

Jonathan harr's a civil action: issues expressed and discussion

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A weeping mother, a sickly child and a husband near-death are the images evoked in Jonathan Harr's *A Civil Action*. Two huge multinational corporations, represented by a corps of well learned and well supplied lawyers are put to bear against the pitiful victims of the companies' supposed negligence and these victim's lawyer, an energetic, if untested, attorney. Every fiber of my being was rooting for the plaintiffs to win the case and walk away with just recompense; to see the corporations clean up their act and become less behemoth than they are would have been suitable punishment. However, the judicial system let me down. Did all the actors fulfill their obligations? Did the case go by the book? I find that, despite my misgivings about certain events, justice was seemingly carried out.

Harr's book has a wide array of actors. Most of the actors, however, play just a minor role in the eventual outcome of the case. The largest players, however, influenced the outcome a great deal, far more than any of the smaller characters. The most prominent actors are the prosecuting attorney, Jan Schlichtmann, and the judge, Walter Skinner. Schlichtmann carried the entire case on his back, taking control of all events that he could possibly have a part in. He made most of the important decisions throughout the case, sometimes disregarding advice from trusted associates. Judge Skinner, too, was a powerful force. It was through his decisions that the case was shaped. If Schlichtmann was a loaf of bread baking in an oven, Skinner was the bread pan, holding back Schlichtmann's growth. Another major player was one Jerome Facher. As defense attorney for one of the companies (Beatrice), his role was adversarial to Schlichtmann's. He continually tried to slow down the case, to wear away at the plaintiffs' and their attorney's

resolves. Anne Anderson, the mother of a youngster, plays a smaller role afflicted with leukemia. Her willpower and forceful personality helped to keep the case going in its infant stages. Kevin Conway was a semi-important character. His role was as confidante to Schlichtmann. Many times, his cautious attitude may have served the case better than Jan's aggressive demeanor. James Gordon kept the suit going on a financial level. His genius with numbers allowed the Schlichtmann firm to stay afloat for a good part of the case, despite being broke or owing hundreds of thousands of dollars. William Cheeseman (attorney for W. R. Grace) played a large role during the discovery phase of the trial, but a very minor one after that. His work involved trying to stop the case in its earlier stages. There were numerous other actors, but none had as much of an effect on the case as these.

Having such a wide array of very different people set the stage for much conflict. Because of adversarial roles like that of Facher and Schlichtmann, or "motherly" roles like that of Skinner, many confrontations crucial to the case took place. The most prominent, in my (and perhaps Schlichtmann's) eye is what was known as the "Woodshed Conference." Schlichtmann worried about the relationship between Facher and Skinner, and this engagement proved to him that he wouldn't get a fair shake. Harr indicates that after being taken to the Woodshed, Schlichtmann knew he couldn't compete with Facher for Skinner's respect (232). Another conflict resulted when Cheeseman tried to use Rule 11 to get the case thrown out. Harr says that Skinner believed "lawyers should be encouraged to use Rule 11 much more often" (107). Such acts like that of Cheeseman's slowed Schlichtmann down

and had the potential to bring the case to a halt. One of the most important interactions was between Facher, Skinner and Schlichtmann. Skinner's decision to divide the case up into separate phases was probably the most important decision made. The jury had to decide on facts. Without the presence of weeping mothers and sickly youngsters, the jury would be far less sympathetic. Facher says that Schlichtmann thinks that families will break the jury's heart, but, " those families will never see the light of day" (231). This civil case, in general, is like most other civil cases. The stages of a civil case are followed as set out by Baum, and the actors even fall into Baum's categories. The plaintiffs in the case are all " one-timers," while the corporations are " repeat players." The eventual outcome shows the norm, that repeat players hold an advantage over one-timers. Schlichtmann does his job as attorney. At times, he is too aggressive and not responsive to the wishes of his clients (such as not telling them some of the settlement offers). However, he pursues his case with zeal, sacrificing much of himself to achieve what he think is good for his clients. Facher fulfills his role as defense attorney, working diligently toward his goal. He didn't seem to have the zest that Schlichtmann did, but he made up for this with trial experience, something of which Schlichtmann was sorely lacking. Skinner, while seemingly biased against Schlichtmann, makes fair decisions throughout the case. His decisions at first seemed to be wrong; I knew that the corporations were guilty, yet he continually ruled in favor of them. I now see that his decisions were, overall, correct on the legal standpoint.

