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BAD LAWYERS IN THE MOVIES

by Michael Asimow*

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Seen any lawyer films recently? Chances are, most of the lawyers in those films were bad. They were unpleasant or unhappy human beings you wouldn't want as friends. And they were bad professionals you wouldn't admire or want as your lawyer.¹ In the majority of films involving law, lawyers and the legal system since the 1970's, the lawyer characters and their law firms were pretty bad.² This generalization holds whether the

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¹ For discussion of the criteria I used in classifying film lawyers as "good" or "bad," see text at notes 109-18.

² Many of the recent films that portray lawyers favorably claim to be based on true stories. See further discussion in text accompanying notes 130-32. Possibly, a small counter-trend to the bad lawyer syndrome is emerging. Several movies released during 1998 include favorable portrayals of American lawyers. These films were non-law stories in which a character could have been a member of almost any profession but just happened to be a lawyer. See *Stepmom*, *Down in the*

film fits the standard lawyer/courtroom genre, whether it involves legal issues, whether the film is a comedy (black or otherwise) or a drama, or whether it falls into other genres such as romances, mystery stories, or thrillers that just happen to have lawyer roles.

Consider this rogue's gallery of recent film lawyers:

- *Body Heat* (1981) is a landmark in the modern development of extremely negative lawyer depictions. Ned Racine is lazy, greedy, incompetent, and easily persuaded by the alluring Matty Walker to do away with Matty's husband.
- Dave Kleinfeld in *Carlito's Way* (1993) is an utter scumbag. A cocaine addict, Kleinfeld steals from his clients and betrays his best friend. He is rude, crude, and wholly disgusting.
- In *The Firm* (1993), a respected tax law firm turns out to be a front for the mob. The partners are vicious killers.
- In *Liar Liar* (1997), Fletcher Reede is pathologically incapable of telling the truth either in court or in his personal life. He thinks nothing of putting on perjured testimony. His supervising partner is a female shark who

Delta, *Enemy of the State*, *The Siege*, and *The Thin Red Line*. *Stepmom*, for example, concerns the bitter rivalry between a mother and stepmother for the loyalty of the children. Luke, the man caught in between, is a decent, caring, compassionate person who is an excellent father. Luke is a lawyer, but this is irrelevant to the story. The filmmakers could have chosen any profession for Luke so long as it provided an affluent lifestyle. Their decision to make him a lawyer is both surprising and welcome.

practices sexual harassment and the rest of the firm is little better.³

- Kevin Lomax, the "hero" of *The Devil's Advocate* (1997), is an arrogant young attorney who has never lost a case. He joins a big New York firm that specializes in sleazy transnational clients and document shredding. Worst of all, John Milton, the managing partner, is The Devil. That's right--Satan himself claims that being top gun in a Wall Street firm is the "ultimate backstage pass. It's the new priesthood."⁴

These are well-made movies with prominent actors, writers and directors. It would be hard to find five recent stereotypical films on any subject that exceed the viciousness of these attorney stereotypes.

This article examines two phenomena. First, it documents the precipitous drop in the public's perception of the character, prestige and ethics of lawyers that began during the 1980's and continues to the present. Second, it traces the history of lawyer portrayals in film, concentrating on the sharp turn toward the negative during the 1970's and 1980's that continues to the present.⁵

³ In a scene cut from the film, but which appears on the laser disk version, the story begins with Reede presenting a ridiculous defense to win an acquittal for a thug who assaulted an old man and stole his car. See Robert L. Waring, *Swimming with the Bottom Feeders*, on the *Picturing Justice* website. <http://www.usfca.edu/pj> (Nov. 1997).

⁴ See Robert L. Waring, *The Devil's Advocate*, in the *Picturing Justice* website, note 3, *supra*.

⁵For other studies focussing on the personalities of lawyers in popular culture, see Anthony Chase, *Lawyers and Popular Culture: A Review of Mass Media Portrayals of American Attorneys*, 1986 Amer.Bar Foun. Res. J. 281; Steven D. Stark, *Perry Mason Meets Sonny Crockett: The History of Lawyers and the Police as Television Heroes*, 42 U.Miami L. Rev. 229

The article asks whether there is any connection between these phenomena. It asserts that one connection is clear and obvious: the trend in filmed portrayals of lawyers accurately reflects public opinion. But the article also speculates that negative filmed images can lead public opinion as well as follow it. My hope is that this article will cause its readers to treat lawyer portrayals in film seriously and critically, both because such portrayals are an important social datum and because they have real world consequences.⁶

I. THE POPULAR PERCEPTION OF LAWYERS

Polling data demonstrates clearly that the popular perception of the character and the ethics of American lawyers, and the prestige of the profession, have plunged precipitously since the 1970's. Granted, the image of lawyers⁷ never

(1987); Carolyn Lisa Muller, "What a Waste: Beautiful, Sexy Gal, Hell of a Lawyer:" *Film and the Female Attorney*, 4 Colum.J.Gender & L. 203 (1994); Ralph Berets, *Lawyers in Film: 1996*, 22 Legal Stud. For. 99 (1998) (surveying 8 negative lawyer films).

⁶ In his famous study and thick description of Balinese cockfights, Clifford Geertz observed that works of culture are texts from which consumers endlessly learn about their society and themselves. Clifford Geertz, *Deep Play: Notes on the Balinese Cockfight*, in Chandra Mukerji & Michael Schudson, *RETHINKING POPULAR CULTURE* 266-69 (1991).

Douglas Kellner, speaking of *Rambo* and other works about Vietnam, observes: "When individuals learn to perceive how media culture transmits oppressive representations of class, race, gender, sexuality and so on that influence thought and behavior, they are able to develop critical distance from the works of media culture and thus gain power over their culture." Douglas Kellner, *MEDIA CULTURE* 60 (1995). I believe we should strive to achieve that kind of media literacy with respect to the ways that law, lawyers and the legal system are depicted in popular culture.

⁷ See Leonard E. Gross, *The Public Hates Lawyers: Why Should We Care*, 29 Seton Hall L.R. 1405, 1407-16 (1999); Marc Galanter, *The Faces of Mistrust: The Image of Lawyers in Public Opinion, Jokes, and Political Discourse*, 66 U. Cinn. L. Rev. 805, 810-16 (1998) (the comparison period of the 1960's and '70's was a period of high public esteem of lawyers); Robert C. Post, *On the Popular Image of the Lawyer: Reflections in a Dark Glass*, 75 Calif. L. Rev. 379 (1987).

approached that of pharmacists, the clergy, or algebra teachers.⁸ Lawyers will always be distrusted, in part because their assigned task is to play whatever role and manipulate whatever law a client's interest demands.⁹ Lawyers tend to represent the rich and powerful; naturally everyone else who can't afford lawyers resents that.

Even more significant, lawyers are doomed to be unloved because criminal practice is their most public function. As lawyers see it, justice requires that an accused person have the benefit of appropriate process, such as the reasonable doubt rule or the privilege against self incrimination. This perspective is not shared by most members of the public, especially when it comes to criminal law. Most people think that justice means finding the truth regardless of the adversarial system, procedural technicalities, statutory loopholes, police or prosecutorial misconduct, or lawyers' tricks.¹⁰

The general public will always associate lawyers with some of life's worst moments. We don't recall fondly our divorce or divorces, the probate of our parents' estates, our dispute with the IRS, our credit problems or bankruptcy, or our brush with the juvenile court. Dwelling on the time we got sued by somebody who

⁸ Strangely, pharmacists seem to be consistently the most popular of all professions, as documented in the studies cited at notes 13-24.

⁹ See Post, note 7 at 383-89 (arguing that public distrusts lawyers who find ways to circumvent law for clients and likening public's distrust of lawyers to their traditional distrust of actors).

¹⁰ See Gross, note 7 at 1421; Christine Corcos, *Presuming Innocence: Alan Pakula and Scott Turow Take on the Great American Legal Fiction*, 22 Okla.Cy.Univ.L.Rev. 129, 135 (1997) (general public and lawyers differ about whether justice means truth or justice means process).

slipped on the sidewalk or we needed an attorney to sue an insurance company doesn't evoke warm and fuzzy memories. Lawyers were present at those events. Probably, we resented the opposing lawyer. While we may possibly have liked and trusted our own lawyer, we resented being involved in a situation where lawyers were needed and we were probably shocked at the size of the bill. In all likelihood, whether we won or lost, we weren't really pleased by the outcome.

Thus our profession has never been loved and it never will be. In years past, however, it was at least respected and sometimes admired.¹¹ Today lawyers are more despised than they have been for a long time--perhaps forever. This is something we probably knew already from the prevalence of nasty lawyer jokes or talk shows or social or professional interactions with non-lawyers.¹² The question being asked here is--what changed during the last two decades that caused the public's perception of lawyers to turn sharply lower?

The polling data establish that our dismal intuition about the public's perception of the legal profession is all too

¹¹ Thus survey data from 1973-74 indicates that only 13% of respondents strongly agreed with the statement that "most lawyers would engage in unethical or illegal activities to help a client." An additional 23% agreed slightly. In contrast, 57% of respondents disagreed slightly or strongly. The survey attempted to measure whether Watergate (which occurred about a year before the survey was taken) had any effect on these responses and found little effect. Barbara A. Curran, *THE LEGAL NEEDS OF THE PUBLIC: THE FINAL REPORT OF A NATIONAL SURVEY* 232, 255 (1977).

¹² See the excellent analysis of lawyer jokes in Galanter, note 7 at 816-45.

accurate. In its introduction to polling data released in 1997, the Harris Poll wrote:¹³

Recent Harris Polls have found that public attitudes to lawyers and law firms, which were already low, continue to get worse. Lawyers have seen a dramatic decline in their "prestige" which has fallen faster than that of any other occupation, over the last twenty years. Fewer people have confidence in law firms than in any of the major institutions measured by Harris including the Congress, organized labor, or the federal government. It is not a pretty picture.

In 1977 over a third of the public (36%) believed that lawyers had "very great prestige." Today, twenty years later, that has fallen to 19%.¹⁴ In other words, almost half of the people who accorded lawyers great prestige then do not do so today. No other occupation has fallen so sharply....¹⁵

For the last thirty years Harris has been tracking the confidence people have in the leaders of various institutions. In the most recent survey, only 7% of the public said they had a great deal of confidence in the people running law firms. This places law firms at the bottom of the institutions on the list. The 7% figure is not only the lowest number recorded for law firms over thirty years, it is *actually the lowest number recorded for any institution over thirty years.*¹⁶

¹³ Harris Poll #37, August 11, 1997. Italics in original.

¹⁴ This figure stepped down from 36% in 1977 to 30% in 1982, 25% in 1992, and 19% in 1997. It improved to 23% in 1998. Harris Poll #31, June 17, 1998. In that 1998 poll, doctors rose to the top of the list with their highest score since 1977 (61% state that doctors have "very great prestige.").

¹⁵ According to the Harris poll, in 1977, almost 75% of respondents believed the legal profession had either very great or considerable prestige. Twenty years later, things had changed dramatically. A near majority (47%) of respondents in April 1997 ranked the legal profession as either having some or hardly any prestige at all. Amy E. Black and Stanley Rothman, *Shall We Kill All the Lawyers First: Insider and Outsider Views of the Legal Profession*, 21 Harv. J. of L. & Pub. Pol. 835, 850 (1998).

¹⁶ It seems unlikely that the general public knows much about law firms or their leadership, so it is unclear how it acquired such a negative opinion. However the opinion was acquired, it is clearly worsening. The public had more confidence in some other normally suspect professions than law firm leaders. As compared to the 7% figure for law firm leaders, 17% of respondents "had great confidence" in leaders on Wall Street, 15% in the White House, 15% in the press, 11% in Congress, and 9% in organized labor. Harris Poll #37 (1997). The dismal 7% figure just referred to in the Harris Poll rose to 11% in 1998, part of an across-the-board improvement in people's confidence in all institutions, but lawyers remained at the bottom of the heap.

In the early 1990's, the American Bar Association commissioned a public opinion poll from Peter D. Hart Research Organization.¹⁷ It indicated that overall, respondents gave lawyers a 40% favorability rating, while 34% of respondents gave them an unfavorable rating. This placed lawyers far below other professions, since the favorability rating for teachers was 84%, pharmacists 81%, police officers 79%, doctors 71%, bankers 56%. Only stockbrokers at 28% and politicians at 21% were lower.

In 1999, the ABA published results of a follow-up poll from M/A/R/C Research. It revealed that while 30% of respondents were extremely or very confident of the U. S. justice system, only 14% were extremely or very confident of lawyers. In contrast, 27% had slight or no confidence in the justice system but 42% had slight or no confidence in lawyers. Lawyers were soundly beaten by state legislatures, prison systems, and the U. S. Congress; only the media came in behind lawyers.¹⁸ Thus the public seems to have moderate confidence in its justice system but almost none in the

Harris Poll #8, Feb. 11, 1998. For comparison, 24% of the public had confidence in law firm leadership back in 1973, ahead of most institutions of government. Id.

¹⁷ Gary A. Hengstler, *Vox Populi--The Public Perception of Lawyers: ABA Poll*, 79 A.B.A.J. 60 (Sept. 1993).

¹⁸ A.B.A., *Perceptions of the U. S. Justice System* 50 (1999) (hereinafter M/A/R/C survey). The earlier Hart survey concluded that the more contact a person had with lawyers, the lower the individual's opinion of them. Hengstler, note 17 at 62. The M/A/R/C survey concluded that respondents who had more knowledge about the justice system had lower opinions of lawyers than those with less knowledge. M/A/R/C survey 54. Respondents with recent active court experiences had almost equally dismal levels of confidence in lawyers whether their court experience was positive or negative. Id. at 56 (15% of those with positive experiences were extremely or very confident in lawyers; 13% of those with negative experiences were extremely or very confident in lawyers).

lawyers who make that system function. The same survey also asked about public satisfaction with particular lawyer services they had purchased in the last five years. The satisfaction levels with transactional attorneys (real estate, contracts, or estate planning) were much higher than the satisfaction levels with litigating attorneys (family law, civil, or criminal disputes).¹⁹

According to the Gallup Poll, high percentages of respondents give pharmacists, clergy, dentists and doctors high or very high ratings for honesty and ethics. Between 1976 and 1985, 25-27% of respondents gave lawyers high or very high ratings. Then the figure started to slide, falling to 18% in 1988. After a bump upwards in 1989-91, it fell back to 18% in 1992, 16% in 1993-1995²⁰ and 14% in 1998.²¹ The public opinion of lawyers is inversely proportional to education; the more education people have, the more unethical they think lawyers are.²² A study by the Media Studies Center of the University of

¹⁹ Id at 45.

²⁰ Gallup Poll, Dec. 13, 1997, Survey #G0 120249. For other Gallup polling data, see Richard J. Cebula, *Does Lawyer Advertising Adversely Influence the Image of Lawyers in the United States? An Alternative Perspective and New Empirical Evidence*, 27 J. Leg.Stud. 503, 506-08 (1998); Richard J. Cebula, *Historical and Economic Perspectives on Lawyer Advertising and Lawyer Image*, 15 Ga. St. Univ. L. Rev. 315, 321 (1998). Gallup found that lawyers were much more popular with blacks (35% high or very high, 27% low or very low) than with whites (14% high or very high, 48% low or very low). Gallup Poll Nov. 11, 1995, Survey #G0105362.

²¹ Gallup/CNN/USA Today Poll (Oct. 23-25, 1998).

²² 1995 Gallup Poll, note 20 at 854. The 1999 M/A/R/C study reached a similar conclusion. People with post-graduate degrees have more confidence in the justice system than people who went to college or have a high school diploma or less education; but people with post-graduate degrees have less confidence in lawyers than people with a high school diploma or less education. People with college degrees

Connecticut asked whether the respondent trusts members of various professions to tell the truth. As to lawyers, 24% of respondents trusted "a lawyer" to tell the truth all or most of the time; this came close to the bottom of the list behind newspaper reporters (30%), your Congressional representative (30%), and network TV news anchors (42%). Only the president (21%)²³ and radio talk show hosts (14%) came in below lawyers.²⁴

To go out on a limb: I think lawyers are getting a bad rap.²⁵ I believe that most lawyers (not all of them, of course) are decent, socially responsible people²⁶ who work hard for their clients, successfully check government overreaching, take a lot of undeserved abuse, are pretty ethical most of the time, and do not earn inordinate amounts of money.²⁷ Instead, they hew out a living in an extremely tough competitive environment.

have less confidence in lawyers than either of the other two groups. M/A/R/C study, note 18 at 115.

²³ As to the president, this level of distrust is hopefully a transitory phenomenon arising out of the Monica Lewinsky scandal.

²⁴ Study conducted September 25-October 1, 1998.

²⁵ Thus I disagree with the wag who noted that 99% of lawyers are giving the rest a bad name.

²⁶ Elite lawyers averaged charitable gifts of \$14,485 and donate 15 hours a month to community service. Black and Rothman, note 15 at 849. Of course, these figures are self-reported and therefore are suspect.

²⁷ According to the Bureau of Labor Statistics, the median income of all lawyers in 1997 was an unspectacular \$72,840; in other words, half of all lawyers made less than that figure. Thus law produced a good but not great living for most of its practitioners. By comparison the figure for accountants was \$40,550, chemists \$47,200, computer programmers \$50,490, teachers \$37,310. However, physicians averaged \$100,920 and dentists \$91,280. Bureau of Labor Statistics, Occupational Employment Statistics, 1997 National Occupational Employment and Wage Estimates, available on the internet at http://stats.bls.gov/oes/national/oes_prof.htm. Of course, a relatively few lawyers do earn inordinate amounts, particularly partners of elite firms and a few highly successful personal injury lawyers. See notes 45-47; Black & Rothman, note 15 at 839 (1998) (85% of partners in corporate law firms earned more than \$200,000 in 1995).

