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# From the Bench to the Screen: The Woman Judge in Film

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# FROM THE BENCH TO THE SCREEN: THE WOMAN JUDGE IN FILM

LAURA KRUGMAN RAY\*

## ABSTRACT

Although there has been a dramatic increase in the number of women judges over the past half century, their cinematic counterparts have failed to reflect that change. This Article explores the paradoxical relationship between social reality and its representation on screen to identify a lingering resistance to the idea of women exercising judicial power. The Article first examines the sparse history of women judges as central characters in films of the 1930s, finding the tension in those films between judicial authority and domestic happiness. It then turns to Hollywood's romantic comedies of the 1940s, which resolved that tension through the courtship of women judges by charming and tolerant suitors. Finally, the Article contrasts those films with the recent, darker films which present aspiring and active women judges struggling unsuccessfully to reconcile their professional and personal identities. All of these films use the woman judge as a vivid proxy for the broader theme of a woman challenging her traditional feminine role by assuming a position of authority; a sampling of recent films from countries with civil law systems reveals that American filmmakers have not been alone in exploring that theme with an eye to its difficulties rather than its rewards. All of these films, American and foreign, vintage and modern, suggest that the reality of women on the bench has yet to eliminate an element of discomfort with the idea of a woman successfully combining judicial power with a traditional and satisfying personal life.

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## I. INTRODUCTION

On the first Monday of October 2010, the Supreme Court for the first time included three women: Justices Ruth Bader Ginsburg, Sonia Sotomayor, and Elena Kagan. "We are," Justice Ginsburg noted with pleasure, "one-third of the Court."<sup>1</sup>

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That increased female presence on the bench, reflective of the dramatic increase in women lawyers and judges over the past forty years, has yet to be reflected as well in the mirror that the film industry holds up to social reality.<sup>2</sup> In fact, the relationship between women judges on the bench and in film has been curiously inverted.<sup>3</sup> During the 1940s, at a time when only one woman sat on the federal bench, Hollywood's sophisticated romantic comedies featured attractive women who usually managed to combine successful judicial careers with equally successful personal lives.<sup>4</sup> Yet, as women increasingly gained seats on both federal and state courts in the 1970s, the cinematic woman judge ceased to have it all.<sup>5</sup> She might, as in a 1981 film, sit on the United States Supreme Court, but instead of romance she enjoyed only a platonic relationship with one of her colleagues.<sup>6</sup> Or, in more recent films, she suffered from a tension between her professional and personal lives that led to painful choices and dark outcomes.<sup>7</sup>

This Article explores that paradoxical relationship between the rise to prominence of women judges in reality and the decline of their counterparts in film. It first examines the sparse history of women judges as central characters in films of the 1930s and identifies the conflict those films find between judicial authority and domestic happiness.<sup>8</sup> The Article then turns to Hollywood's romantic comedies of the 1940s, which resolved that conflict through the successful courtship of women judges by charming and tolerant suitors.<sup>9</sup> Finally, the Article contrasts those films with the more recent, darker films that present both aspiring and active women judges struggling unsuccessfully to reconcile their professional and personal identities.<sup>10</sup> All of these films use the woman judge as a vivid proxy for the broader theme of a woman challenging her traditional feminine role by assuming a position of power; a sampling of films from other countries with civil law systems reveals that American filmmakers have not been alone in exploring that theme with an eye to its difficulties rather than its rewards.<sup>11</sup> All of these films, American and foreign, vintage and modern, suggest a continuing—and increasing—element of discomfort with the idea of a woman exercising judicial authority.<sup>12</sup> The anomaly they offer is precisely this reverse trajectory, one in which the dramatic increase of women on the

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<sup>1</sup> Mark Sherman, *Three Women on Supreme Court: How Big a Difference?*, NBC NEWS (Aug. 8, 2010, 6:12:27 AM), [http://www.msnbc.msn.com/id/38606618/ns/politics-supreme\\_court/t/three-women-supreme-court-how-big-difference/#.UFSSzFSTIo](http://www.msnbc.msn.com/id/38606618/ns/politics-supreme_court/t/three-women-supreme-court-how-big-difference/#.UFSSzFSTIo).

<sup>2</sup> See *infra* pp. 5-6 and note 49.

<sup>3</sup> See *infra* Part V.

<sup>4</sup> See *infra* pp. 8-16 and note 49.

<sup>5</sup> See *infra* pp. 16-31 and note 49.

<sup>6</sup> *FIRST MONDAY IN OCTOBER* (Paramount Pictures 1981).

<sup>7</sup> See *infra* pp. 28-42.

<sup>8</sup> See *infra* pp. 3-5.

<sup>9</sup> See *infra* pp. 8-16.

<sup>10</sup> See *infra* pp. 28-42.

<sup>11</sup> See *infra* Part VI.

<sup>12</sup> See *infra* Part V.

bench nonetheless produces women judges in film less able than their predecessors to reconcile their public and private lives.<sup>13</sup>

## II. HOLLYWOOD DISCOVERS THE WOMAN JUDGE

Film historians have tracked the emergence of women lawyers as central characters to a handful of movies in the 1930s.<sup>14</sup> Far from celebrating the entry of women into the legal profession, these early films emphasized “how ambition and consequent sacrifices of the professional woman took their toll upon her personal life (i.e., her ability to find happiness with a man)”<sup>15</sup> and the need for masculine help to ensure successful resolution of her cases.<sup>16</sup> The first film to feature a skilled and successful woman lawyer, *Portia on Trial*,<sup>17</sup> was, perhaps not coincidentally, written by Faith Baldwin, the first woman writer to create a woman lawyer for the screen and the only one to do so for another half century.<sup>18</sup> Although Portia’s own legal career waned after her marriage to a lawyer, her film led directly to one of Hollywood’s first representations of a woman judge.<sup>19</sup> A rival studio hired Frieda

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<sup>13</sup> See *infra* Part V.

<sup>14</sup> See Ric Sheffield, *On Film: A Social History of Women Lawyers in Popular Culture 1930 to 1990*, 14 LOY. L.A. ENT. L. REV. 73 (1993-1994); MOLLY HASKELL, FROM REVERENCE TO RAPE: THE TREATMENT OF WOMEN IN THE MOVIES (2d ed. 1987); JEANINE BASINGER, A WOMAN’S VIEW: HOW HOLLYWOOD SPOKE TO WOMEN, 1930-1960 (1993).

<sup>15</sup> Sheffield, *supra* note 14, at 75-76. Sheffield also notes that in most of these early films the woman lawyer needs male assistance to do her job effectively. *Id.* at 77.

<sup>16</sup> *Id.* at 77.

<sup>17</sup> PORTIA ON TRIAL (Republic Pictures 1937). *Portia on Trial* and its heroine’s courtroom victories were not without controversy. Sheffield, *supra* note 14, at 82. The Los Angeles Bar Association filed a complaint with the industry censoring body, the Motion Picture Producers and Distributors Association of America (MPPDA), targeting Portia’s unethical professional conduct and her premarital affair. *Id.* The MPPDA was more troubled by Portia’s personal than her professional behavior but found no need for changes to the film, in which Portia ultimately withdraws from the courtroom to marry a lawyer and assist in his practice. *Id.*

<sup>18</sup> Sheffield, *supra* note 14, at 78.

<sup>19</sup> *Id.* at 83. A decade earlier, a 1921 silent film, *Every Woman’s Problem*, had featured a character who is, briefly, a woman judge. *The American Film Institute Catalogue* provides a synopsis of the film, which followed by a year the passage of the Twentieth Amendment giving women the right to vote:

Clara Madison, a lawyer, is nominated by the woman’s party for a judgeship and is elected. A yellow newspaper opposes her to such an extent that her husband threatens the life of the editor. Bootleggers whom the paper has also opposed concoct a scheme by which the newspaper office is destroyed by a bomb and the editor killed. Circumstantial evidence overwhelmingly points to the guilt of Clara’s husband and with the two bootleggers, he is sentenced to death. Clara, in the meantime, is elected governor and is now faced with the question of allowing the law to take its course or of pardoning her husband, whom she dearly loves. She decides on the former course, but he is saved by the last minute confession of one of the bootleggers.

THE AMERICAN FILM INSTITUTE CATALOG OF MOTION PICTURES PRODUCED IN THE UNITED STATES, FEATURE FILMS 1921-1930, 219 (Kenneth W. Mulden ed., 1971).

