



2003

## Saying Goodbye to Ally McBeal

Paul R. Joseph

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### Recommended Citation

Paul R. Joseph, *Saying Goodbye to Ally McBeal*, 25 U. ARK. LITTLE ROCK L. REV. 459 (2003).  
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Paul R Joseph†

*Ally McBeal seems to set the standard for the way a lawyer should be.*<sup>1</sup>

## I. INTRODUCTION

Not all goodbyes are the same. They reside along a spectrum from “[s]o long, it’s been good to know yuh,”<sup>2</sup> all the way down to “goodbye and good riddance.” It may be a function of the emotional power of *Ally McBeal* that I did not know what kind of goodbye to give *Ally* when I sat down to write this article. But I suspected that its goodbye would fall somewhere closer to one of the extremes than to the tepid “so long” middle.

During its five-year run,<sup>3</sup> *Ally* generated an unusually high level of emotional response. It is not every television show that makes the cover of *Time* magazine.<sup>4</sup> It is not every television show that is made the poster child for the death of feminism. It is not every television show that gets men-

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\* *Ally McBeal* (Fox television series, 1997–2002). Throughout this article *Ally* (in italics) refers to the television show and Ally (unitalicized) refers to the character of Ally McBeal.

† Associate Dean and Professor of Law, Nova Southeastern University Shepard Broad Law Center.

1. Richard A. Clifford, *The Impact of Popular Culture on the Perception of Lawyers*, LITIG., Fall 2001, at 1. “But it remains true that popular beliefs are largely the product of fiction, whether written or graphic, and fiction is, in reality, a poor place to form a perception about anything important because it is never better than the minds of those who write it.” *Id.* “For many people in the United States, and many more around the world, American justice is *Ally McBeal*—just as, for an earlier generation, it was *Perry Mason*.” Betty Richardson, *The Spirit of America*, ADVOC. (Boise), Dec. 2001, at 16, 17.

2. Woody Guthrie, *Dusty Old Dust (So Long, It’s Been Good To Know Yuh)*, on DUST BOWL BALLADS (Victor Records 1940). The song may first have been sung on the radio (and recorded) in *Forecast: Back Where I Come From* (CBS radio broadcast, Aug. 19, 1940). See The Unofficial DOC & Merle Watson & Semi-Official Woody Guthrie & Almanac Singers Site, *Dusty Old Dust (So Long, It’s Been Good To Know Yuh)*, at <http://www.geocities.com/nashville/3448/dustyold2.html> (last visited Feb. 24, 2003); see also Woody Guthrie: Songs & Prose of the Prophet Singer, *Dusty Old Dust (So Long, It’s Been Good To Know Yuh)*, at <http://www.woodyguthrie.de/dustyold.html> (last visited Feb. 24, 2003); Woody Guthrie and the Archive of American Folk Song, Correspondence, 1940–1950, at <http://memory.loc.gov/ammen/wwghtml/wwghome.html> (last updated Oct. 3, 2001).

3. The show ran for 110 episodes over five years. An episode guide and other information is available at TV Central, *Ally McBeal Episode Guide*, at <http://tvcentral.thewebsite.com/Ally.htm> (last visited Feb. 24, 2003) [hereinafter TV Central].

4. Ginia Bellafante, *It’s All About Me!; Want To Know What Today’s Chic Young Feminist Thinkers Care About? Their Bodies! Themselves!*, TIME, June 29, 1998, at 54.

tioned in court opinions.<sup>5</sup> It is not every television show that spawns a strong emotional response at all. But *Ally McBeal* has done all of these things, and it has done so because its characters, situations, attitude, and timing made it seem, at times, like a burr under the saddle, a mosquito bite, a splinter just under the skin—in short, a constant irritation<sup>6</sup> that becomes an object of obsession.

*Ally McBeal* defied categories. Was it a drama or a comedy? Even the newly-minted “dramedy” did not seem quite right.<sup>7</sup> Then too, it was not your typical legal show either. One does not expect to see dancing babies and slobbering ten-foot-long tongues in *Law & Order*<sup>8</sup> or *JAG*.<sup>9</sup> Invariably, discussions of *Ally McBeal* eventually (and sometimes immediately) become reduced to an argument about whether *Ally* was really a legal show at all. The point seeming to be that if it was not a legal show then any serious discussion of its portrayal of legal figures, concepts, and ideas could be ended at once—and thank you very much.

Thus, it makes sense to start an examination of *Ally McBeal* with the question: Is *Ally McBeal* a legal show at all?

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5. E.g., *State v. Papasavvas*, 751 A.2d 40 (N.J. 2000).

6. While much of the response has been focused on the legal, political, and social messages in the show, fans may also have been irritated that the show seemed to go downhill during its last two years, depriving viewers of the chance to see how it would have developed had its quality stayed high. Perhaps creator David Kelley was spread too thin to give the show the attention it needed, or perhaps, by then, it was just impossible to keep coming up with new ideas to amaze and provoke viewers. Fans became too familiar with the show's tricks and foibles to be affected anymore. Also, what proved to be the final season was to have been built on the hot screen chemistry between Calista Flockhart and Robert Downey, Jr., which crashed and burned along with Downey as his off-screen drug use prematurely ended his run on the show.

7. In her article, Carina Chocano stated:

Ultimately, it has always seemed to me that *Ally McBeal* was neither a comedy nor a drama but an allegory about modern urban life and the noxious dreams that thrive there. What was the law firm of Cage, Fish and McBeal anyway, if not a sort of “Animal Farm” for the lonely urban professional set? The cases Ally and her colleagues took to trial often hinted at a seemingly pandemic longing on the part of their clients to have order imposed on the chaos of their emotional lives, to have their dreams legally enforced in the wake of their disappointed expectations.

Carina Chocano, *Bye-Bye, Dancing Baby*, SALON.COM, May 2, 2002, at <http://www.salon.com/ent/tv/diary/2002/05/02/ally/index.html>.

8. *Law & Order* (NBC television series, 1990–present).

9. *JAG* (CBS television series, 1995–present).

## II. IS *ALLY McBEAL* A LEGAL SHOW?

To ask whether *Ally McBeal* is a "legal show" seems to suggest a show either is or is not one and that there are clear criteria defining a legal show.<sup>10</sup> Perhaps it is like obscenity: people think they know it when they see it.<sup>11</sup> But, as is the case with smut, people "know" different things and disagree about what is and is not a legal show and sometimes present strong opinion in place of criteria.<sup>12</sup> No help there. There is no doubt that *Ally McBeal*, if it is a legal show, is not the same kind of legal show as *The Practice*<sup>13</sup> or *Law & Order*.<sup>14</sup> Both of those shows are dramas that may seem more realistic to the viewer. *Ally* includes aspects of the surreal and blends the realistic and the unrealistic in a dizzying mosaic. Yet, my own inclination is to define legal shows broadly in order to take into account all those shows that are sufficiently legal in character to have the potential to be perceived as such at least part of the time by at least a part of the audience.<sup>15</sup> My choice needs some explaining.

What got me into law and popular culture, besides the obvious pleasure of getting paid to watch movies and television shows, is the sense that it matters how lawyers and legal issues are portrayed in popular media—that it is something society should pay attention to. So why should society care how the popular media portrays lawyers?

First, I believe that popular culture mirrors mass perceptions and beliefs, so it provides at least some evidence of what those perceptions are. The man or woman on the street may lie to a pollster, but when he or she gets home at night, what goes on the television is what those in control of the remote really want to watch. Successful programs are popular programs. It is my belief that, when a show is specifically planted in a particular set-

10. Professor Michael Asimow has suggested that *Ally* "is much more a relationship or buddy-type show than a law series." Michael Asimow, *Bad Lawyers in the Movies*, 24 NOVA. L. REV. 533, 557 n.115 (2000).