In general, I believe (although I cannot prove) that most legal services, whether oriented to transactions, personal planning, or dispute-settlement, add value and that most of the things lawyers do are good for society. It may be unfashionable to say so, but I think the ABA was right when it concocted the slogan "Freedom, justice, equality--without lawyers, they're just words." So if a normative position is needed from which to criticize popular legal culture of the last twenty years, my position is that film should treat lawyers in a fair and balanced manner.

As to the negative public opinion polls, your attitude may be--who cares? Life for lawyers, judges and law professors goes on regardless of what the public thinks of the profession. Lawyers are accustomed to people not liking them much or being utterly misinformed about the legal system. It's easy for lawyers to write off the polling data as misguided or inconsequential. However, I think we should care a lot about the venomously negative public perception of the profession.²⁸

²⁸ I am not alone in believing that the fall-off in public esteem for lawyers is important; elite lawyers and judges are deeply concerned by the plummeting image of the profession. Asked what was the most important problem facing the profession, elite lawyers ranked litigiousness first and public image second. Judges ranked case load first and public image second. Black & Rothman, note 15 at 856-57. The ABA leadership is extremely concerned with the problem of public perception, witness its commissioning of the M/A/R/C study, note 18, and numerous references to the problem in the ABA Journal. See also David A. Harris, *The Appearance of Justice: Court TV, Conventional Television and Public Understanding of the Criminal Justice System*, 35 Ariz. L. Rev. 785, 788-95 (arguing that public misperceptions about criminal justice system are an important problem). But see Gross, *supra* note 7 at 1417-20, 1426-29 (what counts is people's attitudes toward their own lawyers, not lawyers in general).

The harshly negative perception that lawyers or law students encounter constantly in their daily lives ("how can a nice person like you be a lawyer or law student?") undeservedly lowers self esteem.²⁹ It makes lawyers devalue the work they do and diminishes their satisfaction in doing this work.³⁰ Surely it contributes to the widespread feelings of career dissatisfaction and stress among practicing lawyers.³¹ More broadly, doesn't our civil society suffer when any large group of people are collectively demonized?

If clients and lawyers don't or can't trust other lawyers, the costs of legal services will rise because every informal agreement must be carefully documented and confirmed.³² In a transaction where there is no mutual trust, the documents must attempt to cover everything that could conceivably go wrong, every possibility for opportunism.

²⁹ In an application to take the seminar in law and popular culture that Paul Bergman and I offer at UCLA Law School, a student wrote: "Every time I tell someone that I am in law school, I am universally greeted with a look of horror and disgust." Gross, *supra* note 7 at 1428-29 questions the argument that low public opinion of lawyers erodes self-esteem.

³⁰ Anthony Kronman, *THE LOST LAWYER* 2-4 (1993).

³¹ See Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 *Vand. L. Rev.* 871, 871-95 (1999) (giving data on lawyer dissatisfaction with their work and their lives); Susan Daicoff, *Asking Leopards to Change Their Spots: Should Lawyers Change?* 11 *Georgetown J. Leg. Ethics* 547, 553-57 (1998) (rising attorney dissatisfaction and rising substance abuse among attorneys). But see John P. Heinz et.al., *Lawyers and their Discontents: Findings from a Survey of the Chicago Bar*, 74 *Ind. L. J.* 735 (1999) (survey of Chicago lawyers indicates both men and women practicing lawyers mostly satisfied with their work).

³² I've heard lawyers say that *every* informal phone agreement with their opponent to delay a deadline or otherwise work out some small problem in litigation must be documented by a confirming letter. In years past, a confirming letter would be sent only if one were dealing with an opponent known to be untrustworthy.

If jurors assume that most of what the lawyers say to them is false or misleading, and if they generally hold the legal system in contempt, the process of dispensing justice through trials cannot function properly. Jurors may be more likely to refuse to serve or to decide cases on personal whims rather than the evidence. This may be especially harmful to plaintiffs in personal injury cases and to criminal defendants.

The roots of the law and of law practice lie deeply embedded in the social, political and economic institutions of a given society and a given community.³³ Law is neither autonomous nor unchangeable. If people generally hate law and lawyers, this will be reflected in the laws that legislatures pass and the initiatives that voters enact. Thus distrust of the judicial system has prompted enactment of draconian mandatory minimum sentencing laws. Distrust of personal injury lawyers resulted in caps on the amount that can be recovered in medical malpractice cases. Ultimately, the public's willingness to use the judicial system and the public's belief in the rule of law will decline if people hate and distrust the lawyers and judges who administer that law.³⁴

Recently, former Governor Pete Wilson's veto of funding legislation caused the California State Bar to suffer a complete

³³ Donald D. Landon, COUNTRY LAWYERS: THE IMPACT OF CONTEXT ON PROFESSIONAL PRACTICE 3-8, 147-53 (1990).

³⁴ See Tom R. Tyler, *Public Mistrust of the Law: A Political Perspective*, 66 U. Cinn. L. Rev. 847, 861-64 (1998). To this point, at least, the public seems to be much more positive toward the American justice system and toward judges than toward the lawyers who actually run the system. See M/A/R/C survey discussed at note 18.

meltdown.³⁵ The programs for which the Bar was responsible collapsed, including lawyer discipline, reimbursement of defrauded clients, and continuing education. Over 500 people (including almost all of the professionals who conducted California's exemplary State Bar Court system for disciplining errant lawyers) were laid off. Some people cheered; but nobody except for a few lawyers seemed to think it mattered. Wilson said that vetoing the Bar bill was one of the most popular acts he had taken as governor.³⁶

In American history, lawyers have always played a statesmanlike role. Traditionally, lawyers constituted a substantial percentage of the membership of legislatures or school boards; lawyers often served in important non-legal policy-making positions. Writing in the 1830's, DeTocqueville said: "As the lawyers form the only enlightened class whom the people do not mistrust, they are naturally called upon to occupy most of the public stations."³⁷ More recently, Anthony Kronman has pointed out the historic role and responsibility of lawyers to serve as statesmen.³⁸ Today, the number of lawyers elected to both the federal and state legislatures has plunged.³⁹ In the

³⁵ Barbara Mahan, *Who Killed the State Bar?* Calif. Lawyer 33 (Oct. 1998).

³⁶ Id at 39.

³⁷ 1 Alexis de Tocqueville, *DEMOCRACY IN AMERICA* 279 (Bradley, ed. 1945). It is unlikely that anyone would pen such a sentence today. See also Robert A. Ferguson, *LAW AND LETTERS IN AMERICAN CULTURE* 11-33 (1984) (chapter concerning the Revolution and early 19th century is entitled "In America The Law is King").

³⁸ Kronman, note 30.

³⁹ Richard Perez-Pena, *Making Law vs. Making Money: Lawyers Abandon Legislatures for Greener Pastures*, New York Times, Feb. 21, 1999, §4 p. 3.

present atmosphere, the historic role of lawyers as citizen-statesmen is in serious jeopardy.

Now why has all this happened? What, exactly, has changed during the last two decades or so to cause the public to so detest lawyers? No one knows exactly what has caused the decline and unquestionably there are numerous causal factors. Everyone has his or her own theory about which of these causes is most or least significant. I suggest you raise the question next time you're having dinner with friends and the conversation lags. You'll get some unexpected answers, although the particular answers you get depend a lot on who is answering.

I offer here a menu of causal agents for the declining image phenomenon. Some of these potential causal agents can be backed up with survey data, others are impressionistic. Some are fairly persuasive, some are not very persuasive, but all of them have been suggested (either in print or in discussions I've had) as being part of the public perception problem.

a. Factors relating to the legal profession

i. Rising incomes. Income of lawyers rose during this period.⁴⁰ Some extremely high legal fees and law partnership

⁴⁰ The income of both partners and associates in law firms of all sizes increased steadily during this period. Thus, the median compensation for law firm partners rose from \$64,695 in 1977 to \$182,824 in 1997; the median for partners with 9 years experience rose from \$50,532 in 1977 to \$131,451 in 1997. The starting salary for new graduates rose from \$18,000 in 1977 to \$50,000 in 1997 (these are before tax figures and do not include fringe benefits). The increases exceeded the increase in the consumer price index. Obviously, the relevant numbers in large urban areas were much higher. Altman Weil Publications, 1998 Survey of Law Firm Economics 1/1. In a different survey, the mean profit per partner, *adjusted for inflation*, rose from \$297,000 in 1987 to \$364,000 in 1997. American Lawyer 6, July-Aug. (1998).

incomes received considerable publicity. The astounding fees awarded to plaintiffs' lawyers in the cigarette litigation exacerbate the problem. Many people think that lawyers make far too much money compared to their social contribution. Others believe that lawyers pad their bills.⁴¹ As the public and many lawyers see it, a noble profession has been converted into a profit-making business like any other.⁴²

ii. Increase in the number of lawyers and in amount of litigation. The number of lawyers increased rapidly during this period.⁴³ People think that there are far too many lawyers.⁴⁴ Moreover, the percentage of women lawyers increased rapidly;; some resentment toward lawyers may really be resentment toward women working in what people consider a male profession.

⁴¹ See Richard Zitrin and Carol M. Langford, *THE MORAL COMPASS OF THE AMERICAN LAWYER* 80-86(1999). The ABA's 1993 poll indicated that 63% of respondents thought lawyers made too much money, 59% said lawyers are greedy, and 55% said that most lawyers "charge excessive fees." Hengstler, note 17 at 63.

⁴² Zitrin & Langford, note 41; Sol Linowitz, *THE BETRAYED PROFESSION* (1994). Kronman observes that lawyers' income used to be a private matter but the information now is in the public domain. He believes that lawyers are more preoccupied with earning the highest possible incomes than in years past. Kronman, note 30 at 294-300

⁴³ See Deborah L. Rhode, *Too Much Law, Too Little Justice: Too Much Rhetoric, Too Little Reform*, 11 *Geo. J. Legal Ethics* 989, 990-93 (1998) (number of lawyers has tripled in three decades and now approaches 900,000). According to Cebula, note 20, 27 *J. Leg. Studies* at 513, the increased population of lawyers and the increased number of lawsuits might have increased the availability of legal services and thus improved the public's opinion of lawyers. These conclusions are counter-intuitive, to say the least.

⁴⁴ See Rhode, note 43. Songwriter Tom Paxton amusingly articulated the view of many people in his 1985 album "One Million Lawyers and Other Disasters." Referring "to the terrible scourge still to come," Paxton asked: "In ten years, we're gonna have one million lawyers/How much can the poor nation stand?" He continued: "Lawyers around every bend in the road/Lawyers in every tree/Lawyers in restaurants, lawyers in clubs/Lawyers behind every door/Behind windows and potted plants, shade trees and shrubs/Lawyers on pogo sticks, lawyers in politics." Quoted

iii. Increased litigation. People perceive that the increased number of lawyers (together with increased litigiousness on the part of the public) triggered an increase in litigation of all sorts,⁴⁵ especially frivolous litigation.⁴⁶ The lawsuit brought by the woman scalded by McDonald's coffee is endlessly cited as an example.⁴⁷ Whether these public beliefs about the litigation explosion are a myth⁴⁸ or whether they are based on reality, they are widely held and powerfully influence public opinion about law, lawyers, and the legal system.

b. Highly publicized trials. Particular lawyers did things the public perceived as bad. The culprits may have been the hordes of lawyers embroiled in Watergate.⁴⁹ Perhaps it was Johnny Cochran or other lawyers and judges in the O. J. Simpson case or the lawyers in the Menendez, Abner Louima, or William Kennedy Smith cases. Perhaps it was independent counsel Kenneth Starr.

in Lawrence Savell, *Why Are They Picking on Us?* 78 A.B.A.J. 72 (Nov. 1992).

⁴⁵ Galanter has questioned whether the so-called litigation explosion is actually folklore. Marc Galanter, *Reading the Landscape of Disputes: What We Know and Don't Know (And Think We Know) About Our Allegedly Contentious and Litigious Society*, 31 UCLA L. Rev. 4 (1983). But Galanter's analysis has been questioned by authors who assert that the litigation explosion is not a myth at all. Kenyon D. Bunch & Richard J. Hardy, *A Re-Examination of Litigation Trends in the United States: Galanter Reconsidered*, 1986 Miss. J. Disp. Res. 87, 103.

⁴⁶ A Roper Poll found 73% of respondents agree with the statement "because there are too many lawyers in our country, many disputes are being taken to court when they shouldn't be." Only 19% disagreed. Roper Poll released Feb. 20, 1984.

⁴⁷ Chris Klein, *Poll: Lawyers Not Liked*, Nat. L. J. (Aug. 25, 1997), p. A6.

⁴⁸ See Galanter, note 45; Rhode, note 43 (sharply and persuasively criticizing public opinion about the plethora of law and lawsuits).

⁴⁹ However, survey data of the 1970's suggested that Watergate had little immediate effect on the public's perception of the ethical standards of lawyers. Curran, note 12 at 232.

Or perhaps it's Judge Judy.⁵⁰ Saturation media coverage of sensational trials or investigations, as well as Court TV, brings dubious lawyer behavior directly into millions of living rooms. Irresponsible news analyses of those trials that oversimplifies them and treats them as entertainment or as gladiatorial combat worsens the problem.⁵¹ And the perceived lapses and shortcomings of individual lawyers are generalized onto the profession as a whole.

c. Factors relating to changes in society

i. Rise in rates of divorce, crime, bankruptcy. During the last couple of decades, the divorce rate,⁵² the crime rate,⁵³ and the rate of personal bankruptcies⁵⁴ all increased. As a result, more people came into contact with lawyers in negative and unhappy situations.

⁵⁰ See Michael Asimow, *Justice with an Attitude: Judge Judy and the Daytime Television Bench*, 38 *Judges' J.* 24 (Fall, 1999).

⁵¹ See Peter Arenella, *The Perils of TV Legal Punditry*, 1998 U. of Chi. L. Forum 25, 38-51.

⁵² The divorce rate (measured as divorces per 1000 population) began to rise in the 1960's and rose sharply in the 1970's. It peaked at 5.3 from 1979 to 1981 and fell slightly after that time. Roderick Phillips, *UNTYING THE KNOT: A SHORT HISTORY OF DIVORCE* 211-13 (1991); *STATISTICAL ABSTRACT OF THE UNITED STATES* 74 (1997). Cebula thinks the increased divorce rate is moderately correlated with declining lawyer image. See Cebula, note 20, 27 *J. Leg. Stud.* at 509.

⁵³ The rates of violent crime rose steadily throughout the 1970's, 1980's, and early 1990's. The number of violent crimes per 100,000 inhabitants doubled; it rose from 363 in 1970 to 596.6 by 1980 and to 731.8 by 1990. It peaked at 757.5 in 1992 before falling to 610.8 in 1997. *Fed. Bur. Investign., Uniform Crime Reports for the United States* 66 (1997). In 1982, the Gallup Poll found that Americans had low confidence in their court system compared with other nations and linked this directly to a rising crime rate and perceived leniency toward criminals. 1982 Gallup Poll 165.

⁵⁴ The number of bankruptcies rose sharply during the 1980's and early 1990's. There were 364,000 bankruptcy petitions in 1985, 642,000 in 1989, 972,000 in 1992. *Statistical Abstract*, note 52 at 549.

ii. Increase in government regulation. A widespread popular belief is that there are too many laws and regulations and too many meddling regulators. Lawyers write the laws and regulations and help enforce them. Business people tend to make this argument quite vehemently.⁵⁵

iii. People increasingly distrust institutions and power centers,⁵⁶ particularly the government⁵⁷ and the mass media.⁵⁸ Lawyers and the legal profession are just one more big, powerful institution that the speaker perceives is pushing him around, doing a number on him, or trying to get into his wallet.

iv. Changes in mass communication. Fundamental changes in the media may have something to do with the trend. In particular, commentaries on the internet and radio talk and call-in shows include bitterly negative opinions about almost everything, certainly including lawyers. Then there's the fact that television news has become just one more form of

⁵⁵ More government regulation means much higher legal fees. See Linowitz, note 42 at 77-82, 100-01. From 1960 to 1990, American corporations multiplied by five the fraction of their revenues paid for legal services. Id. 187.

⁵⁶ The Harris Poll has been measuring public confidence in various institutions since 1966. Using the 1966 level of confidence as 100, the overall index of confidence in institutions plunged in the late 1960's and 1970's (for example to 49 in 1980). It stabilized during the 1980's and fell again (to a low of 43 in 1995 and 42 in 1997). Perhaps as a function of the solid economy and rising stock market, it rose from 42 to 54 from 1997 to 1998. The public's confidence in the leadership of law firms plunged more swiftly than the overall index. In 1972 (the earliest year for which a figure is available), 24% of respondents had confidence in law firm leadership. This figure declined steadily and fell to its all-time low of 7% in 1997 before rising to 11% in 1998. Harris Poll #8, February 11, 1998.

⁵⁷ See Joseph S. Nye et.al., WHY PEOPLE DON'T TRUST GOVERNMENT (1997).