Inescort, the actress, who had played Portia, to appear in its 1939 film, *A Woman Is the Judge*.<sup>20</sup>

The second film was not a true sequel continuing the story of the central character.<sup>21</sup> This time Inescort played a judge named Mary Cabot who, years before, had become separated from her daughter.<sup>22</sup> A film critic delivered a tart summary of the implausible plot:

With all the hazards involved in making up a court calendar these days, it would be a far-fetched coincidence indeed if the lady in question drew as her first assignment the case of her own long-lost daughter, brought up on a charge of homicide. And where is the precedent for such a judge disqualifying herself, declaring a mistrial, resigning the bench and becoming attorney for the defense in her daughter's retrial—winning an acquittal on the ground of justifiable homicide by bitterly confessing to the jury her early remissness as a parent?<sup>23</sup>

This film shares with its predecessor the theme of conflict between the heroine's personal and professional roles, a conflict resolved by Cabot's surrender of her prestigious career to represent her daughter and win the case by demonstrating remorse rather than legal skill.<sup>24</sup> As the title itself underscores, the idea of a female judge is an anomaly worth highlighting.<sup>25</sup> The title also suggests what the plot insists, that Cabot is more importantly the judge of her own past error in losing her daughter, an error atoned for by the sacrifice of her judicial career.<sup>26</sup> For the woman judge as well as the woman lawyer, the personal trumps the professional.<sup>27</sup>

Both Molly Haskell and Jeanine Basinger have demonstrated in their histories of women in film that the theme of conflicting roles was pervasive in the genre known as the woman's film of the 1930s and 1940s and aimed squarely at a female audience.<sup>28</sup> Basinger offers a broad and capacious definition of the woman's film, observing that "a film about a woman, or about a woman's life, is going to be about love, marriage, men, sex, fashion and glamour, and the need to make a decision about having a career or not."<sup>29</sup> Her final subset, of course, includes the small number of films about women, unusual for their day, in legal careers who face that

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<sup>20</sup> A WOMAN IS THE JUDGE (Columbia 1939).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Frank Nugent, *The Screen, At Loew's Criterion*, N.Y. TIMES, Sept. 28, 1939, at 29.

<sup>24</sup> See PORTIA ON TRIAL (Republic Pictures 1937); A WOMAN IS THE JUDGE (Columbia 1939).

<sup>25</sup> A WOMAN IS THE JUDGE (Columbia 1939).

<sup>26</sup> *Id.*

<sup>27</sup> See PORTIA ON TRIAL (Republic Pictures 1937); A WOMAN IS THE JUDGE (Columbia 1939).

<sup>28</sup> MOLLY HASKELL, FROM REVERENCE TO RAPE: THE TREATMENT OF WOMEN IN THE MOVIES (2d ed. 1987); JEANINE BASINGER, A WOMAN'S VIEW: HOW HOLLYWOOD SPOKE TO WOMEN, 1930-1960 (1993).

<sup>29</sup> BASINGER, *supra* note 28, at 9 (1993).

decision as Mary Cabot did in *A Woman Is the Judge*.<sup>30</sup> The less specialized figure of the working woman was a staple of films produced in this period, and the message of those films made clear what the decision should be.<sup>31</sup> In Haskell's words, "[a] movie heroine could act on the same power and career drive as a man only if, at the climax, they took second place to the sacred love of a man."<sup>32</sup> And Haskell provides a rough statistical measure of that theme's pervasiveness: "In no more than one out of a thousand movies was a woman allowed to sacrifice love for her career rather than the other way around."<sup>33</sup>

The tension between love and career diminished during World War II as women moved rapidly into the workforce in great numbers, taking on traditionally masculine jobs to replace the men serving in the military.<sup>34</sup> In the 1944 film *Since You Went Away*, for example, Claudette Colbert, as the upper middle class wife and mother holding her family together while her husband serves abroad, proudly goes to work as a welder, a Hollywood version of the wartime icon Rosie the Riveter.<sup>35</sup> The tension between work and home returned with the soldiers at the end of the war, when some women were summarily (and lawfully) fired to make their jobs available for the veterans.<sup>36</sup> Many of these women did not go willingly; according to one poll, eighty percent of women wanted to continue working, apparently finding it possible to accommodate both their jobs and their personal lives.<sup>37</sup> And those who kept their jobs prompted widespread concern about the changing role of women both at work and in the home.<sup>38</sup> As the historian William Chafe observes, "[t]he postwar years became a period of testing, a time of transition, in which women themselves, and society at large, sought to determine the proper boundaries of women's sphere."<sup>39</sup> Not surprisingly, the woman's films of this period reflect these concerns, and the

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<sup>30</sup> *Id.* at 457.

<sup>31</sup> *Id.* at 448.

<sup>32</sup> HASKELL, *supra* note 28, at 4.

<sup>33</sup> *Id.* at 5.

<sup>34</sup> WILLIAM HENRY CHAFE, *THE AMERICAN WOMAN: HER CHANGING SOCIAL, ECONOMIC, AND POLITICAL ROLES, 1920-1970* 135 (1972). The historian William Chafe reports that during the war "over 6 million women took jobs, increasing the size of the female labor force by over 50 per cent." *Id.* According to Marjorie Rosen, "by 1943 more than 4,000,000 women were employed in munitions work alone. An additional 15,000,000 joined the labor force, doing such formerly masculine jobs as coal mining, operating mechanical hoists and cranes, swinging sledges, sorting ore, greasing machines, and firing and cleaning anti-aircraft guns." MARJORIE ROSEN, *POPCORN VENUS: WOMEN, MOVIES & THE AMERICAN DREAM* 189 (1973). For an overview of the employment of women during World War II, see CHAFE, *supra* note 34, at 135-50; SHARLENE HESSE-BIBER & GREGG LEE CARTER, *WORKING WOMEN IN AMERICA: SPLIT DREAMS* 34-37 (2000).

<sup>35</sup> *SINCE YOU WENT AWAY* (Vanguard Films 1944).

<sup>36</sup> CHAFE, *supra* note 34, at 179. According to Chafe, "[u]nder the Selective Service Act, veterans took priority over wartime workers in the competition for their old jobs." *Id.*

<sup>37</sup> HASKELL, *supra* note 28, at 222.

<sup>38</sup> *Id.*

<sup>39</sup> CHAFE, *supra* note 34, at 174.

woman judge provided a particularly powerful vehicle for exploring those boundaries.<sup>40</sup>

By the 1950s, Hollywood had largely resolved the employment issue by making fewer films about working women and, as Haskell notes, fewer films aimed at a female audience.<sup>41</sup> The handful of films about women lawyers tended to be comedies rather than the dramas of the 1930s, and by the middle of the decade “dramatic portrayals of women lawyers had all but disappeared.”<sup>42</sup> Not until the late 1970s, when the enrollment of women in law schools had increased significantly, did Hollywood begin to show much interest in the practicing woman lawyer.<sup>43</sup> The 1980s and 1990s saw a spike in the number of films about women lawyers at work, although these films continued the tradition of the woman’s film by blending courtroom drama with more conventional (though sometimes outrageous) personal dramas of romantic engagement.<sup>44</sup> In spite of that increased interest in women lawyers, Hollywood has to date produced only a handful of films with a woman judge as a central character, most recently the thirty year old Supreme Court comedy *First Monday in October*.<sup>45</sup>

### III. THE CURIOUS CASE OF THE WOMAN JUDGE

The stress that Haskell and Basinger have placed on the woman’s film should not obscure the reality that Hollywood movies featuring women judges reflected a fantasy. In the years when the woman’s film was a dominant Hollywood genre, there were of course few women members of the bar, and most audience members would have had little opportunity to know or retain or even observe women as active practitioners.<sup>46</sup> Perhaps more to the point, in the popular mind, lawyers are generally

<sup>40</sup> HASKELL, *supra* note 28, at 222.

<sup>41</sup> *Id.* at 270.

<sup>42</sup> Sheffield, *supra* note 14, at 93-94.

<sup>43</sup> Carole Shapiro, *Women Lawyers in Celluloid, Rewrapped*, 23 VT. L. REV. 303 (1998-1999). The percentage of women enrolled in law school rose dramatically from 3.8 % in 1963 to 31.4 % in 1979. CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW* 53 (1981). In fact, “[w]ith the exception of *Adam’s Rib*, almost all of the lawyers in pre-1980s films were male.” Michael Asimow, *Bad Lawyers in the Movies*, 24 NOVA L. REV. 533, 575 n.189 (2000).

<sup>44</sup> See, e.g., Shapiro, *supra* note 43, at 309-47; Stacy Caplow, *Still in the Dark: Disappointing Images of Women Lawyers in the Movies*, 20 WOMEN’S RTS. L. REP. 55, 63-70 (1998-99); Carolyn Lisa Miller, “*What a Waste. Beautiful, Sexy Gal. Hell of a Lawyer.*”: *Film and the Female Attorney*, 4 COLUM. J. GENDER & L. 203, 211-27 (1994); Carole Shapiro, *Women Lawyers in Celluloid: Why Hollywood Skirts the Truth*, 25 U. TOL. L. REV. 955, 975-1005 (1994).

<sup>45</sup> *FIRST MONDAY IN OCTOBER* (Paramount 1981). It is worth noting that while there are also few films that have given a leading role to a male judge, there is more attention paid to men on the bench, even if that attention is not always favorable. An Ohio state court judge has observed “two major changes in the treatment of judges since the 1970s. First, we are now part of the main story line to a far greater degree, if not the main character in the film. Second, unfortunately, the changes have not been to our advantage, for the most part. Judges often now seem to be portrayed as lazy, corrupt, biased and arrogant.” J. Howard Sundermann, Jr., *Judges in Film*, PICTURING JUSTICE: THE ON-LINE J. OF LAW & POPULAR CULTURE, [http://usf.usfca.edu/pj/judges\\_sundermann.htm](http://usf.usfca.edu/pj/judges_sundermann.htm).

