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CAUTIONARY TALES: THE WOMAN AS LAWYER IN CONTEMPORARY HOLLYWOOD CINEMA

*David Ray Papke**

The status of women within the legal profession is uncertain. Many women have successfully freed themselves of gender restrictions and assumed positions of power and prominence as lawyers. Some men praise women's accomplishments and are themselves comfortable with female colleagues and even female superiors. A new society of full gender equality, however, is hardly in place. While some women thrive as lawyers, others back away from career success or sense an emptiness in their professional lives. While some men welcome their new female colleagues, others are uneasy with their presence and try to impede their advancement. As Mona Harrington has stated, "Because the stakes are so large, forces of reaction operate strenuously to reverse the direction of change and to define some new order of inequality."¹

A related tension regarding women's roles in the legal world reigns outside actual law firms, prosecutors' offices, and law school faculties in the realm of American popular culture. Films, television, and mass fiction are rife with contradictory portrayals of female lawyers. Paying particular attention to films of the 1980s and 1990s, this article will note Hollywood's growing willingness to portray and feature female lawyers. But this article cannot proffer a simple, happy tale of progress for women in the pop cultural legal profession. Female lawyers in contemporary film are often conflicted. Their professional tasks and traditional gender imperatives crash and collide. The woman as lawyer has to resolve conflicts with traditional responsibilities as daughter, wife, mother, and self-sacrificing lover. The resulting imagery might even be seen as a cautionary tale for women so bold as to hang up a shingle.

I. EARLY FILMS WITH FEMALE LAWYERS

Although this article focuses primarily on films of the last two decades, films featuring female lawyers did not appear for the first time during that period. Some of the earlier films merit attention, albeit not sustained critical praise. The earlier films' images and themes to a certain extent prefigure those of the films from the 1980s and 1990s, but the earlier films are much more limited in their cinematic commentaries on women in the legal profession.

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1. MONA HARRINGTON, *WOMEN LAWYERS: REWRITING THE RULES* 7 (1994).

*The Reckoning Day*² is perhaps the earliest film featuring a female lawyer.³ Produced by the Triangle Film Corporation, an early powerhouse in the industry, the film introduced viewers to a young, appealing lawyer named Jane Whiting. Her command of the law and mastery of practitioner's skills are not on display, but that would be a lot to expect during the World War I era in a film less than one hour in length. At least attorney Whiting was able to expose a nefarious gang of spies and rescue the young son of a noble senator.

A sizable group of films with female lawyers also appeared during the 1930s, a surprising development considering the small number of women who practiced law during the Great Depression. According to one scholar, in 1935 women constituted only one percent of all the lawyers in the United States.⁴ Reflecting on the contrasting numbers of female lawyers in the cinema and in the real-life bar of the 1930s, Rennard Strickland, today the Dean of the University of Oregon Law School, quipped, "There were probably more women lawyers on the screen in the thirties than there were in the courtroom."⁵

Most of the films of the early 1930s were short, and many were on Hollywood's "B list."⁶ The first was *Scarlet Pages*,⁷ in which actress Elsie Ferguson reprised an earlier stage performance as a lawyer. She defends a handsome female nightclub entertainer accused of murdering her adopted father when the latter attacked her. In *Drifting Souls*,⁸ another largely forgotten film, a playboy marries a woman in order to create an alibi in a manslaughter prosecution. But the woman is a lawyer who falls in love with the accused and succeeds in defending him without relying on the constructed alibi.

Less convoluted than either of these films was *Ann Carver's Profession*,⁹ starring Fay Wray of *King Kong*¹⁰ fame as attorney Ann Carver. The latter's architect husband is resentful that Carver's income is larger than his

2. THE RECKONING DAY (Triangle Film Corp. 1918).

3. For a brief discussion of *The Reckoning Day*, see Louise Everett Graham & Geraldine Maschio, *A False Public Sentiment: Narrative and Visual Images of Women Lawyers in Film*, 84 KY. L.J. 1027, 1033 n.35 (1995).

4. Hannah C. Dugan, *Does Gender Still Matter in the Legal Profession?* WIS. LAW., Oct. 2002, at 10, 12.

5. Rennard Strickland, *Bringing Bogie Out of the Courtroom Closet: Law and Lawyers in Film*, GARGOYLE: UNIV. WIS. L. SCH. F., Spring 1990, at 9.

6. For discussions of Hollywood movies from the 1930s with female lawyers, see ROGER DOOLEY, FROM SCARFACE TO SCARLETT: AMERICAN FILMS IN THE 1930S, at 317-18 (1979), and Ric Sheffield, *On Film: A Social History of Women Lawyers in Popular Culture 1930 to 1990*, 14 LOY. L.A. ENT. L. REV. 73, 74-87 (1993).^f

7. SCARLET PAGES (First National Pictures, Inc. 1930).

8. DRIFTING SOULS (Tower 1932).

9. ANN CARVER'S PROFESSION (Columbia Pictures 1933).

10. KING KONG (RKO Radio Pictures 1933).

own, but in the end has good reason to be thankful he married a lawyer. Carver successfully defends him when he is charged with murder. She then gives up her career in order to eliminate the tensions that existed in her marriage.

