

Law360 (February 10, 2025, 1:59 PM EST) -- Way back in 2000, I wrote a piece called "Dressed for Excess: How Hollywood Affects the Professional Behavior of Lawyers," published in the *Notre Dame Journal of Law, Ethics and Public Policy*.^[1]



Nancy Rapoport

In that piece, I pointed out the fact that Hollywood's version of lawyering and legal ethics strays far from the realities of both. In the intervening 25 years, not much has changed in this regard.

If Hollywood's scripts actually followed the legal ethics rules, most of the movies and TV shows about lawyers would be roughly 15 minutes long. Most of the plotlines would violate at least one ethics rule, so good lawyers wouldn't do whatever it is that a character in a TV show or a movie was trying to do.

Take a look at some of the most recent TV shows and imagine what would have happened if a legal ethicist had been stationed in the writers' room. The writers would develop a plotline, run it by the ethicist, and the ethicist would shoot down the plotline, leaving the writers to start from scratch. Of course, being in a writers' room is still my fantasy, but so far, none have come calling.

If an ethicist consulted on "Suits," the ethicist would say, as soon as Harvey realizes that Mike isn't a lawyer: "Nope, you can't engage in or condone the unauthorized practice of law."

Or, if the ethicist had a say in "Dark Waters," the response to the scene asking for a former client conflict waiver would have to be, "Nope, you can't go medieval on a former client."

And if an ethicist was in the "Better Call Saul" writers' room, the ethicist would probably shut down the whole smash with: "Nope, you can't do pretty much anything you're trying to do."

Although there are some movies and TV shows that have done a marvelous job of portraying lawyers — and I'll have to admit to shedding some tears at the end of "On the Basis of Sex," watching the real Justice Ruth Bader Ginsburg march up the steps to the [U.S. Supreme Court](#) — my spouse, who is also a lawyer, and I spend far more time yelling at the screen when we're watching a show about lawyers.

One of the other points in my original article is that, because Hollywood has a fast and loose relationship with legal ethics, clients who have made a diet of these shows get the wrong impression of how lawyers should behave. We're not actually supposed to be people who brandish weapons in depositions or shake our rear ends at opposing counsel during a mediation — though some real lawyers really did behave like that.^[2]

Clearly, a small subset of lawyers includes those sorts of people, but if clients just followed Hollywood's version of us, we would all be:

- Happy to wing it in court;
- Comfortable being complete jerks to opposing counsel by screaming at them and refusing to accommodate reasonable requests, such as extensions for medical emergencies; and
- Willing to lie to win a case or close a transaction.

If clients read the news stories about lawyers behaving badly and getting sanctioned for that bad behavior, perhaps the news would act as a palate-cleanser for the unethical fictional lawyer behavior in Hollywood. But somehow, the message of "good lawyers behave decently" isn't getting through.

Some of us, including me, have had that awkward conversation with a client who asks, "But why aren't you

yelling at [insert name of opposing counsel here]?" We then have to explain that the most effective lawyers don't start at DEFCON 1, because then we have no room to maneuver.

These days, I'm fascinated by the "Matlock" sort-of reboot series starring Kathy Bates. In that series — spoiler alert — she pretends to be an impoverished widow who, in what I gently term "late middle age," has to earn money to support her grandchild, so she goes to work for a law firm that appears to take a wide variety of cases.

Is she actually a poor widow? No. She's quite wealthy and happily married, though she and her husband are raising their grandson because his mother — their daughter — died of a drug overdose. And she wants to work at the firm not to make a living, but to find out which one of the three main partners played shenanigans with discovery in a Big Pharma case.

Why does this series fascinate me? First off, Bates never disappoints. She's good at drama and physical comedy, and her character has to maneuver her way into the firm's files. But second, her character uses the fact that no one seems to pay attention to a female lawyer in late middle age, so she can get away with a fair amount of skulduggery.

Let's think about some of the ethics issues that the series triggers. First and foremost, she lies about who she is and why she wants to work at the firm.

As lawyers, we aren't supposed to lie at all. We can't lie while we're representing clients (see the [American Bar Association's](#) Model Rule 4.1), or when we're not (see Model Rule 8.4).

She also steals passwords and mucks around with deepfake voices to get her mitts on potentially incriminating behavior of the three main partners. But as lawyers, we're not supposed to commit crimes — that pesky Rule 8.4 again.

And she uses her grandson's impressive computer skills to hack her way into looking for evidence at the firm. We're not supposed to use others to skirt the ethics rules for us under — you guessed it — Rule 8.4.

Of course, if Bates' "Matlock" character didn't do these things, there wouldn't be enough action to fill a single episode, let alone an entire season.

In the same vein, would "Michael Clayton" be a full-length movie without all of the murder-y parts? For that matter, would "My Cousin Vinny" be as fun to watch if Vinny had been a skilled courtroom attorney with years of experience?

Let's explore a bit of "My Cousin Vinny":

- He lies to the judge about his qualifications, running afoul of Model Rule 3.3, titled "Candor Toward the Tribunal."
- He takes on a death penalty case — two, actually — six weeks after passing the bar, which implicates Model Rule 1.1 on competence.
- He represents criminal co-defendants, likely violating Model Rule 1.7 on conflicts of interest.
- He cuts close to the edge in cross-examining witnesses — "I got no more use for this guy" — neglecting Model Rule 3.5, titled "Impartiality and Decorum of the Tribunal."
- And, in a hat trick, he (1) attempts to solicit a guy in a neck brace, while (2) not admitted in the jurisdiction, and (3) settling a bet by offering to "beat the [expletive]" out of someone. His barratry raises serious issues under Model Rule 7.3, Model Rule 5.5 and Model Rule 8.4, respectively.

