gives her a necklace saying that he can only give it to the one he marries. He may as well say, “I am handing you an endowed object.” The necklace seems in stark contrast to Gayle’s shells. Gayle labeled the shells as “nothing” when she first saw them. They only took on meaning through the events of the story. The necklace however is labeled as an important object from the start and is never defined through the events of the story. Moreover, the necklace does not seem to do much of the story’s work. Viewers know it represents royalty and marriage, but it does not have a history or tell us much else about the characters or the theme.

That being said, an object can be over-used, and its symbolism can seem so glaring that readers may feel manipulated. That being said, an object can be over-used, and its symbolism can seem so glaring that readers may feel manipulated. In the popular series, The Hunger-Games,
the writer seems to mock this kind heavy-handedness by introducing a symbolic object and then later portraying a political faction exploiting the object in its propaganda. The object is a gold pin of a fictional bird, the mocking-jay. The pin is initially resonant and grips the reader. However, towards the end of the series, I began to feel as though the dissident group had stuck me with the pin a few too many times. Since the protagonist eventually turns against the dissidents, Collins seems to have intended for readers to feel prickled.

The book is set in a future dystopia, and initially, the mocking jay pin symbolizes how the capitol’s weapons can be turned against it. The capitol reminds the districts never to rebel again by demanding each year that a boy and a girl are sent from each district as a “tribute.” The tributes then participate in a televised fight to the death; the Roman amphitheater meets Survivor and Project Runway. Before the protagonist Katniss Everdeen enters the tribute, her friend gives her a mocking jay pin, and readers learn that the capitol genetically engineered the mocking jays to emulate human speech. The capitol used the mocking jays as spies against the districts. But the districts then discovered the birds’ abilities and used them to feed false information back to the capitol. Katniss herself becomes a product of the capitol when her stylist dresses her and grooms her for her pre-game television appearances. Like all the tributes, she is the capitol’s message back to the districts, “Don’t rebel. See our power, and how we can torture your children.” But like the mocking jay, Katniss turns against the capitol. When she and her friend Peeta are the last youths living in the game, they prepare to eat poisonous berries together rather than killing one another as the capitol would have them do. The game is interrupted. The capitol breaks with tradition and announces that there are two victors instead of one. Katniss has shown that a teenager from the districts can defy the capitol and

353 See SUZANNE COLLINS, THE HUNGER GAMES, 42-4 (Scholastic Press 2008). (The mockingjay pin is introduced and its background is explained).
354 Id. at 42-4.
355 Id.
356 SUZANNE COLLINS, CATCHING FIRE, 252-53 (Scholastic Press 2009)(Katniss’ designer/stylist creates Katniss a mockingjay costume that “wows” the audience members at the capital when she is interviewed on television).
357 SUZANNE COLLINS, MOCKINGJAY, 105-06 (2010). (A district 12 propaganda film exploits the mockingjay image).
358 See COLLINS, HUNGER, supra n.353 at 3-18.
359 Id. at 18-9.
360 Id. at 42-4.
361 Id.
362 Id. at 67. (Cinna dresses Katniss in the “girl who was on fire” outfit).
363 Id.
364 COLLINS, HUNGER, supra n.353.
365 COLLINS, MOCKINGJAY, supra n.357 at 31. (Katniss decides to become the mockingjay symbol and fight the capital).
366 COLLINS, HUNGER, supra n.353 at 344-5. (Katniss and Peeta nearly eat a mouthful of poisonous berries).
367 Id. at 344-6.
368 Id.
Just as the mocking jays’ words were a message back to the capitol, Katniss’s defiance is a message back to the districts that the capitol can be beat. Katniss, an engineered tool of the capitol, turns against the capitol like the mocking jays.

But the rebel’s use of the pin starts feeling manipulative when in the final book Katniss appears on television dressed as a mocking jay. The narrator tells readers at the beginning that the mocking jay is a symbol of rebellion. The mocking jay is used a few times in the first and second books, and then the final book is actually called Mocking Jay. In the final book, the rebel district thirteen exploits the symbolism by giving Katniss a mocking jay costume, and she acknowledges that she is the mocking jay. Readers see the heavy hand of district thirteen. They see one oppressive “president” being replaced with another. Thus readers do not turn against Katniss when, after the rebellion succeeds, she assassinates the new president. Readers dislike how manipulative district thirteen has been.

B. The Lawyer’s Process

The process of finding and endowing an object in a litigation narrative should not be manipulative either. Rather, the process is similarly organic and recursive although less rooted in imagination. Law Professor Terrill Pollman once said, “Teaching legal writing is like dropping someone in the middle of China and telling them to learn Chinese and by the way no one around you is speaking it correctly.” The same idea can be true with respect to prescribing a specific process for weaving endowed objects into the trial narrative.

In developing endowed objects in the trial narrative, the lawyer’s process differs less from the fiction writer’s process than some might think and can be just as recursive. This creative,

370 Id.
371 Id.
372 COLLINS, MOCKINGJAY, supra n.357 at 105-06. (A district 12 propaganda film exploits the mockingjay image).
373 Id.
374 Id. at 31. (Katniss officially becomes the mockingjay).
375 Id.
376 Id. at 31, 35.
377 Id. at 56-8. (Katniss believes if she doesn’t cooperate with Coin, district 13’s leader, she’s dead).
378 Id. at 368-72. (After conquering the capital, Coin elects to have his own hunger games).
379 Id. at 372. (Katniss shoots newly appointed President Coin with an arrow, killing him).
380 Terrill Pollman, Professor, University of Las Vegas Nevada School of Law, Biennial Conference of the Legal Writing Institute: A Conversation About What Cognitive Scientists and Composition Theorists Know That We Don’t About Using Examples to Improve Learning (July 2010).
dream-brain process, melded with editing can be adapted to trial preparation. The preparation can alternate between intuitive subconscious choices and deliberate editing and examination.

Endowed objects will appear in litigation. These objects exist in story because they exist in life. Although not every case will have a piece of evidence that can serve as an endowed object, many cases are likely to have such evidence. Initially, I feared I might not find examples for this article because a Westlaw search on “endowed objects” produces just a handful of law review articles, most of which are not actually related to this article. But once I began combing through trials, I started seeing endowed objects everywhere. I found several potential examples of “the one-ring,” some treasure jealously guarded by its possessor and coveted by another. Envy overpowered the covetous until they committed some wrong to obtain “the precious” and in so doing harmed the possessor. For instance, in the “murder-necklace” case mentioned previously, cocaine-dealer and music producer Naron Celestine, aka Cole or Cold, put a hit on a man named Joe Young for stealing a $97,000 medallion pendant. Just as Golem, Bilbo, and Frodo all fought over their desire for the ring, Young, Cole, and Cole’s accomplices all committed dark acts over the necklace. Similar stories of theft or murder for jewelry or other treasures abound. One of the more famous stories involves O.J. Simpson’s robbery and kidnapping of a Sports Memorabilia dealer who possessed memorabilia once

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382See Eyster, supra n. 15 at 113 (discussing importance of obtuse objects in bringing a story close to home).
383Cf. Dernbach, supra n. 381 at 168,205 (explaining that legal writing is recursive rather than linear); Rodriguez, supra n. 381 at 213 (explaining that while students may view legal writing as linear it is recursive); The Methodology of Persuasion: A Process-Based Approach to Persuasive Writing, J. of the Legal Writing Institute 164 (2007)(discussing how their prescribed method of persuasive writing is cyclical and recursive); Cunningham & Streicher, supra n. 381 at 169 (discussing how drafting a brief is a recursive process and how the facts are written in tandem with the argument).
384See, e.g., Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 (discussing how Timothy McVeigh’s t-shirt manifested his intent); Closing arguments by Mr. Scheck and Mr. Cochran, supra n. 5 (explaining how an ill-fitting glove proved O.J. Simpson’s innocence).
385See, e.g., Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 (discussing how Timothy McVeigh’s t-shirt manifested his intent); Closing arguments by Mr. Scheck and Mr. Cochran, supra n. 5 (explaining how an ill-fitting glove proved O.J. Simpson’s innocence).
386See, e.g., Lure of Mobiles Leads to Murder, The Hindu, Source: The Financial Times Limited (July 2, 2012)(describing how a woman was killed for her necklace); Demer, supra n. 299 (describing a man who was killed for stealing a necklace); Steve Freiss, As Simpson Robbery Trial Opens, Motive Is the Focus, New York Times (Sept. 16, 2009)(describing the trial against O.J. Simpson who was accused of stealing back his sports memorabilia).
387See, e.g., Lure of Mobiles Leads to Murder, supra n. 387; Demer, supra n. 299 (describing a man who was killed for stealing a necklace); Freiss, supra n. 387 (describing the trial against O.J. Simpson who was accused of stealing back his sports memorabilia).
388See, e.g., Demer, supra n. 299 (describing a man who was killed for stealing a necklace); Freiss, supra n. 387 (describing the trial against O.J. Simpson who was accused of stealing back his sports memorabilia).
389Demer, supra n. 299.
390Demer, supra n. 299.
391See, e.g., Lure of Mobiles Leads to Murder, supra n. 387 (describing how a woman was killed for her necklace); Demer, supra n. 299 (describing a man who was killed for stealing a necklace); Freiss, supra n. 387 (describing the trial against O.J. Simpson who was accused of stealing back his sports memorabilia).
belonging to the Heisman trophy-winner turned actor turned murder-defendant.\textsuperscript{393} The one-ring resonates with us in part because such precious items exist in real-life.

