

# Lending clarity to a sometimes brutal process

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Franz Kafka

**By E. KENT WINWARD**

I am a fan of Franz Kafka's writing. You might remember Kafka as the writer who wrote that weird short story you were supposed to read (but probably didn't) for your English class, *The Metamorphosis*. It is about the guy who turned into a cockroach and his family pelted him with apples, shunning him until he died. Kafka is not known for his cheeriness.

Inevitably if the story is referenced any English major in the room will pipe up and say that the bug was not a cockroach, but was probably a beetle, with the direct translation being "monstrous vermin." (This is why English majors have few friends.)

I bring up Kafka because this Friday after I write the column, but before it shows up in the paper

on Saturday, I am doing a presentation on Kafka's short story, In the Penal Colony, for a lawyers' continuing legal education class. As part of being an attorney, each active attorney is required to attend at least 12 hours of legal education every year, which according to the rules is so we can better fulfill our obligation to serve our clients competently. The scope of these classes can vary greatly from extremely detailed reviews of narrow practice areas to broad perspective challenging classes, like the Law and Literature seminar.

Law and Literature classes for continuing legal education were started by Travis Marker, an Ogden native and Weber State graduate. Many years ago in a mid-life crisis fit, I decided to go back to school and take some writing classes, because like many attorneys, I am a former English major. (Finding their skills have little marketability, many English majors also go to law school, yet another reason English majors have few friends.)

I had been practicing law a little over 10 years when I met Travis as an undergraduate in Professor Judy Elsley's writing class at Weber State. Travis followed the career path of many attorneys, getting his English degree and finding nothing better to do, headed to law school. A few years ago, Travis started organizing Law and Literature classes for continuing legal education. I think the local community should know that your local attorneys and judges have a little bit of literary flair. Judge West, Commissioner Conklin and Randy Richards have all presented for Travis, as well as Weber State professor, Dr. Mike Vause, covering Dostoyevsky, Dickens, Tolstoy and others.

So how does reading short stories or novels you didn't want to read in school help an attorney fulfill the obligation to serve a client more competently? Well, let me tell you a quick story.

A visitor comes to a remote colony. The head of the colony sends the visitor to observe the colony's judicial process. The visitor finds the judicial system completely foreign and brutal. The punishment mechanism for the colony is a machine that takes needles and for 12 hours tortures the accused, inscribing the crime on the skin of the accused with a bed of vibrating needles, kind of like a giant automated tattoo parlor machine run amok.

The official shows the visitor the founding documents of the colony's justice system, but the words and lettering are incomprehensible to the visitor. The visitor tells the official he is going to report back to the head of the colony that the system is unjust torture. The official freaks out, reprograms the machine to write "Be Just" on to the skin of the accused and hops into the machine. The machine promptly starts spewing out gears and springs and falling apart. Instead of writing "Be Just" on the skin of the official, the needles plunge down impaling and killing the official in a blood bath that would make even an avid Game of Thrones watcher cringe.

This is a short synopsis of Kafka's In the Penal Colony. Every time I read that story it reminds me to think about how most of my clients feel about the judicial process. It can seem brutal,

arbitrary and incomprehensible. We aim for justice and people still feel like they've been impaled by a bed of needles. One of the most important jobs an attorney has is to assist a client in understanding the sound reasoning (or occasionally unsound reasoning) of our judicial system, how it operates and how it will impact the client.

If literature can help the lawyer tell the justice story a little better, a story of the client, for the client and about the client, then maybe English majors turned into lawyers aren't such a bad thing, especially if we can keep impaling beds of needles out of our justice system.

*E. Kent Winward is an Ogden attorney. He can be reached at 801-392-8200 or [creditcorrection@gmail.com](mailto:creditcorrection@gmail.com).*