⁵⁸ In the M/A/R/C survey, note 18, only the media came in lower than lawyers. Id. 52 (only 8% of people are extremely or very confident in the media, compared to 14% for lawyers).

entertainment,⁵⁹ often treating court cases the same as sports events.

d. Factors relating to the litigation process

People perceive that the costs, delays, and complexity of litigation have all worsened. They think that attorneys act less ethically than they used to.⁶⁰ Discovery seems more costly, unpleasant and intrusive than ever.⁶¹ Lawyers more often act in an uncivil manner toward each other and toward litigants and witnesses, to the discredit of the profession.⁶²

e. Lawyer advertising. Lawyer advertising increased exponentially during the 1980's.⁶³ Television ads, in particular, seem to encourage people to invent phony personal injury claims, weasel out of their debts through personal bankruptcy, or escape

⁵⁹ See Neal Gabler, *LIFE THE MOVIE* 53-95 (1998); Neil Postman, *AMUSING OURSELVES TO DEATH: PUBLIC DISCOURSE IN THE AGE OF SHOW BUSINESS* (1986).

⁶⁰ In the 1993 ABA survey, 22% of respondents thought lawyers were honest and ethical but 40% said they were not. Of the respondents, 48% said that at least three in ten lawyers lack the ethical standards necessary to serve the public which matches the proportion who say the same thing about auto mechanics. Hengstler, note 17 at 62. Only 14% of respondents gave lawyers high marks for honesty and ethics in 1998. Gallup Poll, note 21.

⁶¹ Zitrin & Langford, note 46 at 53-73.

⁶² Linowitz note 42 at 167-71. There is a substantial literature on the incivility problem and what can be done about it. See, e.g., Susan E. Davis, *Uncivil Behavior*, 19 Calif. Lwyr. 44 (July, 1999); Marvin Aspen, *A Response to the Civility Naysayers*, 28 Stet. L.R. 253 (1998); Brenda Smith, Comment, *Civility Codes: The Newest Weapons in the "Civil" War over Proper Attorney Conduct Regulations Miss their Mark*, 24 U. Dayton L. Rev. 151 (1998) (citing numerous studies of the problem); John Stuart Smith, *Civility in the Courtroom from a Litigator's Perspective*, 69 N.Y. St. Bar J. 28 (May/June 1997); Carolyn E. Demarest, *Civility in the Courtroom From a Judge's Perspective*, id. at 24; Marvin E. Aspen, *The Judiciary--New Issues and New Visions: Promoting Civility in Litigation*, 40 Fed. Bar News 496 (1993); Kara Ann Nagorney, Note, *A Noble Profession? A Discussion of Civility Among Lawyers*, 12 Geo. J. Leg. Eth. 815 (1999).

⁶³ See Cebula, note 20, 27 J. Leg Stud. at 506, 15 Ga. State. Rev. at 321, for statistics showing the very sharp increase in lawyer

the consequences of drunk driving.⁶⁴ This sort of advertising strikes many people as extremely sleazy.

f. Bad public relations

Insurance companies and big business have engaged in a public relations campaign against personal injury lawyers and the pro-plaintiff doctrines of tort law. A number of conservative politicians, such as Dan Quayle, jumped on this issue. Sometimes the argument against plaintiffs' lawyers is generalized into a critique of the effect of products liability and other tort doctrines on economic growth or the formation of new enterprises.

g. Negative stereotypes of lawyers as human beings. For good measure, lots of people you ask will describe lawyers (often based on their personal experiences or those of friends or

television advertising during the 1980's--the very time when the image of lawyers went over the cliff.

⁶⁴ See Florida Bar v. Went for It, Inc., 515 U.S. 618, 626-29 (1995) (study by Florida Bar of the negative effect on lawyer reputation of lawyer mailings to accident victims). Cebula and Gross are very critical of the methodology employed by the Florida bar. Cebula, note 20, 15 Ga. St. L. Rev. at 316-20; Gross, note 7 at 1430-38. Analysis of comments by participants in focus groups suggested that "lawyer advertising on television may be the most significant contribution to the public derision toward lawyers." Hengstler, note 17 at 63. In both articles cited in note 20, Cebula takes the position that advertising either had no effect on the declining public image of lawyers or may even have *enhanced* the profession's image by making legal services more available and bringing down their cost. His findings, based on regression analyses of the correlations between the increase in advertising and the decline in public opinion of lawyers, are counter-intuitive. They are also contrary to the ABA focus group findings cited by Hengstler, *supra*. I am skeptical of Cebula's results. In part, his conclusions belie the obvious fact that TV advertising was soaring while lawyer image was plummeting. From a common-sense point of view, it is difficult to conclude that advertising was good for lawyer's public image. In addition, there are so many possible causes of the decline in public esteem, all working together, many of them impossible to quantify; Cebula's statistical analysis cannot take account of all these factors.

family) as dishonest, unethical, greedy, boorish, inconsiderate people who are impossible to deal with.⁶⁵

Each of these hypotheses concerning the declining image of lawyers contains a grain of truth. None of them is completely off base. Unpleasant events at which lawyers were present, such as divorce, bankruptcy, and criminal prosecutions, did increase noticeably during the 1980's. Certainly, *some* lawyers are bad professionals and bad people and *a few* of them have ridiculously large incomes. Law *has* become more of a business and less of a profession. There are some costly and inefficient regulatory systems manned by overzealous lawyers, and there probably are too many lawyers (at least too many lawyers competing for affluent clients) and too much litigation. Litigation (particularly the discovery process) has become nastier and more intrusive. Some lawyer television advertising is really awful. Probably each of these factors played a role in the precipitous drop of the profession's public image.

The next section of the paper asks about the relationship of popular legal culture⁶⁶ to the plummeting public esteem for

⁶⁵ See Savell, note 44. Gross, *supra* note 7 at 1425-26, argues that the prevalence of nasty lawyer jokes contributes to and reinforces negative stereotypes about lawyers.

⁶⁶ By the term popular legal culture, I mean works of imagination (whether visual, auditory, or print) concerning law, lawyers, and the legal system which are intended as mass entertainment. See Lawrence Friedman, *Law, Lawyers and Popular Culture*, 98 Yale L.J. 1579, 1579-80 (1989). I recognize that some scholars would prefer to use terms like "objects of popular legal culture" to describe these works. These scholars use the term "popular culture" to embody the whole set of public attitudes and beliefs rather than to describe specific works. See Mukerji & Schudson, note 6 at 33 (1991).

lawyers. Is popular culture only a follower of public opinion or could it also be a leader?

II. DOES POPULAR LEGAL CULTURE FOLLOW OR LEAD PUBLIC

OPINION ABOUT LAWYERS?

A. Popular Culture as a follower of public opinion

Unquestionably, popular culture *reflects* attitudes and myths that are already deeply rooted in the common psyche. People worry a lot about getting cancer or being a crime victim or having their marriages fall apart. Thus films like *Love Story* or *Terms of Endearment* (1970, 1983--cancer), *Regarding Henry* (1991--random violent crime), or *Kramer v. Kramer* (1979--divorce and child custody dispute) resonate with film audiences. If lawyers are *already* loathed by the likely consumers of a new film, then the odds of commercial success for a film about loathsome lawyers are better than the odds on films putting down French teachers, rabbis, or grandmothers. As a result, writers tend to write stories that feature negative lawyer portrayals and producers and investors tend to select such stories from the vast array of choices available to them.⁶⁷

Undoubtedly, then, popular culture *follows* and *mirrors* already existing public opinion. The stories in lawyer films are largely realistic in the sense that they reflect (although they

⁶⁷ Some screenwriters themselves may have endured antagonistic personal encounters with lawyers, especially entertainment lawyers representing studios or producers. Since writers naturally draw on their own lives for material, such negative personal experiences could easily have guided their choice of material and the way they imagine their characters. It would be interesting to explore the personal experiences of writers of negative lawyer movies.

often distort or exaggerate) reality as filmmakers and consumers perceive it.⁶⁸ The fact that works of popular culture tend to reflect (at least in distorted form) popular attitudes, misconceptions, and myths is itself important and justifies the study of these works as a barometer of public opinion.⁶⁹ Thus the sharply negative portrayal of lawyers in the films of the last couple of decades is itself a phenomenon that justifies careful study as a form of social history.

B. Popular Culture as a Leader of Public Opinion--The Relevant Interpretive Community

But can popular culture *lead* public opinion? Can it reinforce and intensify attitudes that were already present in weaker form, or create new attitudes that didn't exist before? I think it can and does.⁷⁰

⁶⁸ See J. Dudley Andrew, MAJOR FILM THEORIES 104-78 (1976) (film theories of Bazin and Kracauer).

⁶⁹ See Kellner, note 6 at 5 (1995) (study of popular culture illuminates social environment and provides insight into what is going on in contemporary society); Mukerji & Schudson, note 6 at 26 (popular culture should be viewed as a society thinking about itself); Louise Everett Graham & Geraldine Maschio, *A False Public Sentiment: Narrative and Visual Images of Women Lawyers in Film*, 84 Ky. L. Rev. 1027, 1028-34 (1995-96) (film narrative and imagery is window into cultural notions of women's status).

⁷⁰ Thus I agree with Kellner, note 6 at 60: "Such figural analysis [of *Rambo* movies] is important because the representations of popular cultural texts constitute the political image through which individuals view the world and interpret political processes, events, and personalities.... In a mass-mediated image culture, it is representations that help constitute an individual's view of the world, sense of personal identity and gender, playing out of style and lifestyle, and socio-political thought and action." At a later point, Kellner recounts how the film *Top Gun* caused young men to get in line to become naval aviators. Id. at 80. He also discusses the impact of powerful symbols encoded in film on the thoughts and actions of viewers. Id. at 106-08. See also Gross, note 7 at 1422-25 (agreeing that negative image of lawyers in movies may have lowered public's view of lawyers); Cebula, note 20, 15 Ga. St. L. Rev. at 325-26 (films may

In my opinion, the media of popular culture (particularly movies and television) are the most powerful and persuasive teachers that have ever existed, other than actual personal experience.⁷¹ If this isn't so, advertisers are wasting tens of billions of dollars inserting little stories and resonant images into television commercials, and political candidates are wasting hundreds of millions of dollars selling images in political spot advertisements. I believe we are constantly forming opinions based on material we absorb from the popular culture that surrounds us.⁷²

In our theater seats or our family rooms, we consume carefully written, highly entertaining dramatic material, brought

have negatively influenced public opinion about lawyers but limiting analysis to only four films).

⁷¹ In the M/A/R/C study, note 18 at 94-97, respondents stated that personal experience was the most important source of their knowledge about the legal system. Respondents in the M/A/R/C survey ranked school or college courses as the second most important source of their knowledge. Id. 94-98. I am deeply skeptical of the latter result. As a thought experiment, ask yourself how much you actually remember from your high school government class about law and the justice system and, if you remember anything at all, whether you draw upon what you learned as a present source of knowledge.

⁷² In the M/A/R/C study, note 18 at 94-97, the respondents claimed that they were influenced very little by film or television drama. On the average, only 7% of respondents claimed that television dramas or movies were extremely or very important in forming their opinions. Of those who were quite knowledgeable about the legal system, only 4% claimed that television drama was important and 2% claimed films were extremely or very important. Of those who were least informed, 16% claimed that both television dramas and movies were extremely or very important.

I question these results. When people are asked *directly* whether they base their opinions on fictitious stories, most people say no. However, the studies discussed in text at notes 78-86 show that television and film stories strongly influence people's attitudes and opinions. In fact, people have forgotten where they got the information that they used in making these so-called heuristic judgments. As a result, they fail to "source discount" for the fact that the information came from fiction. See note 86 for an argument questioning the validity of the M/A/R/C findings.

to life by gifted directors and dramatized by superb actors. The stories are professionally produced with authentic-looking sets, music and lighting that intensifies the emotional impact of the material. We identify with the sympathetic characters and worry about their troubles, and we detest the unsympathetic ones.⁷³ The images derived from pop culture are incredibly powerful and durable.⁷⁴

As a thought experiment: were you compelled to endure a course in Drivers' Education back in the tenth grade? If so, is there one thing you remember from those dreary days? If you're like me (and a number of friends who I asked about it), you remember the films. You know, the ones in which nice teenagers like yourself get pulped in horrible car crashes. Long after everything else has been forgotten, those images remain in an easily available memory archive.

Or try this one if you're under 35 or so: what was it like to fight in Vietnam? You can probably answer that question, but where did you get your information? Not from live television news like those of us who were adults during the Vietnam War. I'll bet you got most of your information, not from some history course you took in high school or college or from friends or

⁷³ See Jennings Bryant & Dolf Zillman, *Entertainment as Media Effect*, in Bryant & Zillman, *MEDIA EFFECTS: ADVANCES IN THEORY AND RESEARCH* 447-50 (1994). "Good drama, then, relies on positive and negative sentiments toward the parties in conflict and the extent to which a resolution can be accepted by the audience.... There need be beloved heroes ... and there need be villains whom the audience can love to hate." Id. at 447-48.

⁷⁴ See Frank McConnell, *STORYTELLING AND MYTHMAKING* 4 (1979): "But at the end of that discussion [of various critical approaches] we come back, in one way or another, to the fundamental perception that stories teach

family who fought there, but from some of the many movies about Vietnam.⁷⁵ Readers who are older should ask themselves the same question about what it was like to fight in World War II. Or ask yourself how you know what you think you know about private detectives or cowboys or newspaper reporters.

Assume a consumer of popular culture doesn't know any lawyers very well, doesn't read newspapers a lot, and doesn't have much personal experience of the legal system. That person may well consume a substantial number of fictitious lawyer stories in films or television. I believe those stories teach the viewer what lawyers do, what kind of people they are, what they look like, and how the legal system actually functions. These images and emotional responses persist in memory long after the plot details are forgotten. The portrayals create knowledge and reality. Lawyers are like the kind of people practicing law that you've seen on the screen--in fact, lawyers *are* those people. If many of those portrayals are sharply and vividly negative and constantly repeated, that image becomes the viewer's reality. And if these negative and enduring images are reinforced by radio talk-shows, TV news, or by conversations with similarly ill-informed friends or relatives, or by some negative personal experience with a lawyer or the legal system, they become indelible. Even contact with real lawyers is unlikely to cancel

us--and teach us in ways, at levels, nothing else does. *All* storytelling is didactic..."

⁷⁵ See Kellner, note 6 at 62-75, 102, 117-21 (concentrating on *Rambo* but observing that a large number of films have articulated other points of view on the Vietnam War).

them out. If a contact with a real lawyer is unfavorable or unpleasant, the experience fits right into and reinforces the negative image acquired from popular culture. Even if the experience with the real lawyer is positive, it is viewed as exceptional.

In one branch of literary theory, the interpretation of text depends on the reader's response (what he "does" to the text and what the text "does" to him), rather than analysis of the author's intentions or of the text itself.⁷⁶ In other words, interpretation takes place when the reader (for our purposes the viewer of a film or television show) interacts with the text (the film or television show). Under this critical approach, a viewer's response is not completely random or subjective but instead tends to be constrained by the belief systems and experiences of an "interpretive community" of like-minded persons.

The interpretive community that counts, for present purposes, is *not* the community inhabited by the likely consumers of this article--law professors, lawyers, law students, film

⁷⁶ See Stanley Fish, *IS THERE A TEXT IN THIS CLASS* (1980), particularly the Introduction, Chapter 1, and Chapters 13-16. See also Janice Radway, *Interpretive Communities and Variable Literacies: The Functions of Romance Reading*, in Mukerji & Schudson, note 6 at 468-70 (interpretive community of romance readers); Janet Staiger, *INTERPRETING FILMS* (1992), particularly 89-95 (proposing and illustrating context-dependent viewer response film theory); Peter J. Rabinovitz, *Whirl Without End--Audience-Oriented Criticism*, in G. Douglas Atkins & Laura Morrow, *CONTEMPORARY LITERARY THEORY* 88 (1989); Terry Eagleton, *LITERARY THEORY: AN INTRODUCTION* 74-90 (1983); David Ray Papke, *Myth and Meaning: Francis Ford Coppola and the Popular Response to the Godfather Trilogy*, in John Denvir, ed., *LEGAL REELISM: MOVIES AS LEGAL TEXTS* Ch. 1 (1996) (audience's interpretation of *Godfather* films completely different from director's intention).

theorists, or possibly filmmakers. Readers of this article are apt to discount the strongly negative portrayals of lawyers they see in film because the portrayal contradicts what they think they know from their own experience. Such readers can enjoy films like *The Devil's Advocate* as amusing entertainment. Or they can criticize the films as poorly written, implausible or just absurd. But this crowd doesn't take such films as serious accounts of reality.

Instead, the relevant interpretive community is the vast (and not so silent) majority--people who have only fragmentary, mostly erroneous, knowledge of what law is all about, of what lawyers are like and what they do, and of how the legal system actually works. These are people who are prepared to accept radically negative statements about law and lawyers when served up along with a good story. Thus, I believe, their likely interpretation of negative films about lawyers is that what a film has to say about the personalities and professional behaviors of the lawyers pictured in the film is basically truthful.⁷⁷

C. The Cultivation Effect

Psychologists have produced a large body of research concerning the so-called "cultivation effect." This work assesses the influence of exposure to media on a consumer's conception of social reality--the viewer's store of information,

⁷⁷ Friedman, note 66 at 1580-87 (popular legal culture essential in formulating social theory of law); Radway, note 76 at 474-75 (romance

beliefs and attitudes. Cultivation theorists contend that heavy television viewers entertain beliefs about the social world that are quite different from the beliefs of light viewers.⁷⁸

Cultivation theory is vulnerable to the confounding argument that it confuses causality with correlation; it may be that people who watch a lot of television just happen to be the same people who entertain the beliefs in question. However, many of the newer studies are carefully designed to minimize the risk of this sort of error. I believe they sustain their hypotheses convincingly.