<sup>46</sup> It is no coincidence that Faith Baldwin, the creator of *Portia*, was the daughter of an

expected to be shrewd, articulate, confident, educated professionals whose role is to represent the interests, financial and personal, of people with serious legal difficulties. For cinematic purposes, the courtroom lawyer is the most visual variety and thus particularly useful as a character, but the courtroom lawyer is also reputed to be aggressive, argumentative, and apt to resort to devious stratagems. All of these lawyerly traits were likely, especially in the thirties and forties, to be regarded as distinctly unfeminine.

As a protagonist, the woman judge is even more problematic than the woman lawyer. To the lay observer, judges are figures of unchecked power, subject to control only by other higher judges, at a later time in another court. They preside over their courtrooms with absolute authority, applying the law as they interpret it to lawyers and litigants, male and female alike. They are dispassionate in their resolution of legal issues, relying on the law and the facts, rejecting the softer virtues of sympathy and forgiveness. In short, their professional identity is the antithesis of the traditional feminine persona: dominant rather than submissive, rational rather than emotional, punitive rather than tolerant. At the same time, there is a powerful link between women and the law that provides an ironic counterpoint to these conventions of gender. In their fascinating essay, *Images of Justice*, Dennis E. Curtis and Judith Resnik observe, “[f]or much of the Western world’s history, Justice has been depicted as a large female figure.”<sup>47</sup> Yet, as they also remind us, in reality “judges were rarely if ever women.”<sup>48</sup> In the United States, the first woman appointed to the federal bench, Florence Allen, took her seat on the Sixth Circuit in 1934; the second, Burnita Shelton Matthews of the federal district court, did not follow until 1950; and the first woman on the Supreme Court, Sandra Day O’Connor, was appointed only one generation ago, in 1981. Not until the late 1970s, when President Carter dramatically increased the appointments of women to the federal courts, were there substantial numbers of women judges to serve as a basis for film characters.<sup>49</sup>

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attorney and based her character in part on a woman attorney who came to the family home to see Baldwin’s father, a member of the bar committee that passed on the fitness of candidates. Sheffield, *supra* note 14, at 79-80. And, again, it is no coincidence that it was a woman writer who found her father’s visitor impressive rather than off-putting. Baldwin’s notes on the encounter describe the woman as likely “to set the world on fire” and evidence “that women lawyers need not be relegated to the musty files, brief work, and domestic relations of the quieter kind.” *Id.* at 80. In spite of her enthusiastic support for this expanded role, even Baldwin apparently understood that she had to rein in Portia who, though presented as a successful trial attorney, leaves the courtroom behind when she marries another lawyer and thereafter limits her professional role to assisting him in his office work. *Id.* at 82.

<sup>47</sup> Dennis E. Curtis & Judith Resnik, *Images of Justice*, 96 YALE L.J. 1727, 1741 (1987).

<sup>48</sup> *Id.* at 1765.

<sup>49</sup> The following statistics provided by the Federal Judicial Center’s website indicate that the first significant jump in the number of women confirmed to the federal bench occurred in the 1970s: 1930-1939: 1; 1940-1949: 0; 1950-1959: 2; 1960-1969: 4; 1970-1979: 30; 1980-1989: 44; 1990-1999: 128; 2000-2010: 88. *History of the Federal Judiciary: Diversity on the Bench*, FED. JUDICIAL CTR., <http://www.fjc.gov/servlet/nDsearch?gender=F>. President Carter is credited with that dramatic increase. According to Epstein, “When Carter took office, there were five women (1 percent of the total) serving on federal district courts and courts of appeal. As of spring 1980, there were twenty.” EPSTEIN, *supra* note 43, at 241. Currently, women occupy 23% of federal judgeships and 27% of state-level judgeships.



In the absence of abundant role models, film makers thus had available to them two conflicting traditions surrounding women judges. They could be presented as icons of pure justice, blind to the distortions of bias, favor, or personal preference.<sup>50</sup> Or, instead, they could be presented as contradictory figures, feminine in form but masculine in attitude, torn between two competing identities in need of a comfortable resolution. On the infrequent occasions when the woman judge has taken center stage in film, it has invariably been the second alternative that Hollywood has chosen, and the film has invariably been a comedy.<sup>51</sup>

#### IV. JUDICIAL EDUCATION

*Design for Scandal*, released in 1941, was the first of these films to show a woman judge at work.<sup>52</sup> The judge, unsurprisingly, was played by Rosalind Russell, who was known for what Basinger calls Russell's numerous "brittle comedies with feminist implications."<sup>53</sup> The film opens in Judge Cornelia Porter's courtroom, where she is hearing testimony in the divorce action brought against media tycoon J.M. Blair by his showgirl wife.<sup>54</sup> Cornelia is crisp and decisive, issuing evidentiary rulings ("no groundwork laid") and finally holding Blair in contempt for his constant outbursts.<sup>55</sup> As he continues to object, she steadily increases the penalty from a fine of \$100 to \$300 or thirty days in jail.<sup>56</sup> Cornelia is equally professional off the

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*Women in Federal and State-level Judgeships*, UNIV. AT ALBANY, STATE UNIV. OF NEW YORK (Spring 2011), <http://www.albany.edu/news/13158.php>.

<sup>50</sup> According to Curtis and Resnik, "[t]he blindfold is a relatively late addition to the imagery of Justice." Curtis & Resnik, *supra* note 47, at 1755. Further, some representations of justice in the western tradition are blindfolded but not blind since "sometimes the blindfold has open spaces through which her eyes appear." *Id.* at 1742.

<sup>51</sup> The same point has been made more broadly about films featuring women lawyers. According to Stacy Caplow, "In the 1940s, the tone changed from turgid to light. The few women lawyers in films were found in comedies rather than melodramas." Caplow, *supra* note 44, at 62.

<sup>52</sup> DESIGN FOR SCANDAL (Metro-Goldwyn-Mayer 1941).

<sup>53</sup> BASINGER, *supra* note 29, at 171. In a talk she delivered to the National Association of Businesswomen, Russell summarized her role in these films, complete with wardrobe, for her audience:

I told them I could order the clothes for my pictures in my sleep. I'd say to Jean Louis, Adrian, Irene or Travis Banton, "Make me a plaid suit, a striped suit, a grey flannel, and a negligee for the scene in the bedroom when I cry." I even did the dialogue from a typical love scene for them. The guy saying to me "Underneath it all, you're very feminine," and my saying to him, "Please, Richard, I must go on with my work, so many depend on me." "But don't envy me," I told the businesswomen, "because in the end I always give the whole thing up, marry the guy with the hat down over his eyes, move to New Jersey and live in a mosquito-ridden cottage with a picket fence and a baby carriage outside."

ROSALIND RUSSELL & CHRIS CHASE, LIFE IS A BANQUET 112-13 (1977).

<sup>54</sup> DESIGN FOR SCANDAL (Metro-Goldwyn-Mayer 1941).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

bench. When she rebuffs Mrs. Blair's attempt to thank her for the substantial alimony order imposed, the wife's rejoinder defines Cornelia's persona: "Why, you're not a woman. You're a human law book."<sup>57</sup> A few moments later, Cornelia's sister expands that persona to the judge's private life, telling her, "You'd eat law briefs and cream for breakfast if you could."<sup>58</sup>

The opening sequence sets the plot in motion. Determined to reduce his alimony obligation by getting Cornelia removed from the case, Blair presses his cocky, womanizing news photographer, Jeff Sherman, played by Walter Pidgeon, into service to discredit the judge in return for substantial financial benefits.<sup>59</sup> Jeff has no doubts about his ability to do the job in spite of Cornelia's reputation for "absolute integrity."<sup>60</sup> After all, he tells Blair, "She's a woman, isn't she? . . . Every woman has an Achilles heel."<sup>61</sup> Jeff's strategy, as he pursues Cornelia to Cape Cod where she is vacationing with her sister and writing a legal treatise with her staid suitor Walter, also involves a judicial remedy.<sup>62</sup> He will court her, propose to her, and thus set in motion a phony alienation of affections suit by an accomplice.<sup>63</sup> Undaunted by Cornelia's repeated brush-offs, Jeff remains confident of his ultimate success based on his reading of women: "When they're beautiful, you tell them they have brains and vice versa."<sup>64</sup> He woos Cornelia by complimenting her mystery and glamour, comparing her to great actresses, and telling her, "I doubt very much whether you've got a single brain in your head."<sup>65</sup> And, in private, Cornelia begins to respond, trying out a more feminine role by posing in front of her mirror in a sultry attitude with a stick as a cigarette holder.<sup>66</sup> When her maid enters the room, an embarrassed Cordelia pokes fun at herself, saying ironically, "A judge being glamorous," to which the maid replies, "That is funny."<sup>67</sup>