There is no set outline of the process for identifying the one-ring, glass slipper, or murder necklace. Just as objects may already exist in an early fiction draft, objects are likely already embedded in the client’s story, according to Law Professor and Clinician Jason Eyster.\textsuperscript{394} Initially, lawyer has fragments of stories from witnesses and bits and pieces of evidence, much like the fragments of the writer’s disjointed dream. Writing about the related concept of “obtuse objects,” Eyster recommends vigilantly seeking the objects out.\textsuperscript{395} From there, Eyster explains that there are two methods to discovering the obtuse objects, paying attention to objects that evoke discomfort or starting with the theory of the case.\textsuperscript{396}

In the first method, the attorney pays attention to each object mentioned and waits for one that makes him or her feel uncomfortable.\textsuperscript{397} With an endowed object, it’s possible that the attorney may feel resonance rather than discomfort.\textsuperscript{398} In seeking the object, the attorney can review written testimony, photographs, or physical evidence.\textsuperscript{399} When interviewing the client, witnesses, and collaterals, the lawyer must search for physical details.\textsuperscript{400} That means inquiring about such things as the contents of a bag, desk, purse, room, and so on.\textsuperscript{401} When an object is mentioned that seems out of place, surprising, or striking in some way the attorney must focus on ascertaining the reason for the object’s presence.\textsuperscript{402} In this sense, attorneys are still in the early draft stage of their story. But it may be that the lawyer has already gathered a fair amount of discovery, and just as Carol Bly recommends, the lawyer can list all the objects mentioned in depositions, produced in discovery, collected by police, or otherwise existing in some form or fashion.\textsuperscript{403}

With respect the second method, Eyster recommends beginning with the theory of the case, applying it to the client’s story, and then searching for an object that thematically represents this theory.\textsuperscript{404} Again, with respect to an endowed object, the lawyer might also ponder which pieces of evidence develop a witness’s “character,” evoke an appropriate emotional response, and/or create structural continuity. During this search, Eyster recommends looking for an ironic object because an obtuse object is out of place.\textsuperscript{405} While Eyster recommends finding an ironic object,

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\textsuperscript{393} David Kihara, \textit{Goldmans Laud Sentence}, Las Vegas Review J. (Dec. 6 2008); Freiss, \textit{supra} n. 387.
\textsuperscript{394} Eyster, \textit{supra} n. 15 at 105 (discussing obtuse objects embedded in cases).
\textsuperscript{395} \textit{id.}
\textsuperscript{396} \textit{id.}
\textsuperscript{397} \textit{See also Butler supra n.309 at 10-11 (quoting Akira Kurosawa as saying, “ ‘To be an artist means never to avert your eyes.’ ”).}
\textsuperscript{398} \textit{Cf. Williams-Garcia, supra n.6 (describing endowed objects).}
\textsuperscript{399} \textit{See Eyster, supra n. 15 at 104-105 (discussing how to find obtuse objects).}
\textsuperscript{400} Eyster, \textit{supra} n. 15 at 105 (discussing how to distinguish obtuse objects)
\textsuperscript{401} \textit{id.}
\textsuperscript{402} \textit{id.}
\textsuperscript{403} \textit{See Bly supra n. at .}
\textsuperscript{404} Eyster, \textit{supra} n. 15 at 105.
\textsuperscript{405} \textit{id.}
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an endowed object may sometimes simply be resonant.\textsuperscript{406} That being said, ironic objects can be endowed and can in their own fashion underscore the theory of the case.\textsuperscript{407} As Eyster says,

For example, where one is arguing that the government is persecuting a client for her political opposition, a paperweight given to her father by the country’s president, with the etched remark ‘To my good friend and comrade,’ seems ironic when compared to the government’s alleged persecution of the daughter. Upon closer reflection, however, it points out the dismay of the government at a rebellious child of a close contact of the president. It also solidifies the claim that the government knows who she is and is more likely to persecute her in the future, should she return to that country.\textsuperscript{408}

Regardless of where the attorney begins in searching for an endowed object, the attorney must edit the narrative in the same way that the writer edits.\textsuperscript{409} Just as a story should not hoard, a trial should not hoard.\textsuperscript{409} Ample evidence is good, but the evidence should all underscore the theory of the case in some way rather than being so much clutter. For instance, the evidence became cumbersome in ILC Peripherals Leasing Corp. v. International Business Machines Corp, the court admitted more than 2,300 exhibits.\textsuperscript{410} The jury deliberated for nineteen days and became deadlocked.\textsuperscript{411} Thus the court declared a mistrial.\textsuperscript{412}

Whatever the starting point for locating the object, the attorney must consider how the object relates to the theory of the case, the development of key figures’ “character,” the structure of the trial narrative, and the narrative’s emotional effect.\textsuperscript{413} An object that accomplishes one or more of these tasks should be further explored. Like the writer, the lawyer might review his or her notes or trial notebook with a critical eye and flag the loose hanging threads regarding an object.

Then it is time to dive back into the story in the same way that the writer does.\textsuperscript{414} Like the writer, the lawyer must tell a “true” story, a story that is not only supported by the evidence but that rings true to judge or jury. Thus, the same concerns about heavy-handedness apply to trial as well; a jury should not feel as though the lawyer is manipulating them. The lawyer must revisit the story with all the senses. If possible the attorney is looking more closely at the object,

\textsuperscript{406}Id. .
\textsuperscript{407}See Kathleen M. McKenna, Esq., Proskauer Rose LLP, Georgetown University Law Center Continuing Legal Education Litigating Employment Cases: Views from the Bench: Trial Tips (October 14, 2004); V. THE JURY’S CAPACITY TO DECIDE COMPLEX CIVIL CASES, 110 HARV. L. REV. 1489, 1513 (1997); NOTE, THE CASE FOR SPECIAL JURIES IN COMPLEX CIVIL LITIGATION, 89 YALE LAW J. 1155, 1157-58, n. 16 (May 1980)(discussing how overwhelming evidence can be confusing for juries).
\textsuperscript{408}Eyster, supra n. 15 at 105 (discussing how to distinguish obtuse objects).
\textsuperscript{409}See McKenna, supra n. 407; V. THE JURY’S CAPACITY TO DECIDE COMPLEX CIVIL CASES, supra n. 407 at 1513; NOTE, THE CASE FOR SPECIAL JURIES IN COMPLEX CIVIL LITIGATION, supra n. 407 at 1157-58, n. 16 (discussing how overwhelming evidence can be confusing for juries); cf. Michael Smith, supra n. 21 at 236 (warning against overuse of metaphors).
\textsuperscript{411}Id.
\textsuperscript{412}Id.
\textsuperscript{413}Cf. Eyster, supra n. 15 at 105 (explaining the weight that obtuse objects can carry); Williams-Garcia, supra n. 6.
\textsuperscript{414}Cf. Eyster, supra n. 15 at 105 (discussing eliciting information about the object).
feeling it, smelling it, and subjecting it to tests. The attorney is gathering more information. Sometimes the attorney takes the witnesses back to the story of the object and has them look more closely at their memory regarding it. Regardless, the lawyer must develop enough empathy to see the object in the story as though he or she was experiencing the object and the story for himself or herself. Again, this whole process may circle several times before the lawyer is ready to try the case. Since a trial is live, the lawyer will even continue to edit as the trial itself progresses.

V. Endowed Objects and Theme and Theory

Part of the power of these objects is that they represent the theme of a story or the theory of a legal case. Westerners see a glass slipper and likely think of Cinderella and all that her story represented. Similarly, when I say, “the glove,” more often than not both attorneys and non-attorneys know that I am talking about the O.J. Simpson case.

A. Endowed Objects and Fiction Themes

Cinderella’s glass slipper conveys the theme of compliant grace in the face of aggression. It is tempting to think that as scholars, lawyers, or judges that we are immune to this thematic power carried in symbols. But in the book Thinking Fast and Slow, Daniel Kahneman gives readers a series of quizzes to illustrate how symbols play a constant role in our thinking. For me, it is tempting to write in a distant third person from my scholars’ chair and cluck my tongue at how people are susceptible to symbols as though I am above it all. But in the struggle to write this portion of the paper, I realized that Cinderella’s theme had deeply planted itself in my own subconscious despite what my logical left-brain knew very well. Those powerful slippers had ensorcelled me.

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415 Cf. Id. (discussing eliciting information about the object).
416 Cf. Id. (discussing eliciting information about the object).
417 Gallacher, supra n. 340. 112, 138, 151 (explaining that a metaphor falls short if a lawyer fails to use empathy and chooses for logical overlap alone and that a lawyer requires empathy to understand witnesses and clients).
418 Cf. DERNBACH, supra n. 381 at, 168,205 (explaining that legal writing is recursive rather than linear). Rodriguez, supra n. 381 at 213 (explaining that while students may view legal writing as linear it is recursive); Cunningham & Streicher, supra. n. 381 at 169 (discussing how drafting a brief is a recursive process and how the facts are written in tandem with the argument).
419 Cf Gallacher, supra n. 340. 123-124 (explaining that a metaphor chosen for logical overlap falls short if the writer does not exercise empathy); Lieutenant Colonel Daniel G. Brookhart, "Planning Is Everything" Purpose Driven Trial Preparation, ARMY LAW 49, 50 (Feb. 2009)(recommending planning with some flexibility).
421 See GAG, SUPRA. N. 2(This theme is portrayed in a more positive light in this story); HEWET, supra n.2 at 28 (this theme is portrayed in a more positive light in this story).
422 KAHNEMAN, supra n. 44.
Glass is sparkling and conveys beauty. That sparkle has appeal. I like shiny things and pretty things. I WANT it. I am not the only one who wants it. Developmentally, shiny princess accessories are appealing to the three to five year old set; in fact, Disney’s princess line was already a three billion dollar industry in 2006. Education and development professor Lynn Mikel Brown notes that with 25,000 princess costumes on the market, children have few other toys from which to choose. When I first began to criticize the theme in this portion of the paper, I worried what other people would think. In criticizing the theme, I am giving up that shiny pretty slipper that I want so much. Just as children have no one to play with if they do not buy the princess toys, somewhere in the nethers of my subconscious, I worried about being excluded from society for challenging this theme. But the glass slippers are not merely sparkling and shiny societal totems.

