

The Mass Appeal of *The Practice* and *Ally McBeal*:

An In-Depth Analysis of the Impact of these Television Shows on the Public's Perception of Attorneys

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I. INTRODUCTION

It is hard to watch much television today without seeing lawyers in action. Other than television shows about the police or medical doctors, no other profession is featured nearly as often in a storyline.¹ Lawyers permeate television because our legal system remains a very intriguing topic for the average viewer, and the law itself provides a dramatic tension that makes a perfect subject for television.² With the public image of lawyers and law firms currently at an all time low however,³ one would think that a television show about the inner feelings of a lawyer or a show about the ethical dilemmas a lawyer must overcome would not really be prime-time material. As evidenced by the enormous success and critical acclaim of both *Ally McBeal* and *The Practice*, this is clearly not the case.

Whether on the Internet⁴ or with co-workers over morning coffee,⁵

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1 ROBERT M. JARVIS & PAUL R. JOSEPH, PRIME TIME LAW: FICTIONAL TELEVISION AS LEGAL NARRATIVE 265 (1998).

2 Criminal prosecutions and civil suits are conflicts by their definition and provide excellent dramatic material. For an extended discussion, see *id.* at ix.

3 See Harris Poll #37, August 11, 1997. For the last thirty years Harris has been tracking the confidence people have in the leaders of various institutions. In the most recent survey, only 7% of the public said they had a great deal of confidence in the people running law firms - this is the lowest number recorded for any institution in thirty years.

4 Through my research I uncovered over 53 web sites devoted to *Ally McBeal* and its characters, and another 27 sites dedicated to *The Practice*. Many of these sites include a plethora of information such as complete episode guides, picture galleries, fan surveys and polls, show merchandise, news articles, message boards, and downloads. Not only did I find sites made specifically for Swedish, German, and United Kingdom fans, but I also found a site devoted specifically to instructing fans on how to furnish their homes like *Ally McBeal*.

people are talking about *Ally McBeal* and *The Practice*.⁶ Even more, many individuals have invested enormous amounts of time and effort discussing, analyzing, “chatting”⁷ and just plain obsessing about these shows.⁸ If people really despise lawyers so much, why do they keep watching and identifying with these programs in record numbers?⁹ The following pages will attempt to shed some light on this question.

This commentary will begin by reviewing the impact that television has on the public’s perceptions of attorneys. It will continue by giving a brief history of the most influential legal shows to ever grace the small screen. Next, an in-depth analysis of *Ally McBeal* and *The Practice* will be undertaken, and the various reasons why the public is so infatuated with these shows will be explored. Finally, this commentary will conclude that *Ally McBeal* and *The Practice* create and foster positive images of attorneys and that both are helping to improve the deteriorating image of lawyers in our society.

II. THE IMPACT OF TELEVISION ON THE PUBLIC’S PERCEPTIONS OF ATTORNEYS

Over the last two decades, the legal profession has undergone a profound change in public image. Regrettably, this change has been for the worse.¹⁰ While the public has never viewed lawyers as favorably as health care professionals or teachers,¹¹ in the past people actually respected and

5 Tim Kiska, *Fox's Ally McBeal May Replace 'Seinfeld' as Water-Cooler Fare*, DETROIT NEWS, Jan. 21, 1998 at E1.

6 In response to various polls undertaken by Angela Earlye on her web site, “*The Practice*” located at <<http://www.cnet.com/~earlye/practice.htm>>, hundreds of people have proclaimed that *The Practice* is the “best show on television.”

7 By using the term “chatting” I am referring to chat rooms located on the Internet where individuals go to write comments, views and questions about these shows.

8 A popular *Ally McBeal* web site entitled “Premiere *Ally McBeal*,” found at <<http://allymcbeal.tvfavorites.com>>, has recorded over 8,1550,000 hits since September 1997. Furthermore, Arthur Tham’s *The Practice* web site, located at <<http://thepractice.hypermart.net>>, has recorded over 75,000 hits since September 1998. By hits I am referring to the number of times people logged on to these web sites and pressed an icon indicating that they had viewed the site’s content.

9 Fox reported that ratings for *Ally McBeal* during the week of February 22, 1999 reached a record 17 million viewers. According to Nielson Media Research, viewers tuning into *The Practice* on April 12, 1999 numbered in the 14.3 million range.

10 Peter Chisholm, *The Public on Lawyers - Guilty*, MACLEAN’S, Vol. 106, 1993, at 68.

11 In a 1993 survey performed for the American Bar Association by the Peter D. Hart Research Organization, it was reported that lawyers placed far below other professions in favorability. While the favorability rating for teachers was 84%, pharmacists 81%, police officers 79%, doctors 71%, and bankers 56%, lawyers received a mere 40% favorability rating. Only stockbro-

admired lawyers. In 1997, however, lawyers were more despised than ever before.¹²

In its introduction to polling data released in 1997, the Harris Poll wrote:

Recent Harris Polls have found that public attitudes towards lawyers and law firms, which were already low, continue to get worse. Lawyers have seen a dramatic decline in their "prestige" which has fallen faster than that of any other occupation over the last twenty years. Fewer people have confidence in law firms than in any of the major institutions measured by Harris including the Congress, organized labor, or the federal government. It is not a pretty picture.¹³

In 1977 over a third of the public (36%) believed that lawyers had "very great prestige." Today, twenty years later, that has fallen to 19%.¹⁴ In other words, almost half of the people who accorded lawyers great prestige then, do not do so today. No other occupation has fallen so sharply.¹⁵

It is obvious that numerous factors have contributed to the perpetuation of a negative image of lawyers in our society.¹⁶ However, popular culture, i.e. television, movies,¹⁷ and newspapers, has played a crucial role in both shaping and reflecting the public's attitudes towards lawyers.¹⁸ While empirical evidence demonstrates that a primary way people learn

kers at 28% and politicians at 21% received lower ratings. Gary A. Hengstler, *Vox Populi—The Public Perception of Lawyers: ABA Poll, 79 A.B.A.J. 60* (Sept. 1993).

12 Because this commentary posits that *The Practice* and *Ally McBeal* are positively affecting the public's perceptions of attorneys, it is important to note that both *The Practice* and *Ally McBeal* premiered in 1997, around the same time the Harris Poll came out with its findings that the image of lawyers was at an all time low. Thus, they could not have been factors in this poll.