In the mid-1930s films with female lawyers continued to appear. Jean Arthur played a lawyer in *The Defense Rests*,¹¹ and Claire Trevor did the same in *Career Woman*.¹² In *The Law in Her Hands*,¹³ Margaret Lindsay and Glenda Farrell played law partners. The former ceased defending gangsters because of a request by an attractive, affectionate, and idealistic assistant district attorney. Indeed, she is so convinced of the error of her ways that she institutes proceedings for her own disbarment!

*Portia on Trial*¹⁴ was perhaps the most controversial of the films from the 1930s. Frieda Inescort played attorney Portia Merriman, who defends a young woman charged with shooting the son of an arrogant publisher. Merriman exonerates her client and exposes the evil past of the publisher. In the midst of it all, Merriman finds her true love in the person of the prosecutor. The controversy related less to the multiple violations of professional ethics in the film than it did to the alleged immorality of the Merriman character. She had, it seems, stumbled into an affair and become pregnant as a teenager. The Los Angeles Bar Association asked the Motion Picture Producers and Distributors Association, an industry censor, to review and excise this part of the story.¹⁵ The Association declined, but did point out that such youthful indiscretion in real-life would, in some jurisdictions, disqualify a woman as a lawyer.¹⁶

The most famous and enduring of films from earlier in the century featuring a female lawyer is the comedy *Adam's Rib*,¹⁷ in which husband and wife lawyers played by Spencer Tracy and Katharine Hepburn square off in the courtroom and bedroom.¹⁸ Tracy and Hepburn had a special knack for screwball comedy, but were also somewhat unusual Hollywood stars. Tracy was relatively short and even a bit chunky, and according to Molly Haskell, "Hepburn had grown older, the face that once blushed in gracious concession to femininity now betrayed in no uncertain terms the recalcitrant New England spirit."¹⁹

11. *THE DEFENSE RESTS* (Columbia Pictures 1934).

12. *CAREER WOMAN* (20th Century Fox 1936).

13. *THE LAW IN HER HANDS* (Warner Bros. 1936).

14. *PORTIA ON TRIAL* (Republic Pictures 1937).

15. See Sheffield, *supra* note 6, at 80–81.

16. *Id.* at 81–82.

17. *ADAM'S RIB* (MGM 1949).

18. For a plot summary of *Adam's Rib*, see PAUL BERGMAN & MICHAEL ASIMOW, *REEL JUSTICE: THE COURTROOM GOES TO THE MOVIES* 86–90 (1996).

19. MOLLY HASKELL, *FROM REVERENCE TO RAPE: THE TREATMENT OF WOMEN IN THE MOVIES* 227 (2d ed. 1987).

Out of their complementary incongruities, they created one of the most romantic couples the cinema has ever known. His virility acts as a buffer to her intelligence; she is tempered by him just as he is sharpened by her, and their self-confidence is increased, rather than eroded, by their need for each other.²⁰

Adam's Rib itself fits within a special subset of screwball comedies involving not incongruous couples finding love but rather married couples seeming to pull apart only to come back together again.

The narrative strategy in these films is to situate the screwball couple's embrace not at the film's end, but well before its opening. The couple is already socially integrated—they've already married—and the films trace their efforts, both individually and together, to maintain some kind of identity within that most traditional of all social institutions.²¹

In the course of *Adam's Rib*, we observe the happy Bonners at home, watch them pull apart, and then enjoy their reconciliation. The home itself is an elegant, two-story apartment with a maid. Rather than squabbling over who gets the morning newspaper, the haute-bourgeois Bonners take for granted their "his and her" copies. Trouble arrives in paradise when Adam Bonner, a district attorney, launches the prosecution of one Doris Attinger for the attempted murder of her husband, whom she caught with his lover. Amanda Bonner, a private practitioner, takes up the defense on a pro bono basis. She argues that the supposed unwritten rule that allows husbands to retaliate when they catch their wives with lovers should also apply to wives who catch their husbands. Amanda trounces Adam in the courtroom and in the press, and Adam, announcing he wants a wife instead of a competitor, moves out. The Bonners seem headed toward divorce, particularly after Amanda proves susceptible to the ludicrous advances of a playboy named Kip Lurie, who lives in the next apartment. But recall this is a screwball comedy, and the genre demands a happy ending. After Adam feigns a teary breakdown while the Bonners are meeting with an accountant to discuss the distribution of the marital estate, the Bonners reconcile. Before long, they are back in the happy, luxurious setting where viewers first met them, and Adam tells Amanda that the local Republicans want him to run for judge. Warming her toes before the fire, Amanda wonders, "Mmmmm, have the Democrats chosen a candidate yet?"