Because the glass is fragile, Cinderella must have grace to dance in the slippers. Thus she is appealing.

Young women want to be her. They want those slippers. Shiny and thus beautiful, fragile and thus graceful— I want shiny, beautiful, and graceful. But note, the slippers tie shiny, beautiful, and graceful to dainty and fragile.

The fragility of the glass conveys daintiness. Cinderella is similarly meek and dainty. For instance, in Henry Hewett’s version of the story, after detailing the list of chores that Cinderella must perform, Hewett writes, “the poor thing bore this ill treatment very meekly, and did not dare complain to her father.” The theme itself is virtuous in some ways. Often meekness is labeled as “sweetness,” which is equated with kindness. I like kind people. I value kindness in myself and others. So I liked the part of Cinderella that seemed kind. This notion of meekness as kindness is perhaps attractive to parents in some ways; for instance, even writer Peggy Orenstein who criticizes aspects of Cinderella, acknowledges that she can get her child to use the toilet by saying that princesses use the potty. Compliant children are easy.

423 See Peggy Orenstein, What’s Wrong with Cinderella?, N.Y. Times (Dec. 24, 2006).
424 Id.
425 See Id.
426 See Miriam A. Cherry, How to Succeed in Business Without Really Trying (Cases): Gender Stereotypes and Sexual Harassment Since the Passage of Title VII, 22 HOFSTRA LAB. & EMP. L.J. 533, 547 (2005)(stating the dominant culture adopts the Cinderella theme).
427 See Orenstein, supra n. 423 (discussing the popularity of Cinderella costumes).
428 See Id. (discussing the popularity of Cinderella costumes).
429 See HABET, supra n.2 at 28 (referring to the slippers as dainty).
430 See Id. (referring to the slippers as dainty and Cinderella as meek).
431 Id. at 28.
432 Orenstein, supra n. 423.
However, those shoes also must hurt.\textsuperscript{433} Dancing in them for hours surely must be a torture.\textsuperscript{434} But, despite the fact that for years I have had a dark comedy version of the story tossing around in my brain, that thought never occurred to me until now. It is not mentioned in the story.\textsuperscript{435} I overlooked it. Perhaps readers are meant to overlook it. A positive take on the story might be that readers are supposed to overlook it the same way a woman overlooks labor pains. It is just one of the things that we must endure for something beautiful. But perhaps many women overlook it the way that they overlook spousal abuse, pretend that a rape never happened, and ignore the income disparity between women and men.\textsuperscript{436} Nonetheless, there is something to be said for enduring discomfort to achieve some greater good. For instance, as an attorney for child protective services, I was happy to stay up all night working on an emergency. However, in Cinderella’s case, she endures the pain to appear pretty and graceful.\textsuperscript{437}

Another problem with the slipper and theme is that Cinderella’s fairy Godmother magically appeared and conjured the slipper.\textsuperscript{438} Thus the message is that if a young woman is sweet and kind each time abuse is doled out, then someone will eventually appear from thin air to rescue her.\textsuperscript{439} However, this approach fails to take into account just how far the various abusers of the


\textsuperscript{434} Compare Condlin, supra n. 433 at 299 (2008) (stating that glass slippers pinch) with Hewet, supra n. 2 at 28 (implying that she danced for hours) and Jacob Grimm and Wilhelm Grimm, Wilhelm, Grimm’s Fairy Stories 62 (Public Domain Books Kindle Ed. 2004)(stating that she danced until a late hour).

\textsuperscript{435} Grimm and Grimm, supra n. 434.

\textsuperscript{436} See Hilary M. Schor, Storytelling in Washington, D.C.: Fables of Love, Power, and Consent in Sexual Harassment Stories, 65 S. Cal. L. Rev. 1347, 1348-49 (1992)(explaining how stories like Cinderella romanticize sexual harassment and lead women to consent to things to which they might not otherwise consent); Judy Sobin, Volunteer Legal Services Hawai’i News Letter Executive Director’s Report Spring 2003, 7 HAW. B.J. 25, 26 (March 2003)(reporting that many domestic violence victims choose to stay in their relationships); Brande Stellings, The Public Harm of Private Violence: Rape, Sex Discrimination and Citizenship, 28 HAR. CIV. RIGHTS-CIV. LIBS. L. REV. 185, 205, n.90 (1993)(discussing how rape becomes invisible because men do not have a context for envisioning victimhood and how women typically do not report rape as a result of its invisibility); Equal Pay, Comparable Work, and Job Evaluation, 90 YALE L.J. 657, 658 (1981)(explaining that women working full-time have made only sixty percent the amount that men made in the past sixty-five years); see also Rape and sexual assault: Reporting to police and medical attention, 1992-2000 [NCJ 194530]. Retrieved from the U.S. Department of Justice, Office of Justice Programs, Bureau of Statistics:http://bjs.ojp.usdoj.gov/content/pub/pdf/rsarp00.pdf (reporting over a hundred thousand reported rapes each year between 1992-2000); National Institute of Justice & Centers for Disease Control & Prevention. Prevalence, Incidence and Consequences of Violence Against Women Survey. 1998 (reporting that one in six women has experienced attempted or completed rape in her lifetime).

\textsuperscript{437} Compare Robert Condlin, supra n. 433 at 299 (stating that glass slippers pinch) with Hewet, supra n. 2 at 28 (implying that she danced for hours) and Grimm and Grimm, supra n.434 at 62 (stating that she danced until a late hour); see also Cherry, supra n.426 at 547(stating that some women will try to attain unrealistic beauty standards to achieve Cinderella dreams).

\textsuperscript{438} See Charles Perrault, Cinderella, or The Little Glass Slipper (The Planet, Kindle Ed. 2011).

\textsuperscript{439} See generally Gag, supra. N. 2; Henry W. Hewet, Cinderella 28 ; see also Colette Dowling, The Cinderella Complex (1981) (encouraging women to become independent); Schor, supra n.436 at 1348-49 (explaining how stories like Cinderella romanticize sexual harassment and lead women to consent to things to which they might not otherwise consent).
world will push someone who is sweet and accommodating. If an aggressors’ goal is simply to get what he or she wants, then they will take advantage of a compliant person. For instance, someone like serial killer Ted Bundy likely will not change his mind just because someone was sweet. Rather, he and all the other bullies of the world will target those who are compliant. In fact, in one study imprisoned child abusers even listed compliance as one of the traits they use to identify victims. But in Cinderella’s world, a fairy godmother magically saves her. In our world, for so many women, children, and especially men who are forced into the role of rescuer, no fairy godmother ever came to the rescue. Moreover, there is something empowering about rescuing oneself.

Cinderella’s reward for enduring the slippers is a prince. The story assumes that the prince should be an end goal. But readers know little about him other than that he is a prince, so he is royalty and thus a potentially wealthy and powerful person who is a part of a caste system that judges people by their bloodlines. The fact that he is wealthy and powerful also means that he is in a position to help Cinderella. Maybe he is a kindly monarch and a noble rescuer. Then again, perhaps he targets Cinderella for the same reason that the step-mother and step-sisters do, he can push her around. She will do what he says with a smile. After all, in his kingdom it does not appear that he is helping every destitute person, only the pretty girl who charms him at the dance. Indeed, he carries around a symbol of Cinderella, the glass slipper, and thus seems to consent to those things that the slipper represents. The problem is that readers do not know which of these things the prince is, and Cinderella does not know him well enough to know either. Moreover, if her father is the one who taught her to judge character, he probably is not the best person to do so, having married the evil step-mother.

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441 See Id. (listing compliance as one of the primary traits abusers seek in a victim).
442 See Id. (listing compliance as one of the primary traits abusers seek in a victim); see also Samuel H. Pillsbury, Evil and the Law of Murder, 24 U. CAL. DAVIS L. REV. 437, 470 (1990) (explaining that Ted Bundy included vulnerability in his criteria for selecting victims).
443 See Fossey, supra n. 440 at 450-451 (listing compliance as one of the primary traits abusers seek in a victim).
444 See Id.
445 See Perrault, supra n. 438.
447 See Id. (discussing the prevalence of sexual violence against men in armed conflict);
448 Dowling, supra n. 439 (encouraging women to become independent).
449 Perrault, supra n. 438; Hewet, supra n.2 at 28; Grimm and Grimm, supra n.434 at 63-64.
450 Perrault, supra n. 438; Hewet, supra n.2 at 28; Grimm and Grimm, supra n.434 at 63-64.
452 See generally Perrault, supra n. 438; Hewet, supra n.2 at 28; Grimm and Grimm, supra n.434 at 63-64.
After writing this section, I have conquered the thematic power that the slippers held over my own subconscious. My logic brain has reconciled with my right brain, and I have internalized the difference between being kind and smiling when someone tries to bully me. I feel just fine about liking shiny and pretty things as long as I make sure that they will not hurt me. I am happy to endure pain as long as it is for the right reasons. In deconstructing the slippers, I have shattered their hold on me. But endowed objects can wield such great thematic power, that to destroy them the writer must sometimes shatter them, or throw them into the fires of Mt. Doom, as with the one-ring. That is why the objects work well as vehicles for theme.

