



Lessons from Lawyer Caricatures

Lawyers as seen on screen

By Daniel E. Cummins



Long gone are the days when attorneys were routinely portrayed in a noble fashion, such as counsel in the television shows “Perry Mason” and “Matlock,” or in the iconic manner of attorney Atticus Finch in the novel and movie (Gregory Peck) “To Kill a Mockingbird.”

Nowadays, district attorney Jack McCoy (Sam Waterston) in TV’s “Law and Order” is in the minority of modern-day positive portrayals of lawyers on television or in film. McCoy is presented as an upstanding, ethical, competent, always-professional attorney in contrast to the unfavorable depiction of the criminal defense attorneys on the show. The viewing public also surely picks up on McCoy’s uncanny ability to conduct his direct and cross-examinations with only a handful of pointed questions presented in a matter of a minute or less and still obtain from the witness all of the necessary information to meet his burden of proof.

Unfortunately, other than Jack McCoy, lawyers are today routinely presented in a negative caricature form in popular culture. Even keeping in mind that a caricature is a portrayal in which distinctive features or peculiarities of a subject are intentionally distorted or exaggerated sometimes fails to lessen the sting of these depictions.

While some lawyer caricatures are irksome and even insulting, others can be amusing. Regardless, lessons can be learned from all such caricatures in handling one’s practice in the public eye and before a jury.

The Bombastic Attorney

One hilarious TV lawyer caricature is “Seinfeld’s” Jackie Chiles, the Johnnie Cochran-esque, high-profile attorney who represented Kramer in such landmark cases as the Java World case, the Mishke bra case, the tobacco company case and the Good Samaritan case.

Portrayed by Phil Morris, Chiles is a farcical but not-all-that-off-the-mark example of the bombastic attorney. He describes mundane matters with such memorable quotes as, “That’s deplorable, unfathomable, improbable” and “That’s totally inappropriate. It’s lewd, lascivious, salacious, outrageous!”

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Even when describing a simple candy bar, Chiles is over the top: “Oh Henry! That’s one of our top-selling candy bars. It’s got chocolate, peanuts, nougat. It’s delicious, scrumptious, outstanding!”

Lesson: Lawyers are ridiculed for using big words when little words will suffice — uh, when little words will do. Keep it simple in your oral and written presentations.

The Jackie Chiles character is also lampooned in “Seinfeld” for his apparent penchant for directing the care of his injured clients. When Kramer was burned by coffee in the Java World case, Kramer, unbeknownst to Chiles, put a balm on his burn at the suggestion of a friend. When Kramer informed Chiles of this, Chiles exploded: “You put the balm on? Who told you to put the balm on? I didn’t tell you to put the balm on. Why’d you put the balm on?”

Lesson: Jurors look unfavorably upon counsel directing their clients’ treatment. Leave the medicine to the doctors.

The Master Showman

Another lawyer caricature involves the sleazy, greedy and slippery criminal defense attorney Billy Flynn in the musical/movie “Chicago” (and in the movie “Roxie Hart”). For all his flaws, Flynn recognizes the value of theatrics at trials for entertaining the jury and perhaps even influencing its verdict.

Flynn (Richard Gere in the movie version of “Chicago”) tells client Roxie Hart on the first day of her murder trial, “Roxie, you got nothing to worry about. It’s all a circus, kid. A three-ring circus. These trials — the whole world — all show business.”

Then, as he enters the courtroom, Flynn bursts into a song that could very well serve as a sort of “Rocky” theme music to pump up trial attorneys on their way to trial:



Give them the old razzle dazzle
Razzle dazzle ’em
Give ’em an act with lots of flash in it
And the reaction will be passionate
Give ’em the old three-ring circus
Stun and stagger ’em
When you’re in trouble, go into
your dance
Long as you keep them way off balance
How can they spot you’ve got no talent
Razzle dazzle ’em
And they’ll make you a star!

Don’t think razzle dazzle theatrics can persuade a jury to rule in your client’s favor in real life? Recall Johnnie Cochran in the courtroom during the O.J. Simpson murder trial wearing a black knit cap and reiterating his memorable line, “If it doesn’t fit, you must acquit.”

Lesson: Jurors want at least to be entertained while they are forced to sit in the box for a measly daily monetary stipend. Razzle dazzle them with compelling demonstrative exhibits, persuasive PowerPoint presentations and forceful opening and closing statements, and you may be rewarded in their verdict.

The Incompetent Lawyer

In the 1982 movie “The Verdict,” lawyer Frank Galvin (Paul Newman) is rude, selfish, greedy and burned out. Galvin is a lawyer so crass as to believe it appropriate to troll funeral homes to hand out his card in hopes of developing cases related to the deceased! In terms of his personal life, he is presented as having a totally miserable existence compounded by a problem with alcohol.

Yet, as a plaintiff's attorney, he is portrayed as the underdog up against a polished and unethical insurance defense attorney who is in cahoots with the trial judge. This depiction is similar to the representation in a more recent movie, "A Civil Action," which stars John Travolta as the plaintiff's attorney going up against a defense attorney played by Robert Duvall and a defense-friendly judge played by John Lithgow.

In "The Verdict," Galvin's courtroom abilities are dismal despite his apparent years of experience. In the trial scenes, he is shown as having little or no knowledge of how to deal with basic evidentiary issues. Yet, no matter how poorly he performs in the courtroom, Galvin somehow manages to stumble along to a victorious verdict because of his belief in his client's case.

Another caricature of a bumbling attorney who somehow succeeds can be found in the movie "My Cousin Vinny." When the district attorney springs on Vinny Gambini (Joe Pesci) that he will be introducing new evidence at trial the following day, the incompetent Gambini is ludicrously depicted as needing to turn to his unschooled girlfriend from the Bronx to inquire of her what she has read in his law books regarding disclosures prior to trial.