But "My Cousin Vinny" is a masterpiece: fun to watch, and fun to quote. In my heart, I'm hoping that you're reading this paragraph thinking, "The two yoots?"

Still, if the film had an ethicist in the writers' room, the entire movie would have lasted just long enough for Vinny and Mona Lisa Vito to cook up some instant grits.

Don't get me wrong: Hollywood has also found its way to releasing movies that depict the life of law's truly great minds — think "On the Basis of Sex" and "Marshall." These biopics do their subjects justice — no pun intended. But once Hollywood strays from realism, it strays far.

I don't want to leech the fun out of watching movies and TV shows about lawyers. I love them, too. But every time Hollywood skirts the ethics rules in its scripts, it creates more opportunity for less-sophisticated clients to believe that the way that fictional lawyers behave is the way that real lawyers should behave. And that should worry us a bit.

It should especially worry those of us who often aren't on the big screen, or the slightly smaller one. Although Hollywood's gotten better at depicting women and people of color in the movies,^[3] these communities still are not as well-represented in movies and TV as they are in real life, so the images of female lawyers and lawyers of color are still more likely to involve crossover stereotypes — stereotypes of misbehaving lawyers and stereotypes of underrepresented groups.

For its part, the legal industry has made some progress toward diversity, but it has been slow-going. Racial minorities, in particular, are still underrepresented in our profession, especially in the partner ranks.

And when Hollywood's depiction of female lawyers and lawyers of color reinforces stereotypes on the silver screen, client biases may be exacerbated in real life.

So what's a lawyer to do when a client comes to the table with unrealistic expectations of how the lawyer should behave, shaped in part by Hollywood's portrayal of brash attorneys who behave badly?

For starters, the lawyer should explain why lawyers are supposed to stay level-headed and focused on the client's objectives, rather than allowing the practice of law to be a haven for people with anger issues. The lawyer could say, "Sure, I could refuse to grant an extension because opposing counsel is in labor, but what happens when we need some extra time for an emergency on our end?"

The client who demands that the lawyer cede no ground, even for reasonable requests, is the client who misunderstands the division of responsibility in Model Rule 1.2. Yes, the client determines the objectives. But we get to control the means of achieving those objectives.

And part of what marks a lawyer as "good" is that lawyer's reputation: A reputation for being reasonable doesn't mean that the lawyer is a pushover. It means that the lawyer understands proportionality and human nature. There's a time to cede and a time to push for something.

One more thing: In my original article, I worried a bit that lawyers would also get desensitized to the ethics violations that they saw on the screen — that they would stop asking themselves, "Hey, is [the character] even allowed to do that?"

I still worry about that. I don't worry about the over-the-top ethics violations — hello again, "Better Call Saul" and "Suits." But I do worry about lawyers who, for example, are watching "Lincoln Lawyer" and forget to ask themselves if it's OK to be unprepared for a hearing or to ask an investigator to do something that the ethics rules don't allow a lawyer do.

Onscreen images are powerful — that's the whole point of Hollywood — and we have to keep reminding

ourselves that not everything that we see onscreen fits within the ethics rules. Maybe our clients won't remember that point, but we should.

Let me end with a story that I love: When I was dean at the University of Nebraska College of Law, I had the pleasure of getting to know one of our alumni who basically invented the field of theater law. He loved mentoring new lawyers, and he gave each of them the speech about saying "pretty please."

Now, he was a good lawyer, and he knew where all of the levers were to help his clients. But he also understood that being effective occasionally required him to ask the other side to do something "pretty please," knowing that he would return the favor at the appropriate time. He was also known for telling a novice lawyer on the other side what that lawyer should have asked for, and then granting that "unasked-for ask" as a mark of professionalism.

A scorched-earth approach makes for captivating drama in movies and TV, but it will eventually backfire in real life. The snarky bon mot feels good in the moment, but rarely moves the needle on anything important.

Do I wish that I could speak the way that every single Aaron Sorkin character does? You bet. I'd kill for the "I want the truth!"/"You can't handle the truth!" moment in "A Few Good Men." [4]

But if Sorkin isn't scripting our daily interactions with our colleagues and our clients, then the next best thing is for us to remember that real life, unlike the movies or TV, comes with consequences. Good lawyers make their chess moves with those consequences in mind.

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[1] 14 Notre Dame J. L. Ethics & Pub. Pol'y 49 (2000), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=936188.

[2] See, e.g., <https://www.reviewjournal.com/crime/las-vegas-lawyer-accused-of-wielding-handgun-during-deposition/> (gun); Crawford v. JPMorganChase Bank, 242 Cal. App. 4th 1265 (2015) (stun gun) (https://www.bloomberglaw.com/bloomberglawnews/us-law-week/X42925US000000?bna_news_filter=us-law-week#jcite); or spewing invectives (<https://www.abajournal.com/news/article/lawyer-sanctioned-for-being-rude-demeaning-and-obnoxious-in-depositions>).

[3] Yay, "Lincoln Lawyer" TV show!

[4] I also simply wish that I could meet Aaron Sorkin. That's a bucket list goal for me.

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