11. See *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring).

12. "But I don't mean to mislead you into thinking *Ally McBeal* is a show about the law. Hey, this is Fox! *Ally McBeal* is a show about a girl and her love life." Joyce Millman, *Ally McBeal: Woman of the 90s or Retro Airhead?*, SALON.COM, Oct. 20, 1997, at <http://archive.salon.com/ent/tv/1997/10/20ally.html>.

13. *The Practice* (ABC television series, 1997–present).

14. *Law & Order*, *supra* note 8.

15. In a law review article, Douglas Lang noted:

Today, as in 1969, I suspect new law students have no clear, accurate comprehension of a lawyer's responsibility to the legal system and the client. The examples of lawyers observed by students are television characters enmeshed in unrealistic melodramas; e.g., *L.A. Law*, *Ally McBeal*, and *The Practice*, to name only a few.

Douglas S. Lang, *The Role of Law Professors: A Critical Force in Shaping Integrity and Professionalism*, 42 S. TEX. L. REV. 509, 512 (2001).

ting, it has to present some believable perception of that setting to its audience. The makers of the show are unlikely to wander too far from popular belief about that setting or the audience will drift away.

Now, I am not trying to argue that the shows must actually be 100% accurate or even that the audience must believe that they are. Most people are probably savvy enough to understand that the creators of television shows cut out the boring parts and crank up the sex, violence, and glitz. The hero's bullets always hit their targets, and the bad guys cannot shoot straight. The men are more handsome, and the women more alluring than in day-to-day reality. And the average viewer could not afford the apartment of a typical waitress in a television sitcom.

What I do believe, however, is that when a show is set in some particularly identified setting (a major American hospital, a gritty New York precinct house, or a law firm) the audience comes to that show with certain expectations. They do not expect the details to be accurate—this is television, for God's sake—but they do expect some fundamental resonance with their understanding of that setting. If they do not expect the shows to be accurate, they do expect that in some deeper sense the setting is at least showing something that is true.<sup>16</sup>

If one remembers the almost immediate demise of *Cop Rock*,<sup>17</sup> an innovative and, it must be said, strange show from hitmeister Steven Bochco, in which police otherwise engaged in very gritty and heart-rending investigative work would suddenly and inexplicably break into musical theatrical songs and dances, one can see what I mean. That show failed because its musical transitions were so jarring that it shocked its audience out of any connection with the police setting that the show appeared to present. Emotional buy-in with the serious moments was impossible because the song and dance act was just too over-the-top, destroying any belief in the rest. The result was a feeling that Bochco was laughing at the audience for imagining for a moment that it was watching a police drama. It is a testament to David Kelley that he was able to find devices to allow the audience to accept the bizarre and wacky elements of *Ally McBeal* without turning away in anger.

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16. "I think my real criteria for judging the honesty of works about the law have little to do with these sorts of technical concerns . . . . My interest is in a different sort of truth, or accuracy." Marianne Wesson, *A Novelist's Perspective*, 50 DEPAUL L. REV. 583, 591 (2000).

17. *Cop Rock* (ABC television series, 1990). The show was created by Steven Bochco, who had hits with *Hill Street Blues* and *Doogie Howser, M.D.* "Today, *Cop Rock* is remembered as one of modern television's most intriguing and offbeat oddities." YesterdayLand *Cop Rock*, at <http://www.yesterdayland.com/popopedia/shows/primetime/pt1476.php> (last visited Feb. 24, 2003).

Second, I believe that popular culture shapes mass perceptions, and it is important to keep track of the messages that popular culture sends.<sup>18</sup> Although this may seem inconsistent with my first point, in reality, it is not. Popular media and popular perception are two stars, locked together by their own gravity and orbiting forever around each other. Popular culture must give the public enough of what it expects so as not to lose them, but within broad outlines it also teaches the public what to expect.

One can debate how much fictional television shapes mass perceptions. Certainly, it competes with many other sources of information and indoctrination. Even on television itself, it may be that offerings such as news have a more profound effect than entertainment shows.

On the one hand, the audience may, to some extent, tend to discount some of what it sees on entertainment shows because they are explicitly identified as entertainment. This proposition may be even more true when the show is obviously a comedy or at least is obviously not solely a drama. Yet, it is likely that most people watch many more entertainment shows than news shows. The messages about reality in entertainment shows are repeated over and over and are experienced over and over. The very fact that the shows are not putting the audience on its guard by claiming to be the truth may in fact mean that their messages reach the audience without critical examination.

My first premise is that mass media gives its audience a diet of what the audience already believes to be true. This reconfirmation makes the show seem accurate and gives it credibility. When the show presents something about which the audience has no knowledge or opinion, it will be natural for the audience to accept the unfamiliar aspects because the rest of the show is believed to be accurate. The viewer, without explicitly examining the premise, has a comfortable feeling that the broad outlines of what he believes are reconfirmed because they match what he sees on television.

It has been suggested that, at least to some extent, the public tends to believe that lawyers are as they are portrayed in the movies.<sup>19</sup> At least one article argues that there has been a dramatic change since the 1970s from positive to negative portrayals of lawyers in movies and that the same pe-

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18. In a law review article, Judge J. Thomas Greene stated:

Fictional portrayals of courtroom scenes and other aspects of law practice are entertaining and can be worthwhile. But it must be realized that these constitute entertainment, not education. Fictional fantasies about legal matters tend to translate, in the public perception, into what they believe to be an understanding of the real justice system. The mischief is that they are distortions of the real world and tend to trivialize the justice system.

Judge J. Thomas Greene, *Views from the Bench: Some Current Causes for Popular Dissatisfaction with the Administration of Justice*, 14 UTAH B.J. 35, 37 (2001).

19. Asimow, *supra* note 10, at 582-83.

riod has been one in which the public's regard for lawyers, as judged by opinion polls, has decreased markedly.<sup>20</sup> While such a correlation does not prove cause and effect, and while many factors likely play a role in the public's increasingly negative view of lawyers, it is not unreasonable to suspect that public perception of lawyers has some impact on the kinds of movies that are likely to be made and perhaps even that the climate in such movies plays some part in helping to reinforce public perceptions.

Even among entertainment programming, it is logical to believe that legal shows are generally more likely to be teachers about law than shows that are not legal shows. What then is meant by legal show? By what criteria should one judge whether a television program is or is not a legal show? Here are some thoughts about that.

First, a legal show is one that takes place substantially within a legal setting. This could include a law office, a courtroom, or a police station. Because people are more likely to look for legal messages in a show that looks "legal," the more explicit the legal setting, the more likely the show is to transmit messages about the law and legal system. While it is possible that a viewer might pick up some legal messages in shows set anywhere,<sup>21</sup> it is much more likely that a show set within a legal setting will provide more opportunities for such messages to be conveyed.

Second, a legal show is one with explicit legal characters featured in a significant amount of the show. These may be lawyers, judges, law students, professors, and police officers. To be significant, it would seem that more is

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20. In his article, Asimow stated:

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. 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.

*Id.* at 550-51.

21. In an earlier article, I argued that *Star Trek: The Next Generation* contains many legal themes and messages. Paul Joseph & Sharon Carton, *The Law of the Federation: Images of Law, Lawyers, and the Legal System in Star Trek: The Next Generation*, 24 U. TOL. L. REV. 43 (1992). It should be noted that when the show presented legal themes, it often explicitly placed them in a legal setting (a trial or formal legal procedure) or included them within its general theme, which was itself governmental, political, and legal. Generally, Captain Picard specifically referenced the legal regulations and structures under which he acted. Formal legal structure and settings were often presented on the show. For a more general discussion of how science fiction can and does present legal ideas, see generally PRIME TIME LAW: FICTIONAL TELEVISION AS LEGAL NARRATIVE (Paul Joseph & Robert Jarvis eds., 1998).

required than just that the character is identified as, for example, a lawyer. The viewers want to see the character acting as a lawyer.

Third, a legal show is one in which legal issues or ideas play a significant role in the plot of the show. The more explicit and central legal ideas and issues are to the show, the more of a legal show it is.