13 Harris Poll #37, August 11, 1997. Italics in original.

14 This figure stepped down from 36% in 1977 to 30% in 1982, 25% in 1992, and 19% in 1997. However, it improved to 23% in 1998. Harris Poll #31, June 17, 1998.

15 According to the Harris Poll, in 1977 almost 75% of respondents believed the legal profession had either very great or considerable prestige. Twenty years later, a near majority (47%) of respondents in April 1997 ranked the legal profession as either having some or hardly any prestige at all.

16 For an in-depth analysis of the various reasons why the image of lawyers has plummeted, see Michael Asimow, *Bad Lawyers in the Movies*, 24 NOVA L. REV. (forthcoming winter 2000).

17 Professor Asimow of UCLA School of Law argues that over the past twenty years movies about lawyers have portrayed them in a negative light. Professor Asimow believes that lawyer films are a primary reason why the profession is viewed so poorly. *Id.*

18 The public and television occupy a symbiotic association in which neither side is able to move very far ahead of the other. See JARVIS & JOSEPH, *supra* note 1, at vii.

about lawyers is through watching television,¹⁹ when people turn on the television they do not usually rely on the news or lawyer commercials for their view of lawyers.²⁰ Instead, they turn to fictionalized portrayals of lawyers such as Perry Mason and Ben Matlock.²¹

Despite having little or no contact with actual lawyers, many people feel they know what lawyers and judges do, and how they do it, because they have “appeared” in court with Perry Mason, “attended” a deposition with Arnie Becker, “investigated” a case with Ben Matlock, or “counseled” a client with Ally McBeal.²² Because television plays such a crucial role in determining how the public sees lawyers, it is necessary to review how the image of lawyers has changed on television over the last half century.

III. FICTIONAL LAWYERS ON TELEVISION: A BRIEF HISTORY

For the past 50 years, the small screen has projected fictional lawyers into the homes of millions of viewers. Initially, lawyers who dominated the courtroom dramas of the 1950's, '60s and '70s were seen as astute, hard-working, and incorruptible patrons of society.²³ Given the heroic status of lawyers like *Perry Mason*,²⁴ and the altruistic do-gooders like *Owen Marshall* and *The Defenders*,²⁵ it is not surprising that real life attorneys during the '50s through the '70s were viewed as rational and smart, as well as fair, sociable and warm - clearly perceptions consistent with the success of their television counterparts.²⁶

19 *Id.*

20 American Bar Association Commission on Advertising, *Lawyer Advertising at the Crossroads: Professional Policy Considerations*, at 66 (1995). *But see*, American Bar Association, *Perceptions of the U.S. Justice System*, (February 1999). According to this survey, when people were asked where they get their information from about the Justice System, only 9% said television dramas, as opposed to 41% for television news. Strikingly, 63% said they get most of their information from personal experience.

21 According to Ronald D. Rotunda, when people are asked to name a lawyer they most admire they frequently cite Ben Matlock, who they apparently think is a real person. *See* JARVIS & JOSEPH, *supra* note 1 at 265.

22 *Id.* at vii.

23 Legal television shows during this time period were very one dimensional and rarely focused on lawyers outside of the courtroom.

24 For the majority of television viewers in the 1950s and 1960s, *Perry Mason* was their only experience with lawyers and the law. For Perry Mason, tough cases were the only ones worth taking. They symbolized what the American legal system stood for: the right of private citizens, no matter how poor, powerless, or socially insignificant, to procure the best possible defense against charges brought by the all-powerful state. Of course, Mason's defendants were always innocent - as innocent as the times themselves.

25 David S. Machlowitz, *Lawyers on TV*, A.B.A.J. Nov. 1988, at 52.

26 S. Jeffries-Fox & N. Signorielli, *Television and Children's Conceptions of Occupations*,

The 1980's saw the emergence of legal comedians in *Night Court*, sleazy defense lawyers in *Miami Vice*, and, of course, cunning investigators like Ben Matlock. Interestingly, the most popular legal show on daytime television during the 1980's was *People's Court*, which dispensed with lawyers altogether.²⁷ As a result of this show's success, numerous daytime courtroom dramas filled television screens during the later part of this decade.²⁸ Among the more popular shows were *Superior Court*, *The Judge*, and *Divorce Court*.²⁹ The lawyers on these programs remained fairly neutral and did little to enhance or hinder the public image of lawyers.³⁰

When *L.A. Law* burst onto the scene in 1986, it caused quite a commotion with its frank language, topical subject matter, taut writing, and richly textured portrayal of lawyers in and out of the courtroom.³¹ It also bolstered the image of lawyering as a glamour profession in which attorneys got big salaries for handling important cases.³² Professor Stephen Gillers of New York University Law School believes that *L.A. Law* was the single most important social vehicle in America for the presentation of the work lives of lawyers in the late 1980's.³³ Moreover, According to Robert Lane of the Los Angeles law firm Paul, Hastings, Janofsky & Walker, “

if a person in the late '80s was to mention public perceptions of law in Los Angeles, most people would tell them about *L.A. Law* because the public had the perception that this was how law was practiced in L.A. . . . In fact, it [was] not nearly so glamorous.³⁴

While numerous legal shows filled television screens throughout the early 1990's, few did anything to enhance the image of lawyers. One of the most popular legal dramas during this decade has been *Law and Or-*

Proceedings of the Sixth Ann. Telecomm. Pol'y Res. Conf. 21-38 (1978).

27 See Machlowitz, *supra* note 25 at 54.

28 *Id.* Professor Robert E. Rosen of the University of Miami viewed these programs as part game show, part soap opera, in which viewers decided cases along with the judges. *Id.* at 54

29 *Id.*

30 *Id.* Professor Rosen describes the lawyers on these programs as being a fair representation of the trial bar. According to Rosen, the lawyers were neither heroes nor villains, brilliant nor stupid, idealistic nor dishonest, lazy nor workaholics.

31 Harry Waters with Janet Huck, *Lust for Law*, NEWSWEEK, Nov. 16, 1987, at 85; see also, Joe Fasbinder, *Lawyers and Media*, A.B.A.J., Nov. 1988, at CE-1.

32 See Machlowitz, *supra* note 25, at 55. Some theorists even argue that *L.A. Law* was responsible for the major increase in law school applications in the late 1980's because it presented the public with mostly glamorous and successful attorneys.