Produced over more than a thirty-year period, these early films featuring female lawyers resist a unitary characterization. But the most evident theme in the films involves the domestic conflict that results when a woman

20. *Id.*

21. THOMAS SCHATZ, HOLLYWOOD GENRES: FORMULAS, FILMMAKING, AND THE STUDIO SYSTEM 163 (1981).

practices law. Some of the women carry on despite troubles at home. Some give up the practice of law. Almost all experience conflict. "The dominant theme focused primarily, if not exclusively, upon how ambition and consequent sacrifices of the professional woman took their toll upon her personal life (i.e., her ability to find happiness with a man)."²²

II. CONTEMPORARY FILMS

The films with which this article is primarily concerned are products of the 1980s and 1990s, and to some extent changes in the American legal profession are reflected in these films. As already mentioned, few women practiced law in the United States during the first two-thirds of the twentieth century. One percent of the bar were women in the 1930s, and only 2.5% were women in 1950.²³ As late as academic year 1969–70, only 6.3% of degree candidates in all law schools were women,²⁴ and not until 1970 did "the Association of American Law Schools prohibit[] sex discrimination in the admissions policies of its member schools."²⁵

Eventually, though, the impact of the women's movement was felt. More and more women looked to law as a career, and barriers in law school admissions offices and the profession came falling down. The great upsurge came during the second half of the 1970s.²⁶ "In 1968 about one-tenth of the law students were women; by 1982 women composed close to one-half of all law students."²⁷ With women graduating from law schools in much higher numbers, the face of the profession began to change. Evidence existed that women disproportionately practiced in the less prestigious parts of the profession,²⁸ but at least one heard less of the old argument that the firm would like to have a woman in the office but there is not an extra bathroom.²⁹

With the face of the profession changing, Hollywood began to produce films featuring female lawyers.³⁰ During the last two decades, in fact, many

22. Sheffield, *supra* note 6, at 75–76.

23. KERMIT L. HALL, *THE MAGIC MIRROR: LAW IN AMERICAN HISTORY* 288 (1989).

24. ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S*, at 234 (1983).

25. See Joan Gershen Marek, *The Practice and Ally McBeal: A New Image for Women Lawyers on Television?*, 22 J. OF AM. CULTURE 77, 77 (1999).

26. HALL, *supra* note 23, at 288.

27. *Id.*

28. See Donna Fossum, *Women in the Legal Profession: A Progress Report*, 67 A.B.A. J. 578, 580 (1981).

29. See STEVENS, *supra* note 24, at 246.

30. Carole Shapiro counts twenty-one Hollywood films with female lawyers produced between 1979 and 1993 and also lists three more films made during the same period in which female characters are identified as lawyers but not shown practicing. Carole Shapiro, *Women*

of Hollywood's biggest female stars played lawyers on the large screen. Mary Kay Place was a public defender who called her clients "extreme repressivos" and admitted she had not expected them to be "so guilty" in *The Big Chill*.³¹ Ellen Barkin was an Assistant United States Attorney enamored with a detective on the take in *The Big Easy*.³² Glenn Close and Rebecca DeMornay became infatuated with clients in *Jagged Edge*³³ and *Guilty as Sin*.³⁴ Debra Winger was an attorney who worked with and against an attorney played by Robert Redford in *Legal Eagles*.³⁵ Cher, believe it or not, was a public defender in *Suspect*.³⁶ Jessica Lange represented her own father in deportation proceedings in *Music Box*.³⁷ Mary Elizabeth Mastrantonio was a corporate lawyer who defended a car-maker in a personal injury action brought by her father in *Class Action*.³⁸ Susan Sarandon took the role of solo practitioner Reggie Love in *The Client*,³⁹ the film version of John Grisham's best seller. Most recently, Ashley Judd and Sandra Bullock played attorneys in, respectively, *High Crimes*⁴⁰ and *Two Weeks Notice*.⁴¹

A parallel trend was also evident on the small screen during the 1980s and 1990s.⁴² Television series which featured female attorneys included *Hill Street Blues*,⁴³ *The Trials of Rosie O'Neill*,⁴⁴ *Equal Justice*,⁴⁵ *Civil Wars*,⁴⁶ *Reasonable Doubts*,⁴⁷ and *L.A. Law*.⁴⁸ The latter was "the first time in television history that a successful prime-time drama has featured several women as lawyers."⁴⁹ A later show, *Ally McBeal*,⁵⁰ also featured several

Lawyers in Celluloid: Why Hollywood Skirts the Truth, 25 U. TOL. L. REV. 955, 962 (1994).

31. THE BIG CHILL (Columbia Pictures 1983).
32. THE BIG EASY (Columbia Pictures 1987).
33. JAGGED EDGE (Columbia Pictures 1985).
34. GUILTY AS SIN (Buena Vista Pictures 1993).
35. LEGAL EAGLES (Universal Pictures 1986).
36. SUSPECT (Tri-Star Pictures 1987).
37. MUSIC BOX (Tri-Star Pictures 1989).
38. CLASS ACTION (20th Century Fox 1991).
39. THE CLIENT (Warner Bros. 1994).
40. HIGH CRIMES (20th Century Fox 2002).
41. TWO WEEKS NOTICE (Warner Bros. 2002).
42. See Christine Alice Corcos, *Women Lawyers*, in PRIME TIME LAW 219, 219-34 (Robert M. Jarvis & Paul R. Joseph eds., 1998).
43. *Hill Street Blues* (NBC television series, 1981-1987).
44. *The Trials of Rosie O'Neill* (CBS television series, 1990-1991).
45. *Equal Justice* (ABC television series, 1990-1991).
46. *Civil Wars* (ABC television series, 1991-1993).
47. *Reasonable Doubts* (NBC television series, 1991-1993).
48. *L.A. Law* (NBC television series, 1986-1994).
49. Diane M. Glass, *Portia in Primetime: Women Lawyers, Television, and L.A. Law*, 2 YALE J.L. & FEMINISM 371, 426 (1990).
50. *Ally McBeal* (FOX television series, 1997-2002).

