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## **Ethics and Professionalism Through Hollywood Eyes: The Sequel**

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### **I. Introduction**

Nearly four years have passed since the first rendering of this article, which considered a sampling of Hollywood movies showcasing villainous lawyers and businesspeople of all shapes and sizes.<sup>1</sup> If movies can have sequels, then so too can articles about movies, and one need look no further than the horror genre for the perfect playbook:

“There are certain rules that one must abide by in order to create a successful sequel. Number one: the body count is always bigger. Number two: the death scenes are always much more elaborate – more blood, more gore – ‘carnage candy.’ And number three: never, ever, under any circumstances, assume the killer is dead.”<sup>2</sup>

Delivering a “bigger body count” should not be a problem, with a seemingly endless population of films from which to choose and new ones arriving weekly. Serving up more “carnage candy” presents a greater challenge, but is achievable so long as Hollywood continues to deliver mischievously complex characters like Matthew McConaughey’s Mick Haller in last year’s *The Lincoln Lawyer*. As for the third rule, few would ever assume that the “killer” – in this case these villainous portrayals – is dead, and the legal and business communities seem to have grown tolerant of the attention.<sup>3</sup>

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<sup>1</sup> Originally presented as Arnold J. Johnson, *Ethics, Lawyers and Big Business Through Hollywood Eyes*, INST. ON OIL & GAS L. Ch. 2 (Sept. 2008).

<sup>2</sup> SCREAM 2 (Dimension Films, Konrad Pictures and Craven-Maddalena Films 1997).

<sup>3</sup> See, e.g., *The 25 Greatest Fictional Lawyers (who are not Atticus Finch)*, 96

The dark cloud in any silver lining for lawyers is that some contend that their negative portrayal in contemporary cinema and television is a reflection of how they are viewed by society.<sup>4</sup> This alone might not be so bad, were it not for evidence suggesting that the primary way people learn about lawyers is by watching fictionalized portrayals of them,<sup>5</sup> and concern that Hollywood may even influence the views of young lawyers and law students as to acceptable professional conduct.<sup>6</sup>

These concerns also exist in the business world. “Big business” has suffered its fair share of movie villains over the years, with one commentator suggesting that vilifying senior management and elevating working stiffs sells more tickets.<sup>7</sup> In that respect Hollywood does not discriminate, as negative portrayals may be found in a variety of business sectors as well as the government.

In fairness, not all portrayals of the legal profession and big business are negative. Even where they are, they often provide entertaining case studies for spotting issues in the areas of ethics and professionalism. This article will consider an extended sampling of film offerings from that perspective.

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A.B.A. J. 26 (2010) (an A.B.A. panel named both positively and negatively portrayed lawyer characters to the list), and Rachel Dodes, *Hollywood's Favorite Villain*, WALL ST. J., Oct. 14, 2011, at D1 (addressing business senior management characters).

<sup>4</sup> See, e.g., Michael Asimow, *Bad Lawyers in the Movies*, 24 Nova L. Rev. 533-34 (Winter 2000) (noting negative portrayals of lawyer characters in the majority of films involving the legal profession since the 1970s).

<sup>5</sup> RONALD D. ROTUNDA & JOHN S. DZIENKOWSKI, LEGAL ETHICS, THE LAWYER'S DESKBOOK ON PROFESSIONAL RESPONSIBILITY 49 (Thomson West 2011-2012) (noting that when people are asked to name the lawyer they most admire, they frequently cite “Perry Mason” or “Matlock”).

<sup>6</sup> Interview by Liane E. Leshne with Judge Marvin E. Aspen, *It's How You Play the Game*, 34 TRIAL 28 (July 1998) (observing that young lawyers and law students exposed to current Hollywood films sensationalizing trial practice may expect that they should act in some of the dramatic, abrasive ways portrayed).

<sup>7</sup> See Dodes, *supra* note 4.

## II. Methodology.

Movies included in this article were selected from a variety of genre. Those involving the legal profession are listed alphabetically by category, with footnotes highlighting some of the relevant ethical obligations under the *Model Rules of Professional Conduct* (“Model Rules”)<sup>8</sup> and aspirational statements of professionalism contained in *The Texas Lawyer’s Creed*<sup>9</sup> and Louisiana State Bar Association *Code of Professionalism*.<sup>10</sup> Films involving big business are listed alphabetically by sector, with discussion focusing on the conduct portrayed.

## III. Common Themes.

### [1] The Legal Profession.

Today’s movie lawyers are often measured, usually unfavorably, against Gregory Peck’s “gold standard” portrayal of Atticus Finch in the screen adaptation of Harper Lee’s *To Kill a Mockingbird*.<sup>11</sup> With Finch, the lawyer – once the criminal mouthpiece, the country club charlatan, the ambulance chasing buffoon – became

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<sup>8</sup> MODEL RULES OF PROF’L CONDUCT (2009). Judicial conduct is generally discussed under the MODEL CODE OF JUD. CONDUCT (2007). For purposes of this article, the explanatory phrase first included in a footnote citation of a model rule contains a short form description that is used in subsequent references to that rule.

<sup>9</sup> Reprinted in 72 TEX. B. J. 10, 842 (2010) (enacted by the Texas Supreme Court and Texas Court of Criminal Appeals in 1989). A.B.A. data shows over 150 professionalism creeds among state and local bar associations. See Professionalism Codes, <http://www.abanet.org/cpr/professionalism/profcodes.html> (last visited Mar. 12, 2012). *The Texas Lawyer’s Creed* is divided into sections involving our legal system, and lawyer to client, lawyer to lawyer, and lawyer and judge relationships, with each containing an introductory set of goals followed by a series of enumerated statements for achieving those goals.

<sup>10</sup> See Code of Professionalism, <http://www.lsba.org/2007MemberServices/codeofprofessionalism.asp> (approved by the Supreme Court of Louisiana on Jan. 10, 1992). The Louisiana State Bar Association *Code of Professionalism* is comprised of nine statements involving professional conduct.

<sup>11</sup> TO KILL A MOCKINGBIRD (Universal International Pictures, Pakula-Mulligan and Brentwood Productions 1962).

an instrument of truth, an advocate of justice and the epitome of reason.<sup>12</sup> While an effective orator, his real strength seemed to lie in his professionalism. He was always calm, never losing his composure. He showed pity on the story's victim, but effectively challenged her credibility on the stand. He delivered bad news to his client's family in person, not relying on others to do so. When a man spit in his face, he wiped it off and moved on. His belief in the legal system, and recognition of his role as a lawyer in that system, underpins today's creeds and codes of professionalism.<sup>13</sup>

In one memorable line, the town minister addressed Finch's daughter as Finch was packing up to leave the courtroom: "Miss Jean Louise, stand up, your father's passin'." This type of respect is absent from many contemporary movie offerings, where professionalism is in short supply and lawyers grapple with ethical obligations as fundamental as competency, client relationships, interaction with opposing counsel and courtroom behavior.

[a] Competency.

Lawyer competency is usually oversimplified in the ninety-minute run time of a typical film. To the audience it is about winners and losers, with one lawyer just appearing to outperform another. From an ethics standpoint, more complex issues may be spotted with respect to the lawyer's basic obligations to provide competent representation<sup>14</sup> and act with reasonable diligence and promptness.<sup>15</sup> Lawyer misconduct,<sup>16</sup> mental illness and substance abuse are also recurring themes in this area.

[b] Client Relationships.

Lawyer-client relationships on film touch upon at least five different ethics requirements. These include the obligations to

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<sup>12</sup> *The 25 Greatest Fictional Lawyers (who are not Atticus Finch)*, *supra* note 4.

<sup>13</sup> See, e.g., TEX. LAWYER'S CREED preamble ("I am entrusted...to preserve and improve our legal system.").

<sup>14</sup> MODEL RULES OF PROF'L CONDUCT R. 1.1 (2009).

<sup>15</sup> MODEL RULES OF PROF'L CONDUCT R. 1.3 (2009).

<sup>16</sup> MODEL RULES OF PROF'L CONDUCT R. 8.4 (2009).

communicate with the client,<sup>17</sup> abide by the client's decisions concerning the objectives of the representation and consult with the client as to the means by which they are to be pursued,<sup>18</sup> exercise independent professional judgment and render candid advice,<sup>19</sup> preserve client confidences,<sup>20</sup> and avoid conflicts of interest,<sup>21</sup> including a specific conflict in the case of Hollywood's penchant for depicting lawyer-client sexual relations.<sup>22</sup> Professionalism issues are also common, particularly in the case of lawyer-client communications over expectations in the representation.<sup>23</sup>

[c] Interaction with Opposing Counsel.

Interaction among movie lawyers is fertile ground for lapses in both ethics and professionalism. The primary ethical obligation is that of fairness to the opposing party and counsel.<sup>24</sup> There are several relevant professionalism statements, including those pertaining to civility and courtesy in oral and written communications<sup>25</sup> and addressing disagreements between parties.<sup>26</sup>

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<sup>17</sup> MODEL RULES OF PROF'L CONDUCT R. 1.4 (2009).

<sup>18</sup> MODEL RULES OF PROF'L CONDUCT R. 1.2(a) (2009).

<sup>19</sup> MODEL RULES OF PROF'L CONDUCT R. 2.1 (2009).

<sup>20</sup> MODEL RULES OF PROF'L CONDUCT R. 1.6 (2009).

<sup>21</sup> MODEL RULES OF PROF'L CONDUCT R. 1.7 (2009).

<sup>22</sup> MODEL RULES OF PROF'L CONDUCT R. 1.8(j) (2009).

<sup>23</sup> *See, e.g.*, TEX. LAWYER'S CREED II(4) ("I will advise my client that civility and courtesy are expected and are not a sign of weakness.").

<sup>24</sup> MODEL RULES OF PROF'L CONDUCT R. 3.4 (2009).

<sup>25</sup> *See* TEX. LAWYER'S CREED III(1) ("I will be courteous, civil, and prompt in oral and written communications.").

<sup>26</sup> *See* TEX. LAWYER'S CREED III(9) ("I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.").

[d] Courtroom Behavior.

Many of the films discussed in this article showcase drama or comedy in the courtroom. Lack of candor toward the tribunal is a commonly depicted ethical problem.<sup>27</sup> Missteps may also be found in a variety of areas addressed by professionalism codes or creeds, including courtroom conduct,<sup>28</sup> punctuality,<sup>29</sup> respecting court rulings<sup>30</sup> and respecting the judge.<sup>31</sup>

[2] Big Business.

If Atticus Finch set the gold standard for movie lawyers, then the era in which he practiced may have been the “golden age” for small business. In contrast, several recent films depict a family retail business succumbing to a mega store<sup>32</sup> as negative portrayals of large companies have become increasingly common. These portrayals typically follow a simple formula of profit motive affecting conduct (or *effecting misconduct*) followed by a lack of transparency (*i.e.*, cover-up).

[a] Profit Motive.

Profit motive is often shown on film to drive a company’s conduct, usually in a bad way. The emphasis on profits may be

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<sup>27</sup> MODEL RULES OF PROF’L CONDUCT R. 3.3 (2009).

<sup>28</sup> See TEX. LAWYER’S CREED IV(2) (“I will conduct myself in [c]ourt in a professional manner and demonstrate my respect for the [c]ourt and the law.”), and LA. CODE OF PROFESSIONALISM (“I will never intentionally mislead the court or other counsel.”).

<sup>29</sup> See TEX. LAWYER’S CREED IV(4) (“I will be punctual.”), and LA. CODE OF PROFESSIONALISM (“I will be punctual in my communication with clients, other counsel and the court, and in honoring scheduled appearances.”).

<sup>30</sup> See TEX. LAWYER’S CREED IV(7) (“I will respect the rulings of the [c]ourt.”).

<sup>31</sup> See TEX. LAWYER’S CREED IV(1) (“I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.”).

<sup>32</sup> See, e.g., BARBERSHOP 2: BACK IN BUSINESS (State Street Pictures, Cube Vision and Metro-Goldwyn-Mayer 2004), EMPIRE RECORDS (Monarchy Enterprises B. V., New Regency Pictures, Regency Entertainment and Warner Bros. 1995), and YOU’VE GOT MAIL (Warner Bros. 1998).

seen in statements and conduct of management characters as they focus on margins, deadlines and other economic factors. It is reinforced through movie depictions of companies and their management as being wealthy and powerful, with frequent shots of “ivory tower” buildings and facilities. The resulting negative conduct shown may range from assuming increased risks in areas such as safety and the environment to more specific instances of noncompliance with laws and regulations and, in some cases, extreme criminal activity.

[b] Transparency.

Movie portrayals of bad acts driven by a profit motive are usually followed by some sort of cover-up. This may involve a lack of disclosure by the company, or by more affirmative acts of conspiracy and concealment. To that end, there is also often a showing of additional negative conduct.

#### IV. **Movies and the Legal Profession.**

Movies featuring lawyers in leading roles generally provide the best opportunities for spotting ethics and professionalism issues. However, some notable examples may also be found where lawyer roles are supporting or more limited. Judges and law students have been showcased to a lesser extent, with juries providing some of the silver screen’s most entertaining moments.

[1] Lawyers in Leading Roles.

[a] The Accused.<sup>33</sup>

Jodie Foster won the Oscar for best actress in a leading role for her portrayal of Sarah Tobias, the victim of a gang sexual assault in a neighborhood bar in a story based on a 1983 incident in New Bedford, Massachusetts. Kelly McGillis plays Kathryn Murphy, the deputy district attorney who plea bargains the case to reckless endangerment given concerns over Tobias’ credibility. Tobias is outraged, and a remorseful Murphy decides to pursue the

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<sup>33</sup> THE ACCUSED (Paramount Pictures Corporation (Canada) and Paramount Pictures 1988).

onlookers who cheered on the incident on a theory of criminal solicitation.

There is an interesting clash between Murphy and her superiors in which they insist that she drop the case and she threatens to tell the world about the many “sleazy” plea bargains they have struck over their careers. Otherwise, the movie is a positive portrayal of lawyers that resists conventional stereotypes. The courtroom drama is limited, but the judge quietly yet competently presides over the trial, defense counsel conducts a humane but effective cross-examination of Tobias, and opposing lawyers conduct themselves professionally.<sup>34</sup> The victim and the accused are less than model citizens, but that is what fuels the drama.

[b] ... And Justice for All.<sup>35</sup>

Everything about the legal profession is broken as Al Pacino plays Arthur Kirkland, a young Baltimore lawyer who is fed up with the system and yet retained to defend a sexual assault charge against antagonistic Judge Henry Fleming, played by John Forsythe. All of the film’s principal characters are flawed. Judge Fleming tries to fix the outcome of his own trial,<sup>36</sup> another judge played by Jack Warden is suicidal, Kirkland’s law partner battles mental illness after a murderous client he got off on a technicality later kills again<sup>37</sup> and members of an ethics committee investigating corruption within the system are themselves engaged in improper conduct. For his part, Kirkland serves jail time for assaulting Judge Fleming,<sup>38</sup> initiates improper *ex parte*

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<sup>34</sup> See TEX. LAWYER’S CREED IV(3) (“I will treat counsel, opposing parties, the [c]ourt, and members of the [c]ourt staff with courtesy and civility.”).

<sup>35</sup> ...AND JUSTICE FOR ALL (Columbia Pictures Corporation 1979).

<sup>36</sup> See MODEL CODE OF JUD. CONDUCT Canon 1 (2007) (requiring the judge to uphold and promote the independence, integrity, and impartiality of the judiciary, avoiding impropriety and the appearance of impropriety, hereinafter “independence and integrity of judiciary”), and Canon 2 (2007) (requiring the judge to perform the duties of judicial office impartially, competently, and diligently, hereinafter “performance of judicial duties”).

<sup>37</sup> Mental illness and substance abuse among lawyers are sometimes discussed in the context of professionalism. See, e.g., Scott Mitchell, *Mental Health in the Legal Profession*, DIVERSITY & THE BAR 64 (Sept./Oct. 2007).

<sup>38</sup> See MODEL RULES OF PROF’L CONDUCT R. 8.4(b) (2009) (making it

communications with him,<sup>39</sup> tries to leverage his representation of Fleming to obtain relief for a client in another case<sup>40</sup> and turns on his own clients.<sup>41</sup>

[c] Body Heat.<sup>42</sup>

William Hurt plays small town lawyer Ned Racine, whose toxic affair with Mattie Walker, played by Kathleen Turner, leads to a colossal error in judgment in which he murders her husband. Perhaps the only movie to showcase the Rule Against Perpetuities, *Body Heat* features criminal acts by an attorney who already has a reputation for malpractice.<sup>43</sup> Notably, Racine's affair with Mattie predates any attorney-client relationship.<sup>44</sup> While unrelated to

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professional misconduct for the lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, hereinafter "professional misconduct for criminal acts"), and cmt. 2 (including violence and serious interference with the administration of justice among the acts contemplated by the rule).

<sup>39</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.5(b) (2009) (prohibiting the lawyer from communicating *ex parte* with a judge, juror, prospective juror or other official during the proceeding unless authorized to do so by law or court order, hereinafter "prohibiting *ex parte* communication"), and MODEL CODE OF JUD. CONDUCT R. 2.9 (2007) (prohibiting a judge from initiating, permitting, or considering *ex parte* communications, hereinafter "prohibiting judicial *ex parte* communication").

<sup>40</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.5(a) (2009) (prohibiting the lawyer from seeking to influence a judge, juror, prospective juror or other official by means prohibited by law), and R. 8.4(f) (2009) (making it professional misconduct for the lawyer to knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law).

<sup>41</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.3 cmt. 1 (2009) (requiring, as a part of the lawyer's obligation of diligence, that the lawyer take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor and act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf, hereinafter "requiring dedication and zeal in advocacy").

<sup>42</sup> BODY HEAT (The Ladd Company 1981).

<sup>43</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts).