33 *Id.* at 55; see also, Virginia Kirk, *Most Influential Legal TV Shows Ever*, THE NATIONAL JURIST, Oct. 1998, at 18; Michael Pfau et. al., *Television Viewing and Public Perceptions of Attorneys* 21 HUMAN COMM. RES. 307 (1995).

34 Machlowitz, *supra* note 25, at 55.

der.³⁵ Unlike *L.A., Law* which went to great lengths to glamorize the law, *Law and Order* is a plot driven legal drama which sticks straight to the facts of each case and rarely focuses on the personal lives of its characters.³⁶ The lawyers on *Law and Order* deal with issues taken directly from headline news, and the lawyers constantly balance legal rules with their desire to obtain justice.³⁷ While the lawyers are hard working and intelligent, the majority of issues raised on this show are presented from the police and prosecutors' point of view.³⁸ Thus, the public is led to believe that the only good lawyers are prosecutors.³⁹ Because *Law and Order* presents defense lawyers as somewhat inferior to prosecutors, it fails to promote a positive image of the legal profession as a whole.

IV. THE PHENOMENON OF *ALLY McBEAL* AND *THE PRACTICE*

For the most part, television of the 1980's and early 1990's did little to enhance the negative image of lawyers in our society. All that changed, however, with the premieres of *Ally McBeal* and *The Practice* in 1997. Not since *Perry Mason* and *The Defenders* has television presented the public with such positive images of lawyers as those found on *Ally McBeal* and *The Practice*. No legal series has ever been the focus of more fan web sites than *Ally McBeal*,⁴⁰ and few, if any, have caused more viewers to reconsider their own ethical viewpoints on some of the most controversial issues today than *The Practice*. Both programs have received numerous awards and recognition for their ingenious scripts and talented casts,⁴¹ and both

35 *Law and Order* has been on the air for over nine years and has met with fairly favorable ratings. *Directory to Prime Time Network and Cable TV Shows*.

36 Elayne Rapping, *Land of Good Guy Prosecutors*, PROGRESSIVE, Vol. 60, 1996, at 38.

37 *Law and Order* bases its stories on the most current real-world cases and illustrates how the police and prosecutors work together to resolve them. The show often serves as a primer on rules of criminal procedure and rules of evidence, and episodes almost invariably involve court rulings suppressing confessions or crucial pieces of evidence.

38 *Supra* note 36.

39 *Id.*

40 From my own investigation on the Internet, no other legal show came close to having as many sites and references than *Ally McBeal*. See also, *supra* notes 4 and 8.

41 *The Practice* recently received three 1999 Emmy awards for Outstanding Drama Series, Outstanding Supporting Actor in a Drama Series (Michael Badalucco), and Outstanding Supporting Actress in a Drama Series (Holland Taylor). *The Practice* received three 1999 Golden Globe awards for Best Television Series - Drama, Best Actor in a Drama Series (Dylan McDermott), and Best Supporting Actress in Series, Mini-Series, or Motion Picture Made for T.V. (Camryn Manheim). *The Practice* also received three 1998 Emmy's for Outstanding Drama Series, Outstanding Supporting Actress in a Drama Series (Camryn Manheim), and Outstanding Guest Actor in a Drama Series (John Larroquette). *Ally McBeal* received a 1999 Emmy for Outstanding Comedy Series and a 1999 Golden Globes for Best T.V.-Series-Comedy or Musical, and

continue to promote positive images of lawyers and law firms to millions of viewers on a weekly basis. Most importantly, both shows are beginning to bridge the gap between the public's distaste for lawyers and the television audience's infatuation with them.

A. *The Practice*

The Practice is a legal drama which centers around a decidedly unglamorous, bottom-end law firm in Boston. Unlike the designer-suit wearing, sports car-driving, wealthy lawyers found on *L.A. Law*, the lawyers of Donnell, Young, Frutt and Dole are constantly testing their credit limit.⁴² These lawyers are almost always the underdogs and often defend shady clients while walking a moral tightrope. The cast of *The Practice* includes:⁴³ Dylan McDermott as Bobby Donnell,⁴⁴ Camryn Manheim as Ellenor Frutt,⁴⁵ Lara Flynn Boyle as Helen Gamble,⁴⁶ Steve Harris as Eugene Young,⁴⁷ Kelli Williams as Lindsay Dole,⁴⁸ Michael Badalucco as

a 1998 Golden Globes for Best T.V.-Series-Comedy or Musical and Best Performance by an Actress in a T.V. Series-Comedy or Musical (Calista Flockhart).

42 For a good discussion on the role class plays on *The Practice*, see John Denvir, *Some Pretty Classy Lawyers*, PICTURING JUSTICE, Nov. 1998 <<http://www.usfca.edu/pj/articles>>. Denvir asserts that *The Practice's* ability to play on the American fascination with issues of class is the main reason for the shows success.

43 The information used to create these character sketches was compiled from various sources including viewer comments, internet sites, and my own observations. Some of the most useful web sites were: Arthur Tham's *The Practice* site located at <<http://thepractice.hypermart.net>>; *The Practice, The Courtroom* located at <<http://sqx.simplenet.com/thepractice>>; and Angela Earlye's *The Practice* site located at <<http://www.ccnnet.com/~earlye/practice.htm>>.

44 Bobby Donnell is the lifeblood of Donnell, Young, Frutt and Dole. Even though the firm now has four partners, Bobby still controls most decisions. Whether the charge is murder, theft or perjury, Bobby is usually up to the task. He is a very competent lawyer who knows what he is doing. At times he can be wrong, but he will always admit it, and he is not afraid to call in help. See *Another Day* (ABC Television Broadcast, Mar. 9, 1998) and *Ax Murder* (ABC television broadcast, Apr. 6, 1998). In the courtroom Bobby comes across as sincere and educated. Bobby justifies being a defense lawyer by arguing that he is protecting the innocent, as opposed to getting the guilty off.

45 Ellenor Frutt is a very powerful lawyer. While she is clearly capable on her own, she is also an excellent team player. Ellenor has a great sense of humor and has a very compassionate soul; a soul that put an ad in a dating service when she felt alone; a soul that compelled her to save an intelligent monkey from being experimented on. See *Food Chains* (ABC television broadcast, Apr. 6, 1998). Though often making her decisions with her heart rather than her head, Ellenor is very street smart and has the guts to tough it out even in the most grueling and personal cases. See *Checkmate* (ABC television broadcast, Mar. 16, 1998).