female attorneys but in a comic setting.⁵¹ Currently *Law & Order*⁵² and *The Practice*⁵³ also include female lawyers as major, continuing characters.

As noted earlier, these are not the first portrayals of female lawyers, but the large number and range of female characters is striking. In the 1950s, 1960s, and 1970s virtually all of the major pop cultural lawyers were men.⁵⁴ During the final decades of the twentieth century, the face of the pop cultural bar changed dramatically. The female lawyer had arrived, but had she?

III. THE CONFLICT BETWEEN GENDER AND PROFESSIONAL LIFE

A. The Conflict Portrayed in Film

It would be too simple to interpret these developments as merely another welcome indicator of women's march toward equality. Yes, women staked out their share of the profession, and this was reflected in Hollywood cinema. But something more complicated and subtle was happening. Many of the female lawyers who appeared in film and television in the 1980s and 1990s did not have the luxury of being independent, criminal defense lawyers who heroically defended people who turned out to be innocent. Female lawyers were different than Perry Mason and his cultural progeny. The women were less independent and worked in more bureaucratic and hierarchical settings—law firms, prosecutors' offices, and public defenders' offices. In addition, they were often frustrated and disappointed in their work. In particular, they were conflicted by what they were losing as women while they worked as lawyers.

Men, who of course continued to appear as lawyers in film and other varieties of pop culture during the period, experience no analogous tension between their roles as lawyers and their roles as men. They did not need to struggle to maintain their masculinity while working as lawyers. They were not unhappy as men because they were lawyers or limited as lawyers because they were men. The profession, after all, has traditionally not only included large numbers of men but also honored such traditional masculine traits as aggressiveness, sharp reasoning, and even physical intimidation.

51. See generally KATHY MITCHELL, *ALLY MCBEAL: THE TOTALLY UNAUTHORIZED GUIDE* (1998).

52. *Law & Order* (NBC television series, 1990 to present).

53. *The Practice* (ABC television series, 1997 to present).

54. One exception was *Willy* (CBS television series, 1954–1955), a short-lived sitcom in which June Havoc played a lawyer. See Sheffield, *supra* note 6, at 93. In 1975 Anne Meara also played a female lawyer in *Kate McShane* (CBS television series, 1975), another short-lived television series. See Michael M. Epstein, *Young Lawyers*, in *PRIME TIME LAW*, *supra* note 42, at 249, 264.

A woman working as a lawyer in a film of the 1980s and 1990s, by contrast, seems out of place. It would be different were she playing the role of a nurse or a teacher—occupations with large numbers of women. Because on one level it involves care-giving, the practice of medicine can also accommodate women in the movies. Women who are lawyers, meanwhile, are destined, at least according to Hollywood, to be conflicted. They have entered an unusually masculine profession. Their entry symbolizes the challenge to patriarchal power, and, seeking conflict and concomitant drama, Hollywood has understandably taken to such portrayals. “[T]he female lawyer film, consciously or not, has gathered up the tensions, anxieties, and contradictions deeply embedded within our culture and history concerning shifting gender roles and demands for rereadings of the law.”⁵⁵

Furthermore, the story of these films as a group is more complex than the tale of domestic or marital conflict in the films spanning roughly thirty years in the first half of the century. That simple theme dominates *Adam's Rib*.⁵⁶ In the 1940s Amanda Bonner's work as a lawyer, to say the least, is not good for her marriage to Adam Bonner. A 1930s female movie lawyer could also harm or destroy her marriage by working and succeeding in her work outside the home. In *The Lady Objects*,⁵⁷ another of the movies from the Depression Era, the female lawyer defends her gangster husband at trial. The advertising panel which theaters could post in their lobbies included in prominent lettering the following confession from the female attorney: “Gentlemen of the Jury! If my husband murdered this other woman . . . I am to blame! I've been a success as a lawyer . . . but a failure as a wife!”⁵⁸

The films of the 1980s and 1990s are more subtle. Most of the career women are unmarried. Their work as lawyers does not offend husbands as much as it contradicts the imperatives of traditional gender roles. The women long for and need certain things as women, but being lawyers greatly complicates their quests for gender fulfillment. The women have chosen to live through their minds, which places them at odds with their bodies. “[M]ind/body stories generally show that a woman cannot cross the line into the world of men without relinquishing something of her womanhood, and suffering for it.”⁵⁹

55. Cynthia Lucia, *Women on Trial: The Female Lawyer in the Hollywood Courtroom*, in *FEMINISM, MEDIA, AND THE LAW* 147 (Martha A. Fineman & Martha T. McCluskey eds., 1997).