How would one rate *Ally McBeal* under these criteria? *Ally McBeal* is set largely within a Boston law firm, Cage & Fish. Scenes in court are also regularly presented. Although the characters also hang out at the local night club for the requisite denouement, the bulk of the show takes place within a clearly identified legal framework.

Most of the actors portray lawyers while others portray the law firm's non-legal staff, clients, opposing lawyers, judges, and jurors. Almost all of the actors portray legal actors. Beyond that, they are seen at their workplace. The conference at which new cases are discussed is a stock feature in episodes of *Ally McBeal*. The show also regularly takes viewers to court where they watch the trials of cases in which the firm is involved.

*Ally McBeal* focuses on issues of love, sex, disability, discrimination, and harassment.<sup>22</sup> These issues are explored both between the show's characters in non-legal settings and also in the legal setting of the cases handled by the firm. The legal cases are a very significant part of the focus of *Ally McBeal*, although it can be argued that the law is often used to supplement and support issues about relationships. Thus, as opposed to some legal shows where the focus is almost solely the legal issue *du jour*, *Ally* may use the law not so much for its own sake but for what it shows audiences about the non-legal issues such as the search for love and acceptance.

Under the criteria proffered above, it appears that *Ally McBeal* is a kind of legal show, although a very different kind than many viewers are used to seeing. It has been called a "postmodern legal world."<sup>23</sup> Viewers are used to legal shows that treat the law soberly and that focus primarily on the resolution of legal issues. By contrast, *Ally McBeal* is an outrageous, funny, strange show that, it can be argued, puts Ally's search for love at the center of the show and uses everything else, including the law, in support of that non-legal theme. Thus, it may sometimes matter more if the law in *Ally* says something true about love than about law. But perhaps the two are not mutually exclusive.<sup>24</sup>

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22. "But then critics say there isn't any law in *Ally*. Actually almost every episode involves a lawsuit of some sort." John Denvir, *What Ails Ally?*, PICTURING JUST., 2000, at [http://www.usfca.edu/pj/ails\\_ally-denvir.htm](http://www.usfca.edu/pj/ails_ally-denvir.htm).

23. Jennifer Hughes & Nina Schuyler, *David Kelley's Legal World*, CAL. LAW., Feb. 2000, at 35.

24. One former attorney has noted:

"*Ally* attacks the law from a more farcical point of view,' says Pamela Wisne, a former attorney who's worked for the Federal Communications Commission and

Part of the power of *Ally McBeal* is this very combination of law and the personal search for love and happiness. In fact, in a country that often seems to turn all important issues into legal ones, *Ally* challenges viewers to ask to what extent the most fundamental issues are addressable through the law and questions the limits of the legal approach.

It seems that *Ally McBeal* is a legal show although one with unusual aspects. It is not simply a drama, and it includes surreal aspects. While some legal shows such as *Law & Order*<sup>25</sup> focus only on legal issues, *Ally McBeal* often focuses on Ally's search for love and on all of the characters' search for happiness and meaningful connection with others. It could be argued that the law is often used to develop a more general concept about relationships and the search for a happy and fulfilled life than it is to resolve the particular legal issue. *Ally McBeal* is a very nontraditional legal show. It is possible that viewers discount the most bizarre aspects of the show; but when *Ally McBeal* is presenting a legal issue, the arguments sound legal, although often abbreviated, and the setting is legal.

Certainly, the "ripped from today's headlines" *Law & Order*<sup>26</sup> seems to make a more explicit claim to be showing something real, and perhaps the audience will understand that. Yet the hot emotional response to *Ally* suggests that it also is a show that sends messages and that the messages are received. In the final analysis, the emotional power of the show coupled with its legal actors, settings, and issues suggest that *Ally* is unlikely to be totally discounted. For good or for ill, *Ally McBeal* qualifies as a legal show and should be examined as part of that league.

### III. LEGAL THEMES AND OTHER THEMES IN *ALLY McBEAL*

If *Ally McBeal* is a legal show, what sort of a legal show is it? What are its messages? Should the show be applauded or decried? Does it have consistent legal themes? Why does *Ally* cause such an emotional response?

The pilot episode<sup>27</sup> provides a number of answers. This show introduces the audience to many of the themes of the series.<sup>28</sup> The viewer first meets Ally McBeal through a narrative in the pilot episode that includes

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Twentieth Century Fox, and who is the executive vice president of David E. Kelley Productions. 'David once joked that the characters don't take a case on *Ally McBeal* unless it's guaranteed to affect their personal lives. They represent a legitimate comment on the law, even though it's done in a humorous way.'

*Id.* at 37.

25. *Law & Order*, *supra* note 8.

26. *Id.*

27. *Ally McBeal: Pilot Episode* (Fox television broadcast, Sept. 8, 1997) [hereinafter *Pilot*]. The pilot episode is available along with five others on compact disc. *Ally McBeal: Ally on Sex and the Single Life* (20th Century Fox home video, 1997).

28. *Pilot*, *supra* note 27; *see also* TV Central, *supra* note 3.

flashbacks about Ally's life. What the audience learns is not comforting from a feminist perspective and, it must be said, not comforting from a legal perspective either.

While Vonda Shepard sings, "Here's a photo I've been looking for, it's a picture of the boy next door," Ally introduces her childhood love affair with Billy. The two stay together through the first year of law school, which Ally attends only to follow him. As she tells viewers, "I didn't even want to be a lawyer." When Billy transfers from Harvard to Michigan (so that he can be on law review), Ally's pride makes her dig in her heels and stay in Cambridge. It is the end of the relationship but not the end of Ally's feelings for Billy.

Fast forward. Ally has graduated and works at a law firm. She likes her job until a senior partner begins grabbing her buttocks. When she complains, the partner is initially fired, but then sues under the "federal disability act" claiming that his behavior is due to an illness (Epstein-Barre—later changed to obsessive compulsive disorder) and that his firing is due to his handicap in violation of law. It becomes obvious that the firm would rather lose Ally than the grabby rainmaker, and in disgust, Ally quits. While leaving the old firm she runs into Richard Fish, a man she knew in law school and never liked because all he cared about was money. His focus proves timely, however, as Richard is starting his own law firm, and offers Ally a job. Only after she accepts and starts does she find out that Billy also works for the firm.

Many of the central themes of the show are introduced in the pilot, and it is obvious that there is enough here to make both feminists and lawyers recoil. The show tends to focus on issues of disability, discrimination, sexual harassment, *and* the search for true love in the modern world.<sup>29</sup> In the process, laws that are intended to protect the powerless from discrimination and harassment will be mocked, often because of strange and improbable ways in which the laws might be used. The idea that the groping senior partner will claim a disability and sue when he, himself, is fired is just such an example. Perhaps the message is, as Ally says in the pilot episode, that "love and law are the same. Romantic in concept but the actual practice can

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29. In her on-line article, Carina Chocano writes:

When clients sued on *Ally McBeal*, they did so to try to bridge the emotional distance between them and others, especially those they loved or used to love. How else to explain the parade of cases in which women sued their husbands for leaving them, men sued their plastic surgeons for causing their lovers to leave, men sued rock stars for arousing feelings in their wives that they themselves would never be capable of arousing, and lawyers filed class action suits against phone company telemarketers because the phone kept ringing all night and it was never him?

Chocano, *supra* note 7.

give you a yeast infection."<sup>30</sup> Perhaps part of the message is the impossibility of making either love or law harmless or well-behaved and that when law tries to regulate love the results are likely to appear absurd.

*Ally McBeal* is susceptible to the charge that it trivializes or misrepresents the important things that anti-discrimination and anti-harassment statutes do in protecting the powerless from overreaching by the powerful. The character of Ally herself can be criticized because it may appear that for her the law and her career as a lawyer are really part of a distracting sideshow from the real important task of finding a man. Ally sometimes seems out of control—or as she put it in the first episode, "So here I am, the victim of my own choices . . . and I'm just starting."<sup>31</sup> Nothing to make a feminist's teeth grind here? Seems like there is.