<sup>44</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.8(j) (2009) (prohibiting the lawyer from having sexual relations with a client unless a consensual sexual

ethics and professionalism, one of the film's most memorable scenes involves a simple question of "...anybody mind if I smoke?"

[d] Bringing Down the House.<sup>45</sup>

In the opening scene a divorced tax lawyer posting in an Internet chat room as "Legaleagle" gives legal advice to unknown recipient "Lawyer-girl," with the intent of developing a more personal relationship. Legaleagle is Peter Sanderson, played by Steve Martin, and Lawyer-girl turns out to not be a lawyer at all. She is prison escapee Charlene Morton, played by Queen Latifah, who soon takes refuge at Sanderson's house in hopes that he can clear her robbery conviction. Sanderson's associate Howie Rodman, played by Eugene Levy, tags along as Sanderson tries to restore order to his life, rekindle his relationship with his ex-wife and kids, court a potential new client and grudgingly come to Morton's aid.

Lawyers act badly, although not necessarily unethically, as Sanderson berates a restaurant headwaiter and his firm holds a meeting to debate who gets to chase the potential new client account.<sup>46</sup> Ethical concerns arise when Rodman solicits a relationship with Morton<sup>47</sup> and later when Rodman and Sanderson participate in comedic, but nonetheless potentially criminal, activity including kidnapping and money laundering as a part of their efforts to help Morton.<sup>48</sup>

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relationship existed between them when the client-lawyer relationship commenced, hereinafter "prohibiting lawyer-client sexual relations").

<sup>45</sup> BRINGING DOWN THE HOUSE (Touchstone Pictures and Hyde Park Films 2003).

<sup>46</sup> The conduct depicted still appears inconsistent with the spirit of *The Texas Lawyer's Creed*, which notes that the desire for respect and confidence by lawyers from the public should provide the necessary incentive to attain the highest degree of ethical and professional conduct. See TEX. LAWYER'S CREED, Order of the Supreme Court of Texas and the Court of Criminal Appeals.

<sup>47</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.8(j) (2009) (prohibiting lawyer-client sexual relations).

<sup>48</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts), and R. 1.2(d) (2009) (generally prohibiting the lawyer from counseling a client to engage, or assisting a client, in criminal or fraudulent conduct).

[e] Cape Fear.<sup>49</sup>

Martin Scorsese's remake of J. Lee Thompson's 1962 classic<sup>50</sup> casts Nick Nolte as Sam Bowden, a lawyer tormented by revenge-seeking ex-con Max Cady, played by Robert De Niro. As a public defender early in his career, Bowden railroaded Cady into a fourteen-year prison sentence for sexual assault. Bowden's ethical blunder at the time was to "bury" a report about the victim's promiscuity that might have exonerated Cady, neglecting his obligations of competency<sup>51</sup> and diligence,<sup>52</sup> since he had already decided that Cady was guilty and deserved to go to prison. Bowden embarks upon a series of legal and ethical missteps fourteen years later in an effort to eliminate the problem, including attempting to bribe and threaten Cady, publicly assaulting him, allowing a private investigator to hire thugs to assault him (after earlier proclaiming that as a lawyer he must live within the law) and attempting to stage his murder in self-defense.<sup>53</sup>

[f] The Chamber.<sup>54</sup>

The fifth John Grisham book to reach the big screen, *The Chamber* features Chris O'Donnell as Adam Hall, a recent law school graduate fighting for a reprieve for his Klansman grandfather Sam Cayhall, played by Gene Hackman, who sits on Mississippi's death row for the bombing deaths of two Jewish boys 30 years earlier. Ethical questions surface early in the movie: Is a well-intended but inexperienced Hall competent to handle a death row appeal<sup>55</sup> and is his firm doing enough to support that effort?"<sup>56</sup>

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<sup>49</sup> CAPE FEAR (Amblin Entertainment, Cappa Films and Tribeca Productions 1991).

<sup>50</sup> CAPE FEAR (Melville-Talbot Productions 1962).

<sup>51</sup> MODEL RULES OF PROF'L CONDUCT R. 1.1 (2009).

<sup>52</sup> MODEL RULES OF PROF'L CONDUCT R. 1.3 (2009).

<sup>53</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts).

<sup>54</sup> THE CHAMBER (Universal Pictures, Imagine Entertainment and Davis Entertainment 1996).

<sup>55</sup> MODEL RULES OF PROF'L CONDUCT R. 1.1 (2009).

Hall certainly acts like he knows what he is doing, and the firm's lead partner checks in with him just enough to give the appearance of firm supervision. For his part, Cayhall is far from a cooperative client and presents a unique ethical challenge for Hall.<sup>57</sup>

[g] Changing Lanes.<sup>58</sup>

The lives of young lawyer Gavin Banek, played by Ben Affleck, and insurance salesman Doyle Gipson, played by Samuel L. Jackson, are forever changed when their cars collide while each is *en route* to a court appearance. The "by-the-book" Gipson wants to exchange insurance information and refuses a blank check offered by the hurried Banek to cover the vehicle damage. Banek strands Gipson and his disabled vehicle on a rainy road, inadvertently leaving behind with Gipson a file containing a critical probate document. Gipson misses his court appearance and loses custody of his children while Banek makes his but cannot produce the critical document, which an angry Gipson refuses to return.

Questions surround the ethics of Banek and his firm's actions in the probate proceeding, but the plot revolves around the escalating acts of retaliation between Banek and Gipson. Banek's desperation leads him to hire a hacker to ruin Gipson's credit, improperly access confidential firm files and slander Gipson.<sup>59</sup> At

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<sup>56</sup> See MODEL RULES OF PROF'L CONDUCT 5.1(a) (2009) (generally requiring law firm management to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that firm lawyers conform to the Model Rules, hereinafter "assurance of subordinate conformance to Model Rules").

<sup>57</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.4(a) (requiring the lawyer to reasonably consult with the client about the means by which the client's objectives are to be accomplished, hereinafter "requiring reasonable consultation with client"), and R. 1.2(a) (2009) (generally requiring the lawyer to abide by a client's decisions concerning the objectives of the representation, hereinafter, "abide by client decisions").

<sup>58</sup> CHANGING LANES (Paramount Pictures and Scott Rudin Productions 2002).

<sup>59</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts), and (c) (also professional misconduct to engage in conduct involving dishonesty, fraud, deceit or misrepresentation, hereinafter "professional misconduct for fraudulent acts"). See also TEX. LAWYER'S CREED III introductory cmt. ("A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct."), which is directed at conduct

the urging of his firm's senior partners, he also considers filing a forgery of the missing document.<sup>60</sup>

[h] A Civil Action.<sup>61</sup>

This screen adaptation of Jonathan Harr's nonfiction best seller chronicles personal injury lawyer Jan Schlichtmann's multi-year battle with two companies on behalf of families in Woburn, Massachusetts, for industrial pollution of local waters. John Travolta plays Schlichtmann, who is surprised during a guest interview on a local radio talk show to receive a call from a Woburn client he doesn't recognize who claims that his firm has "sat on her case" and not returned her phone calls.<sup>62</sup> He decides to pursue the case on a contingent fee basis after finding what appear to be "deep pockets" defendants, but is soon overwhelmed by its cost and complexity.<sup>63</sup> Robert Duval plays tough, quirky and seasoned defense counsel Jerome Facher, who is unflappable in taking good and bad case developments in stride. Ethics and professionalism concerns arise as attorneys make derogatory comments about each other,<sup>64</sup> the judge seems to favor the defense,<sup>65</sup> Facher objects frequently and to everything in order to

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between lawyers but arguably relevant to Banek's actions.

<sup>60</sup> Reliance on the urging of the firm's senior partners would seem to afford Banek little protection from an ethical perspective. *See* MODEL RULES OF PROF'L CONDUCT R. 5.2 (binding the subordinate lawyer to the Model Rules even if acting at the direction of another person except where acting in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty).

<sup>61</sup> A CIVIL ACTION (Touchstone Pictures, Paramount Pictures and Wildwood Enterprises 1998).

<sup>62</sup> *See* MODEL RULES OF PROF'L CONDUCT R. 1.3 cmt. 3 (noting, in the context of the lawyer's obligation of diligence, that perhaps no professional shortcoming is more widely resented than procrastination).

<sup>63</sup> There are lingering questions throughout the film over the competency of Schlichtmann's firm to handle a case of this magnitude. *See* MODEL RULES OF PROF'L CONDUCT R. 1.1 (2009).

<sup>64</sup> *See* TEX. LAWYER'S CREED III(10) ("I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses."), and LA. CODE OF PROFESSIONALISM ("I will not engage in personal attacks on other counsel or the court.").

<sup>65</sup> *See* MODEL CODE OF JUD. CONDUCT Canon 1 (2007) (independence and

break the momentum of Schlichtmann's case<sup>66</sup> and Schlichtmann responds to significant settlement offers without informing his clients.<sup>67</sup>

[i] Class Action.<sup>68</sup>

Jedediah Ward, played by Gene Hackman, is a crusading civil rights lawyer who agrees to represent a group whose cars exploded on impact, only to find that his daughter Maggie, played by Mary Elizabeth Mastrantonio, represents defendant Argo Motors. An earlier extramarital affair between Hackman and his law partner fuels a strained father-daughter relationship and tensions in and out of the courtroom.<sup>69</sup>

The movie presents numerous ethical and professionalism issues. Any conflict of interest arising out of Maggie being pitted against her father is summarily addressed by the judge in their first court appearance. Beyond that, Maggie's senior partner asks her to eliminate one of the victims as an effective witness, leading to a humiliating deposition;<sup>70</sup> her supervising lawyer asks her to lose a

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integrity of judiciary), and Canon 2 (2007) (performance of judicial duties).

<sup>66</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.5(d) (2009) (prohibiting conduct intended to disrupt a tribunal). See also TEX. LAWYER'S CREED IV(9) ("I will be considerate of the time constraints and pressures imposed upon the [c]ourt, [c]ourt staff and counsel in efforts to administer justice and resolve disputes."), and LA. CODE OF PROFESSIONALISM ("I will not file or oppose pleadings or utilize any course of conduct for the purpose of undue delay or harassment or any other counsel or party").

<sup>67</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.4 cmt. 2 (2009) (requiring, as a part of the lawyer's obligation to communicate with the client, that a lawyer who receives a settlement offer from opposing counsel promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or reject the offer, hereinafter "requiring communication of settlement offers").

<sup>68</sup> CLASS ACTION (Interscope Communications and Twentieth Century Fox Film Corporation 1991).

<sup>69</sup> This is one of several movies discussed in this article that depict romantic relationships between lawyers, in some cases presenting related conflicts. See also FRACTURE, *infra* § 1.04[1][q]; LAWS OF ATTRACTION, *infra* § 1.04[1][w]; LEGAL EAGLES, *infra* § 1.04[1][x]; LIAR LIAR, *infra* § 104[1][y]; LINCOLN LAWYER, *infra* § 104[1][z]; and PRESUMED INNOCENT, *infra* § 1.04[1][ee].

<sup>70</sup> The deposition is implied to be worse than it appears. See MODEL RULES OF

damaging report on the car's design,<sup>71</sup> with her firm instead deciding to bury the report in a truckload of overproduced documents during discovery; notes on the report later mysteriously disappear from Maggie's desk; Maggie takes actions to expose improprieties at her firm that would appear to conflict with her advocacy duties to Argo;<sup>72</sup> and a settlement offer is made without any apparent client consent.<sup>73</sup> From a "big business" perspective the common themes are present as Argo is shown to be powerful, operating out of a futuristic research facility, and to value profits over safety.

[j] The Client.<sup>74</sup>

There is nothing groundbreaking about a movie lawyer with a volatile client, but what if that client is only eleven years old and a witness to the suicide of a mafia lawyer? What if he is also caught in a cross-fire between an aggressive district attorney, who wants to use him as a witness to take down the mafia, and mafia thugs who want to keep him quiet? In this John Grisham offering, Susan Sarandon plays "Reggie" Love, the boy's inexperienced and recovering alcoholic lawyer. Tommy Lee Jones is "Reverend"

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PROF'L CONDUCT R. 4.4(a) (2009) (providing that the lawyer, in representing a client, shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person). *See also* TEX. LAWYER'S CREED II(6) ("I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.").

<sup>71</sup> *See* MODEL RULES OF PROF'L CONDUCT R. 3.4(a) (2009) (prohibiting the lawyer from unlawfully obstructing another party's access to evidence or unlawfully altering, destroying or concealing a document or other material having potential evidentiary value, or counseling or assisting another person to do so, hereinafter "prohibiting evidence tampering"), and R. 8.4(a)-(d) (2009) (making it professional misconduct for the lawyer to induce another to violate the Model Rules or commit various other acts of the nature requested by the supervising lawyer).

<sup>72</sup> *See* MODEL RULES OF PROF'L CONDUCT R. 1.3 cmt. 1 (2009) (requiring dedication and zeal in advocacy).

<sup>73</sup> *See* MODEL RULES OF PROF'L CONDUCT R. 1.4(a)(2) (2009) (requiring reasonable consultation with client).

<sup>74</sup> THE CLIENT (Warner Bros. Pictures, Regency Enterprises and Alcor Films 1994).

Roy Foltrigg, a district attorney with political aspirations not to be deterred.

While much of the story involves the boy's game of cat and mouse with his pursuers, it does pose a few ethical questions. For example, does Love see her own past in the boy's plight such that she loses her objectivity?<sup>75</sup> Foltrigg seems to think so. The petty exchanges between Love and Foltrigg inside and outside the courtroom do not exude professionalism.<sup>76</sup> On the other hand, Ossie Davis is immensely satisfying as practical, fair and no-nonsense Judge Harry Roosevelt.

[k] The Conspirator.<sup>77</sup>

Robert Redford directs Robin Wright in her portrayal of Mary Surratt, the only woman to be charged as a co-conspirator in the assassination of Abraham Lincoln. Her son was John Wilkes Booth's right-hand man, and the two of them stayed at her boarding house prior to the murder. She faces a formidable military commission of Lincoln loyalist jurors with no presumption of innocence or possibility of appeal, yet the courtroom proceedings are surprisingly civil.

James McAvoy plays Frederick Aiken, the young "Yankee captain" lawyer who reluctantly takes her case in the face of an overwhelming public outcry for vengeance by her conviction. By his own admission, he initially does not care what happens to Surratt<sup>78</sup> and has no experience in such a case, although he is quick

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<sup>75</sup> See MODEL RULES OF PROF'L CONDUCT R. 2.1 (2009) (requirements to exercise independent professional judgment and render of candid advice, hereinafter "requiring independent professional judgment").

<sup>76</sup> See TEX. LAWYER'S CREED IV(3) ("I will treat counsel, opposing parties, the [c]ourt, and members of the [c]ourt staff with courtesy and civility.").

<sup>77</sup> THE CONSPIRATOR (The American Film Company and Wildwood Enterprises 2010).

<sup>78</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.2(b)(2009) (lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities, hereinafter "representation not an endorsement of client views"), and TEX. LAWYER'S CREED I(2) ("I am responsible to assure that all persons have access to competent representation regardless of wealth or position

to point out that there has never been such a case in the past.<sup>79</sup> Political and security factors are also in play, as the prosecution faces immense pressure for swift justice in order to send a message to other Confederate sympathizers who might seek to overthrow the crippled government.

Surratt is an uncooperative client, with her maternal instinct to protect her fugitive son undermining Aiken's defense effort. The prosecutor accommodates Aiken's request to relax Surratt's solitary confinement in exchange for Aiken trying to persuade Surratt to give up her son's location,<sup>80</sup> only to have Surratt question the veracity of Aiken's advocacy. Aiken is nonetheless professional in his dealings with Surratt, firmly but politely pressing her for information that might help her case and agreeing to look in on her daughter.<sup>81</sup>

#### [I] Criminal Law.<sup>82</sup>

Gary Oldman plays Boston attorney Ben Chase, a recent Harvard grad and ex-prosecutor turned defense attorney who secures an acquittal for wealthy accused murderer Martin Thiel IV, played by Kevin Bacon. When a second murder occurs, Chase realizes that Thiel is guilty and will kill again. He nonetheless agrees to represent Thiel, telling the investigating detective that he is doing so as a part of his plan to get enough information on Thiel to expose him since eventually Thiel will say too much.<sup>83</sup> Not

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in life.”).

<sup>79</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.1 cmt. 2 (2009) (noting, in connection with the lawyer's obligation of competency, that a lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar, discussing other considerations).

<sup>80</sup> TEX. LAWYER'S CREED II(10) (“I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.”).

<sup>81</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.3 cmt. 1 (2009) (requiring dedication and zeal in advocacy).

<sup>82</sup> CRIMINAL LAW (Hemdale Film and Northwood Productions 1989).

<sup>83</sup> Several ethical considerations appear relevant to Chase's conduct. See, e.g., MODEL RULES OF PROF'L CONDUCT R. 1.3 cmt. 1 (2009) (requiring dedication and zeal in advocacy), and R. 1.6(b)(1) (2009) (allowing the lawyer to reveal

surprisingly, while Chase manipulates his client he soon finds that he too is being manipulated. In the ensuing battle of wits, Chase makes unethical tactical moves designed to undercut Thiel's case,<sup>84</sup> breaks and enters into Thiel's house and ultimately plans a staged self-defense killing of Thiel.<sup>85</sup>

[m] The Devil's Advocate.<sup>86</sup>

Kevin Lomax is a small town attorney with an undefeated case record who is called up to a big league New York firm for a job that seems too good to be true. Keanu Reeves stars, with Charlize Theron playing his wife Mary Ann. Other than some early on-the-job eavesdropping on jury deliberations to learn how jurors think, Lomax seems like an ethical albeit overly ambitious lawyer. Will his obsession with winning ruin his marriage and cause him to present perjured testimony, or will he have a crisis of conscience?