B. Endowed Objects and Theory of the Case

Just as an object can symbolize the theme of a story, it can represent the theory of the case. As Jason Eyster illustrates, the asylum seekers’ book bag represented his students’ theory of the case. In the woman’s narrative, the bag stands for all the things that she has lost. She has lost an education and thus lost the chance at a successful future in her country. But the bag also contains ideas, and in her country, her family was punished for independent ideas.

Similarly, Timothy McVeigh’s t-shirt represents the theory of the prosecution’s case against him. McVeigh plotted against a government of the people for a long-time and that plot culminated in the bombing of the Murrah Building and the killing of innocent American men, women, and children. The time that McVeigh took to make the shirt itself indicates a long plot. The well-researched quotes and images also represent planning and plotting. Abraham Lincoln represents abolition of slavery and thus stands for a government by all people as equals. The blood represents both Lincoln’s death and the deaths of Murrah Building victims. The quote itself represents anti-Lincoln sentiment and anti-government sentiment. Finally, the explosives residue represents the bombing.

VI. Endowed Objects and Character

A. Fiction Character

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453 See Eyster, supra n. 15 at 113-14.
454 Id.
455 Id.
456 Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5.
457 See Id. (describing the shirt and also discussing his planning).
458 Id.
459 Id. (mentioning the explosives residue).
Not only can an endowed object convey the story’s theme, but it can also speak volumes about a character. For instance, the slipper in Cinderella above tells readers much about her. Readers know that she likes pretty things and that she is graceful enough to dance in the glass slippers. They know that she does not complain and that she likes the prince enough to dance with him for hours in those slippers.

Similarly, the cowrie shell in Like Sisters on the Home Front tells the reader a lot about Gayle and about Great. Initially, the reader may find Great to be someone sentimental based on her box of odds and ends. Gayle’s reaction to the shell tells the reader that Gayle is not sentimental. Later, when the reader learns the meaning behind the shells, the reader sees that Great is not just sentimental. Great is the keeper of an important family history. Gayle’s changed reaction to the shell shows how her attitude toward the family has changed.

B. Endowed Objects and Witness or Party Character

Evidence used as an endowed object in the trial narrative can reveal the character of witnesses or parties in much the same way. For instance, the trap door in the John Wayne Gacy case shows that Gacy planned the killings, went to great lengths to kill, and then walked away without remorse.

Similarly, the t-shirt that convicted Oklahoma City bomber Timothy McVeigh wore to the bombing tells jurors a lot about McVeigh. McVeigh inscribed the words, “Sic semper tyrannis,” on the t-shirt. These words mean, “thus always to tyrants.” The words imply that

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460 Williams-Garcia, supra n. 6.
461 See GAG, supra n. 2.
462 GAG, supra n. 2.
463 GAG, supra n. 2.
464 WILLIAMS-GARCIA, supra n. 5 at 87, 153-154.
465 Id. at 87.
466 Id. at 87.
467 Id. at 153-154.
468 Id. at 153-154.
469 Id. at 87, 153-154.
470 See SULLIVAN, supra n. 85 at 308, 311-312, 332, 346, 360 (discussing all of the digging efforts and Gacy’s own acknowledgement that it demonstrated premeditation).
471 See Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5.
472 Compare Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 at 9 (discussing the origin of the phrase) with Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 at 40-41 (explaining the meaning of the term and offering a different explanation of its origin).
473 Compare Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 at 9 (discussing the origin of the phrase) with Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 at 40-41 (explaining the meaning of the term and offering a different explanation of its origin).
McVeigh viewed the government as tyrannical. Moreover, these words were the same words that John Wilkes Booth used when he shot President Abraham Lincoln. Thus, this history suggests that McVeigh identified with Booth and saw his illegal action as justified in the same way that Booth did.

VII. Endowed Objects and Story Structure

A. Fiction Structure

Joseph Campbell and Chris Vogler have applied the idea of subconscious metaphors to fiction and have identified how these metaphors play a role in the very structure of stories throughout the ages. In the Writer’s Journey, Vogler breaks the protagonist’s story into twelve phases: 1) “the ordinary world;” 2) “the call to adventure;” 3) “the refusal of the call;” 4) “the meeting with the mentor;” 5) “the first threshold;” 6) “tests, allies, and enemies;” 7) “approach to the inmost cave;” 8) “the ordeal;” 9) “seizing the sword;” 10) “the road back;” 11) “resurrection;” and 12) “return home with the elixir.” Although the word “journey” is used, these phases are metaphorical and Vogler provides examples regarding how this structure can play a role in any good story.

Objects naturally tend to weave their way in to the following phases: the meeting with the mentor, the inmost cave, the ordeal, and seizing the sword. For instance, in the fourth phase of the hero’s journey, the meeting with the mentor, “. . . the Shaman of the tribe presses something into your hand, a magic gift, a potent talisman that will protect us and guide us on the quest.” For instance, Vogler explains that in The Wizard of Oz, Dorothy meets with her mentor, Glinda the Good Witch who gives Dorothy the ruby red slippers from off of the feet of the Wicked Witch of the East.

474 Compare Opening Statements of Mr. Hartzler and Mr. Jones, supra n.5 at 9 (discussing the origin of the phrase) with Opening Statements of Mr. Hartzler and Mr. Jones, supra n.5 at 40-41 (explaining the meaning of the term and offering a different explanation of its origin).
475 Compare Opening Statements of Mr. Hartzler and Mr. Jones, supra n.5 at 9 (discussing the origin of the phrase) with Opening Statements of Mr. Hartzler and Mr. Jones, supra n.5 at 40-41 (explaining the meaning of the term and offering a different explanation of its origin).
476 Compare Opening Statements of Mr. Hartzler and Mr. Jones, supra n.5 at 9 (discussing the origin of the phrase) with Opening Statements of Mr. Hartzler and Mr. Jones, supra n.5 at 40-41 (explaining the meaning of the term and offering a different explanation of its origin).
477 Compare Vogler, supra n. 49 with Campbell, supra n. 10.
478 See Vogler, supra n. 49 at 12, 26, 178.
479 See Id.
480 See Id. at 117.
481 Id.
482 The Wizard of Oz, DVD (Warner Home Video 2009); see also Vogler, supra n.49 at 123.
As Dorothy passes through the phases of the journey, she approaches the inmost cave, the place where the biggest change, the ordeal, is about to occur. Sometimes the inmost cave is the den of the enemy. Other times, it may just be the place where the protagonist confronts his or her deepest conflict. In Dorothy’s case, the inmost cave is the castle of the witch.

Dorothy reaches the inmost cave and faces the ordeal where her red slippers again play a role. The ordeal is a phase of the journey where the hero faces a central crisis, and typically there is a symbolic death in this phase. Vogler identifies Dorothy’s ordeal as her confrontation at the castle of the Wicked Witch of the West. During this phase, the witch seeks the return of her sister’s ruby red slippers. Dorothy refuses and douses the witch with a bucket of water. The water causes the witch to melt and kills her.

Dorothy then embarks on the next phase of the journey. Vogler actually names this phase “seizing the sword.” Thus, object possession defines the phase. Vogler writes, “I call this unit of the journey Seizing the Sword because often it’s an active moment of the hero who aggressively takes possession of whatever is being sought in the Special World. . . . frequently the hero takes possession of a treasure or even steals it. . . .”

The idea of a hero Seizing the Sword comes from memories of stories in which heroes battle dragons and take their treasure. Among the treasures there may be a magic sword, perhaps the sword of the hero’s father, broken or stolen by the dragon in previous battles. But a sword is only one of many images for what is being seized by the hero at this step. Another concept is the Holy Grail, an ancient and mysterious symbol for all the unattainable things of the soul that knights and heroes quest after. A rose or jewel may be the treasure in another story. . . . Some heroes purchase the treasure in effect, buying it with their lives or the willingness to risk life. But other heroes steal the magic thing at the heart of the story. The prize is not always given, even if it has been paid for or earned. It must be taken.

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483 Vogler, supra n. 49.
484 Id.
485 See Id. at 178.
486 See Id. at 159-178.
487 See Id. at 178; see also The Wizard of Oz, supra n. 482.
488 The Wizard of Oz, supra n. 482.
489 Id.
490 Id.
491 See Vogler, supra n. 49; see also The Wizard of Oz, supra n.482.
492 See Vogler, supra n. 49 at 184.
493 See Id.
494 See Id. at 185.
The hero achieves self-realization along with new perceptions and abilities during this phase. In this phase, the hero uses the sword or other object to complete the quest.

In Dorothy’s case, the sword is the witch’s broom, which she will use as payment to the Wizard of Oz for her passage home. However, the slippers play a role again in this phase of Dorothy’s journey. The witch has demanded the slippers. But Dorothy escapes with her ruby red slippers intact.

In the final phase of the journey, Dorothy “returns home with the elixir.” Again, in naming this phase, Vogler contemplates object possession. The elixir itself is not always an object. It may be simple wisdom that the protagonist carries home. Or as Vogler illustrates, it may be the holy grail. In Dorothy’s case, the elixir is knowledge, but her ruby red slippers pay off once again. To finally return home, she clicks the heels of her slippers three times and says, “There is no place like home.”

Thus, the slippers connect the end of the journey to the beginning and the middle. By playing a role in each of these phases of the journey, the slippers have woven a narrative through-line.