The images of lawyers also contain important negatives. The pilot alone shows the audience the harassing lawyer and the lawyer boss who sells her out. Richard Fish will serve to remind viewers why there are lawyer jokes.<sup>32</sup> Fish says that if he manages "to help somebody along the way, that's great" but that mostly he became a lawyer so that he could make "piles and piles" of money. As the series continues, it will become apparent that Richard does not know much law and cannot really see why that might be a problem.

The pilot itself, however, also contains some of the themes and styles that may help to explain why the case can be made that Ally is neither anti-feminist nor hostile to notions of equality or justice (and perhaps even manages to sometimes show lawyers in a positive although absurdist light). The pilot may also explain why it is that *Ally McBeal*, while susceptible to criticism, was also loved by many people of both genders.

Ally is smart. Throughout the show, she is intelligent and insightful. Both she and Billy went to Harvard, but it was Ally who made law review. In the pilot mention is made of her law review article on a tax subject, and it is that article that eventually wins over an important client.

30. *Pilot*, *supra* note 27.

31. *Id.*

32. *Id.* In the pilot Ally imagines Richard talking to a client. He says:

Let me tell you something, I didn't become a lawyer because I like the law, the law sucks, it's boring. But it can also be used as a weapon. [D]o you want to bankrupt somebody, cost him everything he's worked for, make his wife leave him, even cause his kids to cry, now, we can do that.

*Id.* The client smiles with glee. In another episode, a client's father is worried that if his son pleads guilty to an assault charge the criminal record will hurt his prospects for medical school. *Ally McBeal: Cro-Magnon* (Fox television broadcast, Jan. 5, 1998) [hereinafter *Cro-Magnon*]; see also TV Central, *supra* note 3. "What happens when he applies to medical school and they see he has a criminal record?," asks the client's father. Fish knows exactly. "They'll tell him to go apply to law school." *Cro-Magnon*, *supra*.

Ally is also verbally aggressive. She takes nonsense from no one and speaks up for herself. In the pilot, she tells the harassing partner in no uncertain terms to stop, complains to the managing partner, sues when the firm picks him over her, and generally makes it clear that she will stick up for herself. She is no victim, and no doormat.

Of course, Ally is also insecure. She wants love and cannot find it. She wishes that her figure were more voluptuous.<sup>33</sup> She is not over Billy. Ally McBeal invites the audience into her secret mind and heart. Viewers see her desires and insecurities through her very active imagination and fantasy life.<sup>34</sup>

And there is the matter of Ally's dress. She loves short skirts and basically gives a visual raspberry to the traditional idea of dressing as a professional. While this can be discounted as eye candy for a television show, there could be a more substantive message here: Ally is not going to dress for the viewer's image of what is proper. If one does not take her seriously because she shows some thigh, that is her opponents' problem, not hers. Her opponents will take her more seriously when she beats them while they are still drooling.

There is something to criticize here. It is arguable that Ally dresses to please men, although she would probably argue that she dresses to please herself, to attract those men she wants, and that everybody else can just get out of the way. Whether a woman should want to attract a man with sexuality, there is no doubt that many women do want to attract men (just as many men want to attract women) and that, in choosing a sexual strategy, women correctly understand something about men.

In a sense what might be the most objectionable thing about *Ally* is that it presents an image of a workplace world that is more egalitarian than is much of the real world. In Ally's world women are not professionally discounted for being as sexy as they choose to be; women are respected professionally whether or not they are emotional basket cases (so long as they can do the work); and the desire to find love is never in conflict with professional advancement.<sup>35</sup>

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33. In a scene from the pilot, her friend Rene kids Ally that she is taking extra time making herself up in the morning because of Billy and that she's "wishing [her] breasts were bigger." *Pilot*, *supra* note 27. Although she denies it to Rene, her inner thoughts confirm this.

34. When Billy invites Ally for coffee, the viewer sees the two of them making love in a giant cup. When Billy tells Ally that he is happy she is joining the firm but only as a partner who appreciates legal talent, not as an ex-boyfriend, Ally is pierced with arrows. But Billy sees neither of these things, and Ally manages to keep her poise and dignity. Similarly, in a meeting with the partners and prospective clients, Ally shrinks in her chair. But this visual representation of the imposter syndrome is not noticed by the clients, who are only impressed with her suggestion about how the firm will represent them.

35. If it can be argued that *Ally McBeal* shows a workplace removed from reality, that assertion is based in part on the fact that Ally is a lawyer in a firm of friends where her posi-

Yet, much that one can object to in Ally can also be seen as positive. If Ally tells women that professional success is unlikely to make up for a lack of love and that juggling love and career are difficult, these are things that many women (and increasingly men) already know.<sup>36</sup> What Ally does is to get that conflict out in the open. Also, Ally shows viewers that one need not be wholly together in order to succeed in one's career. Ally is a successful lawyer although her personal life is a mess. Also important is that Ally is not a mess because of her career—thank goodness. It is obvious that her emotional fragility predated her career. But what is seen is that she can succeed in her career even though she is not cool, calm, or totally in control. So few people are in control that this takes a great weight of expectations off the viewers.

In the pilot episode, Ally is engaged in the business of being a lawyer.<sup>37</sup> She argues a motion, works late researching an appeal, and argues it before the appellate court. She assists the partners in landing important new clients.

The "once over lightly" approach to the legal issues presented is of some concern. What do viewers make of the humorous presentation of the legal issues? In addition to the idea that the buttocks-grabbing partner would claim discrimination against *himself*, there is Ally's first case for Richard's firm. It involves a racy men's magazine intending to publish a story about the sexual relationship between a priest and a nun, apparently told in first person by the nun. There is some intimation that the story might not be true—at least there is nothing to indicate that the magazine checked the accuracy of the story with the minister, although it was relying on the author's claim of first-person knowledge. Ally makes a standard First Amendment argument, but the judge brushes it aside because of the salacious content of the story and the nature of the magazine. Ally loses the initial motion when the judge, after acknowledging that there is no legal basis for prior restraint, nonetheless grants the motion against the management because he is offended by the magazine's loose practices and the damage that the story may do. The judge acknowledges that his ruling is not

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tion is absolutely secure. Also, the workplace is removed from reality because Ally has the education, clout, and financial resources to discount the judgments of others. This is not the reality for most women, even women lawyers, and certainly not for women working in the larger corporate, manufacturing, and commercial workplaces.

36. In an article, Margaret Talbot writes:

But in the end there are limits to what can be fixed, and when it comes to the heart's ambivalence about work and home, maybe that's how it should be. There are certain conflicts that won't be neatly mended, which only means we have to—we get to—live with them.

Margaret Talbot, *The Way We Live Now: Supermom Fictions*, N.Y. TIMES, Oct. 27, 2002, at 11.

37. *Pilot*, *supra* note 27.

supported by First Amendment law, but rules to make a statement and to up the cost of the magazine's ultimate victory.

Certainly, the First Amendment issue is not central to the episode of *Ally McBeal*, and one wonders whether, without a somewhat better exposition of the issue, the viewer might come away with little, no, or even the wrong understanding of the issues. This is just one more example of how, in the eyes of the public, the First Amendment protects the sleazy, the bad, the fake, or the whiners.<sup>38</sup>

The counterargument, however, is that the viewers are taken to watch Ally argue the appeal, an appeal that she quickly wins. Ally makes a short but very clear classic argument that the protection of her client is indistinguishable from and therefore necessary for the protection of a free press generally.

Thus, if one possible danger in the *Ally McBeal* "once over lightly" approach to legal issues is that it may introduce some legal issues, play them for laughs or make brief and one-sided comments, and then move on without time to explore the issues, it must be said that the pilot did something more with its First Amendment issue. Perhaps the arguments were made quickly and with great economy, but they were there.