Al Pacino, as the devilish firm head John Milton, may be the worst mentor ever. He encourages Lomax by telling him that at his billing rate he does not have a lot of *pro bono* in his future;<sup>87</sup> seduces Lomax's wife; denies knowledge of a criminal investigation into the firm's activity, saying he just delegates it to his people to handle; and engages in more serious instances of misconduct.<sup>88</sup> Lawyers at the firm follow Milton's lead,

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information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent reasonably certain death or substantial bodily harm).

<sup>84</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.3 cmt. 1 (2009) (requiring dedication and zeal in advocacy), and R. 3.1 cmt. 1 (2009) (generally requiring the lawyer as an advocate to use legal procedure for the fullest benefit of the client's cause provided that doing so does not abuse legal procedure).

<sup>85</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts), and (d) (also professional misconduct to engage in conduct that is prejudicial to the administration of justice).

<sup>86</sup> THE DEVIL'S ADVOCATE (Warner Bros. Pictures 1997).

<sup>87</sup> See MODEL RULES OF PROF'L CONDUCT R. 6.1 (2009) (requiring every lawyer to provide legal services to those unable to pay, hereinafter "*pro bono* requirement"), and TEX. LAWYER'S CREED I(3) ("I commit myself to an adequate and effective *pro bono* program.").

<sup>88</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts).

contemplating a false media story to destroy an opponent's credibility and holding a document shredding party.<sup>89</sup> On the bright side, those contemplating a legal career will appreciate Milton's nod that "the law . . . puts us into everything."

[n] The Exorcism of Emily Rose.<sup>90</sup>

This film is an unlikely convergence of horror and courtroom drama, supposedly based on a true story. Laura Linney plays Erin Bruner, an attorney retained by the Archdiocese to represent a Catholic priest charged in the death of a young girl named Emily Rose, played by Jennifer Carpenter. Tom Wilkinson plays the defendant, Father Richard Moore, whose spiritual treatment of Rose, including exorcism, is alleged to be the cause of death.

Bruner undertakes the representation as a stepping stone to partnership at her firm, but develops a growing belief in Moore's story and Rose's possession. There are lingering questions as to whether the interests of the Archdiocese, which is paying Moore's legal fees and seeking to avoid embarrassment, are aligned with those of Moore. Bruner otherwise appears to provide competent representation, although seasoned trial attorneys may cringe at the way in which she identifies her experts "on the fly" during trial.<sup>91</sup>

[o] A Few Good Men.<sup>92</sup>

Lieutenant J. G. Daniel Kaffee, played by Tom Cruise, claims over forty plea bargains in his short legal career and nears another with prosecuting officer Captain Jack Ross, played by Kevin Bacon, that would net twelve-year sentences for his two Marine clients accused in the death of another Marine during an unofficial disciplinary procedure. Lieutenant Commander JoAnne Galloway,

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<sup>89</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.4(a) (2009) (prohibiting evidence tampering).

<sup>90</sup> THE EXORCISM OF EMILY ROSE (Screen Gems, Lakeshore Entertainment and Firm Films 2005).

<sup>91</sup> See MODEL RULES OF PROF'L CONDUCT 1.1 cmt. 5 (2009) (noting that the lawyer's obligation of competency includes adequate preparation).

<sup>92</sup> A FEW GOOD MEN (Castle Rock Entertainment and Columbia Pictures Corporation 1992).

played by Demi Moore, is assigned as Kaffee's colleague from internal affairs and suspects that there is more to the case than meets the eye. Potentially behind it all is Colonel Nathan R. Jessup, played by Jack Nicholson.

Kaffee's preoccupation with an early plea bargain disengages his advocacy effort.<sup>93</sup> However, he soon gets on track after some less than subtle urging from Galloway. There is good courtroom drama from that point on, with some interesting but professionally addressed tensions within a defense team not sure of its clients' innocence and with a confident prosecution holding the cards in a seemingly strong case.

[p] The Firm.<sup>94</sup>

This screen adaptation of John Grisham's best-known best seller casts Tom Cruise as Mitch McDeere, a hungry Harvard Law School grad lured to a lucrative job with an exclusive Memphis firm. Gene Hackman plays Avery Tolar, McDeere's supervisor and mentor. McDeere soon realizes that the firm is a front for the mob and that once in it is hard to get out, at least alive. The criminal nature of the enterprise provides obvious ethical concerns, as the firm's mob ties lead to murder, extortion and the wiretap of McDeere's home.<sup>95</sup> The film also features client overbilling<sup>96</sup> and questions over the ethics of the firm's supervision of its

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<sup>93</sup> One of the movie's more memorable moments comes when Kaffee realizes that he was likely assigned this important case because it was assumed he would never take it to trial. See generally MODEL RULES OF PROF'L CONDUCT R. 1.3 cmt. 1 (2009) (requiring dedication and zeal in advocacy), and R. 2.1 (2009) (requiring independent professional judgment).

<sup>94</sup> THE FIRM (Paramount Pictures 1993).

<sup>95</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts), and (c) (professional misconduct for fraudulent acts).

<sup>96</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.5(a) (2009) (generally prohibiting the lawyer from charging or collecting an unreasonable fee or an unreasonable amount for expenses).

associates.<sup>97</sup> McDeere looks to the law itself for the solution to his problems, and walks an ethical tightrope in doing so.<sup>98</sup>

[q] Fracture.<sup>99</sup>

Ted Crawford, played by Anthony Hopkins, shoots his wife and calmly waits for the police to arrive. Deputy district attorney William Beachum, played by Ryan Gosling, holds Crawford's signed confession and this is his final case before he leaves for a lucrative new job in private practice. To his surprise, Crawford represents himself and the prosecution's case soon unravels as the two match wits in a game of legal cat and mouse.

A potential conflict is suggested in that Beachum obtained his new job offer in connection with a plea bargain he struck in another case with his new firm's senior partner.<sup>100</sup> He soon begins a romantic relationship with his supervising attorney to be. Desperate to convict Crawford, Beachum entertains a police officer's offer to alter and plant evidence and approaches his secretary to be prepared to assist.<sup>101</sup>

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<sup>97</sup> See MODEL RULES OF PROF'L CONDUCT R. 5.1(a) (2009) (assurance of subordinate conformance to Model Rules).

<sup>98</sup> The facts present interesting questions in the area of preservation of client confidences. See MODEL RULES OF PROF'L CONDUCT R. 1.6(a) (2009) (prohibiting the lawyer from revealing information relating to the representation of a client unless the client gives informed consent or if falling under certain other exceptions, hereinafter "preservation of client confidences").

<sup>99</sup> FRACTURE (New Line Cinema, Castle Rock Entertainment and M7 Filmproduktion 2007).

<sup>100</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.7(a)(2) (2009) (generally prohibiting the lawyer from representing a client if there is a significant risk that the representation will be materially limited by the lawyer's responsibilities to a third person or by a personal interest of the lawyer).

<sup>101</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.4(a) (2009) (prohibiting evidence tampering).

[r] From the Hip.<sup>102</sup>

The audience learns everything it needs or wants to know about first year associate Robin “Stormy” Weathers, played by Judd Nelson, in the first few minutes as he fakes a loud *Rambo* lawyer telephone call to impress the firm partners with his tenacity. Through some office trickery, he parlays a partner’s scheduling conflict into a last-minute opportunity to try his first case. Once in action he engages in a barrage of unethical and unprofessional courtroom antics and misrepresentations that earn multiple contempt citations,<sup>103</sup> uses profanity and accuses opposing counsel of having an “in” with the judge.<sup>104</sup> Weathers also frequently shares confidential client information with his girlfriend Jo Ann, played by Elizabeth Perkins.<sup>105</sup>

When the firm tries to fire Weathers,<sup>106</sup> the client benefiting from Weathers’ conduct threatens to pull all of his business from the

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<sup>102</sup> FROM THE HIP (De Laurentiis Entertainment Group and Indian Neck 1987).

<sup>103</sup> See MODEL RULES OF PROF’L CONDUCT R. 3.3(a)(1) (2009) (generally prohibiting the lawyer from making a false statement of fact or law to a tribunal or failing to correct a false statement of material fact or law previously made to the tribunal by the lawyer, hereinafter “prohibiting false statements”), (3) (prohibiting offering evidence that the lawyer knows to be false, hereinafter “prohibiting offering false evidence”) and R. 3.4(e) (2009) (prohibiting the lawyer from alluding to any matter in trial that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence). Weathers’ antics also run afoul of a number of professionalism statements. See, e.g., TEX. LAWYER’S CREED III(9) (“I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior.”), III(10) (“I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses.”), and LA. CODE OF PROFESSIONALISM (“I will not knowingly make statements of fact or law that are untrue.”).

<sup>104</sup> See, e.g., MODEL RULES OF PROF’L CONDUCT R. 8.2(a) (2009) (prohibiting the lawyer from making a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge). See also TEX. LAWYER’S CREED III(10) (“I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety.”).

<sup>105</sup> See MODEL RULES OF PROF’L CONDUCT R. 1.6(a) (2009) (preservation of client confidences).

<sup>106</sup> Firm management could be held responsible for Weathers’ ethical violations

firm.<sup>107</sup> All of this occurs within the first half-hour, with the rest of the movie devoted to Weathers' murder trial representation of another influential but psychotic client. Will Weathers be redeemed as a lawyer by his eventual search for the truth in this case?

[s] Ghosts of Mississippi.<sup>108</sup>

Civil rights leader Medgar Evers is murdered in Mississippi in 1963, and his untouchable racist killer Byron De La Beckwith, played by James Woods, draws a hung jury in two trials. The deck is so stacked in Beckwith's favor that an ex-governor interrupts one trial to shake his hand and a parade is held to celebrate his release. Over twenty-five years later a reporter uncovers evidence of jury tampering, and Evers' wife Myrlie, played by Whoopi Goldberg, persuades reluctant assistant district attorney Bobby DeLaughter, played by Alec Baldwin, to reopen the case.

The movie yields some good examples of ethics and professionalism. On the positive side, DeLaughter makes it a point to call Myrlie every Friday to give her an update regardless of whether there is good, bad or no news.<sup>109</sup> On the other hand, he becomes so focused on the case that he has trouble keeping up with the rest of his caseload.<sup>110</sup> The courtroom drama is staged but interesting, with professional conduct by opposing counsel and the judge.

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if it knows of the conduct and ratifies it or fails to take reasonable remedial action at a time when its consequences can be avoided or mitigated. *See* MODEL RULES OF PROF'L CONDUCT R. 5.1(c)(2) (2009).

<sup>107</sup> Weathers' client expectations raise professionalism concerns. *See, e.g.*, TEX. LAWYER'S CREED II(6) ("I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.").

<sup>108</sup> GHOSTS OF MISSISSIPPI (Castle Rock Entertainment and Columbia Pictures 1996).

<sup>109</sup> *See generally* MODEL RULES OF PROF'L CONDUCT R. 1.4(a)(3) (2009) (requiring the lawyer to keep the client reasonably informed about the status of the matter, although in this case Myrlie is not DeLaughter's client).

<sup>110</sup> MODEL RULES OF PROF'L CONDUCT R. 1.3 cmt. 2 (2009) (requiring the lawyer's work load to be controlled so that each matter can be handled competently).

[t] I am Sam.<sup>111</sup>

Sam Dawson, played by Sean Penn, is a mentally retarded man raising his daughter Lucy Diamond, played by Dakota Fanning, who he had with a homeless woman. When authorities take Lucy away, he persuades high-priced lawyer Rita Harrison Williams, played by Michelle Pfeiffer, to help him get her back. Williams initially tells him that he cannot afford to hire her, but eventually takes the case *pro bono*.<sup>112</sup> She is portrayed as competent, doing a good job working with her unpredictable client and his well-intended, but equally unpredictable, friends. However, she is prone to episodic tantrums that push the bounds of professionalism, berating her assistant after she runs into a coffee table, screaming at her cell phone and lying to clients about her whereabouts and availability.<sup>113</sup>

[u] Intolerable Cruelty.<sup>114</sup>

This film begins with an ethics lesson as divorce lawyer Miles Massey, played by George Clooney, tells his client what to say to win her case.<sup>115</sup> The central plot involves Massey's romantic pursuit of socialite Marilyn Rexroth, played by Catherine Zeta Jones, who he first meets while representing her unfaithful husband in their divorce. During that representation Massey

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<sup>111</sup> I AM SAM (New Line Cinema, Avery Pix and Bedford Falls Productions 2001).

<sup>112</sup> See MODEL RULES OF PROF'L CONDUCT R. 6.1 (2009) (*pro bono* requirement) and TEX. LAWYER'S CREED I(3) ("I commit myself to an adequate and effective *pro bono* program.").

<sup>113</sup> See generally MODEL RULES OF PROF'L CONDUCT R. 1.4 cmt. 4 (2009) (addressing regular communication with clients and requiring client telephone calls to be promptly returned or acknowledged, hereinafter "returning client phone calls").

<sup>114</sup> INTOLERABLE CRUELTY (Universal Pictures, Imagine Entertainment and Alphaville Films 2003).

<sup>115</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.3(a)(3) (2009) (prohibiting offering false evidence), and R. 3.4(b) (2009) (prohibiting the lawyer from falsifying evidence or counseling or assisting a witness to testify falsely, hereinafter "prohibiting counseling false testimony").

arranges a dinner date with Rexroth, without her lawyer,<sup>116</sup> to keep her occupied while his private detective burglarizes her home to photograph her address book as evidence.<sup>117</sup>

Rexroth next marries and divorces self-proclaimed oil baron Howard Doyle, played by Billy Bob Thornton. Even before that divorce is final, Massey steals a kiss from Rexroth. When Rexroth warns that she could have him disbarred, he tells her that it was worth it.

[v] Just Cause.<sup>118</sup>

Death penalty opponent and Harvard law professor Paul Armstrong, played by Sean Connery, rides to the aid of Florida death row inmate Bobby Earl Ferguson, played by Blair Underwood. Armstrong learns that Ferguson's confession was coerced, and early questions arise as to the quality of Ferguson's trial representation by his *pro bono* defense counsel.<sup>119</sup> Another death row inmate with knowledge of the case does his best to confuse Armstrong's efforts. While this film is more suspense thriller than legal drama, it is unclear what relationship Armstrong maintains with Ferguson, be it lawyer-client or otherwise.

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<sup>116</sup> See MODEL RULES OF PROF'L CONDUCT R. 4.2 (2009) (prohibiting the lawyer from communicating about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter unless the lawyer has the consent of the other lawyer or is authorized to do so by law or court order, hereinafter "no contact rule").

<sup>117</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts), and (c) (professional misconduct for fraudulent acts).

<sup>118</sup> JUST CAUSE (Fountainbridge Films and Warner Bros. Pictures 1995).

<sup>119</sup> This point is not well-developed. Defense counsel claims to have done his best, but ponders the negative impact that an acquittal might have had on his career. See MODEL RULES OF PROF'L CONDUCT R. 6.2 cmt. 3 (2009) (noting that an appointed lawyer has the same obligations to the client as retained counsel).

[w] Laws of Attraction.<sup>120</sup>

Friction and romance among high-flying New York divorce lawyers provide the backdrop for this ethics and professionalism lesson. After a brief flirtation, Yale attorney Audrey Woods, played by Julianne Moore, and opposing counsel Daniel Rafferty, played by Pierce Brosnan, joust in a hearing before a judge seemingly partial to Rafferty.<sup>121</sup> They later debate as keynote speakers at a bar association meeting, with an unprofessional Rafferty advocating marriage preservation by sharing his insight about lawyers being “scum” among other things.<sup>122</sup> Woods and Rafferty next get drunk and get “acquainted” and later go to Ireland and get drunk, again, and in that diminished capacity get married, they think.

Ethical transgressions include Woods frequently discussing her cases and client confidences with her mother;<sup>123</sup> Rafferty showboating on television, making flippant remarks about the merits of Woods’ case;<sup>124</sup> Rafferty exploiting information about Woods’ client that he inadvertently obtained through their romantic relationship; and the two exchanging barbs *ad nauseam* in the courtroom, coincidentally always before the same judge.<sup>125</sup>

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<sup>120</sup> LAWS OF ATTRACTION (Deep River Productions, Irish DreamTime and Initial Entertainment Group 2004).

<sup>121</sup> See MODEL CODE OF JUD. CONDUCT Canon 1 (2007) (independence and integrity of judiciary), and Canon 2 (2007) (impartiality of judiciary).

<sup>122</sup> See TEX. LAWYER’S CREED I(1) (“I am passionately proud of my profession.”).

<sup>123</sup> See MODEL RULES OF PROF’L CONDUCT R. 1.6(a) (2009) (preservation of client confidences).

<sup>124</sup> See MODEL RULES OF PROF’L CONDUCT R. 3.6(a) (2009) (generally prohibiting a lawyer associated with an adjudicative proceeding from making an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing the proceeding).

<sup>125</sup> See MODEL RULES OF PROF’L CONDUCT R. 3.5(d) (2009) (prohibiting the lawyer from engaging in conduct intended to disrupt a tribunal). See also TEX. LAWYER’S CREED IV(5) (“I will not engage in any conduct which offends the dignity and decorum of proceedings.”).

[x] Legal Eagles.<sup>126</sup>

Robert Redford plays tough assistant district attorney Tom Logan, who teams with defense counsel Laura Kelley, played by Debra Winger, to investigate the attempted theft of a valuable painting by Kelley's volatile client Chelsea Deardon, played by Daryl Hannah. Deardon claims that her artist father gave her the painting before his death. It should come as no surprise that the joint investigation presents escalating potential conflicts as the personal and professional relationship between Logan and Kelley evolves. Logan communicates directly with Deardon without Kelley's consent,<sup>127</sup> has sex with Deardon<sup>128</sup> and joins Kelley in obtaining evidence through misrepresentation and trespass.<sup>129</sup>

[y] Liar Liar.<sup>130</sup>

Jim Carey plays Fletcher Reede, a fast-talking lawyer and divorced father who seems to make his living by telling lies. His young son Max, played by Justin Cooper, makes a birthday wish that Reede go an entire day without telling a lie. The legal profession looks awful in this one, both before and after Reede's truth-telling transformation. Reede habitually lies to clients and friends about his availability,<sup>131</sup> takes on a divorce case referred by a firm partner because another lawyer in the firm refuses to lie or present false evidence,<sup>132</sup> has sex with a firm partner to advance his career, tells his client what she wants to hear instead of giving her

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<sup>126</sup> LEGAL EAGLES (Universal Pictures, Mirage and Northern Lights Entertainment 1986).