Heavy television viewers believe in a "meaner" world than light viewers;⁷⁹ heavy viewers believe there is a higher crime rate and there are more police officers, lawyers, or prostitutes, and more alcoholism or drug abuse, than do light viewers of television.⁸⁰ Heavy viewers believe that people have more possessions and engage more frequently in behaviors associated

readers believe that the details of historical and physical background of the stories are true).

⁷⁸ Thomas C. O'Guinn & L. J. Shrum, *The Role of Television in the Construction of Consumer Reality*, 23 J. Consumer Res. 278, 280 (1997); George Gerbner et.al., *Growing Up with Television: The Cultivation Perspective*, in Bryant & Zillman, note 73 at 17. Gerbner, who is one of the pioneers of cultivation theory, asserts that television neither simply "creates" nor simply "reflects" images, opinions, and beliefs. Cumulative exposure to television develops in some viewers and maintains in others a particular set of outlooks. The attitudes once created are very resistant to change. Id. at 23-25.

⁷⁹ Id. at 30.

⁸⁰ The studies are summarized in L. J. Shrum, *Effects of Television Portrayals of Crime and Violence on Viewers' Perceptions of Reality: A Psychological Process Perspective*, 22 Leg. Stud. F. 257, 261 (1998). Heavy viewers have a greater fear of walking alone at night, more anomie, greater perceived danger, greater use of personal safety protection devices, and more interpersonal mistrust than light viewers. They overestimate, to a greater degree than light viewers, how often police find it necessary to use force, draw their guns on an average day, and shoot fleeing suspects. Ibid.

with an affluent lifestyle than do light TV watchers.⁸¹ Heavy viewers are more likely than light viewers to self-identify as politically "moderate" as opposed to liberal or conservative.⁸²

Cognitive psychology researchers believe that there is a causal relationship, not merely a correlation, between belief formation and heavy television watching. Their explanation is derived from what they call a "heuristic processing model."⁸³ Heuristic reasoning consists of snap judgments based on rules of thumb (such as "lawyers are sleaze"). People tend to make this type of snap judgment when their involvement with making the judgment is relatively low or when they must decide quickly. For example, the process of answering a pollster's questions calls for heuristic reasoning, since there is no penalty for giving a wrong answer.⁸⁴

⁸¹ O'Guinn & Shrum, note 78 at 289-90 (1997). These studies were controlled for income, education, and personal experience.

⁸² Gerbner et. al. note 78 at 31-32 (finding that the actual opinions of heavy viewers tend to be quite conservative).

⁸³ See L. J. Shrum & Thomas C. O'Guinn, *Process and Effects in the Construction of Social Reality*, 20 *Communic. Research* 436, 440-45 (1993) (studies involved the effects of watching both television and war movies); Shrum, note 80 at 262-66, citing numerous studies.

⁸⁴ L. J. Shrum, *Assessing the Social Influence of Television: A Social Cognition Perspective on Cultivation Effects*, 22 *Communic. Res.* 402, 407-08 (1995).

Another body of cognitive psychology research seems consistent with the analysis in the text. This analytic approach explains how people explain reality and make judgments by relating new perceptions and data to previously established schema (or mental files). Schema can include both general propositions ("lawyers are scum") and specific ones ("I've decided that lawyer A is scum"). Either proposition helps a person make a decision about new data ("lawyer B who I just met is scum") by relating it back to a schema. Schema could easily be derived or supplemented by exposure to fictitious popular culture materials. Once established, schema resist alteration; people work hard to interpret data in accordance with their schema rather than remake them to explain the data. Whether a particular schema will be accessed or applied depends in part on the intensity and recency of the experience that created the schema. See generally Albert J. Moore, *Trial by*

The authors of these studies sometimes use as an explanatory device the idea that the mind contains various bins in which items are deposited as they are learned. When people need to make a heuristic judgment, they extract the necessary information from these bins. Generally, the bins are accessed from the top down. As a result, the likelihood that a particular item will be pulled from the bins depends on both the frequency and recency of exposure. The more recent and the more frequent the exposure to a bit of information, the more likely that the item will be pulled up when needed. In addition, the more vivid a particular exposure to information, the more likely that the material will be accessed in making heuristic judgments--and well-edited TV or film drama is likely to be very vivid. Information and attitudes gained from actual personal experience, even though that experience may have been random and untypical, is also likely to be accessed.

In many cases people aren't aware of how they acquired the information they've packaged into a heuristic; thus they fail to consider that the information was drawn from fictitious material.⁸⁵ In other words, people typically don't "source discount" information derived from television for the fact that the information was derived from fiction, even though they are

Schema: Cognitive Filters in the Courtroom, 37 UCLA L. Rev. 273 (1989) (extensive citations to literature).

⁸⁵ Shrum & O'Guinn, note 83 at 461; Shrum, note 84 at 410-12.

aware that televised drama does not necessarily supply reliable information.⁸⁶

While most of the research on cultivation theory relates to television, it seems a fair assumption that the same psychological dynamics apply to film as well. I believe that cultivation theory supports the hypothesis that frequent and recent exposure to vividly negative films about lawyers should increase the number of people who will make negative heuristic judgments about lawyers.

D. Lawyer Portrayals on Television as Compared to Movies

This article concentrates on lawyers in the movies, not those in dramatic television series. However, the way that lawyers are portrayed on television has implications for the hypothesis I've advanced. After all, far more people see lawyers on television series than see them in film; those who consume both TV and film spend much more time watching TV than going to the movies. And the portrayal of lawyers on television is, in general, more favorable than in film.⁸⁷ *Perry Mason* and

⁸⁶ This important finding explains why respondents in the M/A/R/C study, discussed at note 18, claimed that film or television drama was not important in furnishing the information that allowed them to form their opinions about lawyers and the justice system. According to Shrum, note 84 at 412, when people are "primed" by the suggestion that questions about their information or attitudes might be based on televised stories, the cultivation effect disappears. This tends to occur if respondents are first asked about their TV viewing habits, then asked questions about their opinions or attitudes.

⁸⁷ Thom Weidlich, *A Cynical Age Sees Few Heroes in its Lawyers*, 16 Nat. L. Journ. No. 13 (Nov. 29, 1993) (on early 1990's television, there were 10 favorable lawyer portrayals on television for each unfavorable one, an improvement from the 6 to 1 ratio of the mid-70's to the late 80's). See also Diane Klein, *Ally McBeal and Her Sisters: A Quantitative and Qualitative Analysis of Representations of Women Lawyers on Prime-Time Television*, 18 Loyola L.A. Ent.L.J. 259, 268-72

his modern-day clone *Matlock*⁸⁸ continue to run in syndication in many major markets. These shows glorify lawyers to an absurd degree.⁸⁹ *L. A. Law* was probably the most heavily watched recent lawyer series. The majority of the lawyers on that show were favorably portrayed,⁹⁰ although some lawyers were quite negative.

On current television, shows like *The Practice*, *Judging Amy*, and *Law and Order* present nuanced and, on balance, favorable portrayals of lawyers. Lawyers on these shows seem to be dedicated, competent professionals; sometimes they go overboard ethically and some of them seem to have fairly miserable personal lives. Relationship shows about lawyers such as *Ally McBeal*⁹¹ also portray some of the lawyers in a sympathetic light. *Law and*

(1998); Rod Carveth, *Soap Operas*, in Robert M. Jarvis & Paul R. Joseph, PRIME TIME LAW: FICTIONAL TELEVISION AS LEGAL NARRATIVE 181-89 (favorable treatment of lawyer characters in soap operas). *But see* Cheryl Smith-Khan, *African American Attorneys in Television and Film: Compounding Stereotypes*, 22 Legal Stud F. 119, 123-26 (1998). Smith-Khan argues that TV series like *Law and Order*, *L. A. Law*, and *Murder One* contribute to the negative image of lawyers. To me, these series are rather well balanced with more favorable than unfavorable pictures of lawyers.

⁸⁸ See generally Jarvis & Joseph, note 87, chapters 5 and 9 (1998); Stark, note 5 at 249-57.

⁸⁹ Asked to name a lawyer they admired, 52% of respondents to a 1993 National Law Journal poll couldn't name one. The few respected lawyers cited more than once included Perry Mason and Matlock along with Thurgood Marshall, Janet Reno, Abraham Lincoln, and F. Lee Bailey. Randall Samborn, *Who's Most Admired Lawyer?* 15 Nat. L. Journ. No. 49 (August 9, 1993).

⁹⁰ See Horace Newcomb, *The Lawyer in the History of American Television--An Overview*, in David Gunn (ed.), *The Lawyer and Popular Culture* 45 (1993); Gerald J. Clark, *The Lawyer As Hero?* id. at 179 (show has a whole stable of lawyer-heroes).

⁹¹ *Ally McBeal* is a successful show on the Fox network that debuted in 1997. The show was created and mostly written by David Kelley who also created *The Practice*. Its eponymous star is a lawyer in a small firm. Most of the stories relate to Ally McBeal's fantasies and her personal problems. Although the show is set in a law firm and some of the stories relate to the firm's clients and cases, the law stories are usually comedic and rather silly. I believe that the show is much more a relationship or buddy-type show than a law series. The show had to

Order shows prosecutors favorably but often shows defense lawyers unfavorably.

One well-controlled study of the effect of heavy watching of TV shows about lawyers (mostly *L. A. Law*) assessed the opinions of TV viewers about various dimensions of the attorney persona such as character, composure, physical attractiveness, power, presence, and sociability.⁹² It then contrasted the opinions of the *L. A. Law* viewers with those of attorneys and of the general public. For most of the dimensions, the TV watchers' opinion was much more favorable than that of the general public or of the attorneys.⁹³ In short, watching *L. A. Law* made viewers like lawyers better than the general public likes them and better than lawyers like themselves.

The same study concluded that heavy TV watchers estimated the percentage of attorneys who are female and young as much higher than the estimates made by attorneys or by the general public and much higher than the actual proportions in the profession.⁹⁴ In all cases, the results were correlated positively to the amount of lawyer shows that people had watched. A different survey found that of those who get information from

be set somewhere so it happened to be in a law office, probably because this is the milieu that David Kelley knows best.

⁹² See Michael Pfau et. al., *Television Viewing and Public Perceptions of Attorneys*, 21 Human Comm. Res. 307 (1995). The study controlled for viewer education, gender and age. This study is open to the criticism that it confuses causation with correlation; it is impossible to remove the confounding variable that the people who watched *L. A. Law* are the same people who already liked lawyers. However, the authors constructed the study to at least minimize the risk that this error was present.

⁹³ Id. 321.

⁹⁴ Id. 322.

television rather than newspapers, 46% gave lawyers a favorable rating and 28% unfavorable--considerably more favorable than the poll results generally.⁹⁵

It is interesting to speculate why commercial television depicts lawyers more favorably than the majority of current commercial movies. In my view, a TV series (as opposed to a feature film or a one-shot made for TV movie) needs at least some sympathetic characters that the audience can relate to and empathize with; otherwise, they won't keep tuning in and won't buy the products being advertised.⁹⁶ In short, I believe that dramatic television tends to be character-driven and requires at least some characters with whom mass audiences can empathize. In contrast, film tends to be more plot-driven and has less need for empathetic and positive characters.⁹⁷

Current TV shows about lawyers avoid goody-goody characterizations like that of Perry Mason. They attempt to strike a realistic note about the economics of law practice or the politics of the district attorney's office. They depict the toll that law practice can take on the lives of lawyers and their

⁹⁵ Overall, 40% of those polled had favorable feelings while 34% had negative feelings. Hengstler, note 17 at 61-62.

⁹⁶ See Todd Gitlin, *INSIDE PRIME TIME* 64-67 (1983) (likeability of characters is key determinant of whether series will be picked up); Klein, note 87 at 270 (sponsors want viewers to identify closely with characters in TV shows).

⁹⁷ Another factor may be that television shows need to bring back the same characters every week; this precludes the use of plots in which important characters get killed off. In a typical tragic plot, someone comes to a bad end as retribution for having behaved badly or having serious character flaws. Since characters must live on week after week (and hopefully year after year), the writers of TV series can't ascribe too many negative characteristics to them. See Gitlin, *supra* note 96 at

friends or families. The shows try to face up to some of the moral and ethical dilemmas necessarily inherent in law practice (whether judging, prosecution, criminal defense, or general practice). On the whole, however, these shows are not stridently negative.

It seems likely that the negative impact of film on the public perception of lawyers is more than cancelled out by the positive portrayals of lawyers on TV, given that the average popular culture consumer spends much more time watching dramatic television series than going to the movies (or seeing movies on television or on videotape). Moreover, people who do go to the movies are more likely to see blockbuster films, or action/adventure flics or youth-oriented fare, as opposed to the the relatively more serious (and less commercially successful) films in which lawyers typically play significant roles.

Nevertheless, I do not believe that the impact of television versus film can be measured exclusively by comparing the amount of time spent in consuming the respective products. An hour or two watching a movie in the theater has, I believe, a much greater impact than an hour or two watching television. The reason is that the film experience is far more vivid; vividness, along with frequency and recency, is an important indicia of the cultivation effect. Ask yourself: is the emotional experience of watching a film more intense when you see it in the theater or when you see the same film on TV or on your VCR? Most people

158 (arguing that it is more feasible to use tragic plots in movies

would say, I believe, that the emotional impact of seeing a film in the theater, on the big screen, is much greater than seeing it on TV. And ask yourself this one: if you saw a film six months ago that you liked or disliked, can you remember the story now? And how does that compare with the recall of a program that you saw on a dramatic television series six months ago and happened to like or dislike? Most people, I venture to say, recall the movie better.

Comparing the movie and television experiences: You make a conscious and planned decision when you leave your home to go see a film in the theater; you pay attention to the schedule so you won't arrive in the middle. In contrast, the choice of a television program is often impulsive and dictated by one's mood or the amount of leisure time that happens to be available.⁹⁸ Unless you're a real movie fanatic, you go to the movies less frequently than you watch television, so a trip to the theater may become a memorable rather than a routine event. There are no distractions while seeing a movie (assuming the people around you keep quiet and you've turned off your cell phone); distractions abound while watching television, particularly phone calls and the constant interruption of commercials. You part with a significant amount of money to buy a movie ticket (and perhaps hire a babysitter and pay to park the car); the marginal cost of watching TV is zero. Film-going is for most people a

made for TV or docudramas than in TV series).

⁹⁸ Dolf Zillman & Jennings Bryant, *Entertainment as Media Effect*, in Zillman & Bryant, note 73 at 441-47.

social experience that's done with friends and family; that alone makes it a more memorable event than routinely watching television. In addition, one sees a film as part of a large audience, all reacting emotionally to the same material. We laugh harder at comedies or cry more at tear jerkers when the room is full of other people laughing or weeping than when we see the same material on television by ourselves.⁹⁹ All this is likely to enhance the vividness of seeing a film in the theater. This dose of vividness makes the film more easily recalled, and thus more accessible for purposes of making heuristic judgments, than a TV show.

A number of studies in the psychology and communications literature validate these intuitions. For example, it is well established that the intensity of response to material presented on larger television screens is greater than material presented on smaller television screens. Viewers perceive that what they see on big screens is more likely to be realistic and truthful than what they see on small screens.¹⁰⁰ They also feel more like they are actual participants in events, rather than mere passive observers, as screen size is increased and as the proportion of

⁹⁹ Zillman & Bryant, id. at 453-57, refer to this phenomenon as the social conditions of consumption.

¹⁰⁰ Maria Elizabeth Grabe et. al., *The Role of Screen Size in Viewer Experiences of Media Content*, forthcoming in *Visual Communication Quarterly* (1999). The studies reviewed by Grabe et. al. also indicated that quality of the image made a difference in the intensity of arousal, the feelings of "reality," and in recall of the images. Hence it seems fairly obvious from these studies that the psychological impact of seeing a story presented in a well-produced and photographed movie on a very large screen would be vastly greater than seeing the same story on a home TV set.

the viewer's visual field taken up by the image increases.¹⁰¹ Although these studies are mostly confined to television, it should follow that the vividness of seeing material on a movie screen (even a shrunken one in the local multiplex) is vastly greater than that of seeing it on a TV screen.¹⁰²

Some studies indicate that *negative* material is more arousing and better recalled than positive material, which should also enhance the effect of the negative lawyer portrayals film vis a vis the positive ones on television.¹⁰³ Sadly, it seems clear that a political candidate gets more bang for the buck from a nasty, negative TV commercial about the opponent than a positive piece about him or herself. It has also been suggested that images are more likely to be recalled if they are distinctive, that is different from the information the viewer is

¹⁰¹ In more technical language, when material is presented on a larger screen, viewers seem less aware that their experience is a "mediated" event (meaning seen in an artificial medium like film or television), as opposed to an observation of reality where the viewers are present (as if they are viewing it through an open window). See Matthew Lombard & Theresa Ditton, *At The Heart of it All: The Concept of Presence*, 3(2) J. of Computer Mediated Communication, <http://www.ascusc.org/jcmc/> (1997). This article contains an extensive and very helpful bibliography.

¹⁰² Granted, one could watch a television show on a very large home TV screen; someone else could see a movie video on a small TV screen. The arguments for the vividness of movies over TV based on screen size or on the dynamics of a trip to the movie theater don't apply to movies consumed in the form of rented videos or seen on cable.