56. *ADAM'S RIB*, *supra* note 17.

57. *THE LADY OBJECTS* (Columbia Pictures 1938).

58. See Strickland, *supra* note 5, at 8 (quoting *THE LADY OBJECTS*, *supra* note 57).

59. HARRINGTON, *supra* note 1, at 154.

1. *Lover*

Perhaps most obviously the female lawyers are losing opportunities for heterosexual love. They usually do not have lovers and mates, and when a prospect surfaces, their eagerness to please and attract him often clouds their professional judgment and hurts their legal work. In *Jagged Edge*,⁶⁰ for example, not even a masculine first name allowed Teddy Barnes, the female lawyer played by Glenn Close, to move smoothly in the legal profession. She left an earlier position in a prosecutor's office for an associate's position in a corporate law firm, but an alluring, wealthy client (and the promise of partnership in the firm) draws her back into criminal work, albeit on the defense side. Before long, she is sleeping with her client, disregarding clear indications that he is guilty of murder, and even freezing at trial when unanticipated facts come to light. When she continues to tell herself and others that her client/lover is innocent, a detective and trusted friend asks, "Is that your head talking or another part of your anatomy?"

Similarly, Jennifer Haynes, the attorney played by Rebecca DeMornay in *Guilty as Sin*,⁶¹ loses her professional skills and good judgment when representing a sexy, handsome client with potential as a mate. Haynes has a boyfriend when the movie begins and in fact celebrates her victory in another case by having sex with him in his office.⁶² Her new client David Greenhill, who is accused of killing his wife, however, is even more attractive. Haynes's representation of Greenhill is marked by heterosexual game-playing and lots of bad decision-making. After the jury returns hopelessly hung on the murder charge, Haynes puts her client on the stand in the empty courtroom, and he admits his guilt. Later, Haynes kills the evil client, the ultimate unprofessional act and one which, as Carolyn Lisa Miller points out in a tongue-in-cheek statement, "will probably make her less marketable as an attorney."⁶³

2. *Mother*

If female lawyers are seeking lovers and mates, some, not surprisingly, see this as the first step toward having babies.⁶⁴ They want to be mothers as

60. JAGGED EDGE, *supra* note 33.

61. GUILTY AS SIN, *supra* note 34.

62. A similar scene occurs in PRESUMED INNOCENT (Warner Bros. 1990), after Carolyn Polhemus, played by Greta Scacchi, and Rusty Sabich, played by Harrison Ford, secure an important conviction.

63. Carolyn Lisa Miller, Note, "What a Waste. Beautiful, Sexy Gal. Hell of a Lawyer.": Film and the Female Attorney, 4 COLUM. J. GENDER & L. 203, 227 (1994).

64. Mona Harrington studied twenty female lawyers in films and television series and found that only five had children. Furthermore, of those five only one had more than one child. See HARRINGTON, *supra* note 1, at 157-58.

well as wives. In *Suspect*⁶⁵ Cher plays a depressed public defender named Kathleen Riley. One evening she returns to her office, changes into sweats, and glumly sips a beer with another public defender. "I've always wanted to have a child," she tells him, "but I don't even have a boyfriend so how can I have a child." In *The Big Chill*⁶⁶ Mary Kay Place portrays a public defender named Meg and does not let the lack of a boyfriend stand in the way of having a baby. While attending the funeral of a college chum who committed suicide, she appraises various other male friends at the funeral as potential sperm donors. In the end, with an eye to getting pregnant, she goes to bed with a happily married shoe-manufacturer whose wife has kindly given the green light for attempted extramarital baby-making.

In *The Client*⁶⁷ solo practitioner Reggie Love, played by Susan Sarandon, finds a surrogate child among her clients after failing as a mother for her own children. Plagued by drug and alcohol problems, she lost custody of those children at the time of her divorce. She attended law school and is attempting to find her way and rehabilitate herself within the not-so-friendly confines of the legal profession. A young boy named Mark Sway, who witnessed the suicide of a mob attorney, turns to her for help against the mob, against the FBI, and against an unctuous district attorney played superbly by Tommy Lee Jones. Reggie proves a crafty lawyer, and "[h]er last name, 'Love,' also signifies the mothering she is able to give Mark—mothering she cannot give to her own children, but can now dole out to Mark under the cover of her astute command of the law."⁶⁸

In the more recent *High Crimes*,⁶⁹ developments related to having babies and raising children are less copasetic. Early in the film high-powered attorney Claire Kubik, played by Ashley Judd, consults her ovulation detection device, realizes the time is right, and frantically demands that her husband deliver the goods. How superficial and ludicrous this seems. A pregnancy results, but Kubik loses the baby after she is attacked while defending her husband in a military trial. What's more, she learns her husband actually is a psychotic killer. He has murdered innocent people in El Salvador, has murdered witnesses to these murders, and in the end, attempts to murder Kubik herself.

65. *SUSPECT*, *supra* note 36.