<sup>127</sup> See MODEL RULES OF PROF'L CONDUCT R. 4.2 (2009) (no contact rule).

<sup>128</sup> It is of little comfort that Deardon was not Logan's client at the time of their encounter.

<sup>129</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts).

<sup>130</sup> LIAR LIAR (Imagine Entertainment and Universal Pictures 1997).

<sup>131</sup> See generally MODEL RULES OF PROF'L CONDUCT R. 1.4 cmt. 4 (2009) (returning client phone calls).

<sup>132</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.3(a)(1) (2009) (prohibiting false statements), and (3) (prohibiting counseling false testimony).

objective advice,<sup>133</sup> disrupts courtroom proceedings and is abusive to opposing counsel.<sup>134</sup>

[z] The Lincoln Lawyer.<sup>135</sup>

Matthew McConaughey is a natural as Mick Haller, a slick and mobile Los Angeles defense attorney who offices out of his Lincoln as Michael Connelly's best seller comes to life on film. A big pay day comes knocking in the person of "rich kid" realtor Louis Roulet, played by Ryan Phillippe, who has been accused of assaulting a prostitute. All is well until Haller's growing doubts about Roulet's story suggest a connection to one of Haller's former clients, setting the stage for an epic conflict of interest.<sup>136</sup> The movie presents a number of lawyer bad acts, ranging from breaches of client confidentiality<sup>137</sup> to arranging an assault of a client.<sup>138</sup> Still, it is hard not to root for Haller in his quest for a crowd-pleasing resolution of the conflict.

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<sup>133</sup> MODEL RULES OF PROF'L CONDUCT R. 2.1 (2009) (requiring exercise of independent professional judgment).

<sup>134</sup> See TEX. LAWYER'S CREED III(9) ("I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior."), IV(2) ("I will conduct myself in [c]ourt in a professional manner and demonstrate my respect for the [c]ourt and the law."), and LA. CODE OF PROFESSIONALISM ("I will not abuse or misuse the law, its procedures or the participants in the judicial process.").

<sup>135</sup> THE LINCOLN LAWYER (Lionsgate, Lakeshore Entertainment and Sidney Kimmel Entertainment 2011).

<sup>136</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.9 (2009) (generally prohibiting a lawyer who has formerly represented a client in a matter from thereafter representing another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client).

<sup>137</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.6(a) (2009) (preservation of client confidences).

<sup>138</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts).

[aa] Michael Clayton.<sup>139</sup>

Tom Wilkinson plays Arthur Eden, a lead litigator for a large law firm who goes AWOL after a rant in which he strips naked during a deposition in a multi-billion dollar lawsuit involving a hazardous pesticide manufactured by his corporate client, U-North. Worse yet, it appears that he intends to sabotage his client's defense. George Clooney arrives on the scene as Michel Clayton, the firm's "fixer," to try to avert disaster.

This movie has it all. Eden's mental illness and Clayton's gambling problem threaten to compromise their respective practices. Eden provides anything but competent representation,<sup>140</sup> breaching client confidences,<sup>141</sup> directly contacting a plaintiff represented by counsel<sup>142</sup> and, by his own admission, engaging prostitutes.<sup>143</sup> Tilda Swinton won an Oscar for best supporting actress for her portrayal of Karen Crowder, U-North's General Counsel, whose desperation leads her to an assortment of criminal conduct including directing the wiretap of Eden's apartment, arranging a "hit" on Eden and agreeing to a payoff of Clayton.<sup>144</sup>

Clayton maintains a cool and professional demeanor throughout the film. On a positive note, he is ethical enough to refuse to represent a firm client involved in a hit and run accident, instead urging that qualified trial counsel be retained.<sup>145</sup> He is also noticeably empathetic to Eden's mental illness, at the same time maintaining objectivity as to his duties to the client. His efforts to

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<sup>139</sup> MICHAEL CLAYTON (Samuels Media, Castle Rock Entertainment and Mirage Enterprises 2007).

<sup>140</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.1 (2009)

<sup>141</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.6(a) (2009) (requiring preservation of client confidences).

<sup>142</sup> See MODEL RULES OF PROF'L CONDUCT R. 4.2 (2009) (no contact rule).

<sup>143</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts); but see cmt. 2 (noting that the rule only prohibits offenses that indicate a lack of those characteristics relevant to law practice).

<sup>144</sup> See *id.*

<sup>145</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.1 (2009) (requiring competent representation).

entrap Crowder are perplexing, at best suggesting a breach of client confidences and at worst looking a lot like extortion. He too has direct communications with a plaintiff represented by counsel.<sup>146</sup>

[bb] Murder in the First.<sup>147</sup>

This disturbing movie is said to be inspired by the true story of Henry Young, a depression-era Alcatraz inmate played by Kevin Bacon, whose three straight years in solitary confinement after a failed prison escape paved the way for prison reform. His original crime was stealing five dollars to feed his younger sister, although he later faces a murder charge for killing a fellow prisoner who snitched on his escape attempt. Christian Slater plays James Stamphill, the public defender representing Young who challenges the prison system.

Stamphill faces a less-than-supportive boss who assures him that a monkey could try the case and not make it any worse, an overzealous prosecutor who unnecessarily opposes his motion for continuance,<sup>148</sup> a judge who appears predisposed toward a finding of guilt and expresses grave concern over the defense strategy,<sup>149</sup> and his own brother who arranges to have one of Stamphill's key witnesses pressured and beaten in order to curry favor with political powers that be. Stamphill's defense tactics present some additional ethical questions as he is not always aligned with Young's decisions during the representation.<sup>150</sup>

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<sup>146</sup> MODEL RULES OF PROF'L CONDUCT R. 4.2 (2009) (no contact rule).

<sup>147</sup> MURDER IN THE FIRST (Warner Bros. Pictures, Canal + and Wolper Organization 1995).

<sup>148</sup> See TEX. LAWYER'S CREED III(6) ("I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.").

<sup>149</sup> MODEL CODE OF JUD. CONDUCT Canon 1 (2007) (independence and integrity of judiciary), and Canon 2 (impartiality of judiciary).

<sup>150</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.2(a) (2009) (abide by client decisions).

[cc] My Cousin Vinny.<sup>151</sup>

There is a clash of cultures when Vincent Gambini, played by Joe Pesci, arrives from Brooklyn to defend his cousin and a friend who are accused of murdering a convenience store clerk in a small Alabama town. Vinny's likable character masks ethics and professionalism concerns regarding his competency, having spent six years studying for the bar and never been in a courtroom;<sup>152</sup> his candor toward the tribunal, as he misrepresents his credentials to the judge;<sup>153</sup> and his respect for the tribunal, showing up late for court appearances without proper attire, failing to stand to address the court and using profanity.<sup>154</sup> These concerns aside, legal professionalism is preserved through memorable performances by Fred Gwynne as no-nonsense Judge Chamberlain Haller and Lane Smith as tough but fair district attorney James Trotter III. Marisa Tomei won the Oscar for best actress in a supporting role as Mona Lisa Vito, Gambini's significant other, legal assistant and expert witness.

[dd] Philadelphia.<sup>155</sup>

Tom Hanks won an Oscar for best actor in a leading role for his portrayal of Andrew Beckett, a gay attorney with AIDS who is fired from his Philadelphia law firm. He sues the firm for wrongful termination with the help of Joe Miller, a homophobic lawyer played by Denzel Washington. The firm claims the termination was performance-related.

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<sup>151</sup> MY COUSIN VINNY (Palo Vista Productions, Peter V. Miller Investment Corp. and Twentieth Century Fox Film Corporation 1992).

<sup>152</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.1 (2009) (requiring competent representation).

<sup>153</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.3(a)(1) (2009) (prohibiting false statements).

<sup>154</sup> See TEX. LAWYER'S CREED IV(4) ("I will be punctual."), and (5) ("I will not engage in any conduct which offends the dignity and decorum of proceedings."), and LA. CODE OF PROFESSIONALISM ("I will be punctual in my communication with clients, other counsel and the court, and in honoring scheduled appearances.").

<sup>155</sup> PHILADELPHIA (Clinica Estetico and TriStar Pictures 1993).

Ethics and professionalism are tested in the context of discrimination and stereotypes. Beckett retains Miller even though Miller's reputation as a television advertising plaintiff's lawyer stands in stark contrast to Beckett's big firm corporate credentials. Miller conducts a professional initial consultation, and later takes the case, even though it is clear that he is uncomfortable with Beckett's circumstances.<sup>156</sup> The case is personal to the firm's bigoted leader Charles Will, played by Jason Robards.<sup>157</sup> The courtroom drama is mostly civil, but for a staged outburst by Miller, and Beckett's testimony as to why he loves the law is inspiring.<sup>158</sup>

[ee] Presumed Innocent.<sup>159</sup>

This screen adaptation of Scott Turow's best seller casts Harrison Ford as prosecutor Rusty Sabich, who is assigned responsibility for investigating the sexual assault and murder of fellow prosecutor Carolyn Polhemus, played by Greta Scacchi. Sabich's boss, District Attorney Raymond Horgan, played by Brian Dennehy, is anxious to solve the case which is a distraction to his re-election effort. Sabich finds himself under suspicion when it becomes known that he was having an affair with Polhemus. Among the film's ethical concerns, Sabich lies about his presence at Polhemus' apartment on the night of the murder,<sup>160</sup> Horgan lies on the stand about assigning Sabich to the investigation and otherwise withholds evidence,<sup>161</sup> and the judge appears to have taken bribes earlier in his career.<sup>162</sup>

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<sup>156</sup> MODEL RULES OF PROF'L CONDUCT R. 1.2(b)(2009) (representation not an endorsement of client view).

<sup>157</sup> RONALD D. ROTUNDA & JOHN S. DZIENKOWSKI, *supra* note 6 AT 1279 (discussing racist, sexist and politically incorrect speech).

<sup>158</sup> See TEX. LAWYER'S CREED I(1) ("I am passionately proud of my profession.").

<sup>159</sup> PRESUMED INNOCENT (Warner Bros. Pictures and Mirage 1990).

<sup>160</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(c) (2009) (professional misconduct for fraudulent acts).

<sup>161</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.3(a)(1) (2009) (prohibiting false statements), and (3) (prohibiting offering false evidence).

<sup>162</sup> See MODEL CODE OF JUD. CONDUCT Canon 1 (2007) (independence and integrity of judiciary), Canon 2 (2007) (avoidance of impropriety), and Canon 4

[ff] Primal Fear.<sup>163</sup>

Martin Vail is a self-proclaimed “big shot attorney,” with a thriving defense practice featured in a magazine cover story and an unrivaled swagger. Richard Gere stars. When a prominent archbishop is murdered, Vail finagles his way into the *pro bono* representation of Aaron Stampler, the timid stuttering nineteen year old altar boy played by Edward Norton, who is accused of the crime.<sup>164</sup> Laura Linney plays Vail’s ex-girlfriend Janet Venable, the prosecutor assigned to the case.

Vail tells Stampler how to look and act, steals evidence, berates his associates and, from the judge’s perspective, spends more time representing himself than his client. His early courtroom jousting with the prosecutor is more petty than unprofessional. John Shaughnessy, Venable’s boss and state’s attorney played by John Mahoney, urges the destruction of evidence, allegedly abuses his authority and calls Vail a foul name while under oath on the stand.<sup>165</sup> In the end, one is left with the question of whether a client with multiple personalities presents counsel with a conflict of interest?

[gg] A Time to Kill.<sup>166</sup>

Samuel L. Jackson plays Carl Lee Hailey, a black man who kills two white racists who brutalized his ten-year old daughter. Matthew McConaughey plays Jake Tyler Brigance, a young lawyer who takes his case. His team includes Ellen Roark, a law

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(2007) (requiring the judge to conduct the judge’s personal extra-judicial activities as to minimize the risk of conflict with judicial obligations).

<sup>163</sup> PRIMAL FEAR (Paramount Pictures and Rysler Entertainment 1996).

<sup>164</sup> See MODEL RULES OF PROF’L CONDUCT R. 6.1 (2009) (*pro bono* requirement), and TEX. LAWYER’S CREED I(3) (“I commit myself to an adequate and effective *pro bono* program.”).

<sup>165</sup> See TEX. LAWYER’S CREED IV(5) (“I will not engage in any conduct which offends the dignity and decorum of proceedings.”), and LA. CODE OF PROFESSIONALISM (“I will not engage in personal attacks on other counsel or the court.”).

<sup>166</sup> A TIME TO KILL (Regency Enterprises and Warner Bros. Pictures 1996).

student played by Sandra Bullock whose résumé appears to rival that of a twenty-year lawyer, and Lucien Wilbanks, a disbarred alcoholic lawyer played by Donald Sutherland who was Brigance's mentor in law school.

John Grisham has a knack for characters who are both competent and flawed. Prior to his attorney-client relationship with Hailey, Brigance disregards Hailey's suggestion that he might do something to avenge his daughter's attack. He also appears to ignore other clients, helps the police chief subdue (assault) a bomb-toting Klansman and has an *ex parte* communication with the judge.<sup>167</sup> Roark breaks and enters to get evidence to impeach the prosecution's expert witness.<sup>168</sup> Rufus Buckley, the confident prosecutor played by Kevin Spacey, tells an associate to discredit Brigance's expert and that he doesn't want to know how it gets done. The judge denies Brigance's motion for change of venue before it is filed and confers with a state supreme court judge to confirm that any appeal will be rejected. The jury prematurely deliberates during dinner in the middle of the trial. On a positive note, Wilbanks expresses regret over the implosion of his legal career and offers words of encouragement to Brigance about the importance of being a lawyer.

[hh] The Trial.<sup>169</sup>

A grieving Kent "Mac" McCain returns to his law practice after the tragic death of his wife and children, taking on the representation of a young man suffering from amnesia but accused of murdering his dinner date. Matthew Modine stars, with the film delivering uninspired courtroom drama that might actually have benefitted from the excitement of a few ethics or professionalism flare-ups. The closest it gets to one is when the prosecutor tells his assistant to pull the fire alarm if he is not out of a meeting in 15 minutes. Other notable scenes include the judge admonishing an

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<sup>167</sup> MODEL RULES OF PROF'L CONDUCT R. 3.5(b) (2009) (prohibiting *ex parte* communication), and MODEL CODE OF JUD. CONDUCT R. 2.9 (2007) (prohibiting judicial *ex parte* communication).

<sup>168</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts).

<sup>169</sup> THE TRIAL (Level Path Productions and Trial Productions 2010).

uncooperative witness and an “ah-ha” moment in which the prosecutor explains the origin of the phrase “red herring.”

[ii] Trial and Error.<sup>170</sup>

*My Cousin Vinny* director Jonathan Lynn scores another comedic success in this story of big city lawyer Charlie Tuttle, played by Jeff Daniels, who is dispatched to a small Nevada town to seek a routine continuance in a fraud case. There are three minor complications. First, he gets drunk at his bachelor party and is unable to sober up in time for the hearing. Second, his well-intentioned best man Richard Rietti, played by Michael Richards, happens to be an actor and steps in to impersonate him at the hearing. Third, the continuance is denied. Now known to the court as Tuttle, Rietti must play that role throughout the trial while the real Tuttle is relegated to puppeteer legal assistant to Rietti’s advocacy efforts.

Like *My Cousin Vinny*, the movie’s likable characters mask ethics and professionalism concerns such as Tuttle’s assisting Rietti’s unauthorized practice of law,<sup>171</sup> allowing perjured testimony to be offered,<sup>172</sup> ignoring a contempt citation<sup>173</sup> and various acts of courtroom grandstanding.<sup>174</sup> On the other hand, the

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<sup>170</sup> TRIAL AND ERROR (Larger than Life Productions and New Line Cinema 1997).

<sup>171</sup> See MODEL RULES OF PROF’L CONDUCT R. 5.5(a) (2009) (prohibiting the lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assisting another in doing so, hereinafter “prohibiting unauthorized practice of law”). See also MODEL RULES OF PROF’L CONDUCT R. 3.3(b) (requiring a lawyer who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct relating to the proceeding to take reasonable remedial measures including, if necessary, disclosure to the tribunal, hereinafter “requiring remedial measures for criminal or fraudulent conduct”).

<sup>172</sup> See MODEL RULES OF PROF’L CONDUCT R. 3.3(a)(3) (2009) (prohibiting offering false evidence).

<sup>173</sup> See MODEL RULES OF PROF’L CONDUCT R. 3.4(c) (2009) (prohibiting the lawyer from knowingly disobeying an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists).

<sup>174</sup> See TEX. LAWYER’S CREED IV(5) (“I will not engage in any conduct which offends the dignity and decorum of proceedings.”), and IV(7) (“I will respect the rulings of the [c]ourt.”).

movie actually pays some backhanded compliments to the legal profession. For example, it portrays Tuttle as quite ethical and sensitive to the problems of Rietti's lawyer impersonation that has simply progressed past the point of no return. In addition, in the final stages of the impersonation, Rietti actually starts to revere his role as lawyer and finds some ethics in doing so.