At times, legal issues are more obviously used merely to frame non-legal issues within the plot of the show. In a Christmas episode, "Silver Bells,"<sup>39</sup> a man and two women want to marry as a threesome. The three live together and have children together. It turns out that the eggs from one of the women and the sperm from the man were fertilized and then carried to term by the third woman. Their lawsuit is being heard by Whipper Cone, a judge who is also sleeping with Richard Fish. At the same time, Ally, Billy, and Georgia (Billy's wife)<sup>40</sup> recognize that they also have a threesome of sorts, as Georgia realizes that she and Billy have been better together since Billy and Ally reconnected. As may be imagined, the issue gives David Kelley a wonderful opportunity to explore the nature of relationships and to move the characters forward, but does it show viewers anything about law?

The answer is most likely no. On the most obvious level, the ethics of Whipper hearing the case are not explored, and when she takes it on herself to visit the home of the three petitioners to see their "normal" household,

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38. I find that my concern here is not so much that the basics of the law were not presented as that the approved politically correct First Amendment defense was not vigorously made. I can only imagine how the show's creator and chief writer, David E. Kelley, would respond to my concern.

39. *Ally McBeal: Silver Bells* (Fox television broadcast, Dec. 15, 1997); see also TV Central, *supra* note 7. The episode is available along with five others on compact disc. See *supra* note 27.

40. All of whom now work at the law firm, Cage & Fish.

complete with kids and Christmas decorations, a lawyer has to wince. Although the show has some court scenes, they are used merely to bring out the facts of the case, not to make any arguments about the governing law. When Whipper rules against the claim, the basis is her unwillingness to erode the sanctity of marriage, but there is no legal analysis.<sup>41</sup>

In an episode called "The Attitude,"<sup>42</sup> Georgia (then a litigator at another firm) is transferred from litigation to corporate because the wife of the litigation partner is unjustifiably jealous of her husband working closely with a beautiful woman. The partner is sorry and promises to make sure that her career is not harmed, but argues that his marriage is his most important concern. Georgia is outraged and wants to sue both because her interest is in litigation and because she is offended that she should suffer because she is attractive.

The show could have focused on the law of employment discrimination in detail and could have shown a trial, but this is not where the plot goes. Yet, it does go somewhere legal—and in the process makes a point about the limits of law—what the law can do and what it cannot.

Georgia is represented by John Cage, a wonderfully strange yet highly successful lawyer who is a partner in Ally's firm. When Georgia tells Cage that what she really wants is to keep working in litigation and have things be as they were, he tells her that this is the one thing she cannot have. Even if she stays in litigation, the relationship with her boss will never be the same, and her future at the firm will inevitably be altered. The law cannot really make things as they were.<sup>43</sup> What the law can do, however, is give her money, and Cage sets out on a process of negotiation with Georgia's boss that is very interesting to watch and focuses on a part of legal practice often overlooked in legal television shows. Eventually, Cage is able to reach a settlement that Georgia agrees to accept, which will pay her over \$300,000.<sup>44</sup>

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41. In a particularly funny scene, the male of the group testifies on the stand that the children are happy and there is a loving family household. As he says, "We're happy, we're devoted to each other, the kids live at home where there's love and trust and security. How many people in this room could make the same claim?" In what one can only hope is a fantasy sequence, Judge Whipper and lawyers Ally and Georgia promptly pull out pistols and shoot him dead.

42. *Ally McBeal: The Attitude* (Fox television broadcast, Nov. 3, 1997); see also TV Central, *supra* note 3.

43. This is a message I give to my students in torts, too. The law is a wonderful but blunt tool, and often cannot make things "as they were." The best it can do is to partially compensate by moving money around. This ability should not be downplayed, but it is often only a rough stand-in for better results that are impossible to achieve.

44. In the same episode, another legal issue is, unfortunately, given short shrift. Ally represents a woman trying to obtain a "get" so that she can marry again within Jewish law. When the former husband dies, the issue is mooted and is used instead to focus on Ally and her search for a relationship.

*Ally McBeal* may not be the best television show on the air for teaching legal doctrine. It can be criticized because the audience may not always get enough law to understand the issues as I might wish that they would. There are times when I criticize the show because it could have done better with the law without sacrificing the plot.

At its best, however, the show may make the audience examine their own feelings and views, including the difference between how one behaves and how one would like to behave. "[T]he legal dispute always has political content, raising the issue of the connection between law and justice."<sup>45</sup>

In the episode, "The Playing Field,"<sup>46</sup> the viewers meet child attorney Oren Koolie. As they learn, he is such a prodigy that children his own age want nothing to do with him. Being a lawyer may be the only way that he can have real interactions with people—by subpoenaing them. If the primary focus of *Ally McBeal* is the search for love, the second, and perhaps overlapping one, is arguably disability, although sometimes it is exhibited in unusual ways.

Child prodigy Oren Koolie's disability may be too much intelligence too soon, but he is not alone in being a character who is "different." Partner and super attorney John Cage is a stutterer with a number of techniques to lessen his condition. Other episodes of the show presented actress Ann Heche as a woman with Tourette's Syndrome.<sup>47</sup> Other disabled characters include a witness with "an awkward tick that causes his arms to shoot out at inopportune moments"<sup>48</sup> and a "sexaholic" trying to annul his marriage on the ground that he was "incompetent at the time of the ceremony."<sup>49</sup>

There is no doubt that the audience is sometimes invited to laugh at the humor of these characters and that may be distressing. For example, the woman with Tourette's Syndrome sets off John Cage's own voice problems in a humorous way. At the same time, the characters are presented sympathetically, and the eventual message seems to be that human beings are all different and all struggling. The viewers feel empathy with those who are struggling and realize that all humans are struggling.

Thus, *Ally McBeal* leaves the viewer unsure about how to feel. Has the show trivialized the handicapped or encouraged empathy? Has it used serious issues merely for cheap humor, or has it connected viewers with the

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45. Denvir, *supra* note 22.

46. *Ally McBeal: The Playing Field* (Fox television broadcast, Mar. 16, 1998) [hereinafter *The Playing Field*]; see also TV Central, *supra* note 3.

47. See *Ally McBeal: Reasons To Believe* (Fox television broadcast, Jan. 8, 2001); see also TV Central, *supra* note 3.

48. *Ally McBeal: Saving Santa* (Fox television broadcast, Dec. 13, 1999); see also TV Central, *supra* note 3.

49. *Ally McBeal: Love Unlimited* (Fox television broadcast, Jan. 18, 1999); see also TV Central, *supra* note 3.

humanness of all people? Or, has it done both of those things? This is the continual mixed game plan of *Ally McBeal*, and part of the reason that the show drew such an emotional response, both positive and negative. The message of the show was not easy to pin down, and there was enough in *Ally* to support almost any analysis.

This same mixed and opposite phenomenon can be seen in the character of Richard Fish. He embodies every lawyer joke and stereotype that one can imagine. He cares only for money, does not know or care much about the law, is outrageously sexist, and seems indifferent to issues of justice.<sup>50</sup> Is David Kelley telling viewers that real lawyers are like this, or is he piling it on, using every negative, silly, outrageous, and weird image of lawyers he can think of in order to show how overblown the “lawyer joke” image of lawyers actually is? Or is he having it both ways?<sup>51</sup> Fish is an unfair and objectionable image of lawyers if taken seriously, but understandable if he is really a commentary on stereotypes.

*Ally McBeal* consistently raises and to varying levels explores legal themes and legal personae. It seems that each show has at least one and often several legal cases or issues moving the plot forward and lawyers and judges are consistently seen doing their jobs. Yet, the legal issues and themes are also tools or devices for addressing larger issues, issues that can have a legal component but that transcend the merely legal. *Ally McBeal* is a show that puts relationships at the center of its concerns. It explores the search for love and reveals the strange complexity, vulnerability, and handicaps that all of people face in the quest.