The final stage of Jeff's campaign explores that irony, relying explicitly on Cornelia's profession as an obstacle to normal feminine responses. He tells her that she is "suffering from . . . too much success as a judge," which has made her "dogmatic. You live by rules."<sup>68</sup> Cornelia's reaction, "Unfeminine, eh?" makes clear the tension she feels between her professional and personal instincts and

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<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* The contrast between Cornelia's personal and professional roles is emphasized by the compliments she receives from her two suitors. Seeing Cornelia dressed for dinner, Jeff tells her that "you don't look very judicial this evening." In contrast, Walter, her co-author, praises her most recent chapter of their treatise. *Id.*

<sup>68</sup> *Id.*

suggests her new willingness to change.<sup>69</sup> She looks to Jeff for instruction, asking, “How do other women act?” and they kiss for the first time.<sup>70</sup> In the next scene, they are riding on a bicycle for two, not the separate bicycles they rode earlier, and he is in the front seat, in control.<sup>71</sup> The transformation, however, turns out to be reciprocal as Jeff finds himself falling for Cornelia. She explains, once more, the effect of her profession on her emotional responses, “All my life I’ve been a skeptic. Sitting in court up against people’s deceptions hasn’t made me any softer either.” She tells Jeff he is one of the few honest men she has ever known.<sup>72</sup> He, in turn, is abashed, ashamed of his trickery, but not yet willing to confess it to her, though he later tells Blair that he cannot go through with the scheme to “ruin her career” in spite of the money involved.<sup>73</sup>

For its finale, the film returns to the courtroom, but Cornelia is no longer the confident presiding judge.<sup>74</sup> She has discovered Jeff’s scheme and, as complaining witness, has apparently now charged him and Blair with contempt and conspiracy to obstruct justice in a curious legal proceeding that also casts her as the prosecutor.<sup>75</sup> After changing her role from judge to attorney, Cornelia loses even more control when Jeff, representing himself, calls her to the witness stand, questions her about her feelings for him, and proposes marriage.<sup>76</sup> When Cornelia raises an emotional objection, the presiding judge cautions her to “remember where you are.”<sup>77</sup> The courtroom where she was formerly in complete control is now an alien setting in which she is instead exposed and vulnerable. Cornelia asks “that the record show that the witness refused to be cross questioned” and flees, pursued by Jeff, now handcuffed to Blair and sentenced to jail for contempt.<sup>78</sup> When Jeff is grazed by a car outside the courthouse, Cornelia, in a conventionally feminine response, runs to comfort him, and they are reconciled.<sup>79</sup> The final scene shows them once again in Cape Cod, riding the bicycle for two, with Jeff, as before, in front.<sup>80</sup>

Lionel Houser’s screenplay for *Design for Scandal*, though uneven in its quality and tone, is remarkable for its insistence on tying not just Cornelia’s occupation but also her psychology to a legal context. The film’s basic plot, where a coolly independent heroine is pursued and humanized by a romantic hero who figures out how to penetrate her defenses and awaken her sexual nature, is a Hollywood staple,

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<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

executed with particular wit and finesse in such films as *The Philadelphia Story* in 1940 and *Woman of the Year* in 1941.<sup>81</sup> With its determined focus on Cornelia as judge, *Design for Scandal* translates that plot into expressly legal terms. She is presented as an admirable judge who has been chilled by her profession into a less than admirable woman in need of rescue by a man of malleable principles and emotional warmth

There are two surprising elements in Houser's version of this conventional plot. First, the rescue turns out to be mutual. Cornelia's acknowledged integrity remains intact and helps reclaim Jeff from his original willingness to destroy her reputation for financial gain. Second, and more important, his conversion, though driven in part by his feelings for Cornelia, is also driven by his respect for her professional role; he expressly refuses to have a hand in ruining her career. In most of the woman's films of the thirties and forties, the heroine happily gives up her career for a conventional marriage. *Design for Scandal* gives no indication that Cornelia has made any such bargain. She may be riding behind her future husband, but she has managed to find and keep both professional and personal success.

The next Hollywood judge, played by Myrna Loy, undergoes a similar transformation, this time in the company of Cary Grant, in the 1947 film *The Bachelor and the Bobby-Soxer*.<sup>82</sup> The opening sequence of the film introduces Judge Margaret Turner as a woman whose personal and professional identities have intertwined in a complicated way. Bessie, the family maid, awakens Margaret with the message, "Breakfast is ready, Your Honor."<sup>83</sup> In an exchange that foreshadows the film's plot, Margaret, now dressed for work in a severe suit, responds to a question from her seventeen-year-old sister, Susan, about the three year sentence the judge imposed on an older man who absconded with a sixteen-year-old girl.<sup>84</sup> Susan regretfully observes that she "always bet[s] that [Margaret] won't sentence people," but always loses.<sup>85</sup> In chambers, Margaret changes into her judicial robe and is greeted by her Uncle Matt, the court psychiatrist, who summarizes his niece's dual identity: "Exit woman, enter judge. More's the pity."<sup>86</sup> When Margaret makes clear her resistance to his efforts to persuade her to marry, Matt counters that his real goal is simply to make sure that she marries the right man.<sup>87</sup> The film then proceeds to offer two possibilities, the pompous assistant district attorney who pursues Margaret and the charmingly irresponsible defendant about to appear before her: the first a colleague in the law and the second an artist.<sup>88</sup>

In the courtroom scene that follows, Sidney Sheldon, who won an Oscar for his screenplay, presents Margaret as another confident woman judge, but also one with a

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<sup>81</sup> THE PHILADELPHIA STORY (Metro-Goldwyn-Mayer 1940); WOMAN OF THE YEAR (Metro-Goldwyn-Mayer 1941). Katharine Hepburn stars in both films.

<sup>82</sup> THE BACHELOR AND THE BOBBY-SOXER (RKO Radio Pictures 1947).

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

well developed sense of irony.<sup>89</sup> Her first case of the day is the result of a nightclub brawl the night before, with an array of defendants attempting to explain the situation while they await the late arrival of the chief defendant, the artist Richard Nugent.<sup>90</sup> Just as Margaret is poised to issue a bench warrant for his arrest, Richard appears and turns on his charm when he finds a woman on the bench.<sup>91</sup> “I’m frankly and honestly delighted,” he tells Margaret, who responds dryly, “Is it all right for us to go ahead now? I hope we haven’t inconvenienced you” before telling him that in her court, “Nine o’clock means nine o’clock.”<sup>92</sup> Clearly confused by these mixed messages, Richard contributes his own response to Margaret’s complicated identity: “Yes sir. I mean, yes your honor.”<sup>93</sup>

After Margaret dismisses the case for lack of evidence and Richard asks if he may leave to deliver a lecture on American art, she responds playfully, “You just got here. Don’t you like our court?”<sup>94</sup> Then, again shifting her tone, she delivers a stern lecture:

I’ve met your type before. You might say I sentence them every day in the week. If you’re brought before this court again, you won’t be dealt with so leniently. In the future I suggest that you confine your painting to still life.<sup>95</sup>

The scene displays Margaret’s professional competence in managing her courtroom, evaluating the sufficiency of the evidence before her, and issuing a warning to a defendant who has admittedly been in similar scrapes on several occasions.<sup>96</sup> At the same time, the fluctuating tone of the dialogue also suggests an element of ambivalence in her response to the attractive and engaging man before her whose personality and profession are so different from her own.

The plot contrivance that brings Margaret and Richard together outside the courtroom is Susan’s infatuation with Richard; she pursues him aggressively by sneaking into his apartment, where she is discovered by Margaret and Tommy Chamberlain, the assistant distant attorney who is courting Margaret.<sup>97</sup> A scuffle ensues, with Richard arrested for punching Chamberlain.<sup>98</sup> The legal consequence of the episode is that Richard is offered a deal. If he agrees to serve as Susan’s beau until she gets over her infatuation, a therapeutic strategy proposed by Uncle Matt, all charges against him will be dropped.<sup>99</sup> Margaret and Richard are thus maneuvered

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<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

into the classic romantic comedy posture: two people who think that they dislike each other but, as the audience understands, are destined to change their minds and fall in love upon further acquaintance. Richard makes clear his feelings about Margaret, calling her “a mountain of ice, a gallon of poison” and asking his attorney, “What can they do to me if I kill a judge?”<sup>100</sup> For her part, Margaret has already made clear her opinion of Richard in open court. What remains is the process by which each comes to revise that first impression.