[jj] The Verdict.<sup>175</sup>

Paul Newman plays Frank Galvin, a “down-on-his-luck” lawyer seeking redemption through representation of a plaintiff in a medical malpractice case against a hospital and staff. He seems overmatched by defense counsel from the start. Ethical questions abound, such as Galvin's competency,<sup>176</sup> diligence in preparation of his defense,<sup>177</sup> failure to communicate settlement offers<sup>178</sup> and misrepresentations and violations of law to gain access to a witness. Anyone looking for an underdog story will find it here.

[2] Lawyers in Supporting Roles.

[a] The Astronaut Farmer.<sup>179</sup>

Texas rancher and ex-astronaut Charles Farmer, played by Billy Bob Thornton, builds a rocket in his barn only to find a multitude of government agencies trying to ground him. His lawyer friend Kevin Munchak, played by Tim Blake Nelson, has a minor role in coming to his aid without ethical misstep. Munchak counsels Farmer that under the Patriot Act<sup>180</sup> the government can “twist” the law as it likes against those viewed as a threat to homeland

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<sup>175</sup> THE VERDICT (Twentieth Century Fox Film Corporation 1982).

<sup>176</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.1 (2009) (requiring competent representation).

<sup>177</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.3 cmt. 1 (2009) (requiring dedication and zeal in advocacy).

<sup>178</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.4 cmt. 2 (2009) (requiring communication of settlement offers).

<sup>179</sup> THE ASTRONAUT FARMER (Warner Bros. Pictures, Spring Creek Pictures and Polish Brothers Construction 2006).

<sup>180</sup> Pub. L. No. 107-56, 115 Stat. 272 (2001).

security. Farmer tells Munchak to twist it some more, since that is what lawyers are good at, demonstrating that even a small part can reinforce a negative image.

[b] Before and After.<sup>181</sup>

A teenager is accused of murdering his girlfriend in a small New England town. An interesting study of family dynamics, the movie stars Meryl Streep and Liam Neeson as Carolyn and Ben Ryan, parents torn between their loyalty to their son and their growing doubts over his innocence. A family friend and attorney steps up to help, providing the movie's ethics lesson by stepping down after the arraignment since he does mortgage closings and the Ryans need a criminal law expert. Should he have withdrawn earlier?<sup>182</sup>

[c] Bridget Jones's Diary.<sup>183</sup>

Renée Zellweger plays Bridget Jones, a young woman fighting a battle against age, weight, career and lack of a male companion. As a New Year's resolution, she decides to take charge of her life, keeping a diary in which she vows to tell the complete truth. She catches the fancy of boss Daniel Cleaver, played by Hugh Grant, as well as human rights barrister Mark Darcy, played by Colin Firth. This time it's the lawyer's turn to be a positive character, as Darcy's eloquence, reserved demeanor and noble practice pursuit combine to make him the audience favorite in the competition for Jones's affection. He appears successful and has a high profile client, although nothing is shown of his legal prowess.

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<sup>181</sup> BEFORE AND AFTER (Caravan Pictures and Hollywood Pictures 1996).

<sup>182</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.1 cmt. 1 (2009) (allowing the lawyer to consider several factors in assessing competency, including whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question), and 3 (contemplating that in an emergency the lawyer may give limited advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to, or consultation or association with, another lawyer would be impractical).

<sup>183</sup> BRIDGET JONES'S DIARY (Miramax Films, Universal Pictures and Studio Canal 2001).

[d] Brokedown Palace.<sup>184</sup>

A graduation trip to Thailand turns into a nightmare for Alice Marano and Darlene Davis after they are duped by a charming Australian into taking a side trip to Hong Kong, only to be arrested before boarding the plane for smuggling his drugs. After receiving lengthy sentences, their only hope lies in “Yankee Hank” Green, an American lawyer based in Thailand. Claire Danes, Kate Beckinsale and Bill Pullman star.

Green’s wife is a Thai attorney, practicing in Bangkok, although the basis of Green’s authority to appear before a Thai court is unclear. Between the two of them, they seem to provide ethical, professional and competent legal support notwithstanding some subtle references to his ambulance chasing ways. When his clients’ money runs out, he stays on the case believing it the right thing to do. The only other question involves his representation of both girls, as their defensive postures appear to differ after one signs a confession.<sup>185</sup>

[e] Cellular.<sup>186</sup>

Kim Basinger plays kidnap victim Jessica Martin, who places an SOS telephone call for help that is received on the cell phone of a young man named Ryan, played by Chris Evans. The premise is simple but effective, as Martin’s life depends upon the two of them staying connected as Ryan rides a series of chase scenes to her rescue. From a legal perspective, the movie’s low point comes in a short but embarrassing scene in which the call crosses the line of the world’s rudest lawyer. He drives a shiny new Porsche convertible with a license plate that reads “WIL SU U 2,” dons an expensive suit and is highly abrasive, touting his lawyerly

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<sup>184</sup> BROKEDOWN PALACE (Adam Fields Productions, Fox 2000 Pictures and Twentieth Century Fox Film Corporation 1999).

<sup>185</sup> MODEL RULES OF PROF’L CONDUCT R. 1.7(a) (2009) (prohibiting representation of one client if directly adverse to another client).

<sup>186</sup> CELLULAR (New Line Cinema, Electric Entertainment and LFG Filmproduktions & Company 2004).

omnipotence and \$600 per hour billing rate while making obscene gestures.<sup>187</sup>

[f] Georgia Rule.<sup>188</sup>

Jane Fonda, Felicity Huffman and Lindsey Lohan star in this drama of fractured grandmother-mother-daughter relationships. The three unite in the face of a common enemy: a successful lawyer-husband and stepfather. An allegation of criminal conduct by the lawyer is the most obvious ethical issue,<sup>189</sup> but like *Cellular* the movie reinforces a variety of lawyer stereotypes including the new Ferrari, expensive suit and “above-the-law” attitude.

[g] Ghost Town.<sup>190</sup>

In his first leading role, English actor Ricky Gervais plays Bertram Pincus, an anti-social New York dentist who awakens from a near-death experience during a routine colonoscopy with the ability to see and speak with a multitude of ghosts who view him as a conduit to communicate parting messages to their living loved ones. Greg Kinnear plays one such ghost, Frank Herlihy, an adulterous businessman who wants Pincus to stop his wife Gwen, played by Téa Leone, from marrying a human rights lawyer named Richard, played by Billy Campbell.

The movie boasts two lawyers, neither of whom appear unethical or unprofessional. However, Richard’s character as both a human rights lawyer and miracle worker stands in positive contrast to the hospital attorney, played by Michael Leon-Wooley, who is in “damage control” mode as he whispers answers into the doctor’s

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<sup>187</sup> See TEX. LAWYER’S CREED I introductory cmt. (“A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.”), and LA. CODE OF PROFESSIONALISM (“I will conduct myself with dignity, civility, courtesy and a sense of fair play.”).

<sup>188</sup> GEORGIA RULE (Universal Pictures 2007).

<sup>189</sup> MODEL RULES OF PROF’L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts).

<sup>190</sup> GHOST TOWN (DreamWorks SKG, Spyglass Entertainment and Pariah 2008).

ear so that she may respond to probing questions from Pincus about his momentary death.

[h] Grand Canyon.<sup>191</sup>

This is a movie of rotating stories about the intersecting lives of Los Angeles residents. One of the film's central characters is a successful immigration attorney named Mack, played by Kevin Kline, whose perspective on life is forever changed after he is saved from an imminent gang attack by a wrecker driver named Simon, played by Danny Glover. The film is somewhat unique in that Mack is a central character yet his status as a lawyer is not overly significant. Perhaps for that reason he is generally portrayed in a more human manner than most movie lawyers, spending too much time at work and too little time at home while at the same time questioning his career choice.<sup>192</sup>

[i] I Now Pronounce You Chuck & Larry.<sup>193</sup>

Firemen Chuck Levine, played by Adam Sandler, and Larry Valentine, played by Kevin James, star as firemen who stage a gay marriage to enable Levine to be listed as the insurance beneficiary who would raise Valentine's kids in the event of Valentine's untimely death. They hire lawyer Alex McDonough, played by Jessica Biel, to help them fight a fraud investigation that seeks to prove they are not gay. The application of the Model Rules to near lawyer-client sex is the main ethical issue, as McDonough's belief in her clients' story causes her to let down her guard in certain interactions with Levine.<sup>194</sup>

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<sup>191</sup> GRAND CANYON (Twentieth Century Fox Film Corporation 1991).

<sup>192</sup> Work-life balance and job burn-out are areas of increasing concern within the legal profession. See, e.g., Ruth Piller, *Balancing Act*, 38 HOUS. LAW. 36 (Nov./Dec. 2000), and David M. Bateson and Tim Hart, *Combating Attorney Burnout*, 64 BENCH & B. MINN. 22 (Dec. 2007).

<sup>193</sup> I NOW PRONOUNCE YOU CHUCK & LARRY (Universal Studios and Relativity Media 2007).

<sup>194</sup> MODEL RULES OF PROF'L CONDUCT R. 1.8(j) (2009) (prohibiting lawyer-client sexual relations).

[j] Jurassic Park.<sup>195</sup>

As one of the highest grossing movies of all time, *Jurassic Park* provides many memorable scenes that have nothing to do with the legal profession. Unfortunately the biggest crowd pleaser seems to be the one that does, when the Tyrannosaurus rex devours the lawyer who has run for cover in a restroom. This scene prompted one commentator to question whether lawyers' image problems are caused by Hollywood or are simply the reason Hollywood likes to portray lawyers in film.<sup>196</sup>

[k] Mr. Brooks.<sup>197</sup>

Kevin Costner plays Earl Brooks, a white collar businessman by day but serial killer by night. Demi Moore plays Tracy Atwood, a detective investigating Brooks' killings while coping with the strain of her own divorce. While lawyers' roles are limited, Atwood's husband and his divorce lawyer are having an affair<sup>198</sup> in another example of a small part yielding a negative portrayal.

[l] The Reader.<sup>199</sup>

Kate Winslet won the Oscar for best actress in a leading role for her portrayal of Hanna Schmitz, one of six female defendants in a Nazi war crimes trial. A law student observing the trial realizes that Schmitz is the same woman with whom he had an affair years earlier. The student, Michael Berg, is played in his youth by David Kross and as an adult by Ralph Fiennes. One of Berg's law professors frames the case with an observation that societies think they operate by morality, but they actually operate only by the law.

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<sup>195</sup> JURASSIC PARK (Universal Pictures and Amblin Entertainment 1993).

<sup>196</sup> See Walter Olson, *Lawyers, Gums, and Rummies, Why do we hate attorneys?* The Reason Foundation, July 1999, available at <<http://reason.com/news/show/31065.html>> (last visited Mar. 12, 2012).

<sup>197</sup> MR. BROOKS (Metro-Goldwyn-Mayer, Eden Rock Media and Element Films 2007).

<sup>198</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.8(j) (2009) (prohibiting lawyer-client sexual relations).

<sup>199</sup> THE READER (The Weinstein Company, Mirage Enterprises and Neunte Babelsberg Film 2008).

The German courtroom proceeding is good drama, professionally conducted with few lawyer antics. However, Schmitz's defense counsel seems a bit overmatched by the prosecution.

[m] Teachers.<sup>200</sup>

Lawyer Lisa Hammond, played by JoBeth Williams, returns to the urban high school of her graduation to take depositions in a "failure to educate" case she has brought on behalf of a former student. The story revolves around her relationship with her burned-out former teacher Alex Jurel, played by Nick Nolte. As a lawyer Hammond roams freely through the school halls handing out subpoenas and talking to Jurel and others, despite the fact that the school is represented by counsel,<sup>201</sup> and shares client confidences with Jurel.<sup>202</sup> The school's lawyer, played by Morgan Freeman, appears little better as he counsels teachers he is preparing for deposition that he is not searching for the truth and later compliments one teacher on a memory lapse during testimony.<sup>203</sup>

[n] The Ultimate Gift.<sup>204</sup>

James Garner plays deceased billionaire Red Stevens, who leaves his spoiled grandson Jason with a series of tasks designed to make him a better person. Drew Fuller plays Jason, who initially goes along with the idea expecting that completing the tasks will make him a *richer* person. One of the most refreshing aspects of the film is its positive portrayal of the relationship between Stevens and his lawyer, Ted Hamilton, played by Bill Cobbs. They are longtime friends yet mutually respectful professional associates, as Hamilton is entrusted with administering the tasks and evaluating Jason's

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<sup>200</sup> TEACHERS (United Artists and Aaron Russo Productions 1984).

<sup>201</sup> See MODEL RULES OF PROF'L CONDUCT R. 4.2 (2009) (no contact rule).

<sup>202</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.6(a) (2009) (preservation of client confidences).

<sup>203</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.3 (2009) (general obligation of candor toward the tribunal).

<sup>204</sup> THE ULTIMATE GIFT (The Ultimate Gift LLC, Dean River Productions, LIFE (n), Life (n) Media 2006).

responses. As a lawyer, he is shown to be wise, trustworthy, fair and deliberative.

[o] *The War of the Roses*.<sup>205</sup>

A divorce lawyer retells the rise and fall of the romance of Oliver and Barbara Rose, played by Michael Dougllass and Kathleen Turner. Danny DeVito is the narrator, Gavin D'Amato, a law firm associate of Oliver who represented him in the divorce. The film is a mixed bag of ethics and professionalism. Oliver appears to be a successful lawyer, a Harvard man no less, but he is a terrible client and his personal conduct during the divorce is deplorable. D'Amato has flashes of ethical lawyering, providing objective advice as he tries to reason with Oliver over the merits of settlement<sup>206</sup> and attempting to not engage in communication with Barbara when she comes to his office without her lawyer.<sup>207</sup> At the same time, sporadic negative comments from D'Amato and Oliver about lawyers do not reflect well on the profession.

[p] *While You Were Sleeping*.<sup>208</sup>

Is it possible to dislike a lawyer who lies in a coma for two-thirds of the movie? Chicago subway token clerk Lucy Modertaz, played by Sandra Bullock, has a crush on lawyer Peter Callaghan, one of her daily fares played by Peter Gallagher. After saving him from an oncoming train, she pretends to be his fiancée in order to visit him as he lies comatose in the hospital. There is no evidence that Callaghan has done anything unethical or unprofessional, yet the audience is subtly coaxed to dislike him and his self-centered ways as compared to his more amiable non-lawyer brother Jack, played by Bill Pullman.

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<sup>205</sup> *WAR OF THE ROSES* (Gracie Films and Twentieth Century Fox Film Corporation 1989).

<sup>206</sup> MODEL RULES OF PROF'L CONDUCT R. 2.1 (2009) (requiring independent professional judgment).

<sup>207</sup> MODEL RULES OF PROF'L CONDUCT R. 4.2 cmt. 3 (2009) (no contact rule applies even though the represented person initiates or consents to the communication).

<sup>208</sup> *WHILE YOU WERE SLEEPING* (Caravan Pictures and Hollywood Pictures 1995).

[3] Judges and Juries.

[a] Doc Hollywood.<sup>209</sup>

In one of his most memorable roles, Michael J. Fox plays Benjamin Stone, a hotshot young doctor *en route* to California for his dream job as a Beverly Hills plastic surgeon. On the backroads of Grady, South Carolina, he crashes into a fence owned and built by the local judge. Robert Blossom plays the folksy but fair Judge Evans, who sentences Stone to 32 hours of community service at the local hospital. Grady, as it turns out, is in dire need of a doctor. For his limited role the judge is of solid character, but a bit conflicted in presiding over a matter in which he has an interest.<sup>210</sup> Of course, without him Stone would not have the opportunity to get to know Grady and, more importantly, one of its female inhabitants.

[b] The Juror.<sup>211</sup>

Sculptor and single mother Annie Laird, played by Demi Moore, hopes that jury duty will bring some excitement to her life. It does, as she soon finds herself threatened by a mob enforcer played by Alec Baldwin who wants her to hang the jury. The story is similar to that of *Trial by Jury*, but focuses more on Laird's interaction with Baldwin's character and less on judge, lawyer or juror misconduct. From an ethics standpoint, the movie contains several positive elements. For example, when Laird approaches the judge with her problem, he wants counsel to be present. Tensions mount during jury deliberations, but civility is maintained, and courtroom theatrics are kept at a minimum.

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<sup>209</sup> DOC HOLLYWOOD (Warner Bros. Pictures 1991).

<sup>210</sup> See MODEL CODE OF JUD. CONDUCT Canon 1 (2007) (independence and integrity of judiciary), Canon 2 (2007) (performance of judicial duties), and R. 2.4 (B) (judge shall not permit family, social, political, financial or other interests or relationships to influence the judge's judicial conduct or judgment).

<sup>211</sup> THE JUROR (Columbia Pictures Corporation 1996).

[c] Jury Duty.<sup>212</sup>

Are there career opportunities in jury duty? There are in this spoof in which Pauly Shore plays Tommy Collins, an unemployed male stripper who learns that sequestered jurors earn free room and board plus five dollars a day. Armed with that knowledge he shops his jury opportunities until he finds the right case, a high profile murder trial, and then prolongs deliberations to support his new-found pampered lifestyle. Collins passes notes and falls asleep in the jury box, freely approaches the bench to talk to the judge, directly questions witnesses and wears a shirt promoting the hotel at which the jury is staying in order to get a penthouse upgrade. The lawyers also look bad, with a cameo appearance by college basketball announcer Dick Vitale as a television legal analyst who critiques their win-loss trial records like a sporting event pre-game show.

[d] Mystery, Alaska.<sup>213</sup>

Nothing tops the “Saturday game” of local hockey in the small Alaska town of Mystery. A publicity stunt brings professional hockey’s New York Rangers to town for an exhibition game against the local stars. This is a story of unusual characters, underdogs and sports. While it could be discussed in the context of the big business of sports, or lawyers, it is a jury that steals the show in a brief scene that brings new meaning to the term “hometown.”