66. *THE BIG CHILL*, *supra* note 31.

67. *THE CLIENT*, *supra* note 39.

68. Judith Grant, *Lawyers as Superheroes: The Firm, The Client, and The Pelican Brief*, 30 U.S.F. L. REV. 1111, 1117 (1996).

69. *HIGH CRIMES*, *supra* note 40.

3. *Daughter*

As *The Music Box* and *Class Action* illustrate, being a daughter can also be difficult if one is an attorney, and being an attorney can be difficult if one is a daughter. The conflict is especially pronounced if a daughter accepts her father as a client or—horrors—opposes her father in court. According to Cynthia Lucia, the films “reinforce the connections between law and patriarchy through a decidedly Oedipal subtext.”⁷⁰

In *Music Box*⁷¹ attorney Ann Talbot, played by Jessica Lange, takes time from her busy career to defend her father in a deportation hearing. Authorities allege that he committed atrocities as a young police officer in Hungary, but he assures Talbot of his innocence. A fellow lawyer and also Talbot’s ex-husband warn her to be leery: the past may include things better left buried. But Talbot needs to prove her love for her father. Perhaps she is a successful lawyer, but she remains a devoted daughter as well. Viewers then watch as she mishandles evidence, cries in court, hits the bottle at home, and ultimately admits to herself that her father is guilty.

In *Class Action*⁷² attorney Maggie Ward, played by Mary Elizabeth Mastrantonio, initially demonstrates not a daughter’s blind love for her father but rather a hostility toward him. She works for a corporate firm representing a nefarious car-maker, but her father, played by Gene Hackman, is a crusading products liability lawyer pursuing a large claim against the car-maker. Ward eventually learns that her corporate client is corrupt and that her firm is concealing evidence from her and from the jury. She quits the firm and helps her father win his case. According to Carole Shapiro, “As the plot develops, the lawyer [Ward] comes to understand, in the words of the 1950s television series classic that ‘father knows best.’”⁷³

4. *Sister*

Most subtly, some of Hollywood’s female lawyers have to overcome their hard-nosed legal professionalism in order to appreciate the plight of other women and to achieve some degree of sisterhood. The problem is clear in the previously mentioned *High Crimes*.⁷⁴ Wrapped up in her quest for partnership and ambitious legal professionalism in general, attorney Claire Kubik preens and even gloats after getting a rapist off on a technicality. In “thinking like a lawyer,” she seems to have forgotten how to think

70. Lucia, *supra* note 55, at 152.

71. *MUSIC BOX*, *supra* note 37.

72. *CLASS ACTION*, *supra* note 38.

73. Shapiro, *supra* note 30, at 992.

74. *HIGH CRIMES*, *supra* note 40.

like a woman. Only later in the film does she come to appreciate the pain and suffering of a victimized woman.

In *The Accused*⁷⁵ prosecutor Kathryn Murphy, played by Kelly McGillis, initially shows little sympathy for gang-rape victim Sarah Tobias, played by Jodie Foster. Seemingly content to be “one of the guys” at the office, Murphy tells Tobias in the hospital, “I’m not a rape counselor. I’m a prosecutor.” She discusses the case with her supervising attorney at a hockey game—perhaps the most violent of male sporting events—and goes easy on the perpetrators, letting them plead guilty to reckless endangerment without even consulting Tobias. As a prosecutor Murphy had no legal duty to consult the victim before striking the deal, but as a woman she should have been more sensitive to what another woman had experienced. It is fortunate, viewers are invited to conclude, that in the second half of the film Murphy sees the error of her ways and becomes more of a woman and less of a lawyer. Her “awakening is transparent as she realizes that Foster’s accusation of lack of empathy is correct and that her unquestioning acceptance of her prosecutorial role had prevented her from seeing and serving Foster’s perfectly legitimate interests.”⁷⁶

B. The Conflict Portrayed in Television

Television, some have argued, is more likely to manifest progressive gender politics than film.⁷⁷ The structure of the television industry is less patriarchal. The networks have government-enforced obligations to serve the public interest. Producers also accommodate the fears of advertisers by being what conservatives call “politically correct.”⁷⁸ But despite all of this, many of the themes evident in contemporary films are also evident in prime-time television series featuring female lawyers.⁷⁹

75. *THE ACCUSED* (Paramount Pictures 1988). The story is not all fiction, but rather derived in part from the notorious gang rape that occurred in New Bedford, Massachusetts, in 1983. See BERGMAN & ASIMOW, *supra* note 18, at 4.

76. Stacy Caplow, *Still in the Dark: Disappointing Images of Women Lawyers in the Movies*, 20 *WOMEN’S RTS. L. REP.* 55, 69 (1999).

77. See Lucia, *supra* note 55, at 167 n.3.

78. *Id.*

79. Christine Alice Corcos says of female lawyers on prime-time television:

In example after example, female attorney characters are presented as failures because they fall short of traditional, conservative images of women in either the professional or personal sphere. Because they cannot succeed in both, they should make the only choice that validates them as women—the gendered choice to be helpers and caregivers.

Corcos, *supra* note 42, at 221.