In a defining exchange, Richard tries to persuade Margaret to change her mind by offering an anecdote about his mother, a piano teacher, who fooled him into reading a philosophy book by putting it inside the cover of a racy novel.<sup>101</sup> His point, of course, is that it is a mistake to judge a book by its cover. Margaret’s response is cool (“That’s one way of learning something.”), and she counters with a childhood memory of her own: “My father was a judge. When he gave me a book about law, I knew it was going to be about law.”<sup>102</sup> Richard’s rejoinder sharpens the contrast between their parents and their professions: “And when you meet a man who’s an artist, you know he’s going to be all you think an artist is supposed to be.”<sup>103</sup> Rejecting this caution about preconceptions, Margaret returns to her insistence on the concrete: “Concerning you,” she tells Richard, “I sat in judgment on a series of facts, not on your character or biography.”<sup>104</sup> She has tried, in effect, to eliminate the human element from her analytic calculus, dismissing it as merely “charm.”<sup>105</sup> Richard temporarily admits defeat and departs with an astringent, “Good night, Your Honor.”<sup>106</sup>

By this point, however, Margaret has, reluctantly, succumbed to Richard’s charm, as he has to hers. They agree to meet at a nightclub, ostensibly to discuss Susan, where they continue to explore their differences.<sup>107</sup> As they dance, Richard tells Margaret that his father, a flag decorator, knew whom he was going to marry when he danced with Richard’s mother for the first time, and they wed three days later.<sup>108</sup> Margaret counters that her parents, both lawyers, had a fourteen year courtship.<sup>109</sup> (Law, particularly the bench, is unmistakably the family business. We also learn that Margaret’s father and great uncle were both judges.) Despite their differences of professional heredity, Margaret and Richard are clearly drawn to each other and require only a final push. It comes from Uncle Matt, who has a conversation with each one in turn. He tells Margaret that she is “being too cold

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<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

about this” and “must look at it from the emotional point of view.”<sup>110</sup> She insists, “I don’t deal in emotions. I deal in facts. And the conclusions I draw from the facts are depressing.”<sup>111</sup> Matt then tells Richard to look at the facts, to which Richard replies, “I’m an artist. I deal in emotions, and my emotions tell me to get out of here.”<sup>112</sup> That unpromising stalemate of the objective female and the emotional male—inverted gender stereotypes of personality and profession—is broken when Margaret and Richard are tricked by Matt into taking the same flight to Chicago.<sup>113</sup> Margaret is the first to signal her change of heart, offering Richard the opening sentence of a circular nonsense dialogue that he used earlier used to tease her family. The routine tellingly begins with an acknowledgment of masculine power:

“You remind me of a man.”  
 “What man?”  
 “The man with the power.”  
 “What power?”  
 “The power of voodoo.”<sup>114</sup>

Richard’s power, his irreverent charm, has tempered Margaret’s insistence on legalism and fact, just as Margaret’s sterner charm has tempered Richard’s reliance on undisciplined emotion. Like his parents rather than hers, they have discovered in a few days that they suit each other. In spite of their differences, or perhaps because of them, they are clearly destined to marry. The film does suggest, nonetheless, that the balance of power between Margaret and Richard is not quite equal. Richard’s power is emphasized both figuratively, when he appears as a knight in shining armor in Margaret’s and Susan’s fantasies, and literally, in the plot’s resolution, when he rescues Margaret from a strictly legal life.<sup>115</sup> Underscoring that theme, the film was retitled *Bachelor Knight* in Great Britain.<sup>116</sup>

*The Bachelor and the Bobby-Soxer* provides a subtler and more complicated version of the woman judge than *Design for Scandal*, though both films rely on similar conventions of plot and character. Cornelia and Margaret have a great deal in common. Both are capable, respected judges whose professional conduct is unquestioned. The problem they share is the transference of a legal perspective from their work to their private lives. Both are courted by dull and limited lawyers, though both are tempted and eventually won by men of slightly disreputable charm and occupation. In each case, the judge must move beyond her legal universe of fact and doctrine to welcome a surprising attraction to an apparently unsuitable partner. That willingness to embrace the conventionally feminine aspect of their natures is signaled in each case by wardrobe: the change from tailored business suits to Cornelia’s ruffled dress when she takes the rear seat on the bicycle for two and

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<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> LESLIE HALLIWELL, *THE FILMGOER’S COMPANION* 808 (6th ed. 1977).

Margaret's elegant evening gown when she joins Richard at a nightclub, a variant of the setting for the original brawl that brought them together.<sup>117</sup> In both films, a judgeship serves as shorthand for a limited emotional life and the need for masculine rescue, but neither film suggests that rescue requires professional surrender. In the world of the Hollywood comedy, a woman judge in the 1940s was by definition in need of the personal transformation that only an irrational romantic adventure could accomplish but; even when so transformed, she was entitled to retain her seat on the bench.

That perspective shifted two years later in the 1949 film *Tell it to the Judge*, again starring Rosalind Russell and this time written by Nat Perrin, a non-practicing attorney.<sup>118</sup> The opening frames show Washington's capitol dome and then a Senate committee room, where lawyer Marcia Meredith, elegantly garbed in a black dress and wide brimmed black hat with veil, is testifying in support of her nomination as a federal judge at a time when only one woman held that position.<sup>119</sup> A wire service news story reports that Marcia's recent divorce is making senators "nervous," and one senator insists, "On or off the bench, the personal lives of our judges must be above reproach."<sup>120</sup> Marcia responds by insisting, "There is nothing you can tell me about the dignity of the federal bench that I haven't learned from that distinguished jurist, my grandfather," a silver-haired retired judge present at the hearing.<sup>121</sup> Like Margaret Turner, Marcia has the judicial pedigree for her appointment, but she faces several varieties of resistance to the idea of a woman on the federal bench. First, she fends off the oblique approach of a southern senator who, when Marcia asks to address the committee, announces that it is "always a pleasure to yield to a lady."<sup>122</sup> Her acerbic response undercuts that condescending courtesy: "Let me ease the strain you're putting on your southern gallantry by coming to the point for you."<sup>123</sup> The second, more direct challenge comes from her former husband, attorney Pete Webb, played by Robert Cummings, who interrupts the hearing to denounce her

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<sup>117</sup> DESIGN FOR SCANDAL (Metro-Goldwyn-Mayer 1941); THE BACHELOR AND THE BOBBY-SOXER (RKO Radio Pictures 1947). Clothing plays a particularly important role in *The Bachelor and the Bobby-Soxer*. When Richard first sees Margaret in an evening dress, he tells her "that is a beautiful dress, and you look lovely in it." Instead of accepting the compliment, Margaret tells Richard that "you said that graciously. Perhaps the result of practice." His rejoinder—"You said that ungraciously. Perhaps the result of practice"—is a well deserved rebuke, and she accepts it as such, responding "I had that coming." When, toward the end of the movie, she arrives at the nightclub, Margaret completes her apology by telling Richard "that's a beautiful suit, and you look wonderful in it." His smile signals his forgiveness. THE BACHELOR AND THE BOBBY-SOXER (RKO Radio Pictures 1947).

<sup>118</sup> TELL IT TO THE JUDGE (Columbia 1949).

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*



nomination.<sup>124</sup> “Let’s stop trying to turn her into a judge,” he insists. “Does she look like a judge? I ask you.”<sup>125</sup>

With these initial skirmishes behind her, Marcia must address the central issue for the committee, her “sensational” divorce.<sup>126</sup> Taking the floor to argue her case, Marcia insists “I wanted desperately to make my marriage work,” but Pete’s behavior, including his apparent but unspecified infidelity with an attractive blond named Ginger, made the divorce “unavoidable.”<sup>127</sup> With a courtroom lawyer’s quick response, Marcia turns Pete’s outburst to her advantage, telling the senators, “my ex-husband’s conduct before this very committee makes my point for me” and, thus the divorce should not be held against her.<sup>128</sup> She then deftly turns the divorce from an obstacle to a basis for confirmation, arguing “[w]ere I still Mrs. Webb, I feel that I would not have the right to ask you, as I do now, to approve the appointment for which I have been nominated.”<sup>129</sup> The newspaper headline that flashes on the screen after the hearing—“Husband a Handicap??”—suggests that Marcia has been effective in making her case.<sup>130</sup> All that remains is to await the committee’s vote.<sup>131</sup>

After this promising opening, the film changes tone and descends into less than successful farce. As the focus shifts to Pete, it turns out that Ginger, the supposed other woman, is in fact a crucial but endangered witness for Pete’s client and that his involvement with her is entirely professional.<sup>132</sup> When Pete approaches Marcia to attempt a reconciliation, she avoids him by attaching herself to a stranger who takes her to a gambling casino.<sup>133</sup> The upshot of this improbable scenario is a police raid, with Pete saving Marcia from an embarrassing arrest by leading her to a dock and attempting to row her to safety in a leaky rowboat.<sup>134</sup> When the boat sinks, they seek shelter at a lighthouse, where the crotchety owner initially refuses to help them. Marcia then takes charge, citing maritime law and inventing a precedent that requires him to provide aid and comfort.<sup>135</sup> When the owner asks if Marcia is right, Pete replies, “She’s always right legally,” suggesting that Marcia is more successful in the professional than the personal sphere.<sup>136</sup> She is, it appears, both quick witted and willing to distort the law for practical advantage, while Pete stands by silently.