¹⁰³ See Annie Lang et.al., *Negative Video as Structure: Emotion, Attention, Capacity, and Memory*, -- J.of Broadcasting & Elec./Media 460 (Fall 1996) (introduction of negative material in news broadcast increases memory capacity viewer allocates to that material and ability to recall that material); John Newhagen and Byron Reeves, *The Evening's Bad News: Effects of Compelling Negative Television News Images on Memory*, 42 J. of Commun. 25 (Spr. 1992) (negative news video enhances memory and improves speed of recall of material presented after the negative video).

accustomed to receiving.¹⁰⁴ Thus a few negative images of lawyers in the movies might be perceived quite intensely when viewers are accustomed to seeing more positive images of lawyers on television.

For these reasons, I believe that the positive images of lawyers on television do not swamp the negative images of lawyers in dramatic film. Film is an extraordinarily powerful tool for influencing heuristic reasoning, considerably stronger than televised dramatic series. Thus film and television worked at cross purposes during the last two decades, with TV casting a positive influence on public opinion of lawyers and movies casting a negative influence. Probably, the net effect was positive, given that people consume so much more TV than film; but it also seems likely that the negative films partly cancelled out that positive impact. If the negative films had not been made, public opinion might not have turned as sharply negative toward lawyers as it did. And a final, perhaps unnecessary caution: As previously noted, there were many factors at work during the last two decades that tended to depress the public's perception of law and lawyers.¹⁰⁵ Probably separately, and certainly together, these factors were more powerful than the effect of either film or television in affecting public opinion.

III. PORTRAYALS OF LAWYERS IN THE MOVIES

This section documents my assertion that the portrayal of lawyers in film took a sharp turn toward the negative during the

¹⁰⁴ Shrum, note 80 at 408.

1970's.¹⁰⁶ Particularly during the 1950's and 1960's, lawyers in film tended to be decent people and ethical, competent professionals. Starting in the 1970's, just the opposite. I first address some serious methodological issues. I then offer a statistical summary of films with important lawyers characters, focussing on positive films of the past and negative ones of the present. I then discuss in greater detail some of the negative characteristics of lawyers painted in recent films. A detailed list of the films comprising that summary is contained in Appendix A.¹⁰⁷

A. Methodological Issues.

This project presents some serious methodological problems that I would like to address here. My assertions are based on critical judgments about the personal and professional characteristics of lawyers in film.¹⁰⁸ I have classified a character as negative if information furnished about the

¹⁰⁵ See notes 40-65.

¹⁰⁶ For a similar effort to analyze the personalities of lawyers in literature, see Richard Weisberg, *POETHICS* 35 (1992). Weisberg's book focuses on how a lawyer communicates, how a lawyer treats people and groups outside the power structure, how a lawyer reasons, and how a lawyer feels. While my typology is necessarily different from Weisberg's, I acknowledge my debt to his analytic method.

¹⁰⁷ This article is like a film genre study in the sense that it surveys a large body of films produced over a long period of time that are connected by a common theme: lawyers as significant characters. However, this array of films fits no recognized genre. It includes a large number of courtroom films (which I do consider to be a film genre), but it also includes representation from numerous other genres (such as comedies, melodrama, gangster films, or comedies). See Nick Browne, ed., *REFIGURING AMERICAN FILM GENRES* (1998); Andrew, note 68 at 5; David A. Black, *LAW IN FILM: RESONANCE AND REPRESENTATION* (1999) (treating all films about law as "reflexive," meaning they are story-telling about story-telling).

¹⁰⁸ See Black, note 107, ch. 3 (discussing necessity to critically analyze large body of films about law).

character in the film suggests to me *that I would not want this individual as a friend or as my lawyer.*

Ideally, at least, I'd like my friends to be warm, loyal, considerate, reasonably cheerful people who treat their families and co-workers well and have no major character flaws, major bad habits, or bad personal ethics. I want my lawyer to be competent, ethical, and devoted to assisting me with my legal problems.¹⁰⁹ If I wanted a character *both* as my friend and as my lawyer, I classified the character as positive. When films had several lawyers, more or less balanced between positive and negative, I classified the film as mixed.

This analytical method is problematic for many reasons. The challenge was to come up with a measuring scale that enabled me to make a binary judgment about lawyers in an array of hundreds of films united only by the fact that they contain one or more significant lawyer roles. Some of these movies are about law and the legal system, such as courtroom films. These films often furnish little information about what the lawyer is like as a human being. Other films are not about law at all but simply include lawyers as dramatic characters. These films often furnish little information about what the lawyer is like as a professional. Some films did not offer enough personal or professional information to make a judgment and I excluded those films from the survey. Asking the friend/lawyer question permits

¹⁰⁹ See Charles Fried, *The Lawyer As Friend: The Moral Foundations of the Lawyer-Client Relation*, 85 Yale L.J. 1060 (1976) (lawyer's obligation to clients is same as to a friend).

me to test and classify both law and non-law films that have lawyer characters. It also permits me to grapple with the fundamental question to which this article is addressed: how would a member of the general public view lawyers if his or her only source of information on the subject came from the movies?

The subjectivity of the standard is a serious methodological problem because it is wholly a function of my personal critical judgment. Obviously, these are judgments based on my personal opinions and experiences.¹¹⁰ You have a different set of opinions and life experiences and you probably represent a different generation than mine (and possibly different education, gender, race, or class). Moreover, each of us is imposing our current personal and professional standard on films made many years ago, when people might have held views about the

¹¹⁰ I was particularly inspired in pursuing this approach by the work of Janice Radway. Radway is an eminent professor of literature at Duke University. See *A FEELING FOR BOOKS: THE BOOK-OF THE-MONTH CLUB, LITERARY TASTE, AND MIDDLE-CLASS DESIRE* (1997). Radway's book is a moving account of her love affair with books and a fascinating ethnographic and historical exploration of the Book-of-the-Month Club. It is unapologetically informed by her personal and pleasurable experiences with "middle-brow" books and her personal reactions to the data she accumulated and the people she met. Just to select one of many such passages, Radway writes, after appreciatively quoting a Club editor's report on the book *Beloved*:

I loved the way the Book-of-the-Month editors talked about books and about reading. Once again, their talk conjured my past. The editors reminded me of the librarian at the Edward H. Bryan elementary school, a cheerful, helpful woman whose name I had forgotten but whose animated way of describing books I recalled with surprise and great pleasure... She had a way of drawing pictures with her words, of painting the vista that promised to open from within the pages of a book. The... Club editors sounded just as she did... Books at the ... Club, like books in that secret space of my grade school library, appeared before me as magical objects. In both places, reading seemed to exist as an uncanny pleasure, an act that was wierdly private but deeply social as well. I felt intense satisfaction at encountering this view of reading again.

appropriate conduct of lawyers, or about personal morality, that are different than those held today. In short, I situate this work within the broader category of narrative scholarship in which the author draws on his or her own experiences or other anecdotal data in formulating or testing hypotheses.¹¹¹

Even if we have the same standards for picking our friends and lawyers,¹¹² you may well strike a balance of the good and bad points of a nuanced character that is different from mine. Necessarily, forcing a nuanced character into a positive/negative slot is arbitrary.¹¹³ A particular problem is presented by characters who describe an arc, changing from bad to good in the

Id. 115-16.

¹¹¹ See generally Kathryn Abrams, *Hearing the Call of Stories*, 79 Calif. L. Rev. 971, 1012-17 (1991) (defending narrative scholarship); Daniel A. Farber & Suzanna Sherry, *Telling Stories Out of School: An Essay on Legal Narratives*, 45 Stan. L. Rev. 807 (1993) (questioning value of narrative scholarship); Edward L. Rubin, *The Practice and Discourse of Legal Scholarship*, 86 Mich. L. Rev. 1835 (1988) (inherent subjectivity of all legal scholarship, whether normative or descriptive).

¹¹² In the case of lawyers who are prosecutors, I substituted the question "would I want to hire this individual to work for me if I was the district attorney?" As district attorney, I want lawyers who are loyal, dedicated, tenacious, and competent but also ethical and professional.

¹¹³ As a thought experiment, let's take the two most important lawyers in *A Civil Action* (1998), a film most readers of this article will have seen (or at least will have read the book which the film follows quite closely). I classified the lawyers as "negative." Do you want plaintiffs' lawyer Jan Schlichtmann as your lawyer and friend? I say no because of his poor judgment at many points in the litigation process as well as his materialism and obsession with work. He clearly has no time or energy for his friends. But you might say yes because of his loyalty, warmth, and zeal. How about defense attorney Jerome Facher as attorney and friend? I say no, because I found his personality as portrayed in the film off-putting. You might say yes, because there was nothing terribly wrong with his personality and he did a good job representing his client. See *A Civil Response*, 19 Calif. Lwyr. 15 (March, 1999) (letter by Facher complaining that his personality is much better than as described in the book or in a book review to which he took exception).

course of the film; I tend to classify these characters as bad,¹¹⁴ but you may disagree. Indeed, you might argue that most heroic characters are required by the conventions of narrative to overcome some personal flaw. Certainly, it's true that most of the "good" lawyers in my array have at least some negative character traits or else they would be uninteresting as dramatic characters. The difference is obviously one of degree and, once again, we may well disagree about where the line should be drawn.

You might come up with an entirely different response to the question of whether you'd like the movie lawyer as your friend, since you may look for different personality characteristics in your friends than I do. Or you might come up with a different response to the question of whether you'd want to be a client of the lawyer in question. You may be either more or less sensitive than I am to a lawyer's ethical flaws or behavior foibles. Indeed, my criteria for selecting a lawyer (that the individual be at least moderately respectful of ethical constraints) is probably different from most people's. Most

¹¹⁴ For examples, in *The Verdict* (1982), Frank Galvin starts out as an alcoholic ambulance chaser who completely neglects his clients. After an epiphany, he turns into a zealous and successful advocate. In *The Mighty Ducks* (1992), Gordon Bombay is a thoroughly repellent lawyer--an arrogant, misogynistic, materialistic, work-obsessed, drunk-driving creep. He is assigned to coach a peewee hockey team as community service and experiences a miraculous personality transformation. In *Curly Sue* (1991), lawyer Grey Ellison starts out as a cold-hearted, materialistic bitch; after she takes a homeless man and a cute little girl into her home, she becomes sweet and cuddly. In *Regarding Henry* (1991), Henry Turner is a cold, rude unethical lawyer who morphs into a saintly, lovable creature after a near death experience. I am more persuaded by the before than the after and classify Galvin, Bombay, Ellison and Turner as negative. To me, the before part is the filmmaker's statement about what lawyers are really like, except in the unlikely event that fate gives them a personality transplant.

clients are indifferent to their lawyer's ethics, except insofar as the ethical issue impacts them such as the lawyer having a conflict of interest or charging unreasonable fees. A lot of people want their attorneys to act like junkyard dogs.¹¹⁵

The question about whether I'd want the person as my lawyer is really designed to give some purchase on the broader question of how this film portrayal would make an ordinary viewer (who, of course, is not a client) feel about lawyers as professionals. But here there is a further problem: I regard lawyers who betray their clients as bad lawyers and lawyers who capably and ethically represent unpleasant or disgusting clients as good lawyers. In all likelihood most viewers would disagree with me on both counts. The average person probably applauds lawyers who betray repellent clients¹¹⁶ or who break ethical rules right and left for attractive clients. But the public probably dislikes lawyers who capably and ethically represent repellent clients.

I can only hope that you will share enough of my critical judgments to make this project meaningful.¹¹⁷ Even if you reject

¹¹⁵ See Post, note 7 (people want their own lawyers to manipulate the system even though they condemn lawyers who do it for others).

¹¹⁶ There is little doubt that the audience empathizes with lawyers who act unethically or break the law to achieve justice, as in *And Justice for All* (1979) or the remake of *Cape Fear* (1991). See Post, note 7 at 381-82 (1987) (referring to this theme in older films such as *Talk of the Town* (1932)).

¹¹⁷ UCLA Law School's law and popular culture seminar viewed the classic lawyer film *Counselor at Law* (1933), discussed in text at notes 144-45. Without telling them why I wanted to know, I asked them in their pre-class homework whether they would want the lead character, George Simon, to be their friend or their lawyer; I also asked for reasons. Since my co-teacher Paul Bergman and I find Simon to be positively portrayed as a human being and as a lawyer, I was unprepared for the class' reaction: they felt just the opposite. Only 4 people wanted him as a friend; 14 did not. And only 4 people wanted him as their lawyer

the attempt to count positive and negative portrayals as an exercise that is meaningless, excessively subjective, or reductionist, I hope you will share my perception that there has been a sea change in the way lawyers are portrayed in films of the last twenty years or so. The narrative accounts in Parts B, C and D may help to persuade you.

Another set of methodological issues concerns the choice of films. My conclusions are based on the study of 289 films¹¹⁸ which either my research assistants or I were able to view.¹¹⁹ Simply generating a list of films with significant lawyer characters is

(not the same 4); 13 did not. The class members who didn't want Simon as a friend gave as their reasons that he was too wrapped up in work, too selfish, too much of a social climber, or spoke to people too abruptly. On the "lawyer" question, most class members cited his dubious ethics (in one case Simon increased a client's bill because he had just made a probably uncollectible loan to a friend of his wife).

This little experiment underlines the extreme subjectivity of the critical project in this article--many readers will not share my critical judgments. On the other hand, this experiment suggests a way by which my hypotheses about lawyers in film can be tested and falsified. People might wish to perform more extensive survey experiments in order to find out what viewers thought about film lawyers and to correlate views about lawyers with the films the respondents have seen.

Counsellor at Law was the first law movie that students in the seminar viewed critically, so they tended to make absolute judgments; I have seen hundreds of them and tend to make more comparative judgments. Also it may be that law students in their 20's can't really imagine having a powerhouse lawyer in his late 40's or early 50's as their friend. Law students may also be insufficiently sympathetic to the fact that lawyers cannot be saints; they constantly have to make close calls with respect to ethical dilemmas.

¹¹⁸ This project furthers the goal of accumulating data on popular legal culture for purposes of further analysis. See Anthony Chase, *Toward a Legal Theory of Popular Culture*, 1986 Wisc. L. Rev. 527, 549-63. My approach meets Chase's criticism that the study of legal popular culture should not be limited to courtroom films. *Id.* at 565. On the other hand, I make no claim that there is any genre classification broad enough to include all of the films I studied since many of them have little or nothing to do with law. See note 107.

¹¹⁹ My research assistants wrote up detailed summaries of the plot and lawyer portrayals in the films they viewed; they applied the same binary standards as I did. My judgments were based on their summaries

itself a challenging project which I tried to address as systematically as possible.¹²⁰ The sample is far from complete, because I have surely failed to identify many films with lawyer characters. Readers of this article are likely to be film fans and will undoubtedly come up with some I've overlooked.¹²¹ Many of the films I did identify were unavailable to be viewed (given reasonable constraints on time and resources) because they have never been released on video or shown on cable during the time frame of this research. Another criticism is that the films are equally weighted, regardless of whether they were smashes or disasters at the box office, classic cinema or instantly forgettable trash.¹²² With all that said, I nevertheless feel confident that I evaluated enough films to make defensible

and my discussions with them. If I was in doubt, I saw the film myself.

¹²⁰ To assemble this array of films, I started with the 106 courtroom films discussed in the text and appendix of Paul Bergman and Michael Asimow, *REEL JUSTICE: THE COURTROOM GOES TO THE MOVIES* (1996), plus the numerous courtroom films that have been released since we completed work on that book in 1995. I added all of the non-courtroom films with significant lawyer characters that I could find or that the experts I consulted could think of. I also did a database search for the words "lawyer," "attorney" and "courtroom" in the plot summaries and Maltin summaries in the invaluable Internet Movie Data Base which contains data on 170,000 films. The URL is <http://us.imdb.com/>. This search turned up references to hundreds of additional films, many of which were unavailable.

¹²¹ If you're in that category, I'd welcome your email calling my attention to films not mentioned in Appendix A that meet my criteria. My email address is in * and the criteria are in text at notes 123-28. I'd also welcome disagreeing opinions on my classification of the films.

¹²² Financial information is difficult to come up with for older films and time constraints prevented me from attempting to obtain it. Others who wish to follow up my research might assemble this data and weight the films by the number of people who actually saw them in the theater, on video, or on cable. Pre-1980 films that were box office duds or which are considered utter trash are unlikely to be available on video or shown on cable so most of them are not included in the array.

judgments about the way that lawyers have been portrayed in film from 1929 to date.

Moreover, my methodology can be challenged because I excluded quite a few pictures that have lawyer characters. I excluded law students and law professors in their academic roles.¹²³ I avoided films with plots set before the 20th Century¹²⁴ and films set in foreign legal systems.¹²⁵ As a concession to the shortness of life, I excluded films made before 1929,¹²⁶ documentaries, and films made for television. I didn't study westerns (where crooked lawyers often appear). Some gangster pictures (which often feature the traditional mouthpiece for the mob) and musicals or dance films are included, but my coverage of

¹²³ Examples of pictures excluded for this reason: *Paper Chase* (1973), *The Pelican Brief* (1993), *Frisco Lil* (1942), *Soul Man* (1986), *Witness to Murder* (1954).

¹²⁴ Examples of pictures omitted for this reason: *Young Mr. Lincoln* (1939) or *Sommersby* (1991).

