

1989

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Recommended Citation

Gillers, Stephen, "Irving Younger: Scenes from the Public Life" (1989). *Minnesota Law Review*. 2356.
<https://scholarship.law.umn.edu/mlr/2356>

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Irving Younger: Scenes from the Public Life

Stephen Gillers*

Here is one of Irving walking alone south on Fifth Avenue from Peter Cooper Village (where he lived) toward Washington Square. It is a beautiful fall Saturday in 1967. But look, Irving doesn't really walk. He bounces as though his feet had springs and the world was his stage. He is smiling through his horn-rimmed glasses and wears an imposing camera around his neck. A block away, there's no mistaking that it's Irving.

I am coming from the opposite direction. Irving is thirty-five, ten years older than me then, ten years younger than me now. Last year he taught me evidence. No. Last year he performed evidence and I was in the audience. Irving's jauntiness fills lower Fifth Avenue like it filled the classroom. Are there no bounds to this man's energy? We stop to chat. I say student things. Irving says Irving things. We move on.

Let's not go in order. Here's my favorite, also a street scene, also with Irving making an unexpected appearance. Now it is Sixth Avenue and 1982 or 1983. (I forgot to put a date on this one.) Anyway, it is near 50th Street. It is dusk. I am now a law professor myself. I am on my way to meet people for dinner. Here comes Irving, looking no older, walking toward me.

We chat. Irving tells me he has a project. He has become interested in the litigation surrounding the effort to ban *Ulysses* and expects access to the files of participant lawyers. He will write an article about the case like his article about *Erie v. Tompkins*. An article about the facts, not the doctrine, because the facts tell the story and Irving knows the power of stories. ("No ideas but in things," said William Carlos Williams.)

This time Irving will not publish in a law review. He will publish in a journal devoted solely to James Joyce. Did I know that there was a journal devoted solely to James Joyce? I did

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not know that. Yes, Irving insists, and he tells me where I can find a copy.

Irving has two more projects. He will write two books. One will be a book about trial advocacy. Francis Wellman's *The Art of Cross-Examination* modernized. The other will be his autobiography. (His autobiography?) To have time to do this he will leave Williams & Connolly and go to Minnesota. (To Minnesota?)

I am surprised about Minnesota but I am not surprised that Irving has projects. I long ago learned about Irving's curiosity. Irving is a professional curious person. Curiosity has taken him from job to job, role to role, place to place. Irving doesn't stay put. He is restless and wants to try new things. Irving is also a performer. He performs with the written and spoken word.

Let's go back a few years. 1976 I think. This one is Irving at Cornell. Actually in his home in Ithaca. See those ear-phones. He is listening to classical music. Irving likes to listen to classical music, especially late at night. I am at Cornell because Irving is running a NITA program and I am summoned to be a judge. I am surprised that Irving seems so comfortable in this small university town away from the urban bustle. He extols its virtues. He shows me his house, which is grand, like a castle. It is a castle.

And this last one of Irving. It's a little dark because it was taken in a restaurant near Penn Station in New York. I forget the year. Mid-seventies. Irving is about to give a lecture to a bar review course. It will be the only pleasure a thousand imminent lawyers will have in two grinding months. We meet for dinner beforehand. I discover then that Irving is something of a creature of habit. Whenever he gives this lecture in this hotel, he tells me, he eats at the same restaurant and always orders fish. (Halibut, I recall). He orders halibut. I order halibut. The waiter knows him. Irving tells stories all through dinner.

Here's a final picture. Irving's not in it. It's me teaching evidence. Actually, Irving is in it but you can't see him. You can only see me. But I teach evidence the way Irving taught me evidence. With stories. Like Irving, I understand the world through stories. I talk to audiences a good deal like Irving talks to audiences. A classroom is an audience.

This tribute is not going to get sentimental. The Irving I knew was not a sentimental person. He would not view sentimentality as a particularly useful or effective quality right now.

In fact, Irving was a rather private person. It was not easy to get to know the private Irving. By and large, I didn't. The Irving I got to know was mostly the public person. I didn't know the person who played Bach late at night through earphones. The public Irving was the one who commanded an audience (even an audience of one) with language and drama. The public Irving was the performer who became famous among lawyers and other people.

Like all performers, Irving devised a public self. Several, actually. Tens of thousands of people—lawyers, students, members of the public—learned and got pleasure from his performances. In some, Irving was just the storyteller. In others, he was also a character who happened to have the same name. A performer creates lives and worlds and moods for audiences, classes, and juries. Irving had the talent, the voice, the timing, the need, and the dramatic presence to do that.

He spoke in sentences. He created suspense. He was funny. He loved it. We loved him. We wanted more.