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<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

If Marcia is more adept than Pete in dealing with the lighthouse owner, she proves to be less successful in dealing with domestic matters. When Pete prepares a breakfast of freshly caught fish the following morning, the owner says the meal smells “mighty good” and asks whether he does a lot of cooking.<sup>137</sup> Pete’s reply is succinct: “Have to. I married a career woman.”<sup>138</sup> Marcia then arrives and insists on cooking her own breakfast, announcing, “I’m perfectly capable of frying my own eggs.”<sup>139</sup> Unfortunately, there are no eggs; just a fish larger than the skillet. Marcia then displays her bewildered incompetence by trying to squeeze the whole fish into the skillet while Pete watches with amusement.<sup>140</sup> He gradually coaches her, suggesting that she cut off the fish head and remove the guts before cooking and then teaching her how to do it.<sup>141</sup> She has, in effect, proved Pete’s earlier point about career women. The scene is reminiscent of *Woman of the Year*, the 1942 film in which Katharine Hepburn, playing a self-absorbed foreign affairs journalist who has neglected her sportswriter husband, tries to prove that she can be a traditionally domestic wife by cooking breakfast for him.<sup>142</sup> As he, like Pete, watches in amazement, she instead proves herself to be incapable of making a simple meal of waffles and coffee.<sup>143</sup>

In the Hepburn film, the breakfast scene prepares for an ending in which the husband makes it clear that he has no interest in a purely domestic spouse; what he wants instead is a partner who can successfully balance her professional and personal lives.<sup>144</sup> *Tell it to the Judge* has a different point to make. As Marcia and Pete are once again drawn to each other, he asks, “Do you have to be a judge?”<sup>145</sup>

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<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> WOMAN OF THE YEAR (Metro-Goldwyn-Mayer 1941).

<sup>143</sup> *Id.* Carole Shapiro points out that “female attorneys’ deficiency in womanly skills, most notably cooking,” is a common motif in films. Shapiro, *supra* note 43, at 339. Basinger offers a more analytic reading of the typical scene of female domestic incompetence:

It is often set in that particular space that is inevitably associated with women, the kitchen. The movie asks an audience to participate. Come into the kitchen, your mother’s place, and take a look at this elegant female movie star in the fur cuffs. Just see . . . this woman *can’t even cook*. A judgmental context is visualized. If a woman doesn’t know how to make pancakes, what can she actually be worth? Even if she is a federal judge, a nuclear physicist, or a brain surgeon, where’s her contribution to things? After all, we’ve got men to do those jobs. . . . An audience is asked to watch a woman becoming embarrassed as she is totally humiliated.

BASINGER, *supra* note 29, at 200.

<sup>144</sup> Sam Craig, played by Spencer Tracy, describes for his wife Tess Harding, played by Katharine Hepburn, the equal partnership that he envisions as their marriage: “I don’t want to be married to Tess Harding any more than I want you to be just Mrs. Sam Craig. Why can’t you be Tess Harding Craig?” Tess’s reply, “I think it’s a wonderful name,” seals the bargain. WOMAN OF THE YEAR (Metro-Goldwyn-Mayer 1941)

<sup>145</sup> TELL IT TO THE JUDGE (Columbia 1949).

Her response—“It’s what Gramps wants.”—suggests that her commitment to the federal bench has more to do with pleasing her grandfather than with satisfying her own professional goals.<sup>146</sup> When she asks Pete, “Do you really want me, even if I have to be a judge?”, Marcia further trivializes her career as something imposed externally over which she has no control.<sup>147</sup> Marcia and Pete then remarry, only to separate once more after Ginger, the witness Pete is protecting from the mob, reenters the picture and Marcia again wrongly assumes that Pete is unfaithful.<sup>148</sup> Trying to keep Marcia focused on her nomination rather than on Pete, her grandfather provides the final devaluation of the position by raising the possibility of revenge and instructing her to “[t]hink what you could do to him when you’re a federal judge.”<sup>149</sup>

From this point the film spirals further downward, abandoning any interest in the judgeship in favor of a series of episodes in which both Marcia and Pete believe that they are being betrayed when in fact both are innocent and both want to resume their marriage. When their reconciliation has finally been achieved, word comes from Washington that her nomination has been confirmed.<sup>150</sup> Fielding a telephone call for Marcia, her grandfather asks, “But you’re supposed to go back to Washington. What will I tell them?”<sup>151</sup> Marcia’s reply effectively unravels what little remains of the judicial theme: “Tell them I’ve gone back to my job, as a wife.”<sup>152</sup> She then joins Pete, who, in a reversal of the lighthouse scene, has now prepared a welcoming breakfast for her.<sup>153</sup> Although Pete is comfortable performing a feminine domestic task, Marcia does not match him by welcoming her judgeship, instead relinquishing the powerful masculine position. If a husband is a handicap to a judge, a judgeship is a handicap to a successful marriage.

Although *Tell it to the Judge* plays with the idea of a woman federal judge at a time when only Florence Allen sat on the federal bench, the film seems interested in that idea more as a plot device capable of generating comic confusion than as a plausible professional role for a woman. Where both *Design for Scandal* and *The Bachelor and the Bobby-Soxer* take seriously the conflict between the demands of a judicial career and a marital relationship, the later film presents Marcia’s interest in a judgeship as driven largely by her grandfather’s ambition. The conflict, then, is between Pete and Judge Meredith, one man who sees the judgeship as an interference with his marriage and the other who sees it as an extension of his own life’s work. Unlike the earlier films, where Cornelia and Margaret are shown as fully able to control their courtrooms, here Marcia has only two brief scenes in which to exhibit her legal skills: arguing for her appointment at the Senate hearing

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<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

and citing phony law at the lighthouse.<sup>154</sup> Where Cornelia and Margaret come to value their emotional lives as well as their profession, Marcia is willing to abandon her judicial prize without even considering whether she can keep both the man and the job.

#### V. APPROACHING THE BENCH

It would be a simple explanation to view *Tell it to the Judge*, though coming only two years after *The Bachelor and the Bobby-Soxer*, as a reflection of the post-war employment culture and a harbinger of Hollywood's fifties ethos, when the career comedy largely vanished from the screen. The obstacle to that easy answer is another 1949 comedy, widely regarded as the best woman lawyer film ever made, in which a delicate balance is struck between the personal and the professional.<sup>155</sup> Appropriately, *Adam's Rib* illustrates the possible blending of personal and professional lives.<sup>156</sup> Its screenplay was written by the husband and wife team of Garson Kanin and Ruth Gordon, and its stars, Katharine Hepburn and Spencer Tracy, maintained a lengthy off-screen relationship while acting together in nine films.<sup>157</sup> Although *Adam's Rib* offers no woman judge or even judicial nominee, its themes, and particularly its ending, flirt with the same issues that the earlier films raise: the relationship between gender and judicial authority, between personal and professional lives.

In the film, Hepburn and Tracy appear as happily married lawyers Amanda Bonner, a private practice, and Adam Bonner, an assistant district attorney. Their harmonious relationship is disrupted when they represent opposing sides in an assault case.<sup>158</sup> The defendant in that case, a wife and mother, has shot her husband when she finds him in the arms of another woman.<sup>159</sup> After reading about the shooting in the morning newspaper, Amanda and Adam have directly opposite reactions. Amanda announces of the husband that "it serves him right," while Adam denounces her "contempt for the law" and asks, "Is that what they taught you at Yale Law School?"<sup>160</sup> For Amanda, the case raises a gender issue. She argues that since a man shooting an unfaithful spouse would get the benefit of the unwritten law, a woman should benefit from the same standard because "women are supposed to be

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<sup>154</sup> *Id.*

<sup>155</sup> See, e.g., Caplow, *supra* note 44, at 63. Stacy Caplow observed in 1999 that *Adam's Rib* is "the only intelligent cinematic representation of a woman lawyer to appear for more than thirty-five years and, to this day, remains fresh and contemporary." *Id.*, at 63.

<sup>156</sup> ADAM'S RIB (Columbia 1949).

<sup>157</sup> See BARBARA LEAMING, KATHARINE HEPBURN 399-402, 427-28, (1995) for an account of the Hepburn-Tracy relationship. For a reference to Garson Kanin and Ruth Gordon as a married couple within Hepburn and Tracy's circle of friends, see *id.* at 453. The nine films in which Hepburn and Tracy appeared together are: *Woman of the Year*, *Keeper of the Flame*, *The Sea of Grass*, *Without Love*, *State of the Union*, *Adam's Rib*, *Pat and Mike*, *Desk Set*, and *Guess Who's Coming to Dinner*.

<sup>158</sup> ADAM'S RIB (Columbia 1949).