¹²⁵ Most films set in foreign legal systems were seen by few Americans; those that were seen would be unlikely to influence or reflect American public opinion about the images of American lawyers. Thus I omitted films like *Scenes from a Marriage* (1973), *Z* (1969), *Breaker Morant* (1980), *The Letter* (1940), or *A Question of Silence* (1983). Perhaps arbitrarily, I left Canadian lawyers in (on the theory that audiences would not differentiate Canadian and American lawyers given the similarity in procedures) but took English or Australian lawyers out (the wigs and all that). It was painful, but I had to exclude *The Paradine Case* (1947), *Libel*, *The Winslow Boy* (both the 1950 original and 1999 remake), *The Gay Divorcee* (1934), and *Witness for the Prosecution* (1957). Pictures like *The Advocate* (1994), *The Life of Emile Zola* (1937), or *A Man for All Seasons* (1966) were omitted both because they were set in foreign legal systems and too far back in history.

¹²⁶ Numerous lawyer and courtroom films pre-date the sound era, many of them quite negative in tone. See Carol J. Clover, "God Bless Juries," in Nick Browne, note 107 at 257-59. A more complete account of the phenomenon discussed in this article would certainly include silent film.

these genres is undoubtedly incomplete.¹²⁷ Finally, I didn't count films that provided too little information about the lawyer characters or films where lawyers were very minor characters.¹²⁸

I also counted separately films that purport to be based on true stories.¹²⁹ The reason for doing so is that quite a few such films were made in the 1980's and 1990's (far more than in previous decades).¹³⁰ True stories are at least somewhat constrained by the actual historical facts and in many cases the true story was worth telling largely because some lawyers acted in a brave or noble fashion. By separating out the true stories, the trend toward negativity of lawyer portrayals in the fictitious stories stands out more clearly.¹³¹

So, after all this preliminary throat clearing, here is a summary of my critical evaluations of the lawyer character in 289 films arranged by decade:¹³²

¹²⁷ These exclusions and omissions occurred partly because of time limitations and partly because I believe that viewers would be unlikely to make general judgments about the character of lawyers in American society from seeing lawyers functioning as gangsters or cutting crooked land deals in the old west.

¹²⁸ *Serial Mom* (1994), *Irreconcilable Differences* (1984), *Fried Green Tomatoes* (1991), *The Great Lie* (1941), and *The Awful Truth* (1937) are examples of pictures excluded because the lawyer roles were insignificant.

¹²⁹ This category does not include films that are in fact based on true stories but are not so identified. *Philadelphia* (1992) is an example of a film based on actual events but not so identified in the film.

¹³⁰ It is possible that true stories may be considered more authoritative than fictitious stories by viewers who use information gleaned from the films to form opinions. As a result, the primarily favorable true lawyer stories in the last couple of decades may counteract the primarily negative tone in fictitious stories.

¹³¹ Film theorists have traditionally differentiated fictitious films and films based on true stories. See Andrew, note 68 at 115.

¹³² A detailed list of the films summarized in this table is contained in Appendix A. This may seem like a large number of films, but it is

YEARS	POS.	NEG.	MIXED	TOTAL	% POS	% NEG	%MIXED
1990-99	34	38	9	81	42	47	11
1980-89	14	18	8	40	35	45	20
1970-79	7	11	1	19	37	58	5
1960-69	16	4	1	21	76	19	5
1950-59	34	11	2	47	72	23	4
1940-49	26	11	4	41	63	27	10
1929-39	25	14	1	40	63	35	2

However, if the true stories are excluded, the relative weighting, especially in the 1980 and 1990 lawyer films, looks somewhat different, is considerably more negative.

YEARS	POS	NEG	MIXED	TOTAL	%POS	%NEG	%MIXED
1990-99	25	37	9	71	35	52	13
1980-89	12	18	8	38	32	47	21
1970-79	7	11	1	19	37	58	5
1960-69	14	4	1	19	74	21	5
1950-59	29	9	2	40	73	23	5
1940-49	24	12	4	40	60	30	10
1929-39	24	14	1	39	62	36	3

These evaluations constitute my support for the basic assertions of this article. The benign treatment of lawyers from the beginning of the sound era until the 1960's began to change during the 1970's. During that decade, as well as the 1980's and

only a tiny fraction of the total number of films out there. The Internet Movie Data Base, note 120, includes reference to 190,727 films of which 157,120 were released theatrically.

1990's, typical lawyer portraits turned strongly and consistently negative. Thus, of the 71 fictitious lawyer films of the 1990's, the lawyer or lawyers in 37 of the films were bad; in an additional 9 films, there were one or more bad lawyers along with some good ones (the "mixed" category). Thus, 65% of the films of the 90's had at least one bad lawyer. Similarly for the 1980's-- in 38 fictitious lawyer films, the lawyer or lawyers in 18 were bad; in an additional 8 films, there were one or more bad lawyers along with some good ones. Thus 68% of the movies of the 80's had at least one bad lawyer. In short, in about two-thirds of the fictitious lawyer films of the 1980's and 1990's, there is at least one negatively portrayed lawyer.

Parts B. C. and D. contain narrative treatment of lawyer portrayals in film history. Part B. considers pre-1970 films along with Hollywood self-censorship. Part C. takes up the films of the 1970's. Part D. considers the films of the 1980's and 1990's. I hope that readers who reject the methodology embodied in my binary positive/negative classification will nevertheless be persuaded of my basic thesis by the narratives that follow.

B. Movie lawyers: 1929-1969

Filmmakers have produced countless movies about lawyers, dating back to the earliest days of film. Especially during the 1950's and 1960's, these images were seldom negative. In the Depression-era films of the 1930's and the cynical, film noir era

of the 1940's, a significant number of negative portrayals appeared¹³³ but positive portrayals easily predominated.

1. The Production Code. For many decades, beginning in the 1920's and continuing until 1968, American films were subject to a regime of self-censorship.¹³⁴ The industry reluctantly embraced self-censorship in order to head off federal, state and local regulation of movie content (a serious threat, since during most of this period films were not accorded First Amendment protection).¹³⁵ Self-censorship also appeased various vocal critics such as the Catholic Church. The Hays Code was adopted in 1930; it sprouted teeth in 1934 when the Production Code Administration (PCA) acquired censorship powers over every film. Joseph I. Breen presided over the PCA for many years with great skill and zeal. No film could be distributed without a PCA seal.¹³⁶ One possible explanation for the relatively benign

¹³³ See Thomas Doherty, *PRE-CODE HOLLYWOOD: SEX, IMMORALITY, AND INSURRECTION IN AMERICAN CINEMA 1930-1934*, 58-67 (1999) (Depression era films targeted greed of all of the professions that had profited from the 1920's including lawyers).

¹³⁴ See Michael Asimow, *Divorce in the Movies: From the Hays Code to Kramer vs. Kramer*, -- Legal Studies Forum -- (forthcoming 2000).

¹³⁵ *Mutual Film Corp. v. Industrial Comm'n of Chicago*, 236 U.S. 230 (1915), held that the free speech and press provisions in the Ohio constitution did not apply to films; they could be regulated like any other business. At that time, the First Amendment did not apply to the states. *Mutual Film* was not overruled until 1952. *Joseph Burstyn Inc. v. Wilson*, 343 U.S. 495 (1952).

¹³⁶ For discussion of state and local government censorship, the Hays Code of 1930, and the Production Code Administration of 1934, see Robert Sklar, *MOVIE-MADE AMERICA* 30-32, 126-32, 171-74, 295-97(1994); Thomas Doherty, note 133 at 319-46 (1999); Mark A. Vieira, *SIN IN SOFT FOCUS: PRE-CODE HOLLYWOOD* 6-18, 162-93 (1999); Jack Vizzard, *SEE NO EVIL: LIFE INSIDE A HOLLYWOOD CENSOR* (1970); Gerald Gardner, *THE CENSORSHIP PAPERS: MOVIE CENSORSHIP LETTERS FROM THE HAYS OFFICE 1934 TO 1968* (1987); Richard S. Randall, *CENSORSHIP OF THE MOVIES* (1968); Raymond Moley *THE HAYS OFFICE* (1971).

treatment of lawyers from the 1930's to the 1960's is that the censors blocked the production of negative lawyer films.

One of the precepts of the Hays Code was that "law--natural, divine, or human--shall not be ridiculed, nor shall sympathy be created for its violation." Moreover, "special care" was to be exercised with respect to "titles or scenes having to do with law enforcement or law-enforcing officers."¹³⁷ Because of the latter provision, it is likely that the Code caused prosecutors to be portrayed more favorably than they would otherwise have been.¹³⁸

Most lawyer movies produced while the Code was in effect contained positive portrayals of lawyers. It is hard to say whether the Code had anything to do with that fact. One chronicler of the Code, writing in 1945, states that the PCA always tried to apply its principle of "compensating values"¹³⁹ to the portrayal of lawyers: bad or unethical lawyers had to be punished so that the audience would believe that "the wrong lawyer was wrong and the right lawyer was right."¹⁴⁰ This

¹³⁷ The Hays Code is reproduced at Doherty, note 133 at 347-59; Vieira, note 136 at 214-18. One of Breen's guidelines states: "The judiciary and the machinery of criminal law must not be presented in such a way as to undermine faith in justice. An individual judge, or district attorney, or jail warden may be shown to be corrupt; but there must be no reflection on the law in general, and the offender must be punished." Vieira 219; Moley, note 136 at 103.

¹³⁸ See Gardner, note 136 at 39 (letter requiring that the script for *The Maltese Falcon* delete Sam Spade's negative references to the district attorney "to get away from characterizing most district attorneys as men who will do anything to further their careers").

¹³⁹ "Compensating values" meant that stories must contain at least sufficient good to compensate for any evil they relate, so that in the end the audience feels that evil is wrong and good is right. See Breen's guidelines, Vieira, note 136 at 219.

¹⁴⁰ Moley, note 136 at 115.

guideline did not require that films show good lawyers, however; it merely required that bad lawyers (like criminals or loose women) be appropriately punished in the end.¹⁴¹ In several instances of post-1934 negative lawyer movies, the Code Office objected to numerous aspects of the film but did not mention the negative attorney portrayals.¹⁴² Of the eleven negative lawyer movies in the 1930's, six postdated the creation of the PCA in 1934, two were made in 1934, and three predated 1934.

On the other hand, several pre-Code negative lawyer films were remade after the Code came into effect. The negative lawyer portrayals are toned down.¹⁴³ This suggests that the PCA may have pushed filmmakers in the direction of less negative lawyer

¹⁴¹ The Code Office complained about the negative lawyer portrayals in *Roxie Hart* (1941), discussed at notes --, infra. The Office objected to the fact that the prosecutor and the judge were held up to ridicule. The PCA also complained that defense lawyer Billy Flynn suborned perjury and seemed to get away with it. The concern was more the lack of compensating values than the fact that Flynn was shown negatively. Letter from the PCA to Jason Joy, April 25, 1941. This letter is on file in the Herrick Library. See note *.

¹⁴² For example, the Office was critical of *Angels with Dirty Faces* on several grounds but did not mention the very negative portrayal of attorney James Frazier (Humphrey Bogart). Gardner, note 136 at 48-49. Similarly, the Office made no objection to the negative attorney portrayal in *Mr. Deeds Goes to Town*. Id. at 104. The classic film *The Letter* (1940) deals with a successful lawyer-client conspiracy to bury critical evidence and put on perjured testimony. The client (Leslie Crosby, played by Bette Davis) comes to a bad end. In contrast, Leslie gets away with it in Somerset Maugham's short story (from which the film was derived), a difference that could be attributed to the Office's insistence that crime must not pay. However, nothing bad happens to the lawyer. Apparently the lawyer's behavior presented no problem for the Code Office, but many other elements of the story gave rise to intense concern and had to be rewritten. Id. at 78-79. (*The Letter* is set in Malaya so is excluded from the films summarized in Appendix A). I examined the files at the Herrick Library, see note * supra, on *The Lady from Shanghai* (1948), *Mr. Deeds Goes to Town* (1936), and *The Strange Love of Martha Ivers* (1946), all sharply negative lawyer movies of the 1930s and 1940s and found no criticism of the negative lawyer roles.

portrayals. On the whole, however, I don't believe that the Production Code had much to do with the largely benign treatment of lawyers in film from the 1930's to the 1960's (other than the treatment of prosecutors).

2. The 1930's. One of the finest lawyer films ever made, *Counsellor at Law* (1933),¹⁴⁴ effectively captures the stressful nature of law practice. Lawyer George Simon (John Barrymore) came from a poverty stricken background on the lower east side. Through brains, ambition and energy, he achieves a successful law practice and relative affluence. He has one foot in the immigrant Jewish culture he came from and the other foot in waspy New York society. Simon cares deeply about his family, his clients, and his co-workers (both staff and lawyers). Yet Simon is no saint. He commits the occasional ethical lapse, and gets in trouble for it. He's a complicated and enigmatic character; on balance I would like him to be my friend and my lawyer.¹⁴⁵

Despite the general hostility to all professionals in Depression era films,¹⁴⁶ the majority of 1930's films present lawyers in a warm, benign way.¹⁴⁷ Most of the exceptions occur in gangster flicks where lawyers appear as mouthpieces for the mob. At the end of the decade, the superb gangster epic *The Roaring*

¹⁴³ Compare *The Girl Who Had Everything* (1953) with *A Free Soul* (1931); *The Man Who Talked Too Much* (1940) with *The Mouthpiece* (1932).

¹⁴⁴ Unfortunately, this wonderful film has never been released on video. It is based on a famous stageplay by Elmer Rice.

¹⁴⁵ My seminar did not agree. See note 117.

¹⁴⁶ See note 133.

¹⁴⁷ Thus in *Lady by Choice* (1934), attorney Johnny Mills does wonderful pro bono work for a homeless woman. If anything, this decent fellow is a bit of a goodie-two-shoes.

Twenties (1939) foregrounded a lawyer any mother would be proud of. The film follows the careers of a trio of World War I survivors. Lloyd Hart (played by Jeffrey Lynn) becomes a lawyer. The other two, Eddie Bartlett (James Cagney) and George Hally (Humphrey Bogart) are partners in a bootlegging business and clients of Hart. Hart knows that his clients and war buddies are bootleggers, but his legal work strictly concerns the legitimate side of their business (running a taxicab fleet). When he finds out how violent the bootlegging business has become, he bails out. Ultimately he becomes a crusading district attorney and starts prosecuting gangsters, including Hally. Hart also rescues Bartlett's ingenue girlfriend Jean from a life of sin. This was the typical way lawyers were shown in the old days--honest, brave, and noble.

3. The 1940's. Many films of the 1940's cast lawyers in a favorable light. One of the best is the great comedy *Adam's Rib* (1947). In this film, lawyers Adam and Amanda Bonner are a married couple who oppose each other in a criminal case. Adam (Spencer Tracy), the prosecutor, is a lovable curmudgeon who can't quite handle the situation. He feels that Amanda is mocking the law that he reveres. Katherine Hepburn plays Amanda, the defense lawyer. She emerges as a wonderful character--a skillful, dedicated lawyer in a pro bono case, a loyal friend, a loving wife. Who wouldn't like and respect lawyers if they were anything like the Bonners?

In the 1940's, numerous films in the film noir genre portrayed lawyers negatively. For example, in the noir classic *Force of Evil* (1948), the protagonist is Joe Morse (John Garfield), a Wall St. lawyer who represents thugs involved in the numbers racket. Morse has crossed over from legally proper representation into deep involvement in his clients' criminal and fraudulent activity. Yet Morse's portrayal is rich and very complex; he takes tremendous risks to protect his downtrodden brother (who has a small time numbers business) and in the end he turns away from crime.

4. The 1950's. The classic film *Anatomy of a Murder* (1959) features small town lawyer Paul Biegler (James Stewart) who is largely unconcerned with money and does an outstanding job in representing his client in a murder case.¹⁴⁸ He pushes the ethics envelope on client coaching a bit, but, at least in the eyes of most criminal lawyers, he stays within accepted limits. Biegler is a good friend and a fine employer (though a bit shaky on meeting his payroll). His opponent, the icy prosecutor Claude Dancer (George C. Scott), is equally committed and skillful-- though he blunders in the end. And the judge is a dream.¹⁴⁹

¹⁴⁸ See Weisberg, note 106 at 54-55, which lists the characteristics of the great literary lawyers: "verbal manipulation, apartness, distrustfulness, ethical relativism, frugality and bachelorhood, and placement on the fringes rather than the center of life." Biegler fits this list of attributes like a glove.

¹⁴⁹ Many other 1950's films treated lawyers as heroic characters. Recall, for example, *The Caine Mutiny* (1954) (Barney Greenwald's cross-examination of Cpt. Queeg) or *Trial* (1955) (law professor David Blake saves the day despite Communist conspiracy to convict his client).

5. The 1960's. In this decade, some inspiring films like *To Kill a Mockingbird* (1962) or *Inherit the Wind* (1960) came close to nominating lawyers for sainthood. More realistic, but still highly positive, were numerous films like *Cape Fear* (1962). In this film, Sam Bowden (Gregory Peck) is a fine lawyer and loving family man unjustly tormented by Max Cady (Robert Mitchum) against whom Bowden had testified as a witness many years before.

