The law – and comic books. I know what you’re thinking. What could they possibly have in common? Quite a great deal, actually. It’s not such a far-fetched idea when you think about it. Since the inception of comic books – pardon me, “graphic novels” – generations of writers have placed our favorite fictional superhumans within a context approximating the real world. If our everyday world has lawyers, judges, and courtrooms, why shouldn’t the well known superheroes (and supervil-

artifice of a comic book icon to illustrate a vital and often controversial aspect of the Constitution. Even among us cynical courtroom veterans, who among us couldn’t use such a refresher on that point, and an enjoyable one to boot.

In another example, the authors take the doctrine of “state actors,” a maxim I for one had long forgotten, and explored it in the context of the crime fighting exploits of D.C. pioneers Superman and Batman. Briefly, the doctrine
The Law of Superheroes
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Yet, while the creative minds behind our favorite comics have been true to their own calling and in the process have penned memorable fiction treasured by generations, they have sometimes given short shrift to the legal issues confronted by their superhuman creations. That is unfortunate, because, as with any other genre of fiction, comic books are often a means by which we contemplate our own problems in the real world and seek answers, via the proxy of fictional do-gooders and bad guys.

That is the thesis of The Law of Superheroes (Gotham Books 2012), a creative and eminently readable effort by authors James Daily and Ryan Davidson, two real attorneys. Our peers take an intelligent and thought-provoking look at issues such as due process, the right to privacy and intellectual

Battman. Briefly, the doctrine distinguishes between the actions of purely private persons and those acting on behalf of the sovereign, and the scope of the respective limitations upon each.

Certainly, Krypton’s Last Son is infallibly goody-goody, but the Caped Crusader is sometimes called the Dark Knight for a reason. The point is, when these fictional heroes – or a real life person – acts as to forestall a crime, a host of constitutional law, evidentiary and other issues do in fact arise. Attorneys will find this discussion intriguing, like so many others in the book.

Another notable chapter deals with the law of evidence. There the authors give a concise overview of the hearsay rule. To be sure, they posit it as problematic when the witness is a telepath (i.e., Professor Xavier of the printed form and the nearly half dozen “X Men” movies, in a number of incarnations) endeavoring to testify as to what he read in someone else’s mind. Fictional? Of course! But if my law school professor (and yours)
process, the right to privacy and intellectual property law, and seek to reconcile their overarching principles in the context of popular graphic avatars.

Our brethren take this endeavor seriously. The fact that they are attorneys is obvious from the get-go as the book is prefaced with a disclaimer (how lawyerly!) and an explanation of Blue Book citations. And note well, legal scholars, the book is, in point of fact, laden with pertinent and informative (but not intrusive) citations to numerous Supreme Court landmarks, state court holdings, and federal statutes. More than enough to establish the bona fides of this venture into legal nonfiction (or quasi-nonfiction, since it is predicated upon the fantasy world of comic superheroes and supervillains).

From the very first chapter, entitled “Constitutional Law,” Daily and Richardson race to the courthouse—literally. A prime example is their treatment of the Confrontation Clause of the Sixth Amendment, which they set about analyzing in the context of the difficulties inherent in having a masked superhero give testimony in open court.

The ever popular Spider-Man is one of the

But if my law school professors (and yours) had tried to make something as absurdly convoluted as the hearsay rule easier to understand via this graphic novel exemplar, that hoary old dogma would most likely been more understandable—and maybe even fun.

Still skeptical about connecting the law and your favorite comic book heroes? Okay, how about comic book characters as a proxy for understanding real world problems in intellectual property law? In one of their cleverest riffs, the authors take billionaire playboy Bruce Wayne, who uses his vast industrial resources to invent all sorts of neat crime-fighting gadgets for his alter-ego, Batman.

But can he patent any of this stuff, and thereby make money off his creativity? The authors provide a thoughtful and accurate assessment of Bruce/Batman’s conundrums. Does industrialist Wayne patent the Dark Knight’s neat toys, and thereby secure vast profits for Wayne Enterprises? Yet to comply with IP law would necessitate a variety of public revelations, exposing Bruce’s nocturnal escapades as Gotham’s Caped Crusader.

As elsewhere in the book, the authors exhibit a great knack for taking complex legal
The ever popular Spider-Man is one of the key illustrations used to illuminate the workings of the constitutional guarantee and the right to cross-examine. If the Wallcrawler testifies with his mask on, is not the Confrontation Clause affronted? Yet if he reveals himself to be Peter Parker, does he not endanger his beloved Mary Jane (those of you familiar with Spidey from both comics and movies would rightly observe when is the lovely M.J. not in mortal peril as the Webhead’s main squeeze?).

But this is not just fun and games with the troubles of a gawky teen who moonlights as New York’s ace crime-fighting superhero. The authors make a genuine analysis of the contours of the Sixth Amendment, employing the exhibit a great knack for taking complex legal problems from varying domains, and make them understandable enough for real world application. There is much more to commend this book, but let’s put that aside to get to a principal question here.

Who would enjoy The Law of Superheroes? Lots of people, that’s who. Let’s start with a fair number of those of you reading this article. If you’re like me, a grizzled veteran of our profession, this book is for you.

It is a seriously researched endeavor (as I said, they cite real and familiar precedents, and accurately, I might add), which sets forth pithy analyses on a number of relevant practice topics which are sure to give you a fresh

BOOK REVIEW ...

... perspective on everyday problems. In addition, it revisits matters you probably
and the movies, and puts them to excellent use in imparting a great deal of useful and thought provoking information about the Constitution, the court system, and the law generally.

What about the so-called “fan boy” or “fan girl,” the True Believer in the comic genre? Of course, as devotees they would gladly devour anything relating to their graphic novel favorites. They might even learn something about what you do for a living, and so it makes for a nice gift as well as being illustrative.

And finally, what about someone who is both an attorney at law and a huge comic book/movie fan – as your writer proudly admits to? Then The Law of Superheroes is one of the most enjoyable, informative, and thought provoking reads you can have. And mutant powers are not required. Enjoy.

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book aficionado; most everyone is familiar with the pantheon of heroes from the D.C. Universe (Superman, Batman, Tobin College of Business – and gladly pleads “nolo contendere” to allegations of being a huge fan of Marvel comics.