The show is in many ways skeptical about the question of whether law and lawyers can really solve the most important questions facing people in the struggle to live a happy, connected, and fulfilling life. To the extent that the message received by the audience is that anti-discrimination laws are silly, that the law in general is pointless, or that lawyers in general are doing

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50. See *The Playing Field*, *supra* note 46. “In court, Fish addresses the judge, arguing that disgruntled lesbians were the driving force behind sexual harassment laws, and that women should qualify under the Federal Disabilities Act, as they cannot cope with office romances.” *Id.*

51. In another on-line article John Denvir wrote:

That’s why her firm’s managing partner, Richard Fish (Greg Germann), is so happy; he’s crazy. Kelley has made Fish the incarnation of everything people hate about lawyers. He’s greedy, aggressive, insensitive, crude, and gleeful. Completely without social conscience, he sees the highest objective in law to be the accumulation of large amounts of money. He confessed once to *Ally* that he becomes sexually aroused while studying his stock portfolio. I think Kelley is suggesting that Fish is a successful lawyer, not despite his limitations, moral and imaginative, but because of them.

John Denvir, *Legal Tender: Reconsidering Ally McBeal*, PICTURING JUST., at <http://www.usfca.edu/pj/ally-denvir.htm> (last visited Feb. 25, 2003).

bad things, there are genuine grounds for concern. If, however, the audience understands that the show's point is that law alone cannot solve all problems without a change in the human spirit, this is a message that is worth receiving.

At the end of the day, what can be said is that there *are* enough legal themes in *Ally McBeal* to make it a legal show and that the treatment of law in the show is susceptible to different understandings—different enough to lead to contradictory conclusions. It may be this sense of mixed messages that makes the show so interesting, drawing both praise and condemnation.

#### IV. IS ALLY MCBEAL A BAD ROLE MODEL?<sup>52</sup>

To ask whether the character of Ally McBeal is a bad role model invites the question "bad role model for what?"<sup>53</sup> There seem to be at least two potential candidates. First, it may be that Ally is a bad role model of a lawyer and second, that she is a bad role model of a woman.<sup>54</sup> The first is primarily a professional critique, and the second is primarily a feminist one.

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52. This passage might suggest that at least some think so. "This Court cannot oversee how the electronic media portrays the judicial system and the legal profession, nor can we control the content of television programs such as *Judge Judy* and *Ally McBeal*. We do have the authority, however, to regulate lawyer advertising." Amendments to Rules Regulating the Fla. Bar, 762 So. 2d 392, 406 (Fla. 1999) (per curiam) (Wells, J., concurring in part and dissenting in part). On the other hand, it was reported that a potential juror "who watched the series *Ally McBeal* observed that 'lawyers looked better on TV.'" *State v. Pappasavvas*, 751 A.2d 40, 53 (N.J. 2000).

53. It can be argued that it is not fair to focus only on the character of Ally McBeal herself. There are other women lawyers on the show. Yet, the show focuses on and is named after Ally, and she is the one who has drawn the most negative comment from critics.

54. Of course, what is a good woman is also subject to different interpretations. For example, one article from a web site on women and Islam seems to argue that it is Ally's insistence on a career that makes her unhappy and a bad role model. M.A. Muqtedar Khan, *Ally McBeal: Between Success and Despair*, at [http://www.themodernreligion.com/women/w\\_ally.htm](http://www.themodernreligion.com/women/w_ally.htm) (last visited Feb. 25, 2003).

Ally is a feminist's dream come true. She walks tall in a Man's world. She goes to an elite law school (dumps her childhood boyfriend for a higher ranked and prestigious college), works for an exciting yet controversial and high profile law firm packed with successful and beautiful young people. Everything is hunky dory except for the fact, that there is no man in Ally's life. The show takes her success for granted and [focuses] more on the despair that constantly prevents Ally from enjoying her success.

*Id.* The article goes on to say, "I find it terrifying that there are millions of Ally's out there" and concludes

Is Ally's life, so full of promise and so full of opportunities, so sadly drowned in despair, a victim of this lacuna in the feminist agenda? I think [it's] time we began to ask, not how women can have what men have? [B]ut rather what can make, both men and women, happy?

*Id.*

The two grounds for criticism merge, and the central complaint has generally been that Ally is a bad role model for professional women lawyers.<sup>55</sup>

On the one hand, Ally<sup>56</sup> is a successful lawyer.<sup>57</sup> She often wins her cases and is generally portrayed as smart and effective in court.<sup>58</sup> Yet, she is also insecure and would like very much to find a man who will love her. It can be argued that she spends more time on her personal life than on her cases.<sup>59</sup> And her biological clock is also ticking loudly. The recurring hallucination<sup>60</sup> of the dancing baby can be understood to mean that Ally, for all

55. In another on-line article, one author writes:

*Ally McBeal* is a particularly interesting example, not only because it is the culture craze *du jour*—it has suddenly appeared on half the magazine covers in America—but because it speaks so directly to the lives, politics, and values of one of the most interesting groups in our culture: young women still sorting out their relatively recent invasion into traditional male work bastions, like law.

Jon Katz, *Deconstructing Ally*, HOTWIRED, Mar. 17, 1998, at [http://hotwired.lycos.com/synapse/katz/98/11/Katz1a\\_text.html](http://hotwired.lycos.com/synapse/katz/98/11/Katz1a_text.html).

56. It should be noted that Ally fits well in the firm of Cage & Fish. Both the female and the male lawyers are quirky and strange. Many are effective legal advocates but less successful in finding love. Thus, this is not a show where only the women are portrayed as quirky or less than “together” or where only women are portrayed as needing a relationship. On *Ally McBeal*, everybody is a mess and everybody is struggling.

57. Ally is successful despite the fact that her actions would not always be successful in the real world. Although Ally often discusses her personal life in her closing arguments, so does John Cage. Both lawyers manage to make such personal references relevant and both often win.

58. “While inside the courtroom these characters are confident and capable lawyers who are not afraid to stand up for what they believe in, outside the courtroom they are fairly self-conscious and insecure individuals who must look to each other for support and advice.” Brett Kitei, Comment, *The Mass Appeal of The Practice and Ally McBeal: An In-Depth Analysis of the Impact of These Shows on the Public’s Perception of Attorneys*, 7 UCLA ENT. L. REV. 169, 181 (1999).

59. One writer has described her in this way:

As an attorney, Ally McBeal’s character embodies virtually every stereotype of female attorneys which my friends and I have attempted to overcome professionally since we began practicing law . . . . As attorneys, my friends and I seek respect for our skills and strive to overcome the stereotype that women are more concerned with dating and finding a husband than dedication to their careers. This is not to say that family and social lives are not important, but how are we to gain the confidence of our clients if they believe that we are innately unable to focus on their legal problems? Each of us realizes that our clients are putting trust in us for competent representation. Ally McBeal, on the other hand, has the emotional maturity level of a seventh-grader and seems more concerned with her personal trials and tribulations than with her professional practice.

Lisa Friedman, *Don’t Call Me “Ally,”* PICTURING JUST., at <http://www.usfca.edu/pj/ally-friedman.htm> (last visited Feb. 26, 2003).

60. Ally refers to it as a hallucination rather than a fantasy in the episode “Cro-Magnon.” See *Cro-Magnon*, *supra* note 32.

her career success, will not be happy without a child.<sup>61</sup> She is also constantly looking for her soul mate—a man. While this is certainly not so for all women, it is for many. Thus, this aspect of Ally appears to address fundamental issues with which many women struggle today,<sup>62</sup> but issues that could be understood as downplaying the importance of careers for women in favor of more traditional roles.

The June 29, 1998, issue of *Time* magazine<sup>63</sup> featured a cover with Susan B. Anthony, Betty Friedan, and Gloria Steinem fading into Ally McBeal. The caption was "Is Feminism Dead?" If the article did not quite match the headline, it at least seemed to wonder whether feminism had turned into self-indulgent personal navel gazing by pop-icons masquerading as feminists to the detriment of real progress.<sup>64</sup> There seems, in the article, to be a genuine disgust that some who call themselves feminists are exploring their sexuality or their not-always-nice idiosyncratic personalities.<sup>65</sup> That is, some feminists are trying to make sense of the idea that they are individuals with as much baggage, strangeness, quirkiness, and self-centered impulses as—heaven forbid—men.