While Vogler’s version of journey structure contemplates objects, there are no set rules for all of the exact points at which an endowed object must come into the story. Nonetheless the object can be used to create narrative continuity. A gift given early in the story often takes on special meaning only in the seizing the sword phase of the journey. For instance, in the section above on endowed objects and resonance, the cowrie shell in Like Sisters on the Home Front is labeled as “nothing” by Gayle. It is only when she makes her way into Great’s inmost cave and hears the telling that the cowrie shell becomes special to her. At that point, Gayle has seized the sword. Later when she sees her son lying on the cowrie shell blanket, Gayle has returned

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495 See id. at 184-188.
496 See id. at 181-191.
497 See id. at 190-191; see also The Wizard of Oz, supra n.482.
498 See Vogler, supra n. 49 at 190-191.
499 See Vogler, supra n. 49 at 234; see also The Wizard of Oz, supra n.482.
500 See Vogler, supra n. 49 at 221-235.
501 See id. at 229.
502 See id.
503 See Id. at 228.
504 See id. at 234; see also The Wizard of Oz, supra n.482.
505 See Vogler, supra n. 49 at 234; see also The Wizard of Oz, supra n.482.
506 See generally Vogler, supra n. 49 at 190-191; The Wizard of Oz, supra n.482.
507 See generally See Vogler, supra n. 49 at 299; Williams-Garcia, supra n. 6.
508 Compare Vogler, supra n. 49 with Williams-Garcia, supra n. 6.
509 Compare Vogler, supra n. 49 with Williams-Garcia, supra n. 6.
510 Williams-Garcia, supra n. 5 at 87.
511 See Id. at 153-154.
512 Compare Id. with Vogler, supra n. 49 at 181-191.
home with the elixir of knowledge. She shares her gift with Cookie when she prevents Cookie from betraying her beliefs.

By introducing the object early in the story, the writer can link the first act to the central conflict in act two to the final act. By including the object in these phases, the writer makes the object significant to the reader. The shell would not seem to mean anything to Gayle during the telling if she had not seen it previously in the box. But importantly, the shell also jogs the reader’s memory of the previous phase of Gayle’s journey. Gayle cries out, “She knew! She knew! ‘That shell tied up there in the hanky?’” These words remind the reader of a time when Gayle did not value Great or the family’s history. Thus readers feel the weight of Gayle’s change. If instead of using the shell Williams-Garcia had written, “Gayle remembered before that she did not care about Great or the family’s history,” readers would likely feel annoyed rather than tearful. Likewise, when Gayle sees the shell embroidered on the family quilt at the end, she reacts. “She let out a gasp. As many times as [Emmanuel] had wet that thing up! Didn’t Cookie know that quilt belonged to the family?” Again, the shell draws a connection for the reader. Once the family and the shell were nothing to Gayle. Later, she learns the significance of both. Her reaction at the end illustrates that she has returned with the elixir; she values her family now.

Despite how prescriptive this structure description can sound, it is merely descriptive. Although the writer can identify these flaws with the left brain during editing, as Robert Olen Butler notes, the flaws of writing are a result of the failure to explore the dream. So the writer can note the objects’ absence when it’s jarring. But then the writer must visit the dream anew to discover whether the story really has a cowrie shell or it’s actually a key chain or something else entirely.

B. Structure at Trial

513 Compare WILLIAMS-GARCIA, supra n. 5 at 159 with VOGLER, supra n. 49 at 231-235.
514 WILLIAMS-GARCIA, supra n. 5 at 160-164.
515 Compare Williams-Garcia, supra n.6 (discussing traits of endowed objects) with VOGLER (discussing the hero’s journey structure and mentioning throughout how gifts and talismans can sometimes play a role in this structure).
516 See WILLIAMS-GARCIA, supra n. 5 at 153-154.
517 Compare WILLIAMS-GARCIA, supra n. 5 at 153-154 with VOGLER, supra n. 49 (discussing the hero’s journey structure and mentioning throughout how gifts and talismans can sometimes play a role in this structure).
518 See WILLIAMS-GARCIA, supra n. 5 at 153-154.
519 See Id.
520 See Id.
521 See Id.
522 Id.
523 Compare Id. at 87, 153-154 with VOGLER, supra n. 49 (discussing the hero’s journey structure and mentioning throughout how gifts and talismans can sometimes play a role in this structure).
524 See WILLIAMS-GARCIA, supra n. 5 at 87.
525 WILLIAMS-GARCIA, supra n. 5 at 153-154.
526 Compare WILLIAMS-GARCIA, supra n. 5 at 159 with VOGLER, supra n. 49 at 231-235.
Similarly, an endowed object can weave a thread through journey fabric at trial and create structural continuity. In fact, Professor Ruth Anne Robbins has already written an entire article recommending the use of journey theory in legal narratives. Further building on the idea of using narrative structure in trials, Professor Stefan Krieger and Clinical Fellow Reza Rezvani have illustrated how movie storyboarding can be used to plan trial-narrative structure. They speak of dividing the trial into three different acts. However, since a trial proceeds witness by witness, a trial will not necessarily always start chronologically with Act One, progress to Act Two, and end with Act Three. Rather, each witness may have his or her own story to tell that fits into the larger narrative. So Witness One will have an individual Act One, Two, and Three. However, Witness One may only present parts of the larger narrative. Witness Two then has his or her own Act One, Two, and Three, which also form a part of the larger narrative.

Given this structure, an endowed object can serve as a transition and jog the judge or jury’s memory back to a previous witness. So for instance, Witness One discusses the object in Act One. Later, Witness Two returns to Act One of the larger narrative, that witness may discuss the object as well or perhaps the object is introduced into evidence at that point. The object then links the narrative for the fact-finder.

When an object plays a large role like this one and represents the theme, it can weave a through-line at several key points. Although there are no set rules dictating when an object must appear in story or in trial, objects may sometimes naturally fit at certain story points.

An object important enough to represent the theory of case can also resonate in the summaries of the larger narrative in the opening and closing. The opening can be a narrative that follows journey structure. The object might be introduced early in the narrative as a gift during the Meeting with the Mentor phase of the journey. The term “gift” is symbolic here and can refer to an object uncovered in an investigation. The mentor in this instance could be the invisible

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527 See Robbins, supra n. 83 at 793.
528 See Id.
529 Krieger and Rezvani, supra n. 26.
530 Id.
531 Id.
532 Id.
533 Id.
534 Id.
535 Id.
536 See generally Robbins, supra n. 83 (discussing journey structure at trial); see also Linda Edwards, Once Upon a Time in Law, Myth, Metaphor, and Authority, 77 TENN. L. REV. 883, 888-889 (explaining that client stories lend themselves to journey structure).
537 Compare Robbins, supra n. 83 at 792 (discussing receiving a gift at this phase) with VOGLER, supra n. 49 at 117-121.
538 See generally VOGLER, supra n. 49 at 117-121.
embodiment of wisdom used in the investigation. The object might be used again during the central conflict, otherwise known as the Ordeal, the middle of the story and point at which some symbolic death occurs. Finally, the object might play a role in the resolution, the Return Home with the Elixir.

None of these suggestions are rules etched in stone rather they are dramatic beats where the object is likely to naturally play a role in the organization of a non-fiction story. As discussed in the portion on process, the attorney can flag these points in editing the trial notebook and drafts of opening and closing remarks. However, visualizing this non-fiction story is key to ensuring that the object fits into the story organically.

If the object is aligned with the theory of the case and with the evidence, the object is likely to be relevant at key points in the trial itself. The narrative use of the object during trial must be accurate and must comport with the rules of evidence and procedure. Witnesses who encountered the object prior to trial can testify regarding the object if their testimony is relevant. Thus, Jailer Marsha Moritz could testify that she witnessed Timothy McVeigh wearing the t-shirt, which is discussed in greater detail below. Similarly, if the witness has relevant expertise regarding the object or relevant and admissible knowledge about the object, the witness can testify. Therefore, FBI Chemist Steven Burmeister could testify regarding the explosives test that he performed on Timothy McVeigh’s t-shirt. An attorney cannot simply elicit evidence regarding the object at a given point based on narrative structure alone. However, where the theory of the case, the object, and the evidence are aligned, the object will often naturally enter the narrative at key structural points.

Finally, when the attorney closes, the attorney can reference the evidence regarding the object again. Thus the object weaves a thread of continuity through the narrative at trial.

The prosecution effectively weaved the t-shirt worn by Oklahoma City bomber Timothy McVeigh into the structural fabric of trial narrative that led to McVeigh’s conviction.

539 See generally Id. at 117-121.
540 Compare Robbins, supra n. 83 (discussing journey structure at trial) with Edwards, supra n. 536 at 888-889 (explaining that client stories lend themselves to journey structure) with VOGLER, supra n. 49 at 159-179.
541 Compare Robbins, supra n. 83 (discussing journey structure at trial) with Edwards, supra n. 536 at 888-889 (explaining that client stories lend themselves to journey structure) with VOGLER, supra n. 49 at 159-179.
542 See Part IV, supra.
543 See Part IV, supra.
544 See, e.g., Fed. R. Evid. 401, 403 (regarding relevance and confusing the jury); Fed. R. Evid. 901.
546 See Fed. R. Evid. 401, 402, 602, 702 (allowing witnesses to testify regarding matters about which they have personal knowledge, allowing expert witnesses to testify under certain conditions, allowing admissibility of relevant evidence if its probative value is not outweighed by prejudice).
547 Compare Examination of Steven Burmeister, supra n. 297 at 32-40 with Fed. R. Evid. 401, 402, 602, 702.
548 See generally Examination of Ronald Kelly, Marsha Moritz, and Vivian Dewyse, supra n. 545 at 36, 40; Examination of Steven Burmeister, supra n.298 at 32-40; Examination of Danny Atchley and Charles Hanger at 20,
shirt served as an endowed object in the trial. McVeigh was a former United States Army soldier who had grown embittered over what he saw as oppressive government control. McVeigh traveled to gun shows and his hostility towards the government grew. Along the way, he met allies in his conspiracy against the government and formed a plan to bomb a government building in Oklahoma. McVeigh’s bomb killed 149 adults and 19 children. The day of the bombing, McVeigh wore a t-shirt inscribed with the words *sic semper tyrannis*. Like the inscription on the one-ring, these words were magic words. John Wilkes Booth uttered these same words the day he assassinated President Lincoln, “*Sic semper tyrannis*,” “Thus always to tyrants.” Later testing revealed explosives residue on the shirt. Investigators and prosecutors turned McVeigh’s talisman against him.

