

# In Name Only: The Portrayal of Lawyers on Television

Marshall Goldberg\*

*The author, a professional television and film writer, posits that lawyers on television have more in common with doctors on television and police officers on television than with lawyers in real life. Characters in the world of television operate by different rules from their real-life versions. The author gives several examples to show that authenticity, i.e., the faithful rendering of real-life professionals, matters very little in making television shows, especially compared to audience ratings.*

In *My Fair Lady*, Professor Henry Higgins laments, “Why can’t a woman be more like a man?”<sup>1</sup> I hear similar complaints from lawyer friends, wondering why lawyers on television cannot be more like lawyers in real life. Most lawyers hate the way the profession is portrayed on television. Many cannot even bring themselves to watch. If Henry Higgins were a professor of law rather than elocution, one can only imagine the hand-wringing. I recently attended a conference where the Higgins-like bemoaning was cloaked as a scholarly inquiry: “How do we mediate between the dramatic and realistic in presenting what lawyers do on television?” Yet, in a short time, even a nuanced academic discussion turned infantile when one panelist sputtered about a video clip of a lawyer in action, “That’s patently ridiculous!” As a husband and father

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1. ALAN JAY LERNER & FREDERICK LOEWE, *A Hymn to Him*, on *MY FAIR LADY* (Sony Music Entm’t, Inc. 1956).

of two daughters, I would not venture near Higgins' complaint about the sexes. I know better. But as a television writer for over thirty years, the explanation for why television is not more like real life seems perfectly obvious: because it is television. Authenticity—a faithful rendition of the real world—does not matter much in television. In fact authenticity does not matter at all, as I will demonstrate with two personal examples.

Five years into my writing career, I was the head writer on *Paper Chase*, a show about students at an elite law school in Cambridge, Massachusetts. It was a dream job for me—I knew law school, and I knew Cambridge. I could show the world the fascinating side of being a law student, the ethical and legal conflicts that arise, and the battles between the mind and the heart. And if I was not accurate enough, the show had a smart-as-a-whip legal advisor to make sure we got there. The series was exactly what I wanted it to be and more, as there were terrific actors and directors and stories, and the show was critically acclaimed. The only problem was that it was the 1980's and the series was on Showtime, a cable network that measured its viewers by the dozen. My life became a variation of the classic question, "If a TV is on and no one watches it, is there a show? Ultimately, the show was cancelled. But looking back, the real lesson with *Paper Chase* was what was incredibly realistic and appealing to me was not of much interest to the general television audience.

The counterexample came right after *Paper Chase*. Steven Bochco, the creator and producer of one of the great shows in television history, *Hill Street Blues*, was starting a series called *L.A. Law* about a law firm in Los Angeles, and I was hired to be on the writing staff the first year of the show. I expected a similar experience to *Paper Chase*, only set in a law firm rather than a law school. But Bochco was not interested in how real lawyers worked, or rather he was interested only to the extent it led to a dramatic story. Bochco wanted to attract viewers. As he put it, "Our job is to fill the time between commercials." The characters were fun and wacky, but the law firm in *L.A. Law* was totally foreign to me, so much so that in conversation I would describe the show as "about a law firm on another planet." But *L.A. Law* was wildly successful because Bochco was on to something. People want to watch interesting characters and interesting stories. Nothing else really matters. Nothing. This took me a long time to realize. If that lesson had taken twenty years ago, I would be a rich man by now.

In television a writer is creating and conveying a world. It looks like our everyday world, but it is an entirely different universe, with completely different rules. Conflict is good, while harmony is bad. There has to be a nice demographic mix of age, ethnicity, politics, sexual orientation, skin tone, and hair color. Everyone speaks with the same accent, the main characters have to be likeable and the show has to be sexy. Stories take place in twelve to fifteen minute segments that end with a twist and are followed by commercials. The stories are usually tied up neatly after an hour.