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

equal.”<sup>161</sup> In Adam’s view, “crime should be punished, not condoned,” and Amanda is seeking an unjust advantage for the wife.<sup>162</sup> When Adam arrives at his office, he finds that he has been assigned the assault case; when Amanda arrives at hers, she arranges to represent the wife.<sup>163</sup> The battle lines are now drawn. Adam accuses Amanda of planning “to turn a court of law into a Punch and Judy show” of battling spouses.<sup>164</sup> Amanda insists that the wife is “entitled to the same justice . . . the same unwritten law” that a man could invoke.<sup>165</sup> After Adam threatens to “cut [Amanda] into twelve little pieces and feed [her] to the jury” they embrace, confident that their marriage can survive the tensions of the courtroom.<sup>166</sup>

The film plays with the theme of gender equality and difference, exploring the ways in which men and women react both personally and professionally. Inside the courtroom, Amanda pursues a strategy based entirely on the equality of women. Her only question for prospective male jurors is, “Do you believe in equal rights for women?”<sup>167</sup> She then calls to the stand three successful women—a distinguished chemist, a construction supervisor, and a circus acrobat—to demonstrate that women can do whatever men can.<sup>168</sup> After she has the last witness lift Adam on her shoulder to make that point, he explodes, accusing her of insulting “the dignity of the court” and again showing “contempt for the law.”<sup>169</sup> In Adam’s view, “The law is the law, whether it’s good or bad,” and Amanda should be working to change it rather than “try[ing] to bust it open.”<sup>170</sup> Their closing statements to the jury underscore their differences. Amanda says that “the question here is equality before the law” and asks the jury to imagine the wife on trial as a man and the wounded husband as a woman. The camera then assists, transforming the gender of both wife and husband.<sup>171</sup> Adam argues that it is an offense when any person “takes the law into her own hands and places a special interpretation on it just for herself.”<sup>172</sup> The jury sides with Amanda, and the wife is acquitted.<sup>173</sup>

These courtroom differences also gradually penetrate their home, transforming their formerly idyllic marriage, in which they expressed their sense of equality by calling each other by the same nickname—Pinkie for her, Pinky for him—into the

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<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

Punch and Judy show that Adam feared.<sup>174</sup> Giving Amanda a massage, Adam slaps her harder than usual, and she interprets his action in terms of their legal debate over gender equality.<sup>175</sup> “You meant that,” she tells him, “not only as if you meant it but as if you felt you had a right to.”<sup>176</sup> When Amanda responds to Adam’s criticism of her courtroom performance by crying, he accuses her of a standard female strategy: “Guaranteed heartmelter—a few female tears. It won’t make you right.”<sup>177</sup> She then counters with what she considers a standard masculine response, kicking him and announcing, “Let’s all be manly.”<sup>178</sup>

Feeling that “you’ve split us right down the middle,” Adam leaves, insisting that he would rather have a wife than a competitor.<sup>179</sup> He regains his wife by employing a masculine strategy of his own: he bursts in on Amanda and their flirtatious neighbor, brandishing a gun and threatening to shoot them and himself.<sup>180</sup> After Amanda cries out “You’ve no right, no one has a right,” Adam bites off the barrel of his licorice gun and exults “That’s all, sister. That’s what I wanted to hear. You think the same as I do; that I have no right, that no one has a right to break the law.”<sup>181</sup> Amanda has won the case, but Adam has won a different kind of victory, drawing a concession from his wife that her courtroom strategy undermined their shared belief in respect for the law.

Their marriage seemingly now in tatters, Adam has one final stratagem to repair it. As they work with their accountant to divide their finances in preparation for a divorce, Adam begins to weep over their country house and dogs.<sup>182</sup> Amanda immediately responds by taking him home as he leans on her and sheds more tears.<sup>183</sup> That evening, comfortably reunited, Adam compliments Amanda on her courtroom performance, and she responds in kind; they are two professionals appreciating an adversary’s job well done.<sup>184</sup> That conversation is a prelude to the judicial theme that now enters and ends the film. Adam tells Amanda that he has been asked by the Republican Party to run for a county court judgeship, which he calls “a sure seat.”<sup>185</sup> After congratulating him, Amanda ponders the news and offers her provocative response: “Have they picked the Democratic candidate yet? I was just wondering.”<sup>186</sup> An astonished Adam insists, “You wouldn’t . . . because I’d

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<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

cry,” and reveals that he deliberately generated his tears to win her back, thereby proving that men can do something women routinely do, a mirror image of Amanda’s courtroom demonstration but also an affirmation of her point.<sup>187</sup> The gender reversal is now center stage, but so is the equality that underlies their marriage. Amanda declares, “Men, women—the same,” while Adam, invoking their sexual difference, says, “Hurray for that difference” and closes the curtains of their bed.<sup>188</sup>

Left open, however, by this romantic ending is the question of Amanda’s intentions with regard to the judgeship. She has not explicitly agreed that she will not pursue the seat, though she has also refrained from issuing a direct challenge. The question hangs in the air, underscoring the themes of the film. Amanda, the courtroom victor, seems to have won her basic claim, that women are equal before the law, written and unwritten. At the same time, Adam, who has wrung a crucial concession from Amanda, seems to have won his basic claim, that reliance on unwritten law undermines the legal system. She is as entitled to seek a judgeship as Adam, in a campaign based on her qualifications rather than her gender. But, as in the earlier films, there remains the difficult question of the effect that Amanda’s decision to run, to become Adam’s competitor for the judgeship, would have on their happily balanced marriage. Will Amanda risk harming that marriage by pursuing a position on the bench? Or should she avoid the strain that such a decision could place on their restored marital happiness? *Adam’s Rib* leaves that question unresolved, suggesting that for Amanda, as for Cornelia and Margaret, the tension between a woman’s personal and professional lives remains a continuing challenge.<sup>189</sup>

Although Hollywood’s next woman judge appeared more than thirty years after *Adam’s Rib*, her story is in many ways a transposition of the earlier film from the personal context of a marriage to the professional context of the most elevated judicial setting, the bench of the United States Supreme Court. *First Monday in October*,<sup>190</sup> written by Jerome Lawrence and Robert E. Lee based on their 1978 Broadway play, was fortuitously released in 1981, just as Sandra Day O’Connor became the first woman named to the Court.<sup>191</sup> Dan Snow is a crotchety liberal and

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<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> Christine Corcos finds additional ambiguities in the final scene, finding that “at the end of the film, Amanda seems to suggest that, in spite of her narrow escape from divorce, she plans to challenge Adam at the poll, but we wonder whether ultimately this suggestion is bravado or deliberate goading of her husband rather than a real expression of interest in running for office.” Christine Alice Corcos, “We Don’t Want Advantages”: *The Woman Lawyer Hero and Her Quest for Power in Popular Culture*, 53 SYRACUSE L. REV. 1225, 1252 (2003).

<sup>190</sup> FIRST MONDAY IN OCTOBER (Paramount 1981).

<sup>191</sup> O’Connor was nominated to the Court on July 7, 1981 and confirmed on September 21. OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES 1134 (Kermit L. Hall, ed., 2d ed., 2005). The film was released in New York in August 1981. FIRST MONDAY IN OCTOBER (Paramount 1981). For a comparison of the film with the play it was based on, see Laura Krugman Ray, *Judicial Fictions: Images of Supreme Court Justices in the Novel, Drama, and Film*, 39 ARIZ. L. REV. 151, 187-91 (1997).

the most senior Associate Justice on the Court. An avid mountain climber,<sup>192</sup> he is clearly modeled on Justice William O. Douglas.<sup>193</sup> Dan is appalled when Ruth Loomis, a conservative member of the Ninth Circuit Court of Appeals from California, is appointed to fill the seat vacated by the death of Dan's ideological opponent and good friend, Justice Moorehead.<sup>194</sup> Delivering the eulogy at Moorehead's funeral, Dan celebrates their oppositional relationship on the Court as "a pair of flying buttresses" of a Gothic cathedral that "helped to keep the roof from caving in."<sup>195</sup> He is, however, less welcoming toward Ruth, whom he refers to as "the Mother Superior of Orange County" and "Lady Purity" for her restrictive reading of free speech protections under the First Amendment.<sup>196</sup> Although Dan has been threatening to retire, he is reinvigorated by Ruth's arrival and prepares for battle.<sup>197</sup>

The film wastes no time in signaling the temperamental as well as ideological distance between Dan and Ruth, played by Walter Matthau and Jill Clayburgh.<sup>198</sup> Dan is proud of the messy desk in his chambers, which also contain a brightly colored abstract painting and a whiskey decanter.<sup>199</sup> When he pays a hostile visit to Ruth's chambers, she is in the process of potting a plant; a muted landscape painting hangs on the wall, a fruit bowl sits on a side table, and there is a vase of flowers on her immaculate desk.<sup>200</sup> As he strokes the bare surface, Dan sarcastically inquires whether "aircraft land here frequently."<sup>201</sup> Learning that the man in Ruth's outer office is her secretary, Dan parodies Ruth's own position.<sup>202</sup> "What a generous gesture," he tells her, "letting men into a field previously dominated by the other sex."<sup>203</sup> As a final jab, he addresses her as "Madam Just-ess" until Ruth confronts

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<sup>192</sup> FIRST MONDAY IN OCTOBER (Paramount 1981).