Gambini is portrayed as equally incompetent at trial. Witness the following dialogue after the district attorney has completed his opening statement in the first-degree murder trial:

Gambini: "Everything that guy just said is bull____. ... Thank you."

District Attorney: "Objection! Counsel's entire opening statement is argument."

Judge: "Sustained. Counselor's entire opening statement, with the exception of 'thank you,' will be stricken from the record."

Despite this ridiculous opening of the trial, Gambini somehow manages to

blossom as he proceeds, eventually managing to drum up evidence sufficient to have the murder charges against his clients dismissed.

Other films have likewise portrayed attorneys as incompetent yet somehow able to win a big case. For example, Rudy Baylor (Matt Damon) in "The Rainmaker" manages to prevail against a big insurance defense firm and the insurance carrier despite an apparent inability to remember how to get important testimony into evidence at trial. Although the newly admitted Baylor struggles with his inexperience, he somehow manages to prevail with the jury. Similar to Frank Galvin in "The Verdict," he succeeds by convincing the jury of his own unwavering belief in his client's cause.

Lessons: The jury expects to see verbal jousting among the judge and opposing counsel. Also, although the public may love to see lawyers fail, they may nevertheless choose to reward a lawyer who believes in a client and fights for the client's cause. So, if you do not believe in your client's case, no one else will.

The Evil, Unethical Lawyer

In other caricatures, lawyers are represented as unethical, downright criminal and even Satanic. In the movie "Devil's Advocate," John Milton (Al Pacino), the head of a big New York City law firm, is actually identified as the devil himself. The movie chronicles Satan's recruitment of a hotshot young lawyer to a big city firm and the seduction of that impressionable attorney with tempting offers of power, sex and money.

In terms of its representation of attorneys, perhaps the only redeeming quality of "Devil's Advocate" is its suggestion that the real battle between good and evil lies within one's self and involves free will. In this regard, Milton sermonizes, "Free will. It's like butterfly wings: Once touched, they never get off the ground. No, I only



set the stage. You pull your own strings." The negative suggestion appears to be that attorneys can be good if they want to be but often choose not to be.

Another example of the professional and upstanding-appearing yet evil attorney is Tom Hagen (Robert Duvall), who served as the consigliere for the Corleone family in "The Godfather" movies.

Hagen is the legal front for the family business of pocketing cops, judges and politicians. With that power, the consigliere helps the family illegally rule its union and gambling interests and even advises the Godfather that it is wise to consider buying into the narcotics business. Hagen is depicted as not only going along with but even advocating violence, including against a police chief threatening the family business. He rationalizes all this evil action and devotion to his sole client by asserting that it's "not personal, but strictly business."

Other less prominent examples of unethical attorneys in film can be found in "... And Justice for All" and "Liar, Liar." In "... And Justice for All," Al Pacino plays Arthur Kirkland, a Baltimore criminal defense lawyer disgusted with the rampant legal corruption he sees around him who is required to defend a (guilty) local trial court judge, whom he despises, against rape charges. In an



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example of lawyers helping their own, Kirkland himself faces disciplinary action in the film but ends up having an affair with Gail Packer (Christine Lahti) even though she is a member of the state bar ethics committee investigating Kirkland's alleged misconduct!

The movie "Liar, Liar" is an effort at the comic treatment of unethical lawyers. The movie depicts Fletcher Reede (Jim Carrey) as an attorney who is pathologically unable to tell the truth either in court or in his personal life until he is prevented from lying by a spell cast by his little boy.

Lesson: There will always be members of the public who will be prejudiced, without basis, against all lawyers as being unethical or untruthful. To the extent possible, weed out those persons in voir dire. Win over your remaining jurors by talking *to* them, not *down* to them, in a forthright and credible fashion.

Caricatures of Judges

Even judges are not above reproach when it comes to caricatures in film and television. For example, the judges in "Suspect" (John Mahoney) and in "... And Justice for All" (John Forsythe) are portrayed as outright criminals. Judges in other films such as "Presumed Innocent" (Paul Winfield) seem unethical. Other judges are represented as clearly biased in favor of one party, usually the defense, in civil cases against a downtrodden plaintiff, such as the judges in "A Civil Action" (John Lithgow) or "The Verdict" (Milo O'Shea). Television's Judge Harold T. "Harry" Stone (Harry Anderson) in "Night Court" is shown as a zany, eccentric, fun-loving jurist. Other judges are hilariously depicted as insane, such as the singing, gun-toting Judge Francis Rayford (Jack Warden) in "... And Justice for All."

Unfortunately, the recent trend of numerous bawdy TV shows mimicking the set-up of "The People's Court" with Judge Joseph Wapner has affected the

public's perception of judges to the point that they are seen as crackpots who revel in berating and ridiculing people. On a positive note, the public is now also exposed to the various judges who appear on television's ever-present "Law and Order" episodes. These judges are realistically depicted as professional, ethical and knowledgeable jurists who preside over and maintain order in their courtrooms.

Conclusion

As aggravating as they may be, lawyer caricatures can positively impact one's practice. Analyzing lawyer caricatures not only keeps one mindful of how the public views attorneys and judges but also offers many lessons on how to improve one's own practice and public persona.

While community service, a zealous but sensible pursuit of justice on behalf of clients and a concerted effort by all members of the bar to improve the image of lawyers through professional, courteous and ethical behavior in the public eye may not eradicate lawyer caricatures, such constant positive conduct can only help to discredit the negative and exaggerated representations of this still noble profession. ☺



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