People tend to forget that television and everyday life are two different

worlds. I have read that Hugh Laurie, an actor who plays Doctor House on television, is constantly approached for diagnoses, and Sam Waterston from *Law and Order* is constantly asked for legal advice. The same confusion, of mistaking one world for the other, also applies in the other direction. In the opening scene of *Tootsie*, Dustin Hoffman plays an actor cast as a tomato in a commercial, who will not sit on a park bench. The exasperated director asks him, “Why?” and he says, “A tomato wouldn’t sit on a park bench.”

We go into the world of television or literature to escape our own world or to learn lessons we can apply to our world. For example, on Sunday mornings for the past fourteen years I have taught a Torah class. Now, some people do take the Bible literally and deny global warming because they say God promised not to destroy the world after Noah and the flood, but my students do not look at it that way. To them, there is a reason why the Torah is kept in an Ark behind closed doors: it is another world. I look at shows on television the same way. It is often an interesting world, and a fun world, but it is not the world we live in.

Speaking as a writer who makes his living in that other world, law shows are not about lawyers. Law shows are about characters that operate in a legal setting. The same is true for medical shows and cop shows. In fact, the lawyers on law shows have much more in common with doctors on medical shows and cops on police shows than with lawyers in real life. For example, I saw where one actor, Alex O’Loughlin, who starred on *Three Rivers*, is now a lead on *Hawaii Five-0*. He went from a transplant doctor in Pittsburgh to a cop in Honolulu. I saw another actress, Jennifer Beals, go from playing a lawyer on *Lie To Me* to a cop on *Chicago Code*. The characters and actors are all interchangeable.

Television is all about the characters, and the settings are simply the springboards for them. Law, medicine and law enforcement create inherently dramatic situations that touch on some basic emotions, which is why the vast majority of all dramatic shows on television fall into one of these three categories. Different writers are better at exploiting one setting more than another, just as some athletes are better at playing one sport than another. But the differences among the types of three shows are less like football, basketball, and baseball and more like tennis, squash, and racquetball.

So how much authenticity is called for on a television show? The answer is only enough to make the audience suspend disbelief, which obviously varies with the audience. I have friends who are doctors and will not watch medical shows because they think they are preposterous yet never miss *CSI*. And I know cops who will not watch cop shows for the same reason, but love *Grey’s Anatomy*.

Some writers can handle the differences in universes better than others, but I always had problems writing lawyer shows. I wrote just about every kind of show there was on television, but I stopped writing legal shows. They just made me too crazy. It was like going away for the weekend with someone who

is the spitting image of your ex-spouse. I am still enough of a lawyer that I need grounding in reality, so my scripts tend to feel more authentic than most. But I honestly think that is unnecessary. I will see a medical show where a doctor will operate on a family member, or a law show where a lawyer will sit silently in the courtroom while the other side asks, “And what did they say?” Those things make me scream, but the ratings indicate that most people do not seem to mind at all.<sup>2</sup>

I want to end with a story of my first real encounter with Hollywood, which showed me why, in effect, a woman *cannot* be more like a man. I had a story-pitching session at *Diff'rent Strokes*, a show about a wealthy white man who adopts two black boys to live with him and his teenage daughter. I went in to present my story ideas to the producers. Three of them were sitting there, two on the couch and one behind a desk taking notes. The two on the couch were fascinated with my background, asked me about clerking, the Senate, the Civil Rights Division, and the Presidential campaign. The third one listened quietly, tapping his pencil impatiently, and finally said, “Yeah, well, Marshall, all that doesn’t mean s—t out here. Let’s hear your stories.” I thought he was talking about my credentials, but I later came to realize he was talking about my life experience. As far as he was concerned, what I had done in the real world made absolutely no difference. He wanted to know only where I fit in the television world. A law degree, a clerkship, a Senate subcommittee, the Justice Department, none of that mattered one whit. That was another world.

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2. I am reluctant to list which police, lawyer, and doctor shows I consider particularly far-fetched, as I still have mortgages and tuitions to pay.