The quest for motherhood theme, for example, has been important in both *Ally McBeal* and *The Practice*.⁸⁰ Ally herself often shared with other characters and concomitantly with viewers her angst about having a successful career but in the process forfeiting the rewards of motherhood.⁸¹ Ally's frequent imagining of a dancing baby, one assumes, symbolized her urge to have a child. Ally did not actually have to give birth in order to have a child, however. She instead met her ten-year-old "daughter," a child born from an egg Ally had sold to another woman while Ally was a student. In the spring of 2002, in the final episode of the series's five-year run, Ally resigned her hard-earned partnership in the Boston law firm with the infamous unisex bathroom to move to New York, where her daughter could be with friends.⁸² In the end, motherhood came first.

For Lyndsay Dole, one of the female lawyers in *The Practice*,⁸³ it was also necessary to carve a place for motherhood into her career. The series's successful run allowed time for love between Lyndsay and Bobby Donnell, her legal partner, to bloom. They married (on the diamond at Fenway Park no less), and Lyndsay had a baby. But nothing comes easy for the working mother. After the birth Lyndsay was haunted by a stalker, killed him, was convicted of murder, won a new trial on appeal, and—at long last—saw the charges dismissed. Returning to her practice in a 2002 episode, Lyndsay feels the need to have the following words painted on her office door: "Lyndsay Dole, Attorney-at-Law, Mother."

C. Through the Eyes of the Viewer

Some viewers of course view the films featuring female lawyers and television shows such as *Ally McBeal* and *The Practice* differently than do other viewers. Male viewers might be less sensitive to the internal dissonance related to careers and womanhood, which the female lawyers experience, and these men might focus instead on the courtroom trials and political issues, which are also present in the films. Some men might enjoy the opportunity which the films provide to ogle attractive Hollywood actresses, and, indeed, some of these actresses are attired and made-up in ways which would seem extremely provocative were they real-life lawyers. In perhaps the most cited and influential essay in feminist film studies, Laura Mulvey argued that the cinema is ideal for the male activity of looking and especially for the male inclination to look at women.⁸⁴ The films under consid-

80. See generally Marek, *supra* note 25.

81. *Ally McBeal*, *supra* note 50.

82. *Ally McBeal: Bygones* (FOX television broadcast, May 20, 2002).

83. *The Practice*, *supra* note 53.

84. See Laura Mulvey, *Visual Pleasure and Narrative Cinema*, in *VISUAL AND OTHER PLEASURES* 14–26 (1980).

eration might be voyeuristic delights and, perhaps, opportunities to exercise at least visual control of characters who are challenging patriarchal dominance.

What about female viewers? Here, too, there are most certainly differences. Younger women might see different things than older women. Professional women may be sensitive to different things than are homemakers. But in general it seems likely that women more so than men will appreciate the films' treatments of conflicts between gender and professional life. A woman, Carole Shapiro has argued, "can easily internalize the moral, encoded within the visual representation, without consciousness of its occurrence."⁸⁵

In general, contemporary films featuring female lawyers might be interpreted as cautionary tales. Female viewers are being cautioned that a career as a lawyer in the contemporary United States has its price. The films warn "women whose jobs may take them outside the home not to allow ambition to seduce them away from the family hearth. [The films] warn[] that by ignoring this cautionary warning, they risk the personal unhappiness many of these movie characters experience."⁸⁶ If you are a young woman, you may not want to travel that path. If you are already a homemaker instead of a career woman, you may in fact be the lucky one. You already have a mate, and you may also have children. You are still daddy's little girl and able to share with other women what it is truly like to be a woman. Why would you want the stress and self-doubt of a female lawyer?

IV. CONCLUSION

Several of the critics and scholars who have contemplated the portrayal of female lawyers in Hollywood films of the 1980s and 1990s have heard echoes in the films of the notorious United States Supreme Court opinion in *Bradwell v. Illinois*.⁸⁷ In that 1872 case the court refused to reverse an Illinois bar decision to preclude women. According to Justice Bradley, "The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life."⁸⁸ "The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator."⁸⁹

As provocative as this analogy might be, it seems slightly inappropriate. The sexism of the films, as opposed to that of *Bradwell*, is subtle rather than overt. Even the most conservative of filmmakers realize that women

85. Shapiro, *supra* note 30, at 962.

86. *Id.* at 970.

87. 83 U.S. (16 Wall.) 130 (1872).

88. *Id.* at 141.

89. *Id.*

have come to constitute a substantial percentage of the American legal profession. At present almost half of the students enrolled in law school in the United States are women, and most young women in high school and college simply assume the practice of law is one thing that they might do with their lives. Women are not about to retreat from the legal profession as Justice Bradley hoped, and if anything, the percentage of women in the legal profession will grow larger in the years ahead.

In its own filtered, aligned way the American cinema reflects these changes. The casting of a woman as a lawyer is completely plausible for a filmmaker, and women frequently appear as lawyers in contemporary films. Indeed, virtually every leading actress has played a lawyer, and for good reason the roles are in demand. To be a lawyer in the American cinema enables one, in most cases, to strut about the courtroom, to deliver stirring monologues to an attentive jury, and to reflect on the relationship of law and justice.⁹⁰ The actual practice of law may be much less dramatic and inspiring,⁹¹ but for men and women alike, the role of lawyer is a desirable one in the American cultural context.