Local hockey favorite Conner Banks, played by Michael Buie, fires a gunshot that wounds a representative of mega store Price World who is in town to scout a new retail location. When tried on a charge of second degree assault that would keep him out of the big game, the jury not only acquits Banks but gratuitously orders Price World to pay him \$42,000 in damages! Burt Reynolds plays disgusted local judge Walter Burns, who explains to the jury that monetary damages cannot be awarded to a criminal defendant.

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<sup>212</sup> JURY DUTY (Tristar Pictures, Triumph Films and Weasel Productions 1995).

<sup>213</sup> MYSTERY, ALASKA (Baldwin/Cohen Productions, Hollywood Pictures and Rocking Chair Productions 1999).

[e] Runaway Jury.<sup>214</sup>

The screen adaptation of this John Grisham story casts Dustin Hoffman as New Orleans lawyer Wendall Rohr, who represents the widow of a murder victim in a wrongful death action brought against a gun manufacturer. Rohr's reputable jury consultant seems out-matched by ruthless defense consultant Rankin Fitch, played by Gene Hackman. Fitch and his high-tech surveillance team maintain a "mission control" operations room and know everything there is to know about the jury pool, planting spies to interact with potential jurors, breaking and entering into jurors' homes, staging live video feedback during *voir dire* and from the judge's chamber and engaging in other acts of jury threats and tampering.

Defense counsel appears little more than a puppet of Fitch, raising questions about their exercise of independent professional judgment<sup>215</sup> and their ethical, if not legal, culpability for Fitch's actions.<sup>216</sup> Jurors smoke, drink and gossip with and about each other, while gun company executives meet with Fitch in a remote country setting to discuss the case. Things quickly change when lawyers for each side receive a mysterious envelope indicating that the jury is for sale, and neither reports it to the judge.<sup>217</sup>

[f] The Star Chamber.<sup>218</sup>

Michael Douglas plays California superior court judge Steven Hardin, who is invited to join a distinguished group of his peers

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<sup>214</sup> RUNAWAY JURY (Regency Enterprises, New Regency Pictures and Epsilon Motion Pictures 2003).

<sup>215</sup> See MODEL RULES OF PROF'L CONDUCT R. 2.1 (2009).

<sup>216</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.5 cmt. 1 (2009) (requiring, as a part of the prohibition on the lawyer seeking to influence a judge, juror, prospective juror or other official, that the lawyer avoid contributing to such a violation, hereinafter "prohibiting contributing to effort to influence judicial official").

<sup>217</sup> MODEL RULES OF PROF'L CONDUCT R. 3.3(b) (2009) (requiring remedial measures for criminal or fraudulent conduct).

<sup>218</sup> THE STAR CHAMBER (Frank Yablans Presentations and Twentieth Century Fox Film Corporation 1983).

who have formed a secret vigilance committee to right the wrongs of the many criminals who have escaped convictions on technicalities. Hal Holbrook plays Benjamin Caufield, the *de facto* chief justice of the committee, which holds its own post-trial reviews and then independently “executes” judgments. All is well until Hardin realizes that the committee has wrongfully “convicted” two innocent men. While a number of movies have shown judges in unfavorable supporting roles,<sup>219</sup> this one casts them in a leading role with a rather significant concern in the area of judicial impropriety.<sup>220</sup>

[g] Trial by Jury.<sup>221</sup>

Joanne Whalley plays Valerie Alston, a Manhattan antique clothing dealer who wants to be on a jury. She soon gets her wish, sitting on the conspiracy and murder trial of mafia kingpin Rusty Pirone, played by Armand Assante. This movie presents several ethical issues absent from the similar-storied film *The Juror*. Pirone is unscrupulous, and in one scene his lawyer stands idle in his presence while he conspires to fix the jury.<sup>222</sup> Gabriel Byrne plays zealous prosecutor Daniel Graham, who is little better as he extorts testimony from a witness and physically assaults Pirone.<sup>223</sup> Other notable characters include a detached judge and inept jurors who freely talk about the case inside and outside the jury room.

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<sup>219</sup> See, e.g., ...AND JUSTICE FOR ALL, *supra* § 1.04[1][b] and Presumed Innocent, *supra* § 1.04[1][ee].

<sup>220</sup> See ABA MODEL CODE OF JUD. CONDUCT Canon 1 (2007) (independence and integrity of judiciary), and Canon 2 (2007) (performance of judicial duties).

<sup>221</sup> TRIAL BY JURY (Morgan Creek Productions 1994).

<sup>222</sup> See MODEL RULES OF PROF'L CONDUCT R. 3.3(b) (2009) (requiring remedial measures for criminal or fraudulent conduct). See also MODEL RULES OF PROF'L CONDUCT R. 3.5 cmt. 1 (2009) (prohibiting contributing to efforts to influence judicial official).

<sup>223</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts), and cmt. 2 (including violence and serious interference with the administration of justice among the acts contemplated by the rule).

[h] 12 Angry Men.<sup>224</sup>

An all-star cast leads this classic study of jury dynamics in which Henry Fonda plays the lone hold-out who isn't ready to find guilt on the first vote and send a young man to the electric chair. Fonda's character isn't certain of the defendant's innocence; he just questions the strength of the prosecution's case and the effectiveness of defense counsel. Virtually the entire story transpires in the hot smoky jury room, with the audience learning about the murder case through the jury's deliberations. It is fascinating to hear the jurors' differing views on the same evidence and to watch them reveal their personalities and biases as the story unfolds. For example, one juror wants a conviction simply because he is anxious to get to a baseball game! Tensions mount when a new vote, this time by secret ballot, yields a second "not-guilty."

[4] Law Students.

[a] Crazy Stupid Love.<sup>225</sup>

Steve Carell is well-cast as Cal Weaver, a loyal family man on the rebound after his wife of over 20 years announces that she wants a divorce. Enter Jacob Palmer, a pick-up artist played by Ryan Gosling, who is committed to restoring Weaver's confidence by teaching him the fine art of approaching women at bars. Emma Stone plays Hannah, a law grad studying for the bar exam who seems to be the only one immune to Palmer's advances, at least initially. Her character is notable in two subtle respects. First, when she meets Palmer she does an admirable job of acting lawyerly without holding herself out as being one.<sup>226</sup> Second, in a back-handed compliment to the profession, her legal background is used to bolster her credibility as being intelligent and not easily swayed by Palmer's smooth talk.

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<sup>224</sup> 12 ANGRY MEN (Orion-Nova Productions 1957). Remade in 1997, also as 12 ANGRY MEN (MGM Television 1997).

<sup>225</sup> CRAZY STUPID LOVE (Carousel Productions (II) 2011).

<sup>226</sup> See MODEL RULES OF PROF'L CONDUCT R. 5.5(a) (2009) (prohibiting unauthorized practice of law).

[b] Legally Blonde.<sup>227</sup>

When Elle Woods' boyfriend breaks up with her to pursue his dreams at Harvard Law School, she decides to follow him over her father's objection that law school is for people who are boring, ugly and serious. Woods, played by Reese Witherspoon, impresses the admissions staff by submitting a video essay showcasing her fashion merchandising undergraduate degree and other talents as she lies floating on an air mattress in her family pool. The story stays on reasonably solid ethical, although not necessarily plausible, grounds early on, but deteriorates as Woods impersonates a lawyer while helping a friend in a dog custody battle and later, as a law firm intern, when she meets a sorority sister and firm client being wrongfully prosecuted for the murder of her husband.<sup>228</sup> It gets worse when one of the law firm partners, also Woods' professor, offers her career advancement in exchange for sex. The movie also showcases one of the more liberal student practice statutes a lawyer is likely to encounter.

[c] Legally Blonde 2: Red, White & Blonde.<sup>229</sup>

At least she *is* a lawyer now, just not a practicing one. Reese Witherspoon is back as Elle Woods, this time putting her wedding plans on hold to go to Washington, D.C. to advocate passage of an anti-animal testing bill named after her Chihuahua "Bruiser." All of this because the investigator she hired to search Bruiser's family history finds the dog's mother at such a facility. Ethics and professionalism are on the fringe as a law firm partner cautions Woods to not confuse doing the right thing with the law, Congressional staffers banter over the questionable things they have done to advance their careers, votes are bought for hairstyle makeovers, a job offer is made to lure Woods away from her quest and one congressman reminds us that people will believe what Congress tells them to believe.

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<sup>227</sup> LEGALLY BLONDE (Marc Platt Productions and Metro-Goldwyn-Mayer 2001).

<sup>228</sup> See MODEL RULES OF PROF'L CONDUCT R. 5.5(a) (2009) (prohibiting unauthorized practice of law).

<sup>229</sup> LEGALLY BLONDE 2: RED, WHITE & BLONDE (Metro-Goldwyn-Mayer, Marc Platt Productions and Type A Films 2003).

[d] The Paper Chase.<sup>230</sup>

John Houseman won the Oscar for best actor in a supporting role as professor Charles W. Kingsfield, Jr. in this drama about a student's first year at Harvard Law School. Timothy Bottoms plays student James T. Hart, who unknowingly begins dating Kingsfield's daughter Susan, played by Lindsey Wagner. Hart and a classmate like to sneak into the law library after hours, but are otherwise ethically well-behaved. However, those who believe that declining professionalism among lawyers may take root in the competitive nature of law school<sup>231</sup> will find validation in the movie as it provides vivid flashbacks to the Socratic method of teaching, the dynamics of competitive study groups, the politics of class participation and the sheer intimidation of a legendary professor.

[e] The Pelican Brief.<sup>232</sup>

Julia Roberts plays Darby Shaw, a law student who writes a brief speculating on responsibility for the murders of two environmentally-friendly Supreme Court judges. After she shares the brief with her law professor boyfriend, he is killed in a car bomb explosion. Shaw sets out in search for the truth with the help of Gray Grantham, an investigative reporter played by Denzel Washington. Could a big business or government villain be involved? Worse yet, could a law firm be involved?<sup>233</sup> Aside from her relationship with her professor, Shaw is portrayed as an insightful law student with no major ethical or professionalism flaws.

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<sup>230</sup> THE PAPER CHASE (Thompson-Paul Productions and Twentieth Century Fox Film Corporation 1973).

<sup>231</sup> See generally A.B.A. COMMISSION ON PROFESSIONALISM, "... IN THE SPIRIT OF PUBLIC SERVICE": A BLUEPRINT FOR THE REKINDLING OF LAWYER PROFESSIONALISM (1986), reprinted in 112 F.R.D. 243, 266 (1987).

<sup>232</sup> THE PELICAN BRIEF (Warner Bros. Pictures 1993).

<sup>233</sup> See MODEL RULES OF PROF'L CONDUCT R. 8.4(b) (2009) (professional misconduct for criminal acts), and cmt. 2 (including violence and serious interference with the administration of justice among the acts contemplated by the rule).

[f] View from the Top.<sup>234</sup>

Gwyneth Paltrow plays Donna Jensen, a small town girl with dreams of becoming an international flight attendant. With some mentoring from Sally Weston, a flight attendant icon played by Candice Bergen, she just may have a chance. Mark Ruffalo plays her significant other, Ted Stewart, a law student giving it another try after earlier dropping out of school. Like *Crazy Stupid Love*, the story provides a slightly positive portrayal of the legal profession as Stewart's law student status seems to reinforce his image as a grounding influence to Jensen's chaotic career pursuit.

## V. Movies and Big Business.

Hollywood films have featured many types of big business, only a few of which are considered in this article. Those involving oil and gas and nuclear energy are grouped under the broad heading of "energy," with mining covered as a separate category. The medical and pharmaceutical areas are combined, with three sports movies<sup>235</sup> and some "villainous bosses" among the other examples portrayed.

[1] Energy.

[a] Chain Reaction.<sup>236</sup>

Research foundation scientists develop breakthrough technology to process clean energy hydrogen fuel and save a world "addicted" to oil. Before they can go public with their find, for free, bad guys arrive and destroy their lab with an explosion that claims several

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<sup>234</sup> VIEW FROM THE TOP (Miramax Films, Brad Grey Pictures and Cohen Productions 2003)

<sup>235</sup> Notwithstanding these portrayals, sports films typically present more positive stories of underdogs, heroes and comebacks. See, e.g., HOOSIERS (DeHaven Productions and Hemdale Film 1985), THE ROOKIE (98 MPH Productions, Gran Via and Walt Disney Pictures 2002), and GLORY ROAD (Glory Road Productions, Jerry Bruckheimer Films, Walt Disney Pictures and Texas Western Productions 2006).

<sup>236</sup> CHAIN REACTION (Chicago Pacific Entertainment, Twentieth Century Fox Film Corporation and The Zanuck Company 1996).

lives. Surviving foundation machinist Eddie Kasalivich, played by Keanu Reeves, and physicist Lilly Sinclair, played by Rachel Weisz, are labeled suspects and go on the run as they try to solve the case and prove their innocence. The common themes are present as profit motive appears to drive negative conduct and cover-up involving murder, fraud, conspiracy, market manipulation and lying to Congress. It is just not clear who the bad guys really are.

[b] The China Syndrome.<sup>237</sup>

The Three Mile Island nuclear accident occurred shortly after the release of this film in which television reporter Kimberly Wells, played by Jane Fonda, and her freelance cameraman Richard Adams, played by Michael Douglas, experience an emergency incident at a California nuclear power plant while filming a routine news piece. Meltdown is narrowly averted by the quick response of shift supervisor Jack Godell, played by Jack Lemmon. The common themes are present as the plant owner's concern that the incident might lead to costly delays in permitting an additional plant appears to drive negative conduct and cover-up including issuing a news release that hides the incident's severity, pressuring the television station to not release the story, misrepresenting the nature of the problem to the investigating agency, ceasing further diagnostics due to time and cost concerns, engaging in threats and other physical acts to prevent the story from going public and otherwise disregarding safety concerns.

[c] Cutter's Way.<sup>238</sup>

This movie casts oil tycoon J. J. Cord, played by Stephen Elliot, as an alleged murderer. At the other extreme are three seeming misfits: Richard Bone, an Ivy Leaguer who witnessed the murder, played by Jeff Bridges; his best friend Alex Cutter, a disgruntled and disabled veteran played by John Heard who wants to blackmail Cord; and Cutter's wife Mo, played by Lisa Eichorn. The story is a character study that is not focused on big business, but on an arrogant and powerful Cord. He lives in a Santa Barbara mansion

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<sup>237</sup> THE CHINA SYNDROME (IPC Films 1979).

<sup>238</sup> CUTTER'S WAY (Gurian 1981).

and works in the Los Angeles skyscraper headquarters of Cord Consolidated Oil, making him an all-too-convenient villain.

[d] Enron: The Smartest Guys in the Room.<sup>239</sup>

This version of the Enron story is based on the best selling book by Bethany McLean and Peter Elkind. History will judge the facts, but among the movie's depictions are conflicts of interest, inappropriate insider trading, falsification and destruction of corporate records, extravagant expense account charges and improper conduct rationalized on the basis of lawyer and auditor sign-off. Most of these areas are now addressed by the provisions of the Sarbanes-Oxley Act of 2002,<sup>240</sup> stock exchange listing requirements<sup>241</sup> and individual company codes of conduct.

[e] Erin Brockovich.<sup>242</sup>

Julia Roberts won the Oscar for best actress in a leading role for her portrayal of the hard luck Erin Brockovich, who shames her lawyer Ed Masry, played by Albert Finney, into giving her a job despite her lack of legal experience after he lost her car accident case and later failed to return her phone calls.<sup>243</sup> While there, she links a client file containing medical records and a utility company's land purchase efforts to cancer-causing groundwater contamination from chromium used by the company as a rust inhibitor. On the legal side, there are questions over Masry's supervision of Brockovich's activities as she is given broad latitude to enlist plaintiffs, investigate facts and generally act like a lawyer.<sup>244</sup> From a big business perspective, the common themes

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<sup>239</sup> ENRON: THE SMARTEST GUYS IN THE ROOM (Jigsaw Productions, 2929 Productions and HDNet Films 2005).

<sup>240</sup> Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745 (2002).

<sup>241</sup> See, e.g., NYSE, Inc. Listed Company Manual § 303A (2012) (corporate governance standards).

<sup>242</sup> ERIN BROCKOVICH (Jersey Films 2000).

<sup>243</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.4 cmt. 4 (2009) (returning client phone calls).

<sup>244</sup> See MODEL RULES OF PROF'L CONDUCT R. 5.3(a) (2009) (generally requiring law firm management to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the conduct of non-lawyer

are present as profit motive appears to drive negative conduct and cover-up by the utility company, including neglecting safety and environmental concerns, misrepresenting the nature of the chromium risk, threatening Brockovich and destroying documents.

[f] GasLand.<sup>245</sup>

Josh Fox wrote and directed this film about the natural gas industry, based on his cross-country trip through the nation's shale basins. It is a distinctly negative portrayal that attempts to link industry activity to a variety of environmental, health and safety concerns. The usual themes are present, as it portrays a powerful industry and weak regulatory environment.

[g] On Deadly Ground.<sup>246</sup>

Against a picturesque Alaska backdrop, well firefighter extraordinaire and ex-CIA agent Forrest Taft, played by Steven Segal, defects from his "big oil" job to launch a one-man crusade against Aegis Oil and its CEO Michael Jennings, played by Michael Caine. Jennings' character is defined early as he ignores faulty blowout preventers while complaining of money lost due to his oil leaking into the ocean. The common themes are present as it appears that Aegis will stop at nothing to bring its project online including breaking laws, compromising safety, committing murder and orchestrating a massive cover-up. Scenes include Aegis workers bullying locals at a bar, Jennings staging disingenuous pro-environment television commercials, a whistleblowing roughneck meeting an untimely death and lots of secret company files. Meanwhile, the camera alternates shots between the tallest skyscraper in town, Aegis' headquarters, and wildlife in the scenic mountainous environment.

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assistants is compatible with the professional obligations of lawyers).

<sup>245</sup> GASLAND (HBO Documentary Films and International WOW Company 2010).