The remake of *Cape Fear* (1991) contrasts sharply with its predecessor.¹⁵⁰ In the remake, Bowden (Nick Nolte) had represented Cady (Robert DeNiro) in a rape case years before. Wanting to see his vicious client get convicted, Bowden unethically tanked the case by burying a report about the victim's promiscuity. Moreover, in the remake, Bowden had been unfaithful to his wife on numerous occasions and was preparing to have another affair (or perhaps had already started it). The contrast between the two versions of the story speaks volumes about the way film lawyers were portrayed in the past and present.¹⁵¹

Another typical and noteworthy 1960's lawyer film is *Town Without Pity* (1961), probably the best film about a rape trial ever made. Colonel Pakenham (E. G. Marshall) prosecutes four American soldiers accused of gang raping a German girl; Major Steve Garrett (Kirk Douglas) defends them. Garrett tries

¹⁵⁰ See Richard Sherwin, *Cape Fear: Law's Inversion and Cathartic Justice*, 30 U.S.F.L.Rev. 1023, 1026 (1996)(all lawyers in the film, including Bowden, are shown as "unethical ... self-interested, cynical manipulators of the system, or as pretentious buffoons").

¹⁵¹ Similarly, in the remake of *The Postman Always Rings Twice*, lawyers are portrayed much more negatively than in the original. MGM (1946); Lorimar (1981).

desperately to plea bargain the case, partly because rape is a capital offense, but also because he dreads the ordeal of a rape trial. Yet he does his job; his cross-examination of the victim demolishes her credibility. As in many rape prosecutions, the victim is put on trial and revictimized. Both attorneys are good people, each doing what he is ethically obligated to do, however unpleasant the task.

If one had to reduce the film lawyers from 1929 through the 1960's to a single prototype, that person would be a bit stuffy, emotionally shallow, perhaps a bit eccentric, but basically loyal and quite decent. Although the prototypical film lawyer didn't lack normal human frailties, you'd probably want him¹⁵² as your friend. Professionally, the prototypical pre-1970 lawyer was skillful, devoted to his clients, and ethical.

6. Bad lawyers in pre-1970 films. A viewer of pre-1970 lawyer films encounters a few shysters and crooks along with the solid citizens, especially in film noirs of the 1940's or 1950's such as *Force of Evil*. My favorite is the notorious Billy Flynn in *Roxie Hart* (1942), the exquisitely cynical comedy which inspired the immortal Kander and Ebb musical *Chicago*. Flynn (Adolph Menjou) specializes in representing women who have killed their husbands or lovers. He's greedy, slippery, dishonest, and a complete phony. *The Fortune Cookie* (1966) features shyster personal injury lawyer Willie Gingrich (Walter Matthau). A few

¹⁵² With the exception of *Adam's Rib*, almost all of the lawyers in pre-1980's films were male.

films portrayed venal or politically motivated prosecutors¹⁵³ and a fair number included mouthpieces for the mob.¹⁵⁴ Infrequently, some lawyers came along who were just plain disgusting human beings.¹⁵⁵ But these were atypical.

C. Movie lawyers: the 1970's¹⁵⁶

In the transitional decade of the 1970's, some lawyer portrayals were favorable, but a negative trend began to emerge. In *The Candidate* (1972), for example, Bill McKay (Robert Redford) is a hardworking legal service lawyer who is dragooned into running for the Senate. Since he is given no chance to beat the incumbent, he's allowed to say exactly what he thinks. Of course, the voters love it. A number of other early 1970's films also presented likeable, competent attorneys whom you'd want for friends despite their personal eccentricities. Recall *Where's Poppa* (1970), featuring Gordon Hocheiser (George Segal) trying to get a life despite his psychotic mother, or *Blume in Love* (1973) in which Stephen Blume (Segal again), a caring Beverly Hills divorce lawyer, is trying to get his wife back.

But negative lawyer portraits began to appear in the 1970's. In *Carnal Knowledge* (1971), Jack Nicholson plays Jonathan, a repulsive, misogynistic tax lawyer. A prominent

¹⁵³ As in *They Won't Forget* (1937) or *The Strange Love of Martha Ivers* (1946).

¹⁵⁴ As in *Marked Woman* (1937), *Angels with Dirty Faces* (1938), or *The Asphalt Jungle* (1950). The crooked lawyer was also a staple in westerns which I have not included in this study.

¹⁵⁵ For example, Bannister and Grisby in *The Lady from Shanghai* (1948) are the rare example of pre-1970 lawyers who are personally repellent although they are apparently pretty good lawyers.

character in the *Godfather* films (1972 and 1974) was Tom Hagen (Robert Duvall), a wily and wholly criminalized consigliere. In the late 1970's, films like *And Justice for All* (1979) pointed the way toward the negativism that continues to the present day.

D. Movie lawyers: 1980's and 1990's

During the last two decades, a great many attorneys on the big screen have been bad people and bad professionals.¹⁵⁷ They tend to be rude, crass, selfish, and greedy. They exercise poor judgment in sexual matters. Even if they are basically decent people, their personal lives are miserable; they drink too much and some are thoroughly burned out. If you're looking for an honest, hard-working lawyer, look elsewhere; many of the post-1970 attorneys are unethical, disloyal, or incompetent.

In addition, modern films consistently portray lawyers living in sumptuous homes and working in lavishly decorated offices. While I didn't consider these displays of affluence and economic power as negative in themselves (presumably we don't

¹⁵⁶ I identified fewer lawyer films in the 1970's than in other decades. I don't know the reason why the subject was less appealing to filmmakers than in the years before and after that decade.

¹⁵⁷ I acknowledge the criticism that lawyer films are not distinctive. Perhaps the portrayal of *all* professionals was positive before 1980 and turned sharply negative after 1980, given the prevailing cynicism about powerful people of all persuasions. See PETER DANS, *DOCTORS IN THE MOVIES* (2000) (observing negative turn in doctor movies); Thomas Doherty, *The Acceptable Bigotry*, Los Angeles Times, Oct. 12, 1999 (decrying negative portrayal of priests and Catholic doctrine); Lee Margulies, *Government Workers Have Prime-Time Image Problem*, Los Angeles Times May 4, 1999, p. F-2 (study shows public officials, other than teachers or policeman, are negatively portrayed in prime-time TV); Thomas Doherty, *The Acceptable Bigotry*, Los Angeles Times Oct. 12, 1999 (systematically negative portrayals of priests and Catholic doctrine). I have not attempted to compare lawyer films to all films; trying to assess lawyer films has been a big enough task by itself. I simply report my

mind if our friends are rich and our lawyers are successful), many viewers cannot help but resent these reminders of the very high incomes many lawyers earn.

I hasten to add that not every lawyer character of the past two decades is negative. Quite a few films presented favorable portraits.¹⁵⁸ The majority of these were either true stories or issue-oriented films.¹⁵⁹ True stories, obviously, are at least somewhat constrained by historic facts, and these films have mostly involved positive lawyer stories.¹⁶⁰ In issue-oriented films, many of which are based on true stories, law and lawyers are used to make a social or political point,¹⁶¹ a traditional function of courtroom movies. In issue films, at least some of the lawyers must be favorably presented since their words and deeds are the vehicles for transmitting the message that the filmmaker wishes to convey. It is in the fictitious,

intuition as a film fan that recent films single out lawyers for negative and nasty portrayals.

¹⁵⁸ Recently, a few films have gone out of their way to present lawyers favorably, even though the characters did not have to be lawyers at all. See note 2. This development is most welcome.

¹⁵⁹ Unlike true stories, I did not count issue-oriented films as a category separate from entertainment-oriented films because the category was just too mushy. All issue-oriented films must entertain, and all entertainment-oriented films can be analyzed so that they convey an explicit or implicit political message.

¹⁶⁰ For discussion of the true story category, see text at notes 129-31. Not all of the lawyers in true stories are favorable, however. In *Prince of the City* (1981), a true story about police corruption, a key character is a very crooked lawyer.

¹⁶¹ Examples: *People v. Larry Flynt* (1996) (Alan Isaacman as warrior for First Amendment); *In the Name of the Father* (1993) (Gareth Peirce is crusader for wrongly convicted Guilford Four); *Ghosts of Mississippi* (1996) (Bobby DeLaughter prosecutes Byron de la Beckwith, the killer of Medgar Evers); *The Chamber* (1996) (Adam Hall fights the death penalty); *Philadelphia* (1992) (Joe Miller represents victim of AIDS discrimination); *The Music Box* (1989) (Ann Talbot uncovers war crimes); *Last Dance* (1996) (Rick Hayes fights for woman on death row); *The*

non-issue, entertainment-oriented films, that lawyers take their biggest hits.

So what's wrong with these post-1980 lawyers we've called "bad people" or "bad professionals?"

1. Lawyers as bad people

a. Crudeness and bad manners. Martin Vail (Richard Gere) in *Primal Fear* is a good example of the sort of person you might not want as a friend. He is rude to the people who work for him, and is pushy and arrogant both in personal relationships and toward his clients.¹⁶²

b. Miserable personal life. Kathleen Riley (Cher), the burned out public defender in *Suspect* (1987), tells her boss that she has no personal life whatever. She'd like a baby but has no boyfriend. Hoodlums break her car window and snatch her jewelry. She hangs out with murderers and rapists and has come to like them. Worst of all, she hasn't seen a movie in months.¹⁶³

c. Bad spouse or parent. Walter Bridge (Paul Newman), in *Mr. and Mrs. Bridge* (1990), is a typically

Accused (1988)(Kathryn Murphy prosecutes gang rapists); *Losing Isaiah* (1995) (capable attorneys litigate trans-racial adoption).

¹⁶² As other examples of unpleasant lawyer personalities, see *Carlito's Way* (1993), *The Mighty Ducks* (1992), *Curly Sue* (1991), or *The Gingerbread Man* (1998). The behavior of Oliver Rose toward his ex-wife in *War of the Roses* (1989) is unpardonable. In *Clueless* (1995), Alicia's father Mel Horowitz is rude to everyone, including an associate in his law firm.

¹⁶³ Eddie Dodd in *True Believer* (1989) is a burned out, cynical former civil liberties lawyer who now represents only drug dealers and smokes a lot of dope. He appears to have no life whatever. See Carl M. Selinger, *Dramatizing on Film the Uneasy Role of the American Criminal Defense Lawyer: True Believer*, 22 Okla.C.U.L.Rev. 223, 230 (1997). Equally miserable are Mitchell Stephens in *The Sweet Hereafter* (1997), Maggie Ward in *Class Action* (1990), Eve Stephens in *Female Perversions* (1996), and Dana Greenway in *Love Crimes* (1992).

insufferable lawyer who treats his wife with cruelty and condescension. Over the years, he manages to stamp out any signs of any independence or individuality. He is unable to express emotions.¹⁶⁴ Other lawyers cannot find the time or incentive to be even half-way decent parents¹⁶⁵ or regularly cheat on their spouses.¹⁶⁶

d. Substance abusers. Nowadays a lot of lawyers in film have serious substance abuse problems. Obviously Frank Galvin (Paul Newman) in *The Verdict* (1982) is the poster child for lawyerly alcoholism but he has plenty of company with Danny Snyder (Dustin Hoffman) in *Sleepers* (1996) or Lucien Wilbank (Donald Sutherland) in *A Time to Kill* (1996). Dave Kleinfeld (Sean Penn) in *Carlito's Way* (1993) is a heavy-duty cocaine addict.¹⁶⁷

e. Bad judgment in choice of sexual partners. Modern-day lawyers in film, particularly women, seem to have terrible judgment in choosing lovers. Teddy Barnes (Glenn Close) in *Jagged Edge* (1985) is one of the worst offenders, leaping into bed with her client right in the middle of the case, but her

¹⁶⁴ Similarly *Beaches* (1988), *Compromising Positions* (1985).

¹⁶⁵ For example, the attorneys in *Liar Liar* (1997), *Hook* (1991), or *Jagged Edge* (1985) do a poor job as parents. An uptight and jealous attorney in *The Good Mother* (1988) wrests custody of a child from his ex-wife even though he knows it is not in the child's best interest.

¹⁶⁶ For example, *Sex, Lies and Videotape* (1989) (attorney having affair with his wife's sister); *Class Action* (married attorney having affair with law partner); *Regarding Henry* (affair with law partner; poor parent).

¹⁶⁷ Dr. Gonzo, an attorney in *Fear and Loathing in Las Vegas* (1998), is an over-the-top substance abuser.

colleagues are little better.¹⁶⁸ Maggie Ward (Mary Elizabeth Mastrantonio) gets into trouble when she has an affair with her supervising partner in *Class Action* (1990). Laura Fischer (Charlotte Rampling) in *The Verdict* (1982) works as a sexual spy on her firm's opponent Frank Galvin. In *And Justice for All* (1979), Gail Packer (Christine Lahti) has an affair with Arthur Kirkland (Al Pacino), even though she's a member of the state bar ethics committee which is investigating Kirkland.

2. Lawyers as bad professionals

a. All around badness. In *Body Heat* (1981), attorney Ned Racine (William Hurt) is stupid, lazy, and greedy. He drinks too much. On the professional side, he's been sued for malpractice a couple of times, is indifferent to his clients, and doesn't care about ethics.¹⁶⁹ He's easily seduced by the sultry Matty Walker (Kathleen Turner) and enlisted in Matty's plot to do away with her husband. Certainly, John Milton (Al Pacino) in *The Devil's Advocate* (1997) is a competitor: he is bad in just about every way possible, as a lawyer and as a person--appropriately so since he's The Devil.

b. Complete crooks. In *The Firm* (1993), an apparently respectable (though slightly over-aggressive) tax law firm turns

¹⁶⁸ Other examples: *Presumed Innocent* (1990), *Defenseless* (1991), *Gingerbread Man* (1998), *Body of Evidence* (1992).

¹⁶⁹ See John M. Burkoff, *If God Wanted Lawyers to Fly, She Would have Given Them Wings: Life, Lust and Legal Ethics in Body Heat*, 22 Okla. City Univ. L. Rev. 187 (1997). One reader of this paper focussed on *Body Heat*, arguing that many of the bad movie lawyers could just as easily have been private detectives and thus classified as part of the rich detective story genre. Like private eyes, negative film lawyers typically have miserable personal lives and borderline professional

out to be a bunch of vicious killers and a front for the mob.¹⁷⁰ Dave Kleinfeld in *Carlito's Way* (1993) is heavily engaged in money laundering, theft and murder.¹⁷¹

c. Disloyalty to clients. Film lawyers these days often sell out their clients. Maggie Ward goes over to the opposition in *Class Action* (1990) and Arthur Kirkland denounces his own client in his opening statement in *And Justice for All* (1979). Ann Talbot (Jessica Lange) betrays her client in *The Music Box* (1989), while prosecutor Michael Sullivan (Brad Pitt) deliberately throws his own case in *Sleepers* (1996). Sam Bowden (Nick Nolte) betrayed his rapist client in the remake of *Cape Fear* (1991) by burying a report about the victim's promiscuity. Granted, each of these lawyers had pretty good reasons for turning on their own clients, but you just don't do that. Dave Kleinfeld in *Carlito's Way* (1993) steals a cool million from one of his clients, but he just needed the money to buy cocaine; an equal opportunity betrayer, Kleinfeld sells out his friends as well.

d. Not caring about clients. In *And Justice For All* (1979), most of the attorneys (other than Arthur Kirkland) couldn't care less about their criminal law clients, whom they regard as vermin. In *The Verdict* (1982), Frank Galvin ignored his big medical malpractice case until ten days before trial. In

ethics. Nevertheless, I believe that people who sees lawyer films evaluate them and recall them as lawyer films, not detective films.

¹⁷⁰ The firm in *The Devil's Advocate* seems equally sleazy although it is more diversified in practice areas.

Sex, Lies and Videotape (1989), John (Peter Gallagher)

persistently ignores his most important client in order to meet his lover.

e. Win at all costs. Big firm lawyers in *The Verdict* (1982) (James Mason), *The Rainmaker* (1997) (Jon Voight), *Class Action* (1990) (Donald Moffat), and *Regarding Henry* (1991) (Harrison Ford and his partners) stop at nothing to win, including destroying evidence, bugging opponents' offices, or cheating in discovery. In a classic scene in *The Verdict*, defense lawyer Ed Concannon (Mason) explains that he's not paid to do his best, he's paid to win. No kidding: he pulls off a series of really dirty tricks, such as planting a sexual spy in the opposition's camp and bribing plaintiff's expert to disappear.¹⁷²

f. Incompetence. Many of the post 1980 lawyers are just plain incompetent. Recall Frank Galvin in *The Verdict* (1982) who is helpless in dealing with evidence problems or Rudy Baylor (Matt Damon) in *The Rainmaker* (1997) who has no clue about how to introduce direct testimony. Vinny Gambini (Joe Pesci) in *My Cousin Vinny* (1992) is sadly misinformed about criminal procedure and Ned Racine in *Body Heat* (1981) has been sued for malpractice several times.

¹⁷¹ Bruiser Stone in *The Rainmaker* (1997) also turns out to be a big-time crook.

¹⁷² See Judith S. Kaye and Stephen R. Kaye, *Lawyers' Verdict on The Verdict*, New York L. J. p. 2, Col. 3 (1983). In *From the Hip* (1987), Stormy Weathers pulls off a series of silly tricks to impress his law firm and win jury verdicts.

g. Ambulance chasers. Modern day film lawyers have developed creative ways to get business. Frank Galvin in *The Verdict* (1982) solicits clients at strangers' funerals. Mitchell Stephens (Ian Holm) in *The Sweet Hereafter* (1997) turns up in town to solicit plaintiffs right after a school bus accident has killed many of their children. *The Rainmaker* (1997) is a primer on how to sign up accident victims in traction.

h. Rude or disloyal toward own staff. Many modern lawyers treat their associates and staff members inconsiderately and downright rudely. In *The Gingerbread Man* (1998), for example, Rick Magruder (Kenneth Branagh) berates his staff unfairly.¹⁷³ In *Philadelphia* (1992), a big firm fires an associate because he has AIDS. The lawyers in *The Firm* (1993) kill any lawyers who want to depart.

i. Perjured testimony. Modern lawyers don't see any problem putting on knowingly perjured testimony as long as they don't get caught. In *Liar Liar* (1997) Fletcher Reede (Jim Carrey) is perfectly prepared to use testimony he knows is perjured, with the enthusiastic approbation of his superiors, until he is prevented from lying by a spell cast by his little boy.¹⁷⁴

j. Bad prosecutors. Prosecutors are a particularly rum lot. District Attorney Abraham Weiss (F. Murray Abraham) in *Bonfire of the Vanities* (1990) cares only about politics; his

¹⁷³ Martin Vail in *Primal Fear* (1996) and Henry Turner in *Regarding Henry* (1991) have this bad habit as well.