But Hollywood's contemporary films about female lawyers also have a reactionary message. Be a lawyer if you will, they say, but also beware the costs. Traditional gender roles are jeopardized or, by necessity, abandoned. This result can leave one confused or simply miserable.

The message is a bit like the one Hollywood conveys through movies regarding divorce. Scholars Ira Lurvey and Selise E. Eiseman have surveyed these films.⁹² "For the confused and disenchanted in the audience, for the multitudes whose real life relationships are uncomfortable but not that uncomfortable," Lurvey and Eiseman say, "the message has often seemed inspiring in a perverse way—unhappiness in marriage may be a staple of modern life, the films said, but divorce is worse. You think you have it bad, look at how easily it could be truly horrible."⁹³ Adam and Amanda Bonner got off the divorce train just in time.

The reactionary message about female lawyers, of course, is not limited to film. This article has noted in passing comparable messages in prime-time television series. The critic could also locate these messages in

90. For a discussion of the idealized courtroom proceeding in American popular culture, see David Ray Papke, *Conventional Wisdom: The Courtroom Trial in American Popular Culture*, 82 MARQ. L. REV. 471 (1999).

91. I contrast actual litigation with the pop cultural version of it in David Ray Papke, *The American Courtroom Trial: Pop Culture, Courthouse Realities, and the Dream World of Justice*, 40 S. TEX. L. REV. 919 (1999).

92. Ira Lurvey & Selise E. Eiseman, *Divorce Goes to the Movies*, 30 U.S.F. L. REV. 1209 (1996).

93. *Id.* at 1218.

the so-called “legal thriller” and in other parts of the popular culture as well.⁹⁴

The message also is not limited to just female lawyers. As noted earlier, the message has special potency here because of the masculine imagery and connotations of legal practice. But reactionary sentiments are common with regard to career women generally. Hilary Clinton and Laura Bush form a telling contrast. Both are sophisticated, professional women, but many are prepared to deplore the former’s attempt to reform American health care and to ridicule her election as United States Senator from New York. Laura Bush, meanwhile, appeals to some because she abandoned her career and now emphasizes teaching reading to children and warmly caring for children. And what should we make of poor Martha Stewart?⁹⁵ Might we be too delighted with what has befallen this extremely ambitious and successful professional woman?

The culture seems to produce, at a rate of one every few months, a new and major work exploring the relationship of motherhood and work.⁹⁶ One of the most recent is Allison Pearson’s novel about the dilemmas of being a working mother, *I Don’t Really Know How She Does It!*⁹⁷ More substantial was last spring’s *Creating a Life* by Sylvia Ann Hewlett.⁹⁸ The author is a Harvard-trained economist who failed to receive tenure at Barnard College because, in the words of one member of the ad hoc committee at Columbia University, she “allowed childbearing to dilute [her] focus.”⁹⁹ Later in life she interviewed dozens of highly successful professional women. Many were childless and many deeply regretted that career constraints and relationship difficulties had squeezed the possibility of having children out of their lives.¹⁰⁰ Hewlett ends her book with a call for “a wider appreciation of motherhood in society.”¹⁰¹

Some younger women have perhaps taken Hewlett’s words to heart, but Susan Faludi has a different and more important admonition: Beware of the way the culture is telling you that liberated women are destined to be miserable. “This bulletin of despair is posted everywhere—at the newsstand, on the TV set, at the movies, in advertisements and doctors’ offices

94. See John Grisham, *The Rise of the Legal Thriller: Why Lawyers Are Throwing the Books at Us*, N.Y. TIMES BOOK REV., Oct. 18, 1992, at 33.

95. See Alessandra Stanley & Constance L. Hays, *Martha Stewart’s To-Do List May Include Image Polishing*, N.Y. TIMES, June 23, 2002, at 1.

96. See Margaret Talbot, *Supermom Fictions*, N.Y. TIMES MAG., Oct. 27, 2002, at 11.

97. ALLISON PEARSON, *I DON’T REALLY KNOW HOW SHE DOES IT!* (2002).

98. SYLVIA ANN HEWLETT, *CREATING A LIFE: PROFESSIONAL WOMEN AND THE QUEST FOR CHILDREN* (2002).

99. *Id.* at 17.

100. *Id.* at 3.

101. *Id.* at 308.

and academic journals.”¹⁰² The portrayal of female lawyers in contemporary Hollywood film is part of the cultural backlash. The woman as lawyer, the films tell us, will encounter difficulty coordinating the tasks of the legal professional with the expectations of gender roles. If you want to be a woman in the traditional sense, you may not want to be a lawyer. Under-scoring this cautionary tale is the first step toward confronting and rejecting the message.

102. SUSAN FALUDI, *BACKLASH: THE UNDECLARED WAR AGAINST AMERICAN WOMEN*, at ix (1991).