<sup>246</sup> ON DEADLY GROUND (Seagal/Nasso Productions and Warner Bros. Pictures 1994).

[h] *Silkwood*.<sup>247</sup>

Meryl Streep plays Karen Silkwood in this fact-based story of a less-than-model worker at an Oklahoma plant who targets company health and safety practices after being exposed to cancer-causing plutonium. Kurt Russell co-stars as Silkwood's boyfriend, Drew Stephens, and Cher is cast as her close friend, Dolly Pelliker. Most of the story concerns Silkwood's flawed character, with the company and its management less vilified than in most movies. There are a few references to company profit motives, with the plant supervisor complaining about being behind schedule and over budget, and suggestions that X-rays of fuel rods produced at the plant are being altered and plutonium is missing. However, basic plant safety protocols are shown to exist and management appears humane in dealing with Silkwood's plutonium exposure.

[i] *spOILed*.<sup>248</sup>

Is America addicted to oil, or is it just spoiled? This independent film by Mark Mathis takes a positive view of oil and the products and benefits it provides. It observes that oil has saved whales, replacing whale oil as a fuel source; saved forests, replacing trees otherwise burned as a fuel source; provided 98% of the nation's transportation that is critical to commerce; and fueled the U.S. military establishment that has protected the western world for over 50 years. It acknowledges, however, that these benefits come with risks as seen in the 2010 Macondo incident and 1969 Santa Barbara oil spill. An interesting film, *spOILed* looks at the myths and realities of big oil, urging the development of a rational energy policy.

[j] *Syrianna*.<sup>249</sup>

The geopolitics of big oil provide the backdrop for this tale of a proposed merger of two Houston oil companies. One wants the other's Mid-East oil rights, with the Department of Justice

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<sup>247</sup> *SILKWOOD* (ABC Motion Pictures 1983).

<sup>248</sup> *SPOILED* (West Wave Films 2011).

<sup>249</sup> *SYRIANA* (Warner Bros. Pictures, Participant Productions and 4M 2005).

investigating possible bribes of foreign officials to obtain those rights. George Clooney plays CIA operative Bob Barnes, who is caught up in terrorist activity in the region, and Matt Damon plays Bryan Woodman, an energy analyst aligned with one of two rival brothers in an oil-rich monarchy. The plot is difficult to follow, although big oil and the common themes are nonetheless present.

[k] There Will Be Blood.<sup>250</sup>

There is a lot to like about the first 93 minutes of this film, which features Daniel Day Lewis as turn-of-the-century wildcatter Daniel Plainview in his rise to power in oil-rich California. It delivers a trifecta for today's landmen. First, it provides a glimpse into early lease negotiations, as Plainview guarantees drilling within ten days of lease signing. Second, it illustrates the Rule of Capture in a way that only Plainview can do. Third, it showcases some rather unsophisticated property sale discussions, as Standard Oil approaches Plainview to buy his field. These discussions get interesting at around the 94 minute mark, as a seemingly innocent question from one Standard Oil executive about Plainview's son sends Plainview into a downward spiral that transforms the movie from drama to horror.

Big business, like Standard Oil and Union Oil, look pretty good in this story. Plainview is the real villain, with his ego, ruthless quest to best all competition and growing paranoia dominating the plot. He admits that he hates most people, has a competition in him and wants no one else to succeed. Not surprisingly, he insults almost everyone he encounters, assaults several people and alienates his own son. With Plainview, business is personal, not professional.<sup>251</sup>

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<sup>250</sup> THERE WILL BE BLOOD (Paramount Vantage, Miramax Films and Ghoulardi Film Company 2007).

<sup>251</sup> Plainview's conduct runs afoul of a number of statements in the American Association of Professional Landmen *Code of Ethics and Standards of Practice* (e.g., Section 2 of the code provides that competition among those engaged in the mineral and energy industries will be kept at a high level with careful adherence to established rules of honesty and courtesy, while Section A of the standards stresses fair and honest dealing with landowners, industry associates and the general public so as to preserve the integrity of the profession).

[2] Medical and Pharmaceutical.

[a] Coma.<sup>252</sup>

Over a twelve-month period twelve healthy patients lapse into comas during surgery at Boston Memorial Hospital. Dr. Susan Wheeler, played by Genevieve Bujold, suspects foul play and investigates over objections from her skeptical boyfriend doctor played by Michael Douglas. Her search leads her to suspect a conspiracy among the top echelon of the hospital's medical staff. The business and professional setting is different, but the common themes are the same as profit motive appears to drive negative conduct, including murder, and cover-up.

[b] The Constant Gardener.<sup>253</sup>

This screen adaptation of the John le Carré best seller casts Ralph Fiennes as Justin Quayle, a British diplomat in Kenya who suspects conspiracy as he searches for the murderer of his activist wife Tessa, played by Rachael Weisz in an Oscar winning performance. He soon finds drug companies in cahoots with the British and Kenyan authorities to test a new tuberculosis drug with dangerous side effects on locals. The common themes are present as profit motive appears to drive negative conduct, including what is disturbingly referred to in the movie as "corporate murder," and cover-up.

[c] The Doctor.<sup>254</sup>

William Hurt plays Jack McKee, a successful doctor whose luck runs out when he is diagnosed with throat cancer. With that news, he is about to experience the practice of medicine from the patient's perspective in an inspirational film with a professionalism lesson. He endures an insurance-driven world of misinformation, paperwork, procedures and cancelled appointments because of

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<sup>252</sup> COMA (Metro-Goldwyn-Mayer 1978).

<sup>253</sup> THE CONSTANT GARDNER (Focus Features, UK Film Council and Potboiler Productions 2005).

<sup>254</sup> THE DOCTOR (Silver Screen Partners IV and Touchstone Pictures 1991).

doctor scheduling conflicts; with nothing in return but a “sorry” from the staff with whom he interacts.

McKee suffers isolation, not to mention stress on his personal life. Yet he is inspired by June Ellis, another patient played by Elizabeth Perkins, who is fighting a more imminent battle than his. In his awakening he realizes that people are more than just a prognosis; that the patient process, beginning with the humiliating hospital gown, can be intimidating; and that the mountain of medical testing can be overwhelming. More importantly, he learns to let down his guard and be humane in his dealings with others.

[d] The Fugitive.<sup>255</sup>

This movie embellishment of the classic 1960s television series is mostly about Dr. Richard Kimble’s search for a one-armed man who killed his wife and U.S. Marshal Sam Gerard’s search for Kimble. Harrison Ford’s Kimble and Tommy Lee Jones’ Gerard steal the show, with Jones taking home the Oscar for best actor in a supporting role. However, potentially behind it all are common themes of profit motive appearing to drive negative conduct and cover-up by an unscrupulous pharmaceutical company linked to an unethical and conflicted doctor.

[3] Mining.

[a] Blood Diamond.<sup>256</sup>

Rebel gangs in 1990 Sierra Leone roam the countryside kidnapping men to help them mine for diamonds to finance their activities and boys to train as child soldiers. World governments and a diamond cartel tout initiatives to prevent the import of these “conflict stones.” Djimon Hounsou plays fisherman Solomon Vandy who, with his son, is among those kidnapped. He soon finds a very large diamond and smuggler Danny Archer, played by Leonardo DiCaprio, wants to help him with his predicament.

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<sup>255</sup> THE FUGITIVE (Warner Bros. Pictures 1993).

<sup>256</sup> BLOOD DIAMOND (Warner Bros. Pictures, Virtual Studios, Spring Creek Productions, Bedford Falls Productions, Initial Entertainment Group and Lonely Film Productions GmbH & Co. KG 2006).

Jennifer Connelly plays Maddy Bowen, an investigative journalist who befriends Archer in an effort to prove that the cartel remains active in the conflict stone business. The story centers around these characters, not the cartel, but the common themes are present as profit motive appears to keep the cartel involved with conflict stones while it conceals its efforts through middle men and offshore bank accounts.

[b] North Country.<sup>257</sup>

This movie is said to be based on the late 1980s story of the nation's first class action sexual harassment lawsuit. Josey Aimes, played by Charlize Theron, flees an abusive relationship to her parents' Minnesota home. She seeks employment at the local iron mine over the objections of her father Hank Aimes, played by Richard Jenkins, who works there, and the indifference of her mother Alice Aimes, played by Sissy Spacek. A pre-employment company physical testing for pregnancy portends problems to come.

The mining company is the villain, but not through the common themes. Here the problem seems to be a lack of policy structure and positive "tone at the top," as Josie and the few other female employees endure a thriving hostile work environment of threats, insults and sexual harassment. When Josey confronts the company president, he cautions her to stop making trouble and workplace retaliation follows.

The legal profession also has a role in the film. Woody Harrelson plays Bill White, a lawyer who befriends Josie and reluctantly takes her case. In one notable scene the mining company's lawyer offers pragmatic but disregarded advice to the company president as to the consequences of losing the suit.<sup>258</sup>

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<sup>257</sup> NORTH COUNTRY (Warner Bros. Pictures, Industry Entertainment, Participant Productions and Nick Wechsler Productions 2005).

<sup>258</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.4(b) (2009) (requiring the lawyer to explain matters to the extent reasonably necessary to permit the client to make informed decisions regarding the representation), and R. 2.1 (2009) (requiring exercise of independent professional judgment).

[4] Sports.

[a] Any Given Sunday.<sup>259</sup>

Director Oliver Stone looks at professional football in this chronicle of the fictitious Miami Sharks as they struggle to reach the playoffs. Dennis Quaid is cast as the aging quarterback on the decline and Jamie Foxx the new star on the rise. Cameron Diaz plays the rich and manipulative owner who inherited the team from her more respected father, with Al Pacino as the embattled coach. The focus is on the internal workings of the team and league, as profit motive and politics appear to drive key player decisions and owner threats to relocate the team while the coaches and players are kept in the dark. Players are shown to be prone to irresponsible wild parties, while the team doctor is more concerned with keeping players in the game than addressing their medical conditions.

[b] Slap Shot.<sup>260</sup>

This cult classic features Paul Newman as the aging player-coach of a down-and-out minor league hockey team that is more little business than big business. Fortunes turn when Newman's character manipulates his players to start playing like thugs. The film is not family fare but provides a professionalism lesson on the perils of having the wrong tone at the top and a team of blind followers who, in this case, relish their new-found "bad boy" image.

[c] The Wrestler.<sup>261</sup>

Those expecting an exposé on the ills of the big business of professional wrestling will be pleasantly disappointed. *The Wrestler* is instead a fascinating character study of an aging ex-champion struggling with his health and retirement as he ponders a rematch with his archrival from the past. Mickey Rourke stars as

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<sup>259</sup> ANY GIVEN SUNDAY (Warner Bros. Pictures, Ixtlan Corporation and Donners' Company 1999).

<sup>260</sup> SLAP SHOT (Kings Road Entertainment, Pan Arts and Universal Pictures 1977).

<sup>261</sup> THE WRESTLER (Wild Bunch, Protozoa Pictures and Saturn Films 2008).

Randy “the Ram” Robinson in a story that provides some surprising and unforgettable images of professionalism in locker room scenes in which the wrestlers are told of their pairings for the nights’ cards. As they then meet with each other to choreograph their matches, these giants set aside their flamboyant stage personas and calmly, politely and supportingly confer over the violent entertainment that follows.

[5] Agri-Business.

[a] The Informant!!<sup>262</sup>

Matt Damon plays Mark Whitacre, a biochemist vice president of an agri-business company who becomes an FBI informant in the story of a price-fixing case allegedly based on real events. His penchant for success and the finer things in life make him an unpredictable and unreliable, if not delusional, informant. The company’s profit motive is shown early, with its cover-up efforts including a willingness to cooperate with an extortionist to preserve competitive advantage, making misleading statements to the FBI and entering into secret deals. Lawyers look pretty good in this film, with the Department of Justice attorney being a well-presented voice of reason in the investigation, Whitacre’s company-paid lawyer quickly concluding that his client needs his own lawyer, Whitacre’s next lawyer giving objective advice and advocating his client’s position, and company lawyers competently mounting a defense.

[b] The Insider.<sup>263</sup>

Fired tobacco research scientist turned whistleblower Jeffrey Wigand, played by Russell Crowe, tells his story to *60 Minutes* anchor Mike Wallace, played by Christopher Plummer. Lawyers duel as his ex-employer tries to prevent the interview’s airing, with big tobacco looking bad in this fictionalized drama said to be based on true events. Wigand weighs the morality and consequences of

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<sup>262</sup> THE INFORMANT! (Warner Bros. Pictures, Participant Media and Groundswell Productions 2009).

<sup>263</sup> THE INSIDER (Blue Lion Entertainment, Forward Pass, Kaitz Production, Mann/Roth Productions, Spyglass Entertainment and Touchtone Pictures 1999).

breaching his severance confidentiality agreement under the less than gentle persuasion of network producer Lowell Bergman, played by Al Pacino. The network likewise deliberates, with spirited debate between the lawyers and the newsroom over whether to proceed with the show. The common themes are present with profit motive appearing to drive negative conduct and cover-up as Wigand's ex-employer threatens to end Wigand's severance benefits if he does not sign an enhanced confidentiality agreement, keeps him under constant surveillance and sends him threatening e-mails.

[c] Thank You for Smoking.<sup>264</sup>

Nick Naylor, played by Aaron Eckhart, is the smooth talking chief spokesman for the fictional Washington lobby of the tobacco industry. The story centers on Naylor's struggle to battle an anti-smoking crusade by Senator Ortolan Finistirre, played by William Macy, while at the same time serving as a good role model for his son. He explains to his son that being a lobbyist requires a moral flexibility that goes beyond most people. Even as a satire the film is a troubling portrayal of the tobacco industry, other big business and lobbyists; not to mention politicians, Hollywood and the media. The common themes are present as profit motive appears to drive negative conduct and cover-up by the tobacco industry as it funds campaigns to attract new smokers, conceals the dangers of smoking, puts a lobbyist spin on its business and pays bribes.

[6] Banking and Finance.

[a] Barbarians at the Gate.<sup>265</sup>

James Garner plays F. Ross Johnson, the flamboyant CEO of R. J. R. Nabisco who finds himself in a bidding war for his company with Henry Kravis, master of the leveraged buyout, played by Jonathan Pryce. This tale of wealthy businessmen and investment bankers battling for a piece of the action seems more personal than

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<sup>264</sup> THANK YOU FOR SMOKING (Room 9 Entertainment, TYFS Productions LLC and ContentFilm 2005).

<sup>265</sup> BARBARIANS AT THE GATE (Columbia Pictures Television, HBO Pictures and Rastar Pictures 1993).

professional. Clearly they have a big profit motive, and the potential corporate dismantling and layoffs portend bad acts to come. While Johnson is shown to be loyal to the company, his use of petty cash to buy Gucci watches for business associates and images of the company's corporate jets flying side-by-side help solidify the big business status early in the film. Johnson's assessment of the shortcomings of the company's smokeless cigarette may not be very professional, but it is certainly amusing.

[b] Boiler Room.<sup>266</sup>

Giovanni Ribisi plays Seth Davis, a college dropout who finds success and riches through a dream job with a suburban investment firm until he realizes that it may not be all it is cracked up to be. Vin Diesel plays Chris Varick, his mentor at the firm. There is nothing ethical or professional about the firm, as young associates idolize *Wall Street's* Gordon Gekko; the firm head rewards his male brokers with a suite of prostitutes; new recruits are drawn by promises of million dollar salaries; a do-nothing compliance officer oversees the firm's *faux* compliance program and shreds documents; active misrepresentations are made during client solicitation calls; and stock is sold in companies that don't exist. Davis' father, a federal judge played by Ron Rifkin, offers to refer Davis to a law firm that can help him get away with an illegal scheme.<sup>267</sup>

[c] Margin Call.<sup>268</sup>

A financial meltdown looms as an investment firm miscalculates market conditions that threaten to explode its stalled inventory of high-risk mortgage-backed securities. The thirty second facial reaction of rocket scientist (literally) turned analyst Peter Sullivan, played by Zachery Quinto, as he stares at his computer monitor while recognizing the problem is unforgettable. The typical

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<sup>266</sup> BOILER ROOM (New Line Cinema and Team Todd 2000).

<sup>267</sup> See ABA MODEL CODE OF JUD. CONDUCT Canon 1 (2007) (independence and integrity of judiciary), and Canon 2 (2007) (avoidance of impropriety).

<sup>268</sup> MARGIN CALL (Before the Door Pictures, Benaroya Pictures and Washington Square Films 2011).

plotline bad acts and cover-up are missing, replaced by mistake and an all-night effort to assess and avert the impending disaster.

The film contains a number of stereotypical portrayals, including ruthless firm lay-offs, employees aspiring to the extravagant incomes and lifestyles of firm leaders, a junior analyst whose only concern is keeping his job, a crisis management plan that appears based on designating a “fall guy,” risk management personnel claiming they had warned of the potential problem in the past and big bonuses being offered to traders who help unload the troubled assets. On the positive side, a management team played by such actors as Demi Moore, Kevin Spacey and Stanley Tucci is focused on the problem and firm leader John Tuld is positively portrayed by Jeremy Irons as he comments: “There are three ways to make a living in this business: be first, be smarter or cheat...now I don’t cheat.”<sup>269</sup>

[d] Wall Street.<sup>270</sup>

In the movie that is said to have ushered in the golden age of the corporate villain,<sup>271</sup> Michael Douglas plays Gordon Gekko, the ruthless and greedy corporate raider who becomes mentor to Charlie Sheen’s Bud Fox, a young stockbroker willing to do anything to get ahead. Greed, dishonesty, insider trading, market manipulation and violations of other laws are on the menu of bad acts resulting from Gekko’s profit motive in this one.

