BOOK REVIEW: WOULD ATTICUS FINCH HAVE BEEN A GOOD MEDIATOR?

By Justine Borer

Many of us read Harper Lee's classic *To Kill a Mockingbird* in junior high (or for some readers of a certain age, perhaps a little later). Or at least, we were all supposed to read it. For those naughty readers who were too busy worrying about what classmates thought of them to actually read the book when it was assigned, do me a favor: instead of reading this article, go read *To Kill a Mockingbird*, post haste. It is just as beautiful and meaningful a story when you are 73 as when you are 13.

I read *To Kill a Mockingbird* in seventh grade. (There were plenty of other assigned books that I didn't read because I was busy staring at boys, but thankfully I took this particular assignment from Mrs. Miller seriously.) An aspiring lawyer since the age of 8, the story captivated me. Even in seventh grade, I understood what an admirable man Atticus Finch was.

When THE REPORT asked me to write an article about mediation and literature, I jumped at the chance. Inspiration quickly hit me. I decided to revisit the hallowed *To Kill a Mockingbird* to answer this question: would Atticus Finch be a good mediator?

I thought that rereading *To Kill a Mockingbird* almost twenty years later might give me a more balanced perception of this great and admirable figure in American literature. Was Atticus too forceful a lawyer to be a balanced mediator? Did he have flaws that I didn't perceive when I was 13? Selfishly, I hoped he would, so this article would be more interesting!

Since I am a lawyer, I will reveal my conclusion upfront. Atticus Finch would have been an incredible mediator. He did have qualities and practices that conflict with certain mediation practices, and I will draw attention to them in this article. However, at the end of the day, he was the definition of a decent man. Could any quality be more important in a mediator?

> *"He lives his life with integrity without being sanctimonious. This is a difficult feat to pull off. It is also the mark of a great mediator."*

For those of us who do not remember the details of *To Kill a Mockingbird*, allow me to recap. The book is narrated by Scout Finch, Atticus' young and precocious daughter. Scout and her older brother Jem live with Atticus in Maycomb County, Alabama in the 1930's. (Scout's mother is no longer living.) Scout is a hot-headed tomboy, and she is her father's daughter: she frequently gets into scuffles, most of which involve defending someone's honor.

Of course, *To Kill a Mockingbird* is not merely a story about a young girl's coming of age. The book is best known for the Tom Robinson case. Atticus, despite his "profound distaste for the practice of criminal law," takes Tom on as a client. Tom is a black man falsely accused of raping and abusing a white woman, Mayella Ewell. Atticus explains to Scout that he is taking Tom Robinson's case because if he didn't, "I could never ask you to mind me again." Atticus wants very much to be able to look at himself in the mirror. He also wants to be a credible model for his children. He succeeds with Scout, who tells her Uncle Jack that "When Jem an' I fuss Atticus doesn't ever just listen to Jem's side of it, he hears mine too …." Jem, too, has the utmost respect for his father. Jem tells Scout, "Atticus ain't ever whipped me since I can remember. I wanta keep it that way."

BOOK REVIEW, continued

A good chunk of the book is devoted to Tom Robinson's trial. Atticus expertly cross-examines several witnesses, including Heck Tate, the town sheriff, Mayella Ewell, and Bob Ewell, Mayella's father. Atticus skillfully and gracefully proves beyond any reasonable doubt (at least in New York in 2013) that, in fact, Bob Ewell, not Tom Robinson, attacked his daughter on the day in question. Tom has been scapegoated by Bob Ewell. Atticus later makes a highly uncharacteristic, but eminently appropriate, cutting remark about Bob Ewell and men of his ilk. Atticus tells Scout that "whenever a white man does that to a black man, no matter who he is, how rich he is, or how fine a family he comes from, that white man is trash."

Unfortunately, what might have inspired reasonable doubt in a jury of New Yorkers in 2013 does not inspire reasonable doubt in a jury of Alabamans in 1935. The jury convicts Tom Robinson and sentences him to death. Before Atticus can appeal, Tom tries to escape from jail. The prison guards shoot Tom seventeen times, killing him.

"He has the contemplative and philosophical temperament that serves mediators well."

Atticus' fitness for mediation is obvious. He has the contemplative and philosophical temperament that serves mediators well. He reads to relax, and takes long walks: "in Maycomb he walked to and from his office four times a day, covering about two miles.… In Maycomb, if one went for a walk with no definite purpose in mind, it was correct to believe one's mind incapable of definite purpose." Atticus does not gossip; he tells Jem "to mind his own business and let [their neighbors] mind theirs." Atticus has remarkable empathy. When Jem complains about a sick old neighbor maligning Atticus for taking Tom Robinson's case, Atticus tells Jem, "She can't help [maligning me]. When people are sick they don't look nice sometimes." Atticus tells Scout, "If you can learn a simple trick, Scout, you'll get along a lot better with all kinds of folks. You never really understand a person until you consider things from his point of view … until you climb into his skin and walk around in it." At one point, he even appears to be training Scout to be a mediator: he defines compromise for her as "an agreement reached by mutual concession."

Atticus is vaunted as a model of integrity. Having reread the book, I am compelled to report that he was. What is most impressive about Atticus, however, is that he lives his life with integrity without being sanctimonious. This is a difficult feat to pull off. It is also the mark of a great mediator.

Atticus is not a pious drone. He is practical. When the verdict comes down, Jem is distraught. He beseeches his father, "You can't just convict a man on evidence like that…" Atticus responds impassively: "You couldn't, but they could and did. The older you get the more of it you'll see." Atticus also has a playful and sneaky side. Over Jem's protestations, Atticus instructs Jem to take his younger sister to her first day of school. One of my favorite moments in the book is when Scout hears coins jingling in Jem's pocket, and shares her suspicion that Atticus bribed her older brother to accompany her. Atticus is fundamentally a decent man; as a neighbor tells Scout, "If Atticus Finch drank until he was drunk he wouldn't be as hard as some men are at their best."

BOOK REVIEW, continued

All that being said, mediating would present certain challenges to Atticus. He is not always neutral; he bravely takes Tom Robinson's side, even daring to accuse a white man of committing the crime for which Tom is being tried in open court. Above all, he is an advocate and a lawyer. He does not tolerate bullying of any kind, and responds harshly to his children when they are unkind to anyone. When Scout sasses her Aunt Alexandra, Atticus orders Scout in a "deadly" voice to apologize. When sufficiently provoked, Atticus gets angry. He feels a duty to advocate for those who can't advocate for themselves. Of course, mediators, too, respect this precept. Most mediators will not mediate in the face of an unremediable power imbalance, on the theory that the weaker party should have an advocate.

Atticus Finch would have been an outstanding mediator. He is practical and unafraid to call a spade a spade. His remarkable empathy has its limits. Some might argue that Atticus' capacity to be judgmental undermines his ability to be a mediator. I disagree. I think it makes him a better one.

Justine Borer, Esq., is a family and divorce lawyer and mediator in private practice in New York City. She is also developing a focus on ethics law. You can learn more about Justine from her website, www.justineborer.com. She can be reached at justine@borerlawmed.com or (917) 846-6757.

NY State Council on Divorce Mediation

Back To Contents