Skinner had, by far, the most control over the case. His decisions were important and shaped the way the case would turn out. As judge, he has the duty to act in this way. Schlichtmann, despite being a moving force, had little control over the case as it got underway. Schlichtmann even says, "I've got no control over this case" (241). Facher has little more control than Schlichtmann. He, like Schlichtmann, simply tried his best to turn events into a positive for his side. Facher's main control lied in his ability to foil Schlichtmann's plans and disrupt his case against Beatrice.

Despite being similar to most civil cases in general, the case presented in A Civil Action went beyond most civil cases. It is true that the case follows the definition of a civil case. All the actors fulfill their roles, and the outcome can also be classified as typical. However, the huge scope involving many families, two huge corporations and millions of dollars is very different than most civil cases. As such, the control was less than what one would expect normally from a civil case. Despite the powerful wills of those involved, the case had become so monstrous that it seemed to get out of hand. The case was like a juggernaut; the players could only nudge it, and never exert full control. Normally, the lawyers hold great control over the case. They decide what witnesses to call and how to question them. They find and deliver evidence. The judge also has control. It is the judge's job to make sure that the case runs smoothly and to make sure it follows the law. In this case, however, the sheer size of the trial equated it to a circus with a loose lion (the case): Judge Skinner acted as the overburdened Ringmaster while Facher and Schlichtmann each tried to turn the lion on one another.

The three main players (Skinner, Schlichtmann and Facher) were the ones who exhibited the most influence on the outcome of the trial. Schlichtmann's continual push to move the case forward, Facher's slow-down technique to give his clients the advantage and Skinner's balancing act to keep things as fair and just as possible were the largest part of the trial. Other events mattered slightly, but these three were the forces moving the case. Skinner's influence was definitely the greatest. His guiding hand kept events on course (to some extent), and was the greatest vehicle for justice. Schlichtmann's willpower would make him an equally influential actor. He wouldn't give up on the Woburn case, despite the odds against it. It remains to be seen, however, what his motives were for continually pursuing the goal. Facher is secondary to both Skinner and Schlichtmann in terms of influence. While he was a major character, his power derived from following up Schlichtmann's actions, or taking action against Schlichtmann. In this sense, he was very much reliant upon Schlichtmann. The most influence Facher had was with Skinner. His relationship with Skinner gave him power with the judge. Actions taken by the judge were usually beneficial to Facher.

This case is typical of most civil cases on a broad level. It follows the rules, and is seldom deviant. The behavior of the actors was, on the whole, normal. Despite Schlichtmann's unnatural fervor and the disturbing relationship between Facher and Skinner, the actors performed their roles well. However, it defies most civil cases in that its scope is far beyond the normal civil case. I believe it is most like normal civil cases because Skinner's decisions were, for the most part, legally correct. My first thought after learning that

Schlichtmann lost the case was shock because it was obvious that the companies had polluted the land, and the pollution had to lead to the leukemia. However, after re-examining Charles Nesson's Case of the Blue Bus (235), I decided that the jury and Skinner's decisions were correct. The burden of proof in such a case is so great that it is almost impossible to prove the alleged wrongdoing of the corporations would have caused the leukemia. My heart says that the companies are wrong. The jury members probably thought the same way. But saying that the companies probably caused the leukemia isn't enough to convict them. Since the jury was not allowed to see the victims, the weight of the case fell onto the facts and evidence. This demonstrates a good civil case: facts being considered determining guilt. The companies were probably guilty of causing the problems, but Nesson argues, " a verdict based simply on odds-has no moral or legal force" (236). In light of this, justice was carried out. The unfortunate part of the whole trial is the victims. While they each received money from settlement, no guilt was found, and the source of their pain is still at large, at least legally. While the money is nice, it doesn't take away the pain and confusion. These figures are the losers. They feel that the American legal system has let them down.