As recommended above, the prosecution created a structural through-line by using the shirt in opening, direct, and closing. With respect to the opening, Prosecutor Joseph Hartzler created a narrative that followed journey structure. The state served as an invisible protagonist in this narrative. Hartzler begins with an ordinary day in the life of a citizen dropping her child off at daycare in the Federal Building. The state is “Called to Adventure” when a bomb blows-up the building. The call is a call to prosecute the person responsible. The Refusal occurs during the seventy-five minutes before the state arrests McVeigh, at that point it’s uncertain whether law enforcement will find the person responsible.

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549 Compare Williams-Garcia, supra n.6 (discussing characteristics of endowed objects) with U.S. v. McVeigh, No. 96-CR-68 (D.Colo. trans. 1997).

550 Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 at 11-12.

551 Id.

552 Id. at 11-24.


554 Compare Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 at 9 with Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 at 40-41 (mentioning the exact Latin phrase).

555 Compare Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 at 9 (discussing the origin of the phrase) with Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 at 40-41 (explaining the meaning of the term and offering a different explanation of its origin).

556 Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5 at 30.

557 See Id. at 11-24.

558 See generally Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5; Examination of Ronald Kelly, Marsha Moritz, and Vivian Dewyse, supra n. 545 at 36, 40; Examination of Steven Burmeister, supra n.298 at 32-40; Examination of Danny Atchley and Charles Hanger, supra n.548 at 20.

559 Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5.

560 Id.

561 Id.

562 Id.
Trooper Charles Hanger’s encounter with McVeigh serves as a “Meeting with the Mentor,” the teaching, learning, and gift-giving phase of the journey. The state learned much about McVeigh in that initial encounter and received a gift, an object, the t-shirt. Hartzler describes it as follows,

And the T-shirt he was wearing virtually broadcast his intention. On its front was the image of Abraham Lincoln; and beneath the image was a phrase about tyrants, which is a phrase that John Wilkes Booth shouted in Ford's Theater to the audience when he murdered President Lincoln. And on the back of T-shirt that McVeigh was wearing on that morning, the morning of bombing, the morning that he was arrested, was this phrase: It said, "The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants." And above those words was the image of a tree. You'll see that T-shirt; you'll see the tree; you'll see the words beneath the tree, and you'll notice that instead of fruit, the T-shirt--the tree on the T-shirt bears a depiction of droplets of scarlet-red blood.

Thus, just as Dorothy was gifted with the witch’s slippers during the Meeting with the Mentor, the state was gifted with McVeigh’s t-shirt during the Meeting with the Mentor. The investigation was still incomplete at that point in the story. But the shirt served as a potential seed in the mind of the jurors. The reference to blood connects McVeigh to death. The quote from John Wilkes Booth links McVeigh to assassination and illegality. Wilkes Booth assassinated the legal president of the United States, a high symbol of government. History views the president he assassinated as a hero. Yet McVeigh quotes Booth, not Lincoln. Since McVeigh also quoted Thomas Jefferson, highlighting Booth who killed an unarmed man is important. This highlighting is a reminder that McVeigh also killed unarmed men, women, and children. These thoughts distinguish McVeigh from American revolutionaries. Thus, the shirt creates a perception of anti-government sentiment and antagonism. Rather than giving jurors the whole information dump contained in this paragraph, Hartzler let the shirt do the work for him and described it.

563 Id.
565 Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5.
568 Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5.
569 See Dorf, supra n. 564 at 347; see also Bogus, supra n. 564 at 391 (1998)(examining whether Jefferson was an insurrectionist).
570 See Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5.
571 See Id.
572 See Id.
Hartzler proceeded forward in his story and describes the state’s allies, witnesses, and the state’s enemies, McVeigh’s accomplices. Hartzler described the Approach to the Inmost Cave, the days and preparations that occurred just before the bombing.

Then shirt appeared again when Hartzler progressed to the central conflict, the Ordeal, that phase of the journey where death or symbolic death occurs. The bomb killed women and children in the Murrah Building. The protagonist, the state, discovered key evidence in the rubble. It is at this point in his opening that Hartzler mentioned explosives expert, Steven Burmeister. Burmeister tested McVeigh’s t-shirt. The shirt contained explosives residue. Earlier during the Meeting with the Mentor, Hartzler painted a picture of McVeigh wearing the shirt. Now the explosives residue on the shirt linked the Ordeal to the Meeting and linked McVeigh to the crime in much the same way that the cowrie shells linked Gail’s Ordeal to her Meeting. The shirt linked McVeigh to the crime.

The shirt wields particularly great power in that point of the narrative because it already represented McVeigh’s intentions and his state of mind. Thus the explosives residue does not seem like mere circumstantial evidence. In actuality, this evidence is circumstantial. But because of the shirt’s already symbolic power, this testimony is connected to McVeigh’s guilty state of mind.

From there, Hartzler’s narrative included other phases of the journey. Then finally, the state “Returned with the Elixir.” Hartzler explained how the evidence would intersect with the judges’ instructions to the jury. In this phase, Hartzler did not explicitly mention the shirt. Rather, he referenced McVeigh’s historical quotes and contrasted McVeigh’s actions with those of true patriots. These ideas are thematically related to the shirt.

Thus, the opening endowed the t-shirt and included it in key phases of the journey. It served as a link between the beginning or the Meeting with the Mentor, the Ordeal in the middle, and the end, the Return with the Elixir.

573 Id.
574 Compare Id. with VOGLER, supra n. at 145-157.
575 Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5.
576 Id.
577 Id.
578 Id.
579 Id.
580 United States v. Henderson, 693 F.2d 1028, 1031 (11th Cir. 1982)(explaining that fact-finders have to draw inferences regarding circumstantial evidence); Gabriel v. Benitez, 390 F. Supp. 988, 992 (D.P.R. 1975)(“Circumstantial evidence is proof of a chain of circumstances pointing to the existence or nonexistence of certain facts.”).
581 Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5.
582 Id.
During direct examination, Prosecutor Scott Mendlehoff delivered on Prosecutor Hartzler’s promise. He introduced the first sitting of the shirt via the Witness Trooper Charles Hanger.\(^{583}\) Hanger stopped McVeigh for driving a car without a tag on the rear bumper.\(^{584}\) After discovering McVeigh’s weapons, he arrested him.\(^{585}\) When Hanger arrested McVeigh, he was wearing the shirt.\(^{586}\)

Hanger viewed the shirt in front of the jury and verified that it was the same shirt that McVeigh wore on the day of the arrest.\(^{587}\)

This arrest scene continued during Jailer Marsha Moritz’s testimony.\(^{588}\) The court admitted McVeigh’s arrest photo into evidence.\(^{589}\) The photo featured McVeigh wearing the shirt.\(^{590}\)

Hence the shirt again acted as a structural link; it tied the Hanger and Moritz testimony to the Mentor phase of the prosecution’s opening narrative. At this point, the prosecution had already crafted the shirt into a symbol of McVeigh’s state of mind and as evidence that he bombed the Murrah Building.\(^{591}\) By showing the jury McVeigh’s arrest photo with the shirt, the prosecution opened a window into the past. The jury could glimpse the past and see McVeigh wearing the shirt for themselves.

Then explosives technician Brett Mills showed the actual shirt itself to the jury.\(^{592}\)

Delivering again on the promises made in the opening, the state later used the shirt to linked Hanger’s and Moritz’s testimony to that of FBI Chemist Steven Burmeister.\(^{593}\) Burmeister testified that the shirt tested positive for explosives residue.\(^{594}\) This testimony not only linked the two witnesses, but it linked Burmeister’s testimony to the Ordeal phase of the larger narrative provided in the closing.

Finally, the prosecution tied the narrative together mentioning the shirt again in closing.\(^{595}\) Prosecutor Larry Mackey argued,

Tim McVeigh picked his clothes for the bombing as carefully as he picked that which he took with him. You saw Mr. McVeigh’s T-shirts more than once. You remember the

\(^{583}\) Examination of Danny Atchley and Charles Hanger, supra n.548 at 20.
\(^{584}\) Id. at at 5.
\(^{585}\) Id.
\(^{586}\) Id. at at 20.
\(^{587}\) Id.
\(^{588}\) Examination of Ronald Kelly, Marsha Moritz, and Vivian Dewyse, supra n. 545 at 36.
\(^{589}\) Id. at 36, 40.
\(^{590}\) Id.
\(^{591}\) Opening Statements of Mr. Hartzler and Mr. Jones, supra n. 5.
\(^{592}\) Examination of Deborah Thompson, Louis Hupp, Brett Mills, and Ronald Kelly, supra n.221 at 38.
\(^{593}\) See Examination of Steven Burmeister, supra n. 298 at 32-40.
\(^{594}\) Id.
T-shirt of the likeness of Abraham Lincoln. This is the shirt that Mr. McVeigh was wearing on the day of the bombing. On the back the expressions, "The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants," and droplets of blood fall from the tree; and on the front side, President Lincoln and the Latin phrase, "Sic semper tyrannous," thus always to tyrants.