46 Helen Gamble is the DA's answer to Bobby Donnell and has beaten him on several occasions. Helen usually plays by the rules, unless she feels she is losing. She will then resort to any means necessary to win. See *Cloudy With a Chance of Membranes* (ABC television broadcast, Feb. 16, 1998).

47 Eugene Young has amazing self confidence and has even bet on himself to win cases.

Jimmy Berluti,⁴⁹ and Lisa Gay Hamilton as Rebecca Washington.⁵⁰

1. Overview of The Practice

Ever since *The Practice* debuted in March of 1997, critics and discerning viewers have raved about this high-voltage legal drama.⁵¹ Hampered by a dead-end Saturday night time slot⁵² however, *The Practice* routinely dwelled near the bottom of the weekly Nielson ratings.⁵³ Luckily, all that changed when the series pulled a stunning upset to capture top dramatic honors at the 1998 Emmy Awards. The ensuing publicity, along with the show's new 10pm Sunday slot, brought in, and continue to bring in, millions of new viewers.⁵⁴

The Practice remains at a peak level of creative energy, masterfully juggling scenes of excruciating suspense, lump-in-the-throat emotion, provocative moral ambiguity and outrageous dark humor. Clearly, "[o]ne of

See Dog Bite (ABC television broadcast, Oct. 4, 1997). Juries trust Eugene because he speaks directly to them, not to mention that his closing arguments are excellent. Despite the fact that Eugene represents alleged drug dealers and murderers every day, he needs to be able to sleep with himself at night. Both at home and at work, Eugene strives to be a devoted father to his eleven year old son, Kendall. *See Crossfire* (ABC television broadcast, Mar. 14, 1999).

48 Lindsay Dole dreamed of working for a large multi-national firm during law school. Instead, she found her niche with the firm, particularly because she fell in love with Bobby. *See Trees in the Forest* (ABC television broadcast, Mar. 30, 1998).

49 Jimmy Berluti was originally a very bad lawyer who took very bad cases. Despite this, Jimmy has moved on from his "Jimmy the Grunt" experience and taken respectable cases, such as when he defended a community stricken with cancer. *See Truth and Consequences* (ABC television broadcast, Jan. 12, 1998) and *Burden of Proof* (ABC television broadcast, January 19, 1998).

50 Rebecca Washington secretly passed the bar during the third season and was promoted from Bobby's receptionist to lawyer overnight. Rebecca is the ultimate sounding board for the firm, and she is the person each lawyer consults if they have a problem. She is always willing to fight for what she feels is right, whether it is going undercover, or being the sole witness in a murder case. *See Food Chains* (ABC television broadcast, Mar. 6, 1998) and *In Deep* (ABC television broadcast, Mar. 12, 1998).

51 Professor Michael Asimow of the UCLA School of Law asserts that *The Practice* is one of the finest legal dramas to have ever appeared on the small screen. *See Michael Asimow, Severed Heads on The Practice*, PICTURING JUSTICE, (Nov. 29, 1998) <<http://www.usfca.edu/pj/articles>>.

52 *The Practice* initially aired in *NYPD Blue*'s Tuesday night time spot during *NYPD Blue*'s hiatus, then moved to Saturday night at 10pm, and then to Monday nights. Finally, it was moved to 10pm on Sunday where it has flourished.

53 Nielson Media Research is a TV ratings company serving the United States and Canada. The ratings provide an estimate of audience size and composition for television programmers and commercial advertisers. For further information about Nielson, see <<http://www.nielsenmedia.com>>.

54 Nielson ratings for the week of February 12, 1999, recorded over 14.3 million viewers watching *The Practice* on Sunday nights at 10pm. This placed the show in the top ten most watched shows of the week.

the best things about *The Practice* is that it thrashes out thorny issues of legal ethics on screen . . . and explore[s] with great sensitivity the personal crises that practicing law can trigger.⁵⁵ Even more, the show possesses numerous qualities that are absolutely and unflinchingly true to life, such as the caffeinated pace of the lawyers, lying clients, uneasy office politics, and perplexing ethical questions that trouble viewers long after they have turned off their television sets.

Beyond its shamefully enjoyable plot twists and cliff-hangers, what makes this show work is the way the characters know when they go too far for sometimes reprehensible clients.⁵⁶ The lawyers are good at what they do, but not always proud, even in victory. The lawyers are flawed heroes. They make mistakes. They fall for clients. They work too hard. They get on each other's nerves. They leave loose ends untied. They even lose big cases.⁵⁷ But what these lawyers lack in polish they make up for in grit. They are well realized, suitably complex individuals who, incidentally, prove that lawyers are people too.

2. The Effects of *The Practice* on the Public's Perceptions of Lawyers

While the ABA recently found that people generally believe lawyers are more concerned with their own self-promotion than their client's best interests,⁵⁸ the lawyers in *The Practice*, almost always put their client's interests first. For the lawyers of Donnell, Young, Frutt and Dole it is the client who makes the crucial decisions, not them. If a client refuses to accept a generous settlement offer, the lawyers will always respect his or her choice, even if they feel the jury may not be so generous.⁵⁹ Furthermore,

55 Asimow, *supra*, note 51. Professor Asimow reviews two episodes of *The Practice* which illustrate the ethical tensions presented on the show. In the first, a podiatrist finds a severed head in his medical bag, places it on Ellenor Frutt's desk, and asks her what he should do. The attorneys then engage in a passionate debate about their ethical obligations towards both the police and the client. See *Body Count* (ABC television broadcast, Oct. 11, 1998). In the second episode, an intoxicated client calls Ellenor on his cell phone after running into a pedestrian with his car and asks her what to do. Ellenor instructs him to keep drinking so when the cops test him they won't be able to tell when he started drinking. Ellenor's advice is grossly unethical, the entire firm voices their disapproval, and Ellenor wonders how she could have sunk to such depths. See *Passing Go* (ABC television broadcast, Sept. 27, 1998).

56 See *Do Unto Others* (ABC television broadcast, May 2, 1998). In this episode, Eugene questions his own actions when he is forced to zealously defend an alleged rapist whom he believes has committed the crime.

57 An example of this is when Lindsey fails to get her law professor acquitted of a murder charge, and is afflicted with overwhelming feelings of guilt that she has let him down. See *The Defenders* (ABC television broadcast, Oct. 18, 1998).