[e] Wall Street: Money Never Sleeps.<sup>272</sup>

Michael Douglas is back as Gordon Gekko in this much-awaited sequel. Out of prison, apparently reformed and on a book tour, he condemns leveraged borrowing and forecasts a financial meltdown. Yet he brings his own agenda to the table as he comes to the aid of idealistic investment banker and future son-in-law Jake Moore, played by Shia LaBeouf. Moore wants to bring down

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<sup>269</sup> See Dodes, *supra* note 5 (noting that the film’s characters are flawed, cynical – but, for once, actually human).

<sup>270</sup> WALL STREET (Twentieth Century Fox Film Corporation and American Entertainment Partners L.P. 1987).

<sup>271</sup> See Dodes, *supra* note 5.

<sup>272</sup> WALL STREET: MONEY NEVER SLEEPS (Edward R. Pressman Film 2010).

Bretton James, played by Josh Brolin, the man he believes is behind market rumors of toxic debt that lead to the downfall of his firm and the suicide of its leader. Expensive suits, nice offices and charitable fundraisers don't ensure ethics and professionalism, as James manipulates stock trading, Moore spreads his own ill-founded market rumors about James' firm and later launches a money laundering scheme to help Gekko, and Gekko double-crosses his own daughter.

[7] High Tech.

[a] Antitrust.<sup>273</sup>

Ryan Phillippe plays Milo Hoffman, a Stanford computer whiz who lands a prestige job with a Portland-based software firm. Tim Robbins plays the firm's innovative leader, Gary Winston, whose team is close to completing an important global communication system but for some loose technical ends and a Department of Justice antitrust investigation. When his lawyers tell him what he can't do, Winston tells them to "stop thinking like a lawyer for a second and start showing me some creativity." Hoffman soon begins to see a dark side to Winston and his associates, realizing that they will stop at nothing to eliminate competition. The usual elements of a good movie villain are here, with profit motive and paranoia over competition leading to bad conduct and cover-up. Think *The Firm* in a high-tech environment.

[b] Disclosure.<sup>274</sup>

The software industry provides the setting for this Michael Crichton tale of big business office politics. Digicom executive Tom Sanders, played by Michael Douglas, is the target of a failed seduction by his new boss Meredith Johnson, played by Demi Moore, only to find that she is accusing him of harassment. He decides to fight back, hiring tabloid lawyer Catherine Alvarez, played by Roma Maffia, who bluntly outlines the consequences of

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<sup>273</sup> ANTITRUST (Metro-Goldwyn-Mayer, Hyde Park Entertainment and Industry Entertainment 2001).

<sup>274</sup> DISCLOSURE (Baltimore Pictures, Constant c Productions and Warner Bros. Pictures 1994).

a sexual harassment case<sup>275</sup> and goes on to provide Sanders with ethical representation. The common themes are present as Digicom's profit motive and need to preserve a merger appear to drive negative conduct and cover-up involving workplace conspiracy, character assassination, spying on employees, retaliation and witness tampering.

[8] Government.

[a] Absolute Power.<sup>276</sup>

Clint Eastwood stars as Luther Whitney, a burglar going about his business at a Washington, D.C. mansion until he is surprised by the arrival of a drunken couple headed for a sexual encounter. Hiding in the closet, he is a witness as things get rough and the woman is murdered by one of the man's Secret Service bodyguards. Alas, this is no ordinary man but the President himself, played by Gene Hackman. Chief-of-staff Gloria Russell, played by Judy Davis, arrives on the scene and the cover-up is on. Police are not called, the scene is cleaned up to eliminate evidence and the incident is staged to look like a murder during a burglary. All is well until they realize that there really was a burglary in progress and that the burglar has taken a valuable piece of evidence.

[b] Air Force One.<sup>277</sup>

Gary Oldman is good at being a bad guy; so good that there really isn't room for anyone else. When his character, Ivan Korshunov, leads a team of Russian terrorists in a takeover of Air Force One, the U. S. government is in crisis mode. Glenn Close is a standout as Vice President Kathryn Bennett, calmly and professionally taking charge and willing to do what she thinks is

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<sup>275</sup> See MODEL RULES OF PROF'L CONDUCT R. 1.4(b) (2009) (obligation to explain matters to client), and R. 2.1 (requiring exercise of independent professional judgment).

<sup>276</sup> ABSOLUTE POWER (Castle Rock Entertainment and Malpaso Productions 1997).

<sup>277</sup> AIR FORCE ONE (Columbia Pictures Corporation Beacon Communications and Radiant Productions 1997).

right despite some predictable in-fighting among the Cabinet. Harrison Ford takes the role of President James Marshall where Bruce Willis took that of John McClane in *Die Hard*. With Ford and Close in the lead, Hollywood wouldn't dare make the government a villain!

[c] Contagion<sup>278</sup>

A frightening yet fascinating movie from director Steven Soderbergh, *Contagion* teases with the expectation of a villain but leaves the audience guessing. World health officials race to cure a deadly virus that has infected millions. Laurence Fishburne plays Dr. Ellis Cheever, head of the Center for Disease Control, who as a leader appears competent, professional and moral as his staff tries to systemically address the crisis. The U.S. government prepares for the worst, including expected widespread panic, hoping that “no one knows until everyone knows the severity of the situation.” Next comes the military, in its armored trucks and camos, to effectuate quarantines and curfews.

This is a case of the government not causing the problem, but looking more inadequate than corrupt or conspiring in its response. Alan Krumwiede, an online reporter played by Jude Law, blogs that the World Health Organization and governments are in cahoots with the pharmaceutical companies to immunize their own people first and release the immunization before it is fully tested, and financial markets react. There must be a villain here somewhere.

[d] The Craziest.<sup>279</sup>

Think of this film as a horror version of *Outbreak*. A small Iowa town is overtaken by gas mask-toting soldiers quarantining locals going mad after their water supply is contaminated by a biological weapon on a plane that crashes into a local bog. Timothy Olyphant plays local sheriff David Dutton, who tries to address the

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<sup>278</sup> CONTAGION (Warner Bros. Pictures, Participant Media, Imagination Abu Dhabi FZ, Double Feature Films and Regency Enterprises 2011).

<sup>279</sup> THE CRAZIES (Overture Films, Participant Media, Imagination Abu Dhabi FZ and Penn Station 2010).

situation while his wife and others band together to fight for survival. The army, for its part, kills anyone it thinks may be infected and ponders the destruction of the entire town to eliminate, and cover-up, the problem.

[e] Die Hard.<sup>280</sup>

Bruce Willis enjoys a career-defining role as John McClane, a New York cop caught in the middle of a terrorist takeover of the Nakatomi Plaza in Los Angeles. Here again the government is not the source of the problem. However, in this case it wastes no time becoming a part of the problem when it sends FBI agents Johnson and Johnson, no relation, to help. Well-played by Robert Davi and Grand Bush, they come across as arrogant, stiff, bureaucratic and out of touch with the reality on the ground.

[f] Outbreak.<sup>281</sup>

An all-star cast brings Michael Crichton's bestseller to life as Dustin Hoffman's Colonel Sam Daniels races against time to find the treatment for a fatal virus that has nested in a small northern California town. Standing in his way is Donald Sutherland's evil General Donald McClintock and his impressive force of attack helicopters and gas mask-toting camo-wearing soldiers intent upon vaporizing the entire town for the greater good of the country and covering up the virus' biological weapon origin. This movie features a perfect storm of bad conduct by a military leader, conspiracy, cover-up and an ill-advised President.

[g] The Simpsons Movie.<sup>282</sup>

Few institutions have gone unscathed in the years *The Simpsons* have been in business. With the arrival of the franchise's first feature film, the President and the EPA are in the spotlight. Homer

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<sup>280</sup> DIE HARD (Twentieth Century Fox Film Corporation, Gordon Company, Lawrence Gordon Productions and Silver Pictures 1988).

<sup>281</sup> OUTBREAK (Warner Bros. Pictures, Arnold Kopelson Productions and Punch Productions 1995).

<sup>282</sup> THE SIMPSONS MOVIE (Twentieth Century Fox Film Corporation and Gracie Films 2007).

dumps a silo of waste from his pet pig into Lake Springfield, which is already highly polluted. The EPA arrives on the scene, with energy head Russ Cargill, voiced by Albert Brooks, giving President Schwarzenegger, voiced by Harry Shearer, five “unthinkable options” to deal with Springfield’s problem. He picks the one that places Springfield under a huge glass dome. Cargill looks untrustworthy, the President looks focused on deniability and local government authorities look inept. Cargill owns an interest in the company that installs the dome; the U.S. government erases Springfield from all global mapping systems; and the EPA orders roving death squads around the dome’s perimeter and later hatches a “nuclear option” to eliminate the problem. The energy industry is among the film’s collateral damage. As the Simpsons escape to Alaska, they are given \$10,000 upon entry as a part of a program to “allow the oil companies to ravage its natural beauty.”

[h] Super 8.<sup>283</sup>

Steven Spielberg produced, and J.J. Abrams directed, this coming-of-age sci-fi film about a group of kids in a small Ohio town who witness a horrific train crash while making a Super 8 zombie movie in the summer of 1979. The plot thickens with some unusual disappearances and events, as Deputy Jackson Lamb, played by Kyle Chandler, tries to connect the dots and uncover the terrifying truth. The military (this time Air Force) quickly arrives on the scene, sporting berets and camouflaged government vehicles. They deceive and disregard local law enforcement and torch the countryside in an effort to force a public evacuation, all in a cover-up effort that Hollywood would have one think only the military could orchestrate.

[i] 2012.<sup>284</sup>

Chiwetel Ejiofor plays Dr. Adrian Helmsley, who discovers that the earth’s core is heating up due to radiation from unprecedented solar storms. He tells President Thomas Wilson,

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<sup>283</sup> SUPER 8 (Paramount Pictures, Amblin Entertainment and Bad Robot 2011).

<sup>284</sup> 2012 (Columbia Pictures, Centropolis Entertainment, Farewell Productions and The Mark Gordon Company 2009).

played by Danny Glover, of the impending disaster. Rather than respond, the administration is stockpiling art and collecting money from wealthy families worldwide to build arks to save them. While the crisis is due to natural causes, the villain lies in the portrayal of a government that lacks transparency and shows a strong preference for saving the rich. More soldiers in camos.

[9] Other Business.

[a] Ghostbusters.<sup>285</sup>

*Ghostbusters* has nothing to do with “big business,” but provides a telling look at situational ethics through a spoof involving a most unusual small business service provider. Everyone knows the story, which features Bill Murray, Dan Aykroyd and Harold Ramis as three unemployed psychology professors who decide to go into the ghost removal business. In a memorable scene, Murray confronts a possessed Dana Barret, played by Sigourney Weaver, who does her best to seduce him. Showing great initial restraint, Murray says: “I make it a rule, never to get involved with possessed people.” When she persists, he concedes: “Actually, it’s more of a *guideline* than a rule.”

[b] Norma Rae.<sup>286</sup>

Sally Field won the Oscar for best actress in a leading role for her portrayal of Norma Rae, one of a family of workers at a southern cotton mill who becomes an unlikely convert to the efforts of a union organizer played by Ron Leibman. The mill is small business in a global setting but big business within the local community. In this case profit motive appears to drive low wages and bad working conditions, and management does what it can to thwart the union’s efforts. However, the movie does not sensationalize these points or demonize management, the result being a fairly balanced character study.

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<sup>285</sup> GHOSTBUSTERS (Black Rhino Productions, Columbia Pictures Corporation and Delphi Films 1984).

<sup>286</sup> NORMA RAE (Twentieth Century Fox Film Corporation 1979).

[c] The Day After Tomorrow.<sup>287</sup>

This is one of two recent films dealing with climate change.<sup>288</sup> It casts Dennis Quaid as Jack Hall, a workaholic paleo-climatologist trying to convince world leaders that global warming foretells an impending second ice age in the northern hemisphere. Snow in New Delhi, soccer ball-size hail in Tokyo, twisters in Los Angeles and a wind driven storm surge that floods Manhattan all showcase the movie's impressive special effects. Hall and his team somehow manage to dissect and project climate change impact with precision after just a few hours' work. While the film does not dwell on causation, there are passing references to fossil fuel consumption and the federal government is shown to be disengaged.

[d] The Milagro Beanfield War.<sup>289</sup>

The big business of land development is showcased in this Robert Redford-directed movie. Bulldozers mar the pristine countryside as a redneck land developer is pitted against locals struggling to preserve their way of life. Joe Mondragon, played by Chick Venerra, presents an obstacle as he irrigates his beanfield in the middle of the planned country club development. Charlie Bloom, played by John Heard, is the retired activist lawyer who runs the local newspaper and comes to Mondragon's aid with help from a host of colorful local characters. The common themes are present as profit motive appears to drive negative conduct and cover-up as the developer will stop at nothing to advance the project including starting fires, buying off locals and government officials, destroying Bloom's newspapers that publicize the issue and hiring a "hit man."

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<sup>287</sup> THE DAY AFTER TOMORROW (Twentieth Century Fox Film Corporation, Centropolis Entertainment, Mark Gordon Productions and Lions Gate Films 2004).

<sup>288</sup> See also AN INCONVENIENT TRUTH (Lawrence Bender Productions and Participant Productions 2006).

<sup>289</sup> THE MILAGRO BEANFIELD WAR (Esparza and Universal Pictures 1988).

[10] Villainous Bosses.

[a] The Devil Wears Prada.<sup>290</sup>

Meryl Streep is Miranda Priestly, the merciless editor-in-chief of Runway fashion magazine who wrecks havoc on a naïve journalism grad hired as her second assistant. Anne Hathaway plays the victim, or at least one of them, Andrea Sachs. Not surprisingly, Priestly looks incredibly professional. It is how she *acts* that is the problem. She is feared, yet seemingly worshipped, with her mere arrival at the office precipitating a massive mobilization of staff and housekeeping. She has no time for niceties or greetings, launching immediately into a litany of orders. When Sachs seeks clarification, Priestly is offended. Priestly is inflexible, micromanages details, never says “thank you,” criticizes Sachs’ appearance and commands complete attention. With Priestly there is no work-life balance. While the movie provides a glimpse at the big business of fashion, it is really about the style of one dominant leader. Stanley Tucci plays fashion assistant Nigel, a stabilizing influence in the office who helps Sachs adapt – but at what cost?

[b] Horrible Bosses.<sup>291</sup>

Three men plot to kill their horrible bosses, who specialize in various forms of harassment that are both unprofessional and actionable. Kevin Spacey, as business executive P.J. Byrne, talks freely of his wife’s affairs, chastises an employee for being two minutes late for work (arriving at 6:02 a.m.), makes that employee drink scotch early in the morning and then calls him an alcoholic, and promotes himself to a better job after misleading others into thinking they were being considered. Jennifer Aniston, as Dr. Julia Harris, D.D.S., is a caricature of sexual harassment in both words and conduct, also extorting her subordinate dental assistant with threats that she will claim that he assaulted her if he does not accede to her demands. Colin Farrell, as family business heir

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<sup>290</sup> THE DEVIL WEARS PRADA (Fox 2000 Pictures, Dune Entertainment, Major Studio Partners, Peninsula Films and Twentieth Century Fox Film Corporation 2006).

<sup>291</sup> HORRIBLE BOSSES (New Line Cinema and Rat Entertainment 2011).

Bobby Pellitt, criticizes his subordinate for missing work to attend Pellitt's father's funeral, insists that his subordinate fire disabled and overweight employees and snorts crack cocaine while hosting orgies in his office.

[c] Office Space.<sup>292</sup>

In this cult classic Ron Livingston plays Peter Gibbons, an increasingly disgruntled employee of a high-tech company who hates his job and bureaucratic boss Bill Lundberg, played to perfection by Gary Cole. Gibbons' fortunes turn for the better when his rebelliously-bad attitude impresses a pair of downsizing consultants, who see Gibbons as a maverick with management potential. Lundberg's iconic character is not really unethical or unprofessional. He achieves villain status simply by being an unlikable micromanager who focuses on policies and paperwork over people as he roams among the cubicles. In a strange way the audience emphasizes with him and his lame attempts to connect with his team. Hawaiian shirt day, anyone?

[d] The Proposal.<sup>293</sup>

Miranda Priestly is not the only bad boss hailing from New York's publishing industry. Here Sandra Bullock plays Margaret Tate, a hard driving publisher who faces deportation to Canada unless she can find a stateside husband. Enter her assistant Andrew Paxton, played by Ryan Reynolds, who seems to fit the bill. Tate is feared by all in her office, yet she does not seem to be predisposed to any unethical or unprofessional acts. She is just obsessed with her career. That changes when she is less than forthright with U.S. immigration authorities as she perpetuates the fraud of a planned marriage to Paxton.

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<sup>292</sup> OFFICE SPACE (Twentieth Century Fox Film Corporation and Cubicle Inc. 1999).

<sup>293</sup> THE PROPOSAL (Touchstone Pictures, Mandeville Films and Kurtzman/Orci 2009).

[e] Up in the Air.<sup>294</sup>

Could the worst bosses be the ones who are never seen? Thanks to them, Ryan Bingham, played by George Clooney, has a job. He enjoys elite status with every travel provider, living a life on the road as he is hired by companies to fire their employees. When a young upstart at his firm threatens to revolutionize the business through a webcam termination process, he decides to take her to school on the importance of face-to-face interaction and the tricks of life on the road. The terminations are professional, choreographed and standardized. Despite the isolation of his life, Bingham seems to have a true appreciation for the importance of leaving people with their dignity. Yet the sterile script he follows and the absence of management involvement from the process just doesn't feel right.

#### VI. Summary.

The legal profession and big business, including the government, continue to be Hollywood's villains of choice. Fortunately, not all movie portrayals are negative. Even where they are, they often provide interesting case studies for spotting issues in the areas of ethics and professionalism.

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<sup>294</sup> UP IN THE AIR (Paramount Pictures, Cold Spring Pictures, DreamWorks Pictures, Montecito Pictures Company, Rickshaw Productions and Right of Way Films 2009).