... on the front of the T-shirt that Tim McVeigh was wearing on the day of the bombing... there's a photo of President Lincoln, President Lincoln, a man who was assassinated, assassinated by a man who snuck up behind him and put a bullet in the back of his brain, President Lincoln, a victim who didn't know what hit him, victims just like inside the Murrah Building. On April 19, 1995, Tim McVeigh drove his truck bomb to Oklahoma City and drove away wearing a T-shirt with the words of an assassin on the front.596

By mentioning the Lincoln assassination, Mackey again reminded the jury that McVeigh stood in the shoes of the antagonist and not the hero. Thus the shirt served as a hero’s “elixir” in the overall completion of the story.

VIII. **Endowed Objects Used Against the Proponent**

Once such a powerful symbol is created, it can be dangerous in the wrong hands. Sometimes an object that may appear to be a gift or a coveted treasure can be turned against the person who wields it, like the one-ring. Such an object poses a danger to its bearer in story. In trial, such an object can pose a danger to its proponent.

A. **Endowed Object Turned Against the Object's Proponent in Fiction**

In fiction, Desdomona’s handkerchief in *Othello* is an endowed object turned against its proponent, Iago. Iago plans to use the handkerchief to frame Othello’s new wife Desdemona and destroy Othello.597 Iago plants seeds of doubt in Othello’s mind.598 Then Iago tricks his wife, Emilia, into stealing Desdemona’s handkerchief.599 Her “napkin” as Desdemona calls it was her first gift from her husband.600 It belonged to his mother and is embroidered with strawberries.601

596 *id.*
597 WILLIAM SHAKESPEARE, *OTHELLO*, act 1, sc. 3.
598 *id.*
599 *id.*
600 *id.*
601 *id.*
Iago plants the handkerchief on Cassio thus framing Desdemona.\textsuperscript{602} So Othello’s friend, Rodrigo, confronts Cassio.\textsuperscript{603} Cassio kills Rodrigo in the confrontation.\textsuperscript{604}

Othello kills his wife Desdemona.\textsuperscript{605} But Emilia sees him and calls for help.\textsuperscript{606} Iago arrives to help in time to hear Othello speak,

"Tis pitiful; but yet Iago knows
That she with Cassio hath the act of shame
A thousand times committed; Cassio confess'd it:
And she did gratify his amorous works
With that recognizance and pledge of love
Which I first gave her. I saw it in his hand:
It was a handkerchief, an antique token
My father gave my mother.\textsuperscript{607}

Emilia is stunned.\textsuperscript{608} She then confesses that Iago begged her to steal the handkerchief for him and that she did it.\textsuperscript{609} Iago stabs his wife, Emilia.\textsuperscript{610}

Othello wounds Iago with his sword.\textsuperscript{611} Cassio enters and proclaims that Iago planted the handkerchief in his chamber and that Iago’s plotting caused Rodrigo’s death.\textsuperscript{612}

The proof that Iago proposed has undone him.\textsuperscript{613} He is wounded.\textsuperscript{614} He has lost his wife, and he is revealed as a betrayer.\textsuperscript{615}

Thus the handkerchief that Iago used to make his case was turned against him in the end.

That is often the danger that endowed objects pose to story characters. Glass slippers can be turned against step-sisters. The one-ring can turn against its bearer, and magic mirrors can say that someone else is prettier.

B. Endowed Object Turned Against the Proponent at Trial

\textsuperscript{602}Id.
\textsuperscript{603}Id. at act 5, sc. 1.
\textsuperscript{604}Id.
\textsuperscript{605}Id. at act 5, sc. 2.
\textsuperscript{606}Id.
\textsuperscript{607}Id.
\textsuperscript{608}Id.
\textsuperscript{609}Id.
\textsuperscript{610}Id.
\textsuperscript{611}Id.
\textsuperscript{612}Id.
\textsuperscript{613}Id.
\textsuperscript{614}Id.
\textsuperscript{615}Id.
The leather glove in the O.J. Simpson murder trial is much like the handkerchief in Othello in that it was turned against its proponent, the prosecution. The prosecution staked much of its case on the glove, and prosecutor Marcia Clark said in her argument to the jury that the prosecution found “everything” on the glove.

Detective Mark Furhman testified that he found a bloody leather glove at the scene of the murder and that he found another bloody glove at Simpson’s residence. The prosecution produced a sales receipt showing Nicole Brown Simpson had bought a pair of these same unique gloves. Only Bloomingdales sold these gloves, and between 1982 and 1992 the chain had purchased only about 1000 pairs. Thereafter the model was discontinued. The prosecution proffered photographs showing Simpson wearing the same type of gloves at sporting events.

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616 See Peterson, supra n.4 at 790 (comparing the glove to the handkerchief and Simpson to Othello); Heinzelman, supra n.4 at 202 (reviewing DANIEL J. KORNSTEIN KILL ALL THE LAWYERS SHAKESPEARE’S LEGAL APPEAL 274 (Princeton University Press, 1994) (comparing the glove to the handkerchief and Simpson to Othello).


619See Fisher, supra n. 617 at 101 (citing Examination of Mark Fuhrman at 37, People v. Simpson (No. BA097211), available in 1995 WL 106322); see also The O.J. Simpson (Civil) Trial: Direct Examination, 841 The Practicing Law Institute: Litigation and Administrative Practice Series 761 (Dec. 1, 2010) (containing the transcript of the testimony of Thomas Lange who testified at the later civil trial that a glove was found at the crime scene).


623 Fisher, supra n. 617 at 998-99 (citing Examination of Richard Rubin at 18, Simpson (No. BA097211), available in 1995 WL 564555; Examination of Lakshmanan Sathyavagiswaran, Brenda Vemich and Richard Rubin at 31-33, Simpson (No. BA097211), available in 1995 WL 364726 (testimony of Rubin); Examination of Richard Rubin at 18, Simpson (No. BA097211), available in 1995 WL 564555.

624 Fisher, supra n. 617 at 999 (citing Examination of Mark Krueger, Bill Renkin, Kevin J. Schott, Stewart West, Michael Romano, Debra Guidera and Gary Sims at 10, 13, Simpson (No. BA097211), available in 1995 WL 564553 (testimony of Krueger: black gloves on December 29, 1990); id. at 15-16 (testimony of Renkin: brown gloves on January 6, 1991); id. at 25-26 (testimony of Schott: black gloves in 1993); id. at 33, 35 (testimony of West: black gloves in December 1993); id. at 38 (testimony of Guidera: dark brown or black gloves in December 1993); id. at 35, 37 (testimony of Romano: black gloves in January 1994); Examination of Gary Sims and Richard Rubin at 33, Simpson (No. BA097211), available in 1995 WL 564554 (Rubin identifying the gloves in “some of the pictures” offered by previous witnesses as Aris Leather Lights).
Prosecutor Christopher Darden believed that the jury needed to see the gloves on Simpson’s hands.625 However, Defense Attorney Johnny Cochran insisted that his client wear latex gloves.626 Simpson struggled to get the gloves on and said, “They don’t fit.”627

In his closing argument, Cochran, said that the prosecution’s strategy changed after Simpson tried on the gloves.628 “You will always remember those gloves, when Darden asked him to try them on, didn’t fit. ’’629 Cochran added, “If it doesn’t fit, you must acquit.”630

The jury acquitted Simpson,631 and the gloves became international news.632 The popular television sitcom, Seinfeld, even parodied the gloves in a scene where a Johnny Cochran look-alike has a female defendant try on a bra that is too small.633 One juror said after the trial, “In plain English. . . the glove didn’t fit.”634 Although two of the jurors said that the glove was not their reason for acquittal,635 the glove was a famous international symbol, and Simpson walked free.

Simpson’s case seems to parallel Othello in some respects and the two objects overlap.636 It seemed that the prosecution had him. Just as Iago used the handkerchief to prove that Cassio was having an affair with Desdemona, the prosecution used the glove in an attempt to prove that Simpson killed his wife.637 For the prosecution, the glove was also like John Booth’s boot at Samuel Mudd’s house.638

However, just as the handkerchief was Iago’s undoing, so too the glove might have been the prosecution’s undoing in the Simpson case.639 The metaphoric power of the glove may be

626 Id.
627 See also Roberto Aron, Julius Fast and Richard B. Klein, Courtroom Communication Lessons from the O.J. Simpson Trial, Trial Communication Skills § 37:15 (2d ed.).
628 Closing arguments by Mr. Scheck and Mr. Cochran, supra n. 5.
629 Id.
630 Id.; see also Trial Communication Skills § 37:15 (2d ed.); Fisher, supra n. 617 at 997.
631 Ian Gallacher, supra n. 340 at 129.
633 DVD: Seinfeld: The Caddy (Sony Home Pictures Nov. 21, 2006).
634 Fisher, supra n. 617 at 998.
635 Id. at 1019 n.184.
636 See Peterson, supra n.4 at 790; Heinzelman, supra n.4 at 202; see also Fisher, supra n. 617 at 976 (characterizing the decision to have Simpson try on the glove as disastrous).
637 See Peterson, supra n.4 at 790 (comparing the glove to the handkerchief and Simpson to Othello); Heinzelman, supra n.4 at 202 (comparing the glove to the handkerchief and Simpson to Othello).
638 Compare Fisher, supra n. 617 with Aitken, supra n. 3 at 53.
639 See Peterson, supra n.4 at 790 (comparing the glove to the handkerchief and Simpson to Othello); Heinzelman, supra n.4 at 202 (comparing the glove to the handkerchief and Simpson to Othello); see also Fisher, supra n. 617 at 976 (characterizing the decision to have Simpson try on the glove as disastrous).
twofold in that it also serves as glass slipper. Just as the slipper did not fit the step-sisters in Cinderella, the glove did not fit Simpson. And as both the step-sisters were undone by the slipper and Iago was undone by the handkerchief, so the prosecution was undone by the glove.