58 45% of people surveyed felt that lawyers put their own interests ahead of their clients. See *Perceptions of the U.S. Justice System*, AMERICAN BAR ASSOCIATION, February 1999.

59 See *Lawyers, Reporters, and Cockroaches* (ABC television broadcast, Feb. 21, 1999)

despite the public's contention that most lawyers are only in it for the money, for these lawyers it has never been about the money. They will not hesitate to turn down lucrative clients if they do not believe in their cause,⁶⁰ and they will work for nothing if they do believe in one.

On a similar note, the lawyers on *The Practice* are not afraid to take on unfavorable or even hostile clients if they feel that representing them is in the best interests of justice.⁶¹ While the lawyers do take on a wide range of people and causes, for the most part, they usually defend sympathetic ones. By allowing these lawyers to defend clients who appear innocent or who have worthwhile motives, viewers support the lawyers' actions even more. Additionally, when a verdict is rendered in favor of these clients, justice seems to have been served.

Perhaps the primary way *The Practice* helps to bolster the perception of lawyers in our society is by presenting the public with a complete picture of our legal system. While people generally lack confidence in lawyers, they do have a lot of confidence in judges and our justice system as a whole.⁶² *The Practice* challenges the conventional notions that judges are unbiased and detached, and actually places them on the same playing field as the lawyers. Sometimes it is the judge who crosses the line between right and wrong and it is the lawyer who must put them back on the right path.⁶³ What viewers see in *The Practice* is that judges are real people too, and that they are no more important in our legal system than the lawyers over whom they preside.

What makes *The Practice* so true to life is that it presents viewers with a neutral perspective of the adversarial process. When the lawyers of Donnell, Young, Frutt and Dole go into court they may not actually be the most prepared or the best qualified, and many times their adversaries are just as talented and effective as they are. Even more, their opponents treat each case with the same passion and devotion as they do. By exposing viewers to competent and effective lawyers on both sides, *The Practice* comes off as being realistic and believable, and allows viewers to have

60 See *Split Decisions* (ABC television broadcast, Jan. 3, 1999).

61 See *Of Human Bondage* (ABC television broadcast, Feb. 7, 1999) in which Ellenor defends a helpless drug user who, in her opinion, is more in need of rehabilitation than a prison sentence.

62 While 42% of people surveyed had little or no confidence in lawyers, strikingly, 73% were at least somewhat confident in our justice system, and 78% were at least somewhat confident in judges. See *supra* note 58.

63 See *Home Invasions* (ABC television broadcast, Apr. 18, 1999), *The Infection* (ABC television broadcast, Apr. 25, 1999) and *Judge and Jury* (ABC television broadcast, Jan. 17, 1999).

faith that a just verdict will be rendered.

The Practice also gives viewers the opportunity to experience the daily struggles and moral dilemmas which prosecutors must face. Through Helen Gamble, viewers see that prosecutors, like defense attorneys, routinely question the integrity of their job and the legal system they are obliged to represent. As Helen proclaimed to a judge in a recent episode, "We are the only ones who represent this [court]room. No matter what, we must uphold its sanctity, even when applying the law may seem unfair or unjust."⁶⁴

Just as in real life, the lawyers in *The Practice* must accept that most people view this profession in a negative light. Despite constantly questioning and reviewing their own personal integrity and self-worth, these lawyers continue to do their job to the best of their ability.⁶⁵ While every lawyer on the show, including Helen, has second guessed his or her decision to become a lawyer, they all realize that if they fail to do their job effectively, guilty people could walk the streets and innocent people could be put in jail. Accordingly, they accept that while most people may not understand or respect the commitment they have made, without them, justice will never be served.

Despite the show's strong attempt to portray the legal profession as accurately as possible, like most legal shows, *The Practice* embellishes the profession in order to attract more viewers and keep them interested.⁶⁶ Cases on *The Practice* may sometimes be a bit outlandish, and most cases are resolved at an accelerated pace.⁶⁷ However, this is clearly necessary to keep viewers tuning in.⁶⁸ "You can't do things completely accurately," asserts Jill Goldsmith, a legal consultant on *The Practice* and a former public defender.⁶⁹ "[Legal shows must] reduce all the minutiae and focus on the

64 See *The Infection* (ABC television broadcast, Apr. 25, 1999).

65 In recent episodes, Eugene's ex-wife actually asserted in open court that Eugene's job was a bad influence on their son, clearly promoting the stereotype that all defense lawyers are sleazy people. See *Target Practice* (ABC television broadcast, Mar. 7, 1999) and *Crossfire* (ABC television broadcast, Mar. 14, 1999).

66 Unlike lawyers in *The Practice*, the partnership track at most actual firms is longer than two or three years. Moreover, in real life, the same prosecutors and defense attorneys do not face each other on a weekly basis like Helen and the lawyers of Donnell, Young, Frutt and Dole. Also, while attorneys are generally not permitted to discuss a case with a presiding judge without opposing counsel present, the lawyers on *The Practice* have a knack for doing this quite often.

67 When an issue presents itself on *The Practice* the lawyers usually head straight to court and resolve it. In reality, most trials take years to get to court.

68 See Paul Brownfield, *Legally Speaking: David E. Kelley's The Practice Resonates with its Characters True-to-Life Counterparts*, L. A. TIMES, Oct. 16, 1999, at F1.

69 *Id.* at F18.

highlights, on the real point of telling the story in the first place.”⁷⁰ While *The Practice* may not be 100% accurate, many real life attorneys still praise the show for presenting the public with a realistic picture of the legal profession.⁷¹

In a day and age when the majority of movies and television shows about lawyers are both unrealistic and negative,⁷² *The Practice* strays from the norm by presenting viewers with a positive and accurate portrayal of this profession. While *The Practice* may not be a perfect rendition of what practicing the law entails, it definitely comes closer than any legal show to date. Clearly, the fact that *The Practice* continues to attract millions of viewers can only help to bolster the image that lawyers now assume in our society.