¹⁷⁴ The same is true in *Sleepers* (1996) and *Regarding Henry* (1991).

assistant Jed Kramer (Saul Rubinek) focusses on career advancement and sex with a juror, not the irrelevant question of whether a defendant is guilty.¹⁷⁵

k. Bad judges. The judges in *Suspect* (1987)(John Mahoney) and in *And Justice For All* (1979) (John Forsythe) turn out to be the real criminals. A group of judges in *Star Chamber* (1983) organize an assassination squad to do in perps who got off on technicalities. Other judges seem crooked, as in *Presumed Innocent* (1990) (Paul Winfield); incredibly rude, as in *Body of Evidence* (1992) (Lillian Lehman); biased, as in *A Civil Action* (1998) (John Lithgow) or *The Verdict* (1982) (Milo O'Shea); or just downright nuts as in *And Justice for All* (1979) (Jack Warden).

IV. CONCLUSION

Within the last two decades, lawyers have gone over the cliff as far as public esteem for the profession is concerned. Legal popular culture reflects this dismal phenomenon quite accurately, presenting most lawyers in a strongly negative manner. There are many plausible reasons why the public despises our profession, but it's just possible that negative lawyer films of the 1980's and 1990's reinforced and deepened those feelings.

¹⁷⁵ Prosecutors in *The Client* (1994) are indifferent to the safety of a child witness. In *Absence of Malice* (1981), a prosecutor destroys an innocent man's reputation. A prosecutor frames an innocent man in *True Believer* (1989). The prosecutors in *Jagged Edge* (1985), *A Time to Kill* (1996) and *Presumed Innocent* (1990) are ethically reckless. The prosecutors in *Q&A* (1990) are utter crooks. A prosecutor in *Legal Eagles* (1986) sleeps with someone he's investigating.

For these reasons, we should pay attention to and care about the way lawyers are shown in the movies.

Besides its function in both following and perhaps leading the general public's attitudes about law and lawyers, legal popular culture is important to lawyers for another reason: it teaches us as well as the public. In years past, film and television presented us with a set of lawyers who were decent people and honest, competent professionals--sometimes even heroes. In film, Atticus Finch, Paul Biegler, Clarence Darrow, Amanda Bonner, or Judge Dan Haywood served as wonderful role models for everyone in the profession from law students up to grizzled veterans.

Today, it's just the opposite. Most film lawyers are bad role models. Lawyers on the big screen are teaching lawyers and law students that uncivil and unethical behavior is rewarded in law practice.¹⁷⁶ Law students are taught that they must be Rambo with a briefcase to be successful;¹⁷⁷ perhaps young people who find that model attractive are disproportionately choosing legal careers.

¹⁷⁶ An anecdote: I was told about some young lawyers who formed a small litigation firm. Each morning the partners met and discussed their respective cases. They learned this was an appropriate law office management technique from watching *L.A. Law*. Of course, the meetings were a total waste of time. Another: A clinical law professor reports that third year students simply cannot be persuaded that it is inappropriate during cross examination to address remarks or rhetorical questions to the jury. After all, Daniel Kaffee did it in *A Few Good Men* (1992).

¹⁷⁷ Nagorney, note 62 at 821 (citing the effect of fierce behavior in *A Few Good Men* on molding lawyer aspirations)

While there is little or nothing that we can do to alter the way lawyers are portrayed in popular culture,¹⁷⁸ we can make use of film and television to better understand the fundamental problems besetting our profession. Do a lot of lawyers have alcohol or drug problems?¹⁷⁹ Do many of them act in a rude, uncivil manner? Do they chase ambulances? Do they treat associates and staff members exploitatively? Do lawyers work too many hours, thus wrecking personal relationships? Are many of them deeply dissatisfied with their career choices?¹⁸⁰ Is there a big firm, win-at-all-costs mentality?¹⁸¹ Yes, to all these questions. These are the realities of law practice at the millenium. We need to seriously address all of these problems and invest in finding solutions to them, whether or not we ever succeed in improving our public image. Thinking about the way that we're portrayed in film can teach us a lot about ourselves.

¹⁷⁸ Some have suggested that Bar Associations offer to assist writers and producers of film or television shows about law and lawyers by furnishing free consulting services to help them get details of law and law practice a little righter than they get it now. This approach works for the military and it might just be a worthwhile experiment for our profession as well.

¹⁷⁹ Daicoff, note 31 at 555-57.

¹⁸⁰ Id. at 553-55.

¹⁸¹ See Zitrin & Langford, note 41 at 53-73.

APPENDIX A

This appendix lists the films with significant lawyer or judge characters that are the basis for the compilation in the text.¹⁸² The films are arranged by decade, beginning with the 1990's. The selection criteria are described in the text.¹⁸³

In this array, POS means that the lawyer characterization was viewed as positive while NEG means it was viewed as negative.¹⁸⁴ MIXED means there were several lawyers in the film, some positive, some negative. TRUE means that the film was explicitly billed as based on real events and real people.¹⁸⁵

¹⁸² See the summary following note 133.

¹⁸³ See text at notes 119-29.

¹⁸⁴ For criteria for making this judgment, see text at notes 109-18.

¹⁸⁵ See text at notes 130-32.

1990-1999

Addams Family (1991)	NEG
Angie (1994)	NEG
Big Daddy (1999)	NEG
Body of Evidence (1992)	NEG
Bonfire of Vanities (1990)	NEG
Cape Fear (1991)	NEG
Carlito's Way (1993)	NEG
Chamber, The (1996)	POS
Civil Action, A (1998)	TRUE-NEG
Class Action (1990)	NEG
The Client (1994)	MIXED
Clueless (1995)	NEG
Cookie's Fortune (1999)	POS
Cool, Dry Place, A (1999)	POS
Confession, The (1999)	NEG
Curly Sue (1991)	NEG
Death Benefit (1997)	TRUE-POS
Defenseless (1991)	NEG
The Devils Advocate (1997)	NEG
Disclosure (1994)	POS
Down in the Delta (1998)	POS
Enemy of the State (1998)	POS
Everyone Says I Love You (1996)	POS
Fear and Loathing in Las Vegas (1998)	NEG
Female Perversions (1996)	NEG
A Few Good Men (1992)	POS
The Firm (1993)	MIXED
Ghosts of Mississippi (1996)	TRUE-POS
Gingerbread Man (1998)	NEG
Grand Canyon (1991)	POS
Guilty as Sin (1993)	NEG
Heart Condition (1990)	NEG
Hook (1991)	NEG
Impulse (1996)	POS
In the Name of the Father (1993)	TRUE-POS
Indecent Proposal (1993)	POS
Insider, The (1999)	TRUE-POS
It Could Happen to You (1994)	POS
JFK (1991)	TRUE-POS
Jurassic Park (1993)	NEG
Jury Duty (1995)	NEG
Just Cause (1995)	POS
Last Dance (1996)	POS
Legal Deceit (1997)	NEG
Liar Liar (1997)	NEG
Losing Isaiah (1995)	POS
Love Crimes (1991)	NEG
Midnight in Garden of Good and Evil (1997)	POS
Mighty Ducks, The (1992)	NEG
Mr. and Mrs. Bridge (1990)	NEG
Murder in the First (1994)	TRUE-POS
My Cousin Vinny (1992)	POS
Night Falls on Manhattan (1997)	MIXED
Other People's Money (1991)	POS
People v Larry Flynt (1996)	TRUE-POS
Philadelphia (1992)	MIXED
Presumed Innocent (1990)	MIXED
Primal Fear (1996)	NEG
Q & A (1990)	MIXED
Quiz Show (1994)	POS
Rainmaker, The (1997)	NEG

Random Hearts (1999)	NEG
Red Corner (1997)	POS
Regarding Henry (1991)	NEG
Reversal of Fortune (1990)	TRUE-POS
Scenes from a Mall (1991)	NEG
Shadow of a Doubt (1998)	NEG
Siege, The (1998)	POS
Sleepers (1996)	NEG
Snow Falling on Cedars (1999)	POS
Stepmom (1997)	POS
Sweet Hereafter, The (1997)	NEG
Thin Red Line, The (1998)	POS
A Time to Kill (1996)	MIXED
Trial and Error (1997)	MIXED
Trial by Jury (1994)	MIXED
True Crime (1999)	NEG
Why Do Fools Fall in Love (1998)	TRUE-POS
Wild Things (1998)	NEG

1980-1989

Absence of Malice (1981)	NEG
The Accused (1988)	TRUE-POS
All of Me (1984)	MIXED
The April Fools (1969)	NEG
Armed and Dangerous (1986)	NEG
Beaches (1988)	NEG
Big Chill, The (1983)	POS
Big Easy (1987)	POS
Body Heat (1981)	NEG
Compromising Positions (1985)	NEG
Criminal Law (1988)	NEG
Daniel (1983)	TRUE-POS
Fatal Attraction (1987)	POS
First Monday in October (1981)	POS
From the Hip (1987)	NEG
Good Mother (1988)	MIXED
House on Carroll St. (1988)	POS
Jagged Edge (1985)	NEG
Legal Eagles (1986)	NEG
Milagro Beanfield War, The (1988)	POS
Money Pit, The (1986)	MIXED
Music Box (1989)	POS
Nuts (1987)	MIXED
Physical Evidence (1988)	POS
Prince of the City (1981)	TRUE-MIXED
Seems Like Old Times (1980)	POS
Sex, Lies and Videotape (1989)	NEG
Shakedown (1988)	NEG
Shoot the Moon (1982)	NEG
A Soldier's Story (1984)	POS
Star Chamber, The (1983)	MIXED
Suspect (1987)	MIXED
Table for Five (1983)	POS
True Believer (1989)	NEG
The Verdict (1982)	NEG
War of the Roses (1989)	MIXED
Wall St. (1987)	NEG
Who's that Girl? (1987)	NEG
Whose Life is it Anyway? (1981)	POS

	<u>1970-79</u>	
And Justice for All (1979)		NEG
Blume in Love (1973)		POS
Brannigan (1975)		NEG
The Candidate (1972)		POS
Carnal Knowledge (1971)		NEG
Godfather I (1972)		NEG
Godfather II (1974)		NEG
I Will, I Will...For Now (1976)		NEG
Interiors (1978)		POS
Kramer v Kramer (1979)		POS
Lipstick (1976)		POS
Mean Dog Blues (1978)		NEG
A New Leaf (1971)		NEG
Nickelodeon (1976)		NEG
Onion Field, The (1979)		MIXED
Rich Kids (1979)		NEG
Seduction of Joe Tynan, The (1979)		POS
U-Turn (1973)		NEG
Where's Poppa? (1970)		POS

	<u>1960-69</u>	
The Birds 1963)		POS
Bob & Carol & Ted & Alice (1969)		POS
By Love Possessed (1961)		POS
Cape Fear (1962)		POS
Divorce American Style (1967)		NEG
Easy Rider 1969)		POS
Family Jewels, The (1965)		POS
Fortune Cookie (1966)		NEG
How to Murder your Wife 1964)		NEG
I Love You Alice B. Toklas (1968)		POS
Inherit the Wind (1960)		TRUE-POS
It Started in Naples (1960)		POS
Judgment at Nuremberg (1961)		TRUE-POS
Madame X (1966)		POS
Marriage on the Rocks (1965)		POS
Move Over Darling (1963)		NEG
Paranoic (1963)		MIXED
To Kill a Mockingbird (1962)		POS
Town Without Pity (1961)		POS
Two for the Seesaw (1962)		POS
Valley of the Dolls (1967)		POS

	<u>1950-59</u>	
Anatomy of a Murder (1959)		POS
Asphalt Jungle, The (1950)		NEG
Athena (1954)		POS
Beyond a Reasonable Doubt (1956)		POS
Big Hangover, The (1950)		MIXED
Bigamist, The (1953)		POS
Bottom of the Bottle, The (1956)		POS
Breaking Point, The (1950)		NEG
The Bridges at Toko-Ri (1954)		POS
Caine Mutiny, The (1954)		POS
Chicago Confidential 1957)		POS
City that Never Sleeps (1953)		NEG
Compulsion (1959)		TRUE-POS
Count the Hours 1952)		POS
Court Martial of Billy Mitchell, The (1955)		TRUE-POS
Girl Who Had Everything, The (1953)		POS
Helen Morgan Story, The (1957)		TRUE/NEG
Houseboat (1958)		POS

I Want to Live (1958)	TRUE-NEG
Illegal (1955)	NEG
It Happened to Jane (1959)	POS
Magnificent Yankee, The (1950)	TRUE-POS
Marrying Kind, The (1952)	POS
Never Steal Anything Small (1959)	POS
No Questions Asked (1951)	NEG
Party Girl (1958)	POS
Payment on Demand (1951)	POS
People against O'Hara, The (1951)	POS
Peyton Place (1957)	POS
Pffft! (1954)	POS
Phenix City Story, The (1955)	TRUE-POS
Phone Call from a Stranger (1952)	POS
Place in the Sun, A (1951)	POS
The Rack (1956)	POS
The Reformer and the Redhead (1950)	NEG
Slaughter on Tenth Ave. (1957)	POS
Storm Warnings (1950)	POS
Tattered Dress (1957)	NEG
Three Brave Men (1957)	POS
The Trap (1959)	POS
Trial (1955)	MIXED
The Underworld Story (1950)	NEG
Unknown Man (1951)	POS
Wrong Man, The (1956)	TRUE-POS
Yellow Cab Man, The (1950)	NEG
Young Man with Ideas (1952)	POS
Young Philadelphians (1959)	POS

1940-49

The Accused (1949)	POS
Act of Murder (1948)	MIXED
Adam's Rib (1949)	POS
Boomerang (1947)	POS
Cass Timberlane (1947)	MIXED
Cracked Nuts (1941)	POS
Criminal Court (1946)	NEG
Cry of the City (1948)	NEG
Daisy Kenyon (1947)	POS
Dark Corner (1946)	NEG
Force of Evil (1948)	NEG
Having Wonderful Crime (1945)	POS
He Married His Wife (1940)	POS
I Want a Divorce (1940)	POS
Intruder in the Dust (1949)	POS
Kiss of Death (1947)	MIXED
Knock on Any Door (1949)	POS
Lady from Louisiana (1941)	POS
Lady from Shanghai, The (1948)	NEG
Love Crazy (1941)	POS
Man Betrayed, A (1941)	POS
Man Who Talked Too Much, The (1940)	NEG
Meanest Man in the World, The (1943)	POS
Meet Me in St. Louis (1944)	POS
Miracle on 34 th St. (1947)	POS
My Favorite Wife (1940)	POS
A Night of Adventure (1944)	NEG
Nora Prentiss (1947)	POS
People vs. Dr Kildare (1941)	POS
The Postman Always Rings Twice (1946)	POS
Reed Petite & Gone (1947)	NEG

Roxie Hart (1941)	NEG
She Couldn't Say No (1941)	POS
Smart Woman (1948)	POS
Strange Love of Martha Ivers, The (1946)	NEG
Stranger in Town, A (1943)	MIXED
Stranger on the Third Floor, The (1940)	NEG
Talk of the Town (1942)	POS
Unfaithful, The (1947)	POS
Web, The (1947)	POS
Woman in the Window, The (1944)	POS

1929-39

Bordertown (1935)	NEG
Call It Murder (1934)	POS
The Case Against Mrs. Ames (1936)	NEG
The Case of the Howling Dog (1934)	POS
Crime Without Passion (1934)	NEG
Criminal Lawyer (1937)	POS
Evelyn Prentice (1934)	POS
Free Soul, A (1931)	NEG
Fury (1936)	POS
G Men (1935)	POS
Give Me Your Heart (1936)	POS
Good Fairy, The (1935)	POS
Hat, Coat and Glove (1934)	NEG
Judge Priest (1934)	POS
Lady by Choice (1934)	POS
Law in Her Hands, The (1936)	POS
Lawyer Man (1932)	POS
Manhattan Melodrama (1934)	POS
Marked Woman (1937)	MIXED
Mr. Deeds Goes to Town (1936)	NEG
Mountain Justice (1937)	POS
Mouthpiece, The (1932)	NEG
On Trial (1939)	POS
Paid (1930)	NEG
Penthouse (1933)	POS
Platinum Blonde (1931)	NEG
Possessed (1931)	POS
The Roaring Twenties (1939)	POS
Romance in Manhattan (1935)	NEG
Sadie McKee (1934)	POS
Smart Money (1931)	NEG
Society Lawyer (1939)	POS
State's Attorney (1932)	NEG
Star Witness (1931)	POS
Story of Temple Drake, The (1933)	POS
Stronger than Desire (1939)	POS
That Certain Woman (1937)	POS
They Won't Forget (1937)	NEG
Trial of Mary Dugan (1929)	NEG
The Unashamed (1932)	POS