The article would have a stronger point if feminists were not still fighting for legal reform, speaking up for social equality and opportunity, or doing the organization and political work that social change requires. In fact, the article essentially admits and downplays the continuing work and the real gains in political, social, and legal clout in order to wring its hands about the fact that some feminist women are exploring more personal issues—and ones that seem to resonate with a lot of women. The article bashes both New York feminists and popular culture icons from plays and books such as *The Vagina Monologues*<sup>66</sup> and *Bridget Jones's Diary*<sup>67</sup> to *Ally McBeal*.

The rap on Ally is that she is not shown as cool, calm, and in-control. She is offered as an example of "a popular culture insistent on offering im-

61. "Ally McBeal, Fox TV's single, sexy, got-it-all-goin'-on attorney is turning thirty this season. She grows more panicked and neurotic with each episode. How tragic to admit: always a bridesmaid and never a bride." Cheryl Hanna, *Bad Girls and Good Sports: Some Reflections on Violent Female Juvenile Delinquents, Title IX & the Promise of Girl Power*, 27 HASTINGS CONST. L.Q. 667, 707 (2000).

62. In the final season, Ally finds out that she has a child and eventually leaves the firm to care for her when a move away from Boston is needed for the child's psychological health. *Ally McBeal: Bygones* (Fox television broadcast, May 20, 2002); see also TV Central, *supra* note 3. It is also mentioned that Ally will find legal employment in her new domain.

63. Bellafante, *supra* note 4.

64. *Id.*

65. *Id.*

66. See *The Vagina Monologues*, at <http://www.vaginamonologues.com> (last visited Feb. 26, 2003).

67. BRIDGET JONES'S DIARY (Miramax Films 2001).

ages of grown single women as frazzled, self-absorbed girls.”<sup>68</sup> The article notes, “Ally . . . is in charge of nothing, least of all her emotional life.”<sup>69</sup> The article asserts, “The problem with Bridget [Jones] and Ally is that they are presented as archetypes of single womanhood even though they are little more than composites of frivolous neuroses.”<sup>70</sup> In other words, Ally is self-obsessed when she ought to be outwardly focused on political activism. Erica Jong’s on-point retort to this article was that “‘self-obsession’ is code for women concentrating on women when we ought to, of course, be concentrating on men.”<sup>71</sup>

The point of Ally is that many women who have benefited from feminism and now have more choices may find those choices in conflict and seemingly overwhelming. How to balance career, romance, children, and their own expectations in a world that has not always changed interpersonally as much as it has legally?<sup>72</sup> Also, Ally tells audiences that many women are increasingly unwilling to act as either super women or members of revolutionary cadres sacrificing themselves to the cause and that they are increasingly ready to talk about the difficulties of being everything they want to be and have been told they can and should be.<sup>73</sup> Ally also tells women that they can succeed even though they *do not* have all the answers and that maybe nobody does. This may explain the popularity of Ally and Bridget

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68. Bellafante, *supra* note 64. A similar point is made in an article arguing that teenage girls on television, such as Buffy in *Buffy the Vampire Slayer*, are often portrayed as more mature than women in their twenties on shows such as *Ally McBeal*. Jane Rosenzweig, *Ally McBeal's Younger Sisters*, AM. PROSPECT, Nov. 23, 1999, available at <http://www.prospect.org/print/V11/1/rosenzweig-j.html>.

69. Bellafante, *supra* note 64.

70. *Id.*

71. Erica Jong, *Ally McBeal and Time Magazine Can't Keep the Good Women Down*, N.Y. OBSERVER, July 13, 1998, at 19, available at <http://www.ericajong.com/nyobserver980713.htm>.

72. I am not saying that feminism has won and the world is now equal. Power inequities continue at all levels and so do the struggles to rectify them. So too, the opportunities for women still depend on education and class. Ally represents a small group of women—economically independent, highly educated, and engaged in a profession that grants both financial rewards and mobility. But it is not a fair attack on *Ally McBeal* to say that it considers the issues of such women rather than those of women in a different situation. Surely there is room in popular culture for both *Norma Rae* and *Ally McBeal*.

73. “The success of *Ally McBeal* is also a thump on the head for journalism, a reminder that women are still going through enormous social upheaval and want to see, read, and hear programs and stories that reflect the complexity of their own lives.” Katz, *supra* note 55.

among many women.<sup>74</sup> Some women may say, "Well, I am not as messed up as Ally, but I recognize her conflicts and struggles as those I feel too."

In an essay focusing on Ally McBeal as a role model,<sup>75</sup> the author argued that "[Ally] personifies typical conflicts that arise from an increasingly [individualized] society—thus conflicts that we all face in our daily life. Consequently, Ally McBeal can provide support and help us to cope with them."<sup>76</sup> Basically, Ally lives in a world very much like that of today's society, where the old structures are breaking down and the question is what new ones will be found or created to allow people to live happy and productive lives.<sup>77</sup> "Living in Western societies today confronts the individual with an infinite number of choices how to live one's life, but it offers only limited guidance in how to make them."<sup>78</sup>

Ally is not a traditional role model and is probably not a good role model for how to climb the partnership ladder in a traditional large law firm today. It is also doubtful that her fans want to be just like her—instead, they want to find ways to be better, to solve the conundrums that cause Ally so much pain. Rather, her fans see in Ally's struggles and her unwillingness to quit inspiration for their own continuing struggles with the modern world in which they find themselves. Ally offers comfort that the viewer's struggles are real—that the viewer is not alone. Ally confirms that there is not anything wrong with the viewer who is having a hard time making all of the pieces fit neatly together. If Ally does not have all the answers, she at least

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74. "To many women, Ally is quirky, contradictory and wonderful; to many men, she is a simpering drag." James Collins, *Woman of the Year: Confused and Loveable? or a Drag? Taking Sides on Fox's Surprising New Hit*, TIME, Nov. 10, 1997, at 117.

In my view, a television series (as opposed to a feature film or a one-shot made for television movie) needs to feature 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. That's certainly the case with relationship shows like *Ally McBeal*, a character whom vast numbers of young professional women find empathetic.

Asimow, *supra* note 10, at 557–58.

75. Judith Schroeter, *The Ally McBeal in Us: The Importance of Role Models in Identity Formation*, at <http://www.theory.org.uk/ally.htm> (last visited Feb. 26, 2003).

76. *Id.* "One main characteristic of late modernity is its reflexive character, which implies that the certitudes of industrial society are no longer taken for granted, but that they are constantly questioned." *Id.*

77. In another article, the author writes:

Ally, on the other hand, is clearly not "partner track" material. It's hard to imagine her weekly "billable" hours ranging much above the teens. Ally's much too busy figuring out life to become a "successful" lawyer. Yet, I would argue she's a much more "revolutionary" figure than Lindsay [a female lawyer on David Kelley's other lawyer show, *The Practice*] . . . Ally represents a new breed of lawyer.

Denvir, *supra* note 51.

78. See Denvir, *supra* note 22.

suggests that it is worthwhile to continue to do one's best to muddle through.<sup>79</sup>

Ally McBeal, seen in her entirety, is not a good role model in the traditional sense . . . . [S]he is far too neurotic to function as an example.