3. Viewer Comments and Perceptions about *The Practice*

Wherever you look, *Practice* fans are preaching that *The Practice* is the best show on television.⁷³ From the show’s characters to its legal issues to its writing, *Practice* fans just can’t seem to get enough of this program. When asked if they were more interested in the legal aspects of *The Practice* or its character’s personal lives, forty-two out of the sixty-three fans said the reason *The Practice* is so successful is that it has equal doses of both.⁷⁴ According to these viewers, it is the legal issues and the characters’ reactions to them that keeps them tuning in. Twelve respondents did, however, believe the show should stick straight to the law books and feared that too much character development could transform it into a soap opera. On the other end, nine respondents wanted the character’s personal lives to be the primary focus of the show.⁷⁵

When fans were asked if they thought the poor ethics of the firm would chase away some viewers, 41 out of 46 said absolutely not.⁷⁶ Viewers pointed out that the ethical struggles in *The Practice* are what gives the show its pizzazz, and these struggles make the show much more realistic

70 *Id.*

71 Mark Geragos, a criminal defense attorney in Los Angeles, asserts that “*The Practice* manages to capture being a lawyer in a way that doesn’t lampoon it.” Furthermore, attorney Stephen Yagman claims that *The Practice* “frequently portrays the phenomenon of insane judges that is really, really accurate, even though the public may think that it is fiction.” *Id.* at F14.

72 *Supra* note 16.

73 *See supra* note 43.

74 *Id.*

75 *Id.*

76 *Id.*

and insightful. Many viewers also felt that the lawyers on *The Practice* don't have bad ethics at all, and that they are just doing their jobs the best they can. One fan remarked that the ethical dilemmas illustrate the struggle that real lawyers go through on a daily basis.⁷⁷

Interestingly, despite the fact that people have less confidence in the lawyers running law firms than they do in any other professional institution,⁷⁸ when fans of *The Practice* were asked to identify a lawyer they would most want representing them, the overwhelming majority chose Bobby Donnell - the firm's undisputed leader.⁷⁹ Even more, a majority of viewers also selected Bobby as their favorite character on the show.⁸⁰ At least for *Practice* fans, law firm leaders are effective lawyers. Clearly, this illustrates that viewers of *The Practice* have a positive perception of lawyers based on their experience with this show.

B. *Ally McBeal*

Ally McBeal is a legal "dramedy" which centers around the life and fantasies of a young female attorney and her evolution as a person. The majority of this program takes place within Ally's law firm. However, the legal system really only functions to provide a forum for its characters to interact with each other. The characters on this show are proud to be lawyers and are very good at what they do, yet they are constantly searching for ways to improve their personal lives. While inside the courtroom these characters are confident and capable lawyers who are not afraid to stand up for what they believe in, outside the courtroom they are fairly self-conscious and insecure individuals who must look to each other for support and advice. The wide range of characters on *Ally McBeal* include:⁸¹ Ally McBeal played by Calista Flockhart,⁸² Billy Thomas played by Gil Bel-

77 *Id.*

78 According to the 1997 Harris poll #37, only 7% of the public said they have a great deal of confidence in the people running law firms. This is the lowest number ever recorded for any institution.

79 See *supra* note 43.

80 *Id.*

81 The information used to create these character sketches was compiled from various sources including viewer comments, internet sites, and my own observations. Some of the most useful web sites were *Gist TV Favorites* <<http://allymcbeal.tvfavorites.com>>, Dana's *Ally McBeal Site* <<http://allymcbeal.tktv.net>>, *Inside the Mind of Ally McBeal* <<http://bluesphere.simplenet.com/AllyMcBeal/index.html>>, and Arthur Tham's *Ally McBeal Site* <<http://amcb.hypermart.net>>.

82 *Ally McBeal* is, as she puts it in the pilot, "the victim of [her] own choices." She grew up with Billy Thomas and with him she had her first kiss, lost her virginity, and followed him to Harvard Law School even though she really did not want to study law. After the first year of law school, Billy left her to transfer to Michigan so he could make the law review, at least that is what

lows,⁸³ Georgia Thomas played by Courtney Thorne-Smith,⁸⁴ Richard Fish played by Greg Germann,⁸⁵ John Cage played by Peter MacNicol,⁸⁶ Renee Radick played by Lisa Nicole Carson,⁸⁷ Nelle Porter played by Portia de Rossi,⁸⁸ and Ling Woo played by Lucy Liu.⁸⁹

1. Overview of *Ally McBeal*

Since the premiere of *Ally McBeal* in September of 1997 the show has inspired a cult following and has raised quite a stir among both fans and critics. *Ally* supporters adore the show's unique legal disputes, its wacky fantasy sequences, and the twisty webs of romantic confusion that keep *Ally* in a perpetual state of "adorable abashment."⁹⁰ Perhaps the most in-

he told her. It was not until the third episode of the second season that Ally deduced the truth - Billy left her for another woman, Georgia, to whom he is now married. Ally inevitably graduated from Harvard and got a job she really liked. However, after one of the senior partners at her firm sexually harassed her, Ally quit and on the way out of the office ran into Richard Fish, an old law school acquaintance, who offered her a job with Cage/Fish and Associates. To Ally's amazement, Billy Thomas works for this firm, and it is obvious from the beginning she is going to have a lot of trouble working with him now that he is married. While she has never had much luck with relationships, Ally firmly believes that couplehood can work. Ally is brutally honest, though not always intentionally. She has a tendency to blurt out whatever it is she is really thinking and then tries to fix the damage afterwards.

83 Billy Thomas is now married to Georgia, although he regrets leaving Ally. Billy and Ally are still very close, and, as expected, their relationship frequently causes problems between Billy and Georgia.

84 Georgia Thomas is Billy's Barbie-doll wife. She is an highly-skilled attorney and was Billy's editor on law review. After facing turmoil in her previous firm, Georgia was offered a temporary job at Cage/Fish and Associates which now appears permanent. Her position in the firm obviously adds to the awkwardness of the Billy/Georgia/Ally triangle. Despite her feelings of insecurity caused by Billy and Ally's close relationship, she and Ally have become friends.

85 Richard Fish is one of the founders of Cage/Fish and Associates. Richard's primary motivation for becoming a lawyer was money. Although he tries to conceal it, he does care about the well-being of others. He is best known for his jewels of wisdom which he calls "Fishisms." It is interesting to note that numerous web sites have been dedicated solely to exploring "Fishisms." For an interesting cite, see *Sometimes There's Only One Fish* <www.blatt.org/jazz/fish>.

86 John Cage is an extremely strange man but is also an extremely sharp lawyer who has a knack for making great arguments and winning cases. Cage has a number of quirks which are seen both inside and outside of the courtroom. Like Ally, Cage is far more confident and secure in the courtroom than he is outside of it.