The take-away for proponents of evidence that serves as an endowed object is to consider how their opponents may spin the object against them. Because of the object’s symbolic power, it can destroy a case surely as it can make one. The more certainty and information the proponents can obtain regarding the object the more safe it is to rely upon.

In contrast, the take-away for opponents of the object is that they must discover that piece of information about the object that turns its symbolism and probative power on its head.

X. Ethical Concerns

Lawyers have a duty to include endowed objects in trials when the object is aligned with the evidence and the theory of the case. A lawyer’s job is to present his or her client’s truth to the jury. Whole articles have been written regarding the ideas of individual client truths, client stories, and emotional evidence and what follows is merely a summary. Although lawyer cannot make “a false statement of material fact or law to a third person,” litigation is a process of competing truths and a reminder that “reality” is in the eye of the beholder. At trial, the fact-finder determines which thematic truth and perception of reality is best borne out by the

640 See Patt Morrison, A Five Year Perspective on a Murderous Midnight in June, L.A. Times (June 11, 1999) Noble, supra n.4; but see Fisher, supra n. 617 at 998 (arguing that the glove is not a glass slipper because gloves do not have to fit well).
641 Noble, supra n.4; but see Fisher, supra n. 617 at 998 (arguing that the glove is not a glass slipper because gloves do not have to fit well).
642 See Peterson, supra n.4 at 790 (comparing the glove to the handkerchief and Simpson to Othello); Heinzelman, supra n.4 at 202 (comparing the glove to the handkerchief and Simpson to Othello); Noble, supra n.4(discussing how the gloves invoked the analogy of the step-sisters); see also Fisher, supra n. 617 at 976 (characterizing the decision to have Simpson try on the glove as disastrous).
643 See ANN. MOD. RULES PROF. COND. S. 1.1 (instructing that lawyers provide competent representation to clients); cf. ANN. MOD. RULES PROF. COND. PREAMBLE AND SCOPE (advocating zealous advocacy of clients); see also Steven J. Johansen, This Is Not the Whole Truth: The Ethics of Telling Stories to Clients, 38 ARIZ. St. L.J. 961 (2006)(explaining that the truth is the client’s truth within limits).
644 See, e.g., Johansen, supra n. 643.
645 MODEL RULES OF PROF’L CONDUCT R. 4.1(a)
646 Cathren Koehlert-Page, Come a Little Closer So I Can See You My Pretty: The Use and Limits of Fiction Point of View Techniques in Appellate Briefs, 80 UMKC L. Rev. 399 (Winter 2011); Johansen, supra n.643(explaining that the truth is the client’s truth within limits); Cf. Brian J. Foley & Ruth Anne Robbins, Fiction 101: A Primer for Lawyers on How to Use Fiction Writing Techniques to Write Persuasive Facts Sections, 32 Rutgers L.J. 459, 472 (2001) (discussing two parties’ competing truths). But see Wendy Nicole Duong, Law is Law and Art is Art and Shall the Two Ever Meet? Law and Literature: The Comparative Creative Processes, 15 S. Cal. Interdisc. L.J. 1 (2005) (arguing that to see multiplicity and relativity to truths is to rethink jurisprudence).
evidence. Although some may argue that metaphors, and thus metaphoric objects, are ways of “evading reality,” all language is symbolic. For example, the word “lawn” is not a lawn in and of itself. Moreover, it does not necessarily capture all the properties and principles of a given lawn, and people may differ regarding their perceptions of its meaning. Rather “lawn” is a shorthand or symbol of the actual thing.

Similarly, any report of the past is symbolic. The lawyer cannot conjure up the past for the jury to experience for themselves. Rather, it is through symbols such as words and physical evidence that the lawyer reconstructs a representation of the past. The fact-finder then determines which version of the past best comports with the evidence.

The lawyer’s job is to present those symbols that best convey the client’s truth to the fact-finder. Since those symbols may often be endowed objects, then using those objects effectively is part of a lawyer’s duty. Yet both lawyers and judges have a duty of accuracy with respect to endowed objects. While the past itself cannot be reproduced, the lawyer must ensure that the object’s symbolism is consistent with the evidence and the theory of the case.

These symbols may evoke emotion. Although traditionally, law has viewed reasoning as excluding emotion, emotion and narrative play a role in reasoning regardless. Our

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648 See Steven L. Winter, Book Review, Death is the Mother of Metaphor, 105 Harvard L. Rev. 745, 760-761 z(taking issue with Thomas Grey’s contention that metaphor creates a new reality); Berger, supra n. 10 at 277 (noting the argument that “literal” truth might be non-existent in law).
649 Roderick A. MacDonald, Legal Bilingualism, 42 McGill L.J. 119, 140 (Feb. 1997); Leonard R. Jaffee, The Troubles with Law and Economics, 20 Hofstra L. Rev. 777, 932 n.6 (1992); See generally Winter, supra n.648 at 748 z (discussing metaphor, language, and notions of objective reality); KAHNEMAN, supra n.44 at 56-57(explaining that people think in symbols).
650 Cf. MacDonald, supra n.649 at 140 (explaining how all language is symbolic); Jaffee, supra n.649 at932 n.6 (explaining how all language is symbolic); See generally Winter, supra n.648 at 748 (discussing metaphor, language, and notions of objective reality).
651 Cf. MacDonald, supra n.649 at 140 (explaining how all language is symbolic); Jaffee, supra n.649 at 932 n.6 (explaining how all language is symbolic); See generally Winter, supra n.648 at 748 (discussing metaphor, language, and notions of objective reality).
652 Cf. MacDonald, supra n.649 at 140 (explaining how all language is symbolic); Jaffee, supra n.649 at 932 n.6 (explaining how all language is symbolic); See generally Winter, supra n.648 at 748 (discussing metaphor, language, and notions of objective reality).
654 See Johansen, supra. n.643 at 978-83; Compare Ann. MOD. RULES PROF. COND. R. 3.3 (creating a duty of candor towards the tribunal) with ANN. MOD. RULES PROF. COND. S. 1.1 (instructing that lawyers provide competent representation to clients) and ANN. MOD. RULES PROF. COND. PREAMBLE AND SCOPE (advocating zealous advocacy of clients).
655 See ANN. MOD. RULES PROF. COND. R. 3.3 (creating a duty of candor towards the tribunal).
656 Cf. Johansen, supra n.643 (urging the telling of accurate yet individual truths).
657 See Johansen, supra n.643 at, 978-84.
658 See Johansen, supra n.643 at 980; cf. J. Christopher Rideout, Storytelling, Narrative Rationality, and Legal Persuasion, 14 LEG. WRITING: J. LEG. WRITING INST. 53, 60 (2008)[stating that traditional legal modalities are
subconscious is working in all of our assumptions about symbols. Even that state of supposed emotionless is an emotional state. In fact, law professor Teneille Brown and law fellow Emily Murphy have argued that sometimes scientific evidence such as MRI imaging of criminal defendants’ brains can be just as prejudicial because it has the deceptive appearance of objectivity. Thus it is impossible to exclude symbols or emotions altogether. Rather, the attorneys’ job is to present those symbols which evoke emotions around their clients’ truths.

Where these symbols’ probative power is outweighed by their prejudicial effect, then they will be excluded. However, evidence will not be excluded simply because it evokes emotion. For instance, when autopsy photographs illuminate the cause of death, they can come into evidence despite the emotions they may arouse.

Thus where the object has a truth to tell, the attorney has a duty to include an object and weave a narrative around it.

XI. Conclusion

If a lawyer pays attention to the physical objects involved in a case, a lawyer’s trial narrative can sometimes endow those objects with symbolism. Those symbols create emotional resonance and a narrative through-line. During trial preparation, an attorney should maintain an awareness of the object’s role in theory of the case, character development, and structure. However, the attorney must visualize the story and vigilantly discover information about the object. Otherwise, the one-ring can be turned against its bearer as in the Simpson case where the glove offered by the prosecution was turned against the state. Rather, the object must be an actual integral part of the client’s story; otherwise, it may strike the jury as heavy-handed theatrics.

incomplete); Michael H. Graham, Relevance, Fed.R.Evid. 401, and the Exclusion of Relevant Evidence, Fed.R.Evid. 403: ”Many Prayers are Heard, Few are Answered” 45 No. 6 CRIM. LAW BULLETIN ART 8 (Winter 2009)(explaining that the comments to Fed. R. Evid. 403 indicate that typically the danger of unfair prejudice is an emotional danger).

See Rideout, supra n. 658 at 60 (stating that traditional legal modalities are incomplete); Johansen, supra n.643 at 978-84; cf. Kenneth D. Chestek, Judging by the Numbers: An Empirical Study of the Power of Story, 7 J. ALWVD 1 (2010)(reporting that in his study appellate judges generally reacted more favorably to briefs including narrative); Martha C. Nussbaum, Emotion in the Language of Judging, 70 ST. JOHN’S L. REV. 23, 24-25 (1996)(explaining that emotions are rooted in thought and inform reasoning).

See Kahneman, supra n.44 at 56-57 (explaining that people think in symbols).


See Johansen, supra n.643 at 980.

Fed. R. Evid. 403; Graham, supra n. (explaining that the comments to Fed. R. Evid. 403 indicate that typically the danger of unfair prejudice is an emotional danger)

Fed. R. Evid. 403; Graham, supra n. (explaining that the comments to Fed. R. Evid. 403 indicate that typically the danger of unfair prejudice is an emotional danger)

With those guidelines in mind, weaving an endowed object into the trial narrative can sometimes be part of an attorney’s duty to the client. When the shoe fits, the story should wear it.