However, to a certain extent, Ally McBeal can be seen as a typical human in modern society that desires to live a life of her own and struggles with identity matters that arise from the conditions of late modernity. Thus, she can serve as a role model in that respect that she provides "emotional" support and through that, a kind of guidance. This corresponds with the results of the role model survey of Margaret Nauta and Michelle Kokaly which "suggest the importance of [recognizing] that persons perceived as role models may be able to facilitate [other persons'] development via their support and guidance as well as via the degree to which they provide inspiration and modelling."<sup>80</sup>

Although Ally is not presented realistically, and viewers are often invited to eavesdrop on her fantasies and unrevealed rich emotional life, at the end of the day Ally McBeal is a person struggling with the complexities, absurdities, and emotions of life. She is unwilling to sacrifice her career desires for her quest for love or vice versa. She does not see why she should act or dress or be as others want her to be.<sup>81</sup> She wants to succeed on her own terms and by her own definition. She acknowledges her insecurities and the difficulty of her personal struggles. She is not willing to pretend that her choices are not hard. Nor is she willing to be defeated by the difficulties. Thus in Ally McBeal, viewers see a woman that resonates with many "post feminists"—that generation that, because they are reaping the benefit of the earlier feminist pioneers, find they have the ability, some might even say the

79. One writer notes:

Maybe [the audience was] never meant to take Ally—or her colleagues—at face value. Rather than sport an individual personality, Ally simply embodied certain ideas about late [twentieth] century living, personifying such existential abstractions as loneliness, regret, longing and melancholy, just as, in the medieval morality play "Everyman," the characters personified "fellowship" or "good deeds." But Ally also emphasized the tensions between those ideas and her own will and desires. As she told her newest boyfriend Victor, after he rather vengefully bought her a ticket to Detroit so that she could go "resolve her issues" with her ex-boyfriend Larry, "This *mess* is my life."

Chocano, *supra* note 7.

80. See Schroeter, *supra* note 75.

81. A lot of criticism of the show has focused on Ally's short skirts. Some have argued that they are unprofessional and that nobody would take her seriously. Ally would probably say that it is none of anyone's business how she dresses and that if someone does not take her seriously on that account, they will when she beats them in court. Some years ago a female attorney in Fort Lauderdale was held in contempt by a judge because the lawyer's skirts were too short. The world of Ally McBeal is not yet the world of reality.

luxury, of fighting not just for a career but for harmony in their lives. Ally tells them to keep struggling and that the struggle is worthwhile.

## V. CONCLUSION

Looking at *Ally McBeal*, analysts find a very mixed bag indeed. On the negative side, it can be argued that *Ally* adopts some of the stereotypes of bad lawyers, including avarice and questionable ethical principles. Some lawyers are portrayed as knowing little about the law. Lawyers are played for laughs, as are some very serious issues that continue to confront real life society.<sup>82</sup> Ally herself is a sexy basket case hanging on to reality by a thread. Sometimes legal issues are portrayed in a cursory fashion, and it is not unusual to find serious issues such as sexual harassment and disability law presented as silly or unreasonable. There is a general theme in the show that the law is trying to control foibles of human behavior that are beyond its ability and the results are sometimes funny in the "roll your eyes" manner.

On the positive side, however, the show suggests that women need not be super heroes to succeed and that education and intelligence do not guarantee happiness or emotional stability. These must be earned through constant struggle. If Ally, herself, is riddled with doubt and uncertainty, she continues on anyway, unwilling to be defeated or to compromise in order to succeed. If there is some humor derived from images of the unusual and the vulnerable, the eventual perspective is generally compassionate. From the Biscuit (John Cage) with his stammers and strange character traits (he is also the best litigator in the firm), to Clare Odoms, masking her loneliness with the persona of an infantry assault, the audience is allowed to smile and even laugh at times, but finally comes to see difference as normal and to understand that all people are different behind their masks. In the end this is also the legal message of the show. Not that laws against harassment or disabilities discrimination are bad, but only that no rule in law will fix all wrongs until humanity becomes more welcoming and accepting of difference and vulnerability that all people, in one way or another, share.

Thus, while *Ally* is less focused on the legal details of its issues, it does try to present some more general human themes that lay behind them. It is

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82. One author writes:

The problem is that when you start exploring issues such as sexual harassment, rape, and discrimination, you come upon things that are no laughing matter. But time after time, *Ally & Co.* dance around the more fundamental societal problems underpinning such issues: the entrenched and unequal relationships of power between men and women, as well as among people of different races.

Elisabeth Friedman, *Is Ally Our Ally?*, PICTURING JUST., at <http://www.usfca.edu/pj/ally-no-ally.htm> (last visited Feb. 26, 2003).

clear to the watcher that the heroes are themselves vulnerable and different and the watcher's empathy for them carries over. While feminists can justifiably criticize the character of Ally for not representing the reality of many women and for not providing a good role model for political struggle and change, Ally seems to speak to a generation of young, educated, professional women who take the legal victories of feminism for granted and now find themselves trying to make a life out of the opportunities that the laws provide and the social and personal realities that are slower to change. These young women may live in a world where career, romance, marriage, and children seem to be both deeply desired goals and almost impossible balls to keep in the air. It strikes me that *Ally* was talking about what *Sex and the City*<sup>83</sup> is talking about, and *Ally* was doing it a lot earlier.

Another possibility is that one should not view *Ally McBeal* alone. David Kelley created two shows about lawyers. Perhaps the two should be taken together, with *The Practice*<sup>84</sup> being the more traditional law show where legal issues get a more expanded treatment, and with *Ally* being the counterpoint—where the offbeat, outrageous, funny, and strange comments and thoughts of the creator find a home.<sup>85</sup>

Another understanding of *Ally McBeal* is that while it uses legal structure and legal cases, its aim is not to focus on those issues like traditional law shows might but rather to find some deeper or more general understanding. As Chris Jackson remarked:

Ally's character indeed presents a strong "professional in progress" role model. Her courtroom tactics may be feeble, but she struggles to arrive at truths she can believe in. The show's extensive use of music directs our attention to how Ally puts herself on trial. *Ally McBeal* is more about personal law, finding a balance between professional and private goals, hearing the music of inner justice.<sup>86</sup>

Still another comment, although I hesitate to suggest it, is that *Ally McBeal* is a better show for those who understand how unrealistic it is because it gives them a break from the seriousness of the issues that *Ally* covers, such as sexual harassment and discrimination. But if the show is to be taken seriously, a more negative evaluation might be made.

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83. *Sex and the City* (HBO television series, 1998–present).

84. *The Practice*, *supra* note 13.

85. With the Fox television show, *Girls Club*, David E. Kelley may have been trying to blend a more typically dramatic legal show with a focus on the personal issues that were so central in *Ally McBeal*. The series, which debuted on October 23, 2002, followed several young female associates at a major law firm in San Francisco. It focused on issues of gender, sex, and career. It has since been cancelled. See *Girls Club* (Fox television series, 2002).

86. Chris Jackson, *The Music of Inner Justice in Ally McBeal*, PICTURING JUST., at <http://www.usfca.edu/pj/ally-music.htm> (last visited Feb. 26, 2003).

How one feels about *Ally*, and what sort of goodbye one cares to give it, may depend on how one sees the balance of these negative and positive qualities.<sup>87</sup> No wonder *Ally* has been controversial and much debated. Perhaps the obvious fact that the show managed to strike a nerve and caused viewers to react and to think about important issues, and sometimes to laugh at them, is part of why it is worth talking about. Its contradiction may be its most important facet. So goodbye, *Ally*, you kept us thinking, laughing, tearing our hair, gnashing our teeth, and trying to figure out what we should think about you. Not bad for a television dramedy.

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87. It is not unusual for people to have different and sometimes changing views of *Ally McBeal*. See, for example, three articles by Professor John Denvir from the web site, *Picturing Justice*. The initial article is largely negative, but the next two find both positive and negative aspects to the show. "And while law is no more central to *Ally McBeal* than local television news was to *The Mary Tyler Moore Show*, its images of law are both powerful and negative." John Denvir, *Girl Lawyers and Boy Lawyers*, PICTURING JUST, at <http://www.usfca.edu/pj/articles/mcbealnhayes.htm> (last visited Feb. 26, 2003).

So I think that most of the criticisms of *Ally* are simply wrong, but there is another criticism which I think is right on point. Ally herself is never shown as a competent professional. It's always Cage making the eloquent jury summation while Ally makes small talk back at the office. Even worse, she's often engaging in inappropriate behavior in court.

Denvir, *supra* note 22. "Ally represents a new breed of lawyer." Denvir, *supra* note 51. "So *Ally McBeal* is calling for a whole new concept of law and lawyering—one which gives a whole new meaning to the phrase 'legal tender.' Of course, it could never work in the 'real' world. Could it?" *Id.*