87 Renee Radick is Ally's roommate, best friend, and also a district attorney for the Commonwealth. Renee has a rapier wit, which we frequently see when she is looking out for Ally. When Ally suffers a personal or romantic disaster, it is Renee she turns to, and vice-versa.

88 Nelle Porter is an attractive rainmaker brought in by Richard Fish to make more money for the firm. The insecure women of the firm have problems working with someone like Nelle, who is not only attractive, but confident and self-assured.

89 Ling Woo is a frequent client and sometimes lawyer for Cage/Fish and Associates. She has an affection for lawsuits, and is, to say the least, a touch vindictive.

90 This phrase was coined by Ben Svetsky in his article, *Everything You Love or Hate*

novative aspect of the show is that viewers actually experience what is going on inside Ally's mind through computer animated snippets of her internal emotions.⁹¹

While some critics contend that Ally is self-absorbed, insecure and should be blamed for everything from the death of feminism⁹² to setting a bad example diet-wise,⁹³ others argue that the show truly empowers women.⁹⁴ One critic even asserts that *Ally McBeal* is more about the experiences of men in modern life than it is about women.⁹⁵ Despite the critic's love/hate relationship with *Ally McBeal*, the show remains for millions of viewers laugh-out-loud funny and true to its intentions - which are to wield wit and exaggeration, to stir up the male-female status quo, to provoke, and yes, to irritate.⁹⁶

2. The Effects of *Ally McBeal* on the Public's Perceptions of Lawyers

Perhaps the main reason why *Ally McBeal* is helping to redefine the public image of lawyers is that the show appeals to a wide range of viewers, many of whom have never watched legal shows in the past. Because *Ally McBeal* is so unconventional, at times viewers actually forget they are watching a show about lawyers. The genius of the show is that it adds a comic twist to our justice system while still respecting and upholding many of its fundamental rules and foundations. The lawyers engage in passionate closing arguments, harsh cross examinations, and well structured direct examinations. Even more, throughout each episode meetings are held with the entire firm to discuss ongoing and upcoming cases.

The fact that this show portrays the legal system with a grain of salt may actually be why it appeals to so many people. Obviously, Ally's short

About Ally McBeal, FEATURES, Jan. 30, 1998.

91 Examples of this include: a garbage truck dumps Ally into its bowels, marking her romantic jilting by a potential client, slime covers her face when she perpetuates a sleazy legal tactic, and a mesmerizing computer-animated child appears occasionally to dance with Ally to remind her that her biological clock is ticking.

92 See Ginia Bellafante, *Feminism: It's All About Me*, TIME, June 29, 1998, at 54.

93 Despite her denials, Calista Flockhart has been accused by numerous magazines and news stations of fostering an eating disorder. See e.g., 20/20 (ABC television broadcast, Apr. 27, 1999).

94 Cathy Young, in her article, *Critics Are Wrong About Ally McBeal*, DETROIT NEWS, Sept. 23, 1998, asserts that Ally McBeal is portrayed no differently from any of the men on the show, and while she is sometimes indecisive, she is also assertive and impulsively direct. If she didn't have insecurities, she wouldn't be human.

95 See *McBeal a Trojan Horse?* BACKLASH, Aug. 1998. The author asserts that *Ally McBeal* presents "a myriad of men's issues about women, work, sex and relationships parade like planets orbiting around the sexual furnace of a central female character."

96 Claire Bickley, *Girl Power Ignites the Tube*, TORONTO SUN, Dec. 19, 1998.

mini skirts would probably not be tolerated in any court in America and lawyers are not permitted to date judges who preside over a significant portion of their cases⁹⁷ or try cases if they fail to state a valid claim for relief.⁹⁸ However, even though this show may stray from reality at times, *Ally McBeal* still presents viewers with lawyers and judges who take their jobs seriously and always strive to achieve justice.

What makes *Ally McBeal* so unique is that it is structured around the characters' personalities, not the law. The writers embed the character's feelings and perspectives within each case they handle, and on many occasions, the lawyers actually share the same problems and frustrations as the client.⁹⁹ *Ally McBeal* allows viewers to see lawyers as normal people. These characters don't live for their jobs, they live for themselves and each other. Their jobs only function to bring them together and add a little extra meaning into their lives.

Despite having somewhat easy-going attitudes towards their jobs however, the lawyers of *Ally McBeal* always endeavor to give their clients the best possible representation. More importantly, they genuinely care about their clients' well being.¹⁰⁰ For these characters, being effective lawyers comes with relative ease, it is being effective humans that takes most of the work.

Ally McBeal presents the public with likable and funny characters who, for the most part, have fun being lawyers. As evidenced by the various chat rooms on the Internet,¹⁰¹ many viewers would love to be friends with the lawyers on *Ally McBeal*. Clearly, there is no better way to bolster the profession's image than that.

3. Viewer Comments and Perceptions About *Ally McBeal*

So what is it about *Ally McBeal* that makes people stop and notice?

Perhaps it's her girlish voice, her complex insecurities, her quirky yet realistic thoughts, her. . . simple nature. Maybe we just identify with her.

97 Richard Fish's ex-girlfriend on the show is Judge Jennifer "Whipper" Cone who constantly resides over the firm's cases.

98 An example of this is when the firm represented a trio seeking to become legally married, an act which would be illegal in real life due to the fact that polygamy is illegal.

99 An example of this is when Ally was suing a company for firing an employee because they saw a unicorn appear during work. Ally had similar experiences with unicorns, and she really transformed her clients arguments into her own.

100 In one episode, Ally becomes so emotionally attached to a sick boy in the hospital that she decides to sue "God" at the boy's request. See *Angels and Blimps*,

101 See e.g., <ALT.TV.Ally-McBeal>.

Most of us have had arrows shot through our hearts at some point in our lives, felt like our faces were burning when we've said embarrassing things in front of others, and, surely, at one point or another, felt a scary sense of loneliness. In any case, Ally McBeal may be a reflection of the human essence. Intelligent yet underestimated at times, funny yet lacking a sense of being, dark yet focused, insecure yet hopeful. Combine that with a stunning lawyer and what do you have? A giggly, repressed, tense, yet wonderfully charming character - Ally McBeal.¹⁰²

Carol Traynor Williams of Roosevelt University believes that Ally McBeal is the nineties version of Mary Tyler Moore. According to Williams, "Mary could reach out and grab people because she was a vulnerable, human being. Ally is that with a vengeance."

While the rest of the cast may not be quite as popular as Ally herself, the other lawyers on the show have definitely met with similar fan approval. Each lawyer has at least one web site devoted specifically to them, and when fans were asked to rank their favorite *Ally McBeal* characters, 98 out of 126 respondents chose a lawyer other than Ally as their favorite.¹⁰³ Clearly, it is not just Ally who fosters a likable image of lawyers, but other characters on the show as well.

One would think that the comment, "I feel for Ally, I understand what she goes through. Heck, sometimes I am Ally McBeal," was uttered by a female viewer who truly relates with this character. Yet, while many women have indeed made this statement,¹⁰⁴ the individual who made it here was actually a man.¹⁰⁵ Obviously, the perception that only women are addicted to this show is completely misconceived. Not only are men watching the show in increasing numbers,¹⁰⁶ but there are actually web sites devoted specifically to male fans. One site is even devoted solely to sports fans who watch *Ally McBeal*.¹⁰⁷ According to a "sports fan" on this site:

Men watch *Ally McBeal* to see people who have great lives but still have problems. We watch to see what Ally or the other lawyers are going

102 This statement was made by a loyal *Ally McBeal* fan. *Inside the Mind of Ally McBeal*, <<http://bluesphere.simplenet.com/AllyMcBeal/index.html>>.

103 This information came from a poll conducted on the web site *Almost Human's Ally McBeal*, <www.geocities.com/TelevisionCity/Set/8532/allymcbeal.html>. This site has been hit over 243,000 times since February 24, 1998.

104 See Torry McEntire, *Ally McBeal - Everywoman (sort of)*, ULTIMATE TV WRITER, Nov. 1997.

105 Chris Kelly, the man who made this statement, can be reached at his web site, *Ally McBeal Worship Page*, <<http://miavx1.muohio.edu/~woolarjc/ally.html>>.

106 See *supra* note 90.

107 See *A Sportsfans Guide to Ally McBeal*, <www.geocities.com/Hollywood/Hills/3384/AllyMain.htm>.

to do next. And anything goes. Innovative writing, skilled acting, and characters we care about without having to relate to them. We watch simply because it is the best thing on television.¹⁰⁸

When asked why she feels the public adores *Ally McBeal*, Dana Hagerty, creator of a popular award winning web site devoted to the show exclaimed, "Some people like it for the show's writer and creator David Kelley,¹⁰⁹ some because they love Calista, some because they enjoy a good laugh and a good quality show."¹¹⁰

While Hagerty concedes that *Ally McBeal* doesn't really represent lawyers or what goes on in court with great accuracy, she believes this is part of the reason why the show is such a great success. Interestingly, eighty-six percent of *Ally* viewers surveyed stated that they would hire a lawyer from Cage/Fish and Associates if they needed one.¹¹¹ Fourteen percent said they would hire them because they are good lawyers, the other seventy-two percent said they would hire them because they tend to win cases. Thus, accurate or not, people still want the lawyers of *Ally McBeal* on their side.

V. CONCLUSION

Obviously there is something about *Ally McBeal* and *The Practice* which keeps viewers tuning in. Maybe it's the writing, maybe it's the characters, maybe it's the ability of these shows to spark conversation at the water cooler. Whatever the reason, fans of *Ally McBeal* and *The Practice* continue to spend time with the lawyers on one or both of these shows every week.

If the public actually despises lawyers so much, why have they fallen in love with two seemingly opposite portrayals of them?¹¹² Perhaps the best answer is that despite their similarities and differences, both shows present the public with lawyers who are real people. The lawyers on *Ally McBeal* and *The Practice* have problems and insecurities just like every

¹⁰⁸ *Id.*

¹⁰⁹ David Kelley is the Executive Producer of both *Ally McBeal* and *The Practice* and has written 40 of the 46 episodes for both shows. Kelley was also a co-writer for *L.A. Law* and created the award winning *Picket Fences*, *Chicago Hope*, and *Doogie Howser, M.D.* For more about David Kelley, see David Bainculi, *Kelley's King of All TV Writers*, NEW YORK NOW, January 26, 1999.

¹¹⁰ Dana's site can be reached at <<http://allymbeal.tktv.net/>>. It has won over ten web awards and has been favorably reviewed by *Entertainment Weekly*.

¹¹¹ See *supra* note 104.

¹¹² See Lisa Gerson, *Practice Makes Perfect*, BOSTON MAGAZINE, 1999, asserting that *Ally McBeal* and *The Practice* tell flip sides of the same story.

one else. They lose cases, they get yelled at, they sometimes act unethically, they even see therapists.¹¹³ When it comes down to it, David Kelley has painted two different pictures of the same thing - people trying to live their lives as best they can, and do their jobs to the best of their ability. It just so happens - they are all lawyers.

When people were asked why they dislike lawyers so much, thirty-one percent asserted that lawyers are too interested in money, twenty-seven percent said lawyers file too many unnecessary lawsuits, and twenty-six percent said lawyers manipulate the legal system without regard for right or wrong.¹¹⁴ If anything, what *The Practice* and *Ally McBeal* illustrate is that lawyers sometimes do have a conscience, sometimes do care about doing the right thing, and most of the time, don't just care about the money.

Due to the adversarial nature of the legal profession, the public may never view lawyers as highly as teachers or doctors.¹¹⁵ However, by allowing people to see and hear what is going on inside lawyers' heads on a biweekly basis, maybe they will start to realize that lawyers, like individuals in any other profession, can be good people with good intentions. In any event, whatever the future may hold for the reputation of lawyers, as long as millions of viewers keep obsessing over them on *Ally McBeal* and *The Practice*, anything is possible. . .

113 Ally regularly sees a therapist played by Tracy Ullman, and in an attempt to sever what is left of their marriage, Billy and Georgia recently began seeing one played by Rosie O'Donnell.

114 See Randall Samborn, *Anti-Lawyer Attitude Up*, NATIONAL LAW JOURNAL, Aug. 9, 1993, at 1.

115 It is not surprising that medical doctors rate more highly in public opinion polls than lawyers do because doctors simply represent the patient. There is no doctor fighting zealously for the disease. See JARVIS & JOSEPH, *supra* note 1, at 265.