<sup>193</sup> Douglas wrote at length about the significance of the mountains of his native Pacific Northwest in his early autobiographical account of his youth, *Of Men and Mountains*, and in the first volume of his subsequent autobiography, *Go East, Young Man*. See WILLIAM O. DOUGLAS, *OF MEN AND MOUNTAINS passim* (1950); WILLIAM O. DOUGLAS, *GO EAST, YOUNG MAN* 41-54 (1974). As a member of the Supreme Court, Douglas continued his mountain climbing excursions and became an active conservationist. JAMES F. SIMON, *INDEPENDENT JOURNEY: THE LIFE OF WILLIAM O. DOUGLAS* 326-33 (1980). For a discussion of the significance of mountain climbing in Douglas's life and jurisprudence, see Laura Krugman Ray, *Autobiography and Opinion: The Romantic Jurisprudence of Justice William O. Douglas*, 60 U. PITT. L. REV. 707, 711-18 (1999).

<sup>194</sup> FIRST MONDAY IN OCTOBER (Paramount 1981).

<sup>195</sup> *Id.*

<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

<sup>199</sup> *Id.*

<sup>200</sup> *Id.*

<sup>201</sup> *Id.*

<sup>202</sup> *Id.*

<sup>203</sup> *Id.*



him, asking whether a woman governor is a governess.<sup>204</sup> She may be tidy and nurturing, but she is also capable of defending her turf.

In the course of the film, Dan and Ruth confront one another over two cases. After the Court hears oral argument concerning a provocative film, *The Naked Nymphomaniac*, that the state of Nebraska wants to ban, Ruth insists that the Justices can determine whether the film enjoys First Amendment protection only by viewing it.<sup>205</sup> Dan, again like Justice Douglas, never attends such sessions because he applies the First Amendment broadly,<sup>206</sup> while Ruth considers suggesting a rule that such viewings be made mandatory.<sup>207</sup> In their confrontation over the case, Ruth calls the film, “A total offense against the public sensibility,” while Dan counters, saying, “Censorship is an outrage.”<sup>208</sup> In an observation evocative of *Design for Scandal* and *The Bachelor and the Bobby-Soxer*, he tells Ruth, “When you let a little more humanity into your thinking, you might make a damned good Justice. But I won’t bet on it.”<sup>209</sup> Their second battle centers on a petition for certiorari to review the viability of a shareholder class action against Omnitech Corporation’s missing president to challenge the company’s refusal to develop an innovative engine.<sup>210</sup> This time, Ruth defends the need of corporations to be free from shareholder interference with their decisions, while Dan insists that the suit is needed to determine whether Omnitech has deliberately squelched a promising invention to protect its own vested interests.<sup>211</sup>

Although their sparring continues, they tentatively begin to find some common ground. Sharing an impromptu meal at an Asian restaurant, Ruth solicitously insists that Dan eat something to avoid low blood sugar and offers help with his chopsticks, which Dan resists.<sup>212</sup> Later that night, when he suffers a heart attack at the Court while they debate the Omnitech case, Ruth rides with him in the ambulance.<sup>213</sup> She then makes a quick visit to California, where she learns that her late husband, a corporate lawyer who represented Omnitech, had concealed the president’s death to forestall litigation.<sup>214</sup> Returning to Washington, she tells Dan that she now must resign from the Court, although she knew nothing of her husband’s conduct.<sup>215</sup> Dan

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<sup>204</sup> *Id.*

<sup>205</sup> *Id.*

<sup>206</sup> In a 1970 dissent from a decision from an obscenity decision, Douglas wrote that “I never read or see materials coming to the Court under charges of ‘obscenity,’ because I have thought the First Amendment made it unconstitutional for me to act as a censor.” *Paris Adult Theatre v. Slaton*, 413 U.S. 49, 71 (1973) (Douglas, J., dissenting).

<sup>207</sup> *FIRST MONDAY IN OCTOBER* (Paramount 1981).

<sup>208</sup> *Id.*

<sup>209</sup> *Id.*

<sup>210</sup> *Id.*

<sup>211</sup> *Id.*

<sup>212</sup> *Id.*

<sup>213</sup> *Id.*

<sup>214</sup> *Id.*

<sup>215</sup> *Id.*

then leaves his hospital bed and comes to her apartment to insist that she remain on the Court.<sup>216</sup> When Ruth says that she “thought you’d be happy to have me off the Court,” Dan replies, “that was before you were on the Court.”<sup>217</sup> She gives him a chaste kiss on the cheek, and they return together to the Court.<sup>218</sup> In the film’s final scene, they climb the front steps, companionably disagreeing over the upcoming cases on the Court’s docket, as Ruth, in an echo of Dan’s eulogy for Justice Moorehead, observes, “You and I make each other possible.”<sup>219</sup>

Ruth and Dan, like Amanda and Adam, are fellow professionals who find that they can be adversaries in their work while still respecting and enjoying each other. Although *First Monday* teases the audience only briefly with the notion of a romantic relationship, most notably when Dan’s clerk tells Ruth that Dan talks about her “all the time” and when a naked Ruth is glimpsed momentarily through her shower door as Dan arrives at her apartment,<sup>220</sup> the film generally avoids any serious hint that the widowed Ruth and the divorced Dan will come together in the future as anything more than colleagues. At her confirmation hearing, Ruth has actually suggested that her professional role provides its own version of conventional female experience when she tells the inquiring senators that she does have children of a sort: “my opinions, my decisions.”<sup>221</sup> She and Dan, then, are linked in a kind of judicial marriage of opposites, like Dan’s flying buttresses supporting the structure of justice that, they both serve from their divergent perspectives. Ruth is thus the equal of her male counterpart, though only by avoiding the romantic connection that Cornelia and Margaret achieve by finding partners outside the legal universe and that Amanda might risk by seeking her own judicial role.

The next, and, to date, the most recent American film centered on a woman’s judicial role is also the first that is indisputably not a comedy. *Female Perversions*, an independent film released fifteen years after *First Monday*, continues many of the same themes of the earlier films, particularly the conflict between masculine and feminine attitudes, but this time that conflict is powerfully internalized in the central character, California attorney Eve Stephens, played by Tilda Swinton.<sup>222</sup> In an unusual gesture, the film begins with an epigraph, a passage from psychoanalyst Louise J. Kaplan’s book, *Female Perversions: The Temptations of Emma Bovary*,<sup>223</sup> describing the struggle of women to achieve complete selfhood within existing social constraints. According to Kaplan, a woman has two choices: she may risk trying “to explore and to express the fullness of her sexuality, her emotional and intellectual capacities,” or, instead, “she may go on trying to fit herself into the order

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<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> *Id.*

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

<sup>222</sup> *FEMALE PERVERSIONS* (October Films 1996). The film was not a mainstream success; in theatrical release it earned only \$967,203. *MAGILL’S CINEMA ANNUAL 1998* 181 (Beth A. Fhaner, ed., 17th ed. 1998).

<sup>223</sup> LOUISE J. KAPLAN, *FEMALE PERVERSIONS: THE TEMPTATIONS OF EMMA BOVARY* (1991).

of the world and thereby consign herself forever to the bondage of some stereotypical or normal femininity—a perversion, if you will.”<sup>224</sup> With that textual manifesto in place, the film proceeds to follow Eve, named to evoke the archetypal woman of the epigraph, from the time she is mentioned as a possible appointee to the Los Angeles Court of Appeals until the governor makes his final decision.

Early in the film Eve appears in the courtroom, offering her summation in a case she has brought against an environmental polluter whom she describes as “understand[ing] only one thing: dominance.”<sup>225</sup> Although Eve is a powerful advocate, several men present at the hearing tune out her words to focus instead on her body.<sup>226</sup> The tension between her roles as attorney and as attractive female is thus immediately established. Eve wins her important case and then learns that the governor is considering her for a judgeship.<sup>227</sup> Yet, when she phones her father across the country with her news, he scolds her for waking him and insists that she call back the following day.<sup>228</sup> Again, she finds her potential future on the bench in conflict with one of her feminine roles, that of considerate daughter. These men, like her defendant, seem to know only dominance, and Eve struggles to reconcile their attitude toward her with her own confident professionalism. Her first response to word of the governor’s interest is to insist that she has no chance at the position; when the phone call scheduling an interview follows, she exults, “I’m going to be a judge,” a job she has wanted since she was a child.<sup>229</sup> Yet in two later fantasy sequences, she imagines people she encounters telling her, “Everyone knows you’re a fraud,” and, “You a judge? Never.”<sup>230</sup> Her ambivalence is so powerful that she finds it difficult to believe that the professional opportunity that she has longed for and earned may be within her grasp.

Eve’s interview does little to strengthen her confidence. The governor seems more interested in her personal life than in her career, asking, “Why haven’t you, such a beautiful woman, ever been married?”<sup>231</sup> When Eve responds that she has “always been deeply committed to [her] work,” he finds that “very sad” and asks, “Do you miss not having a family?” before going on to celebrate his own wife and daughters.<sup>232</sup> Describing the interview, Eve is certain that she has lost her chance. “I blew it,” she tells her sister. “I’m not married.”<sup>233</sup> In fact, Eve’s personal life is more complicated than that remark indicates. She has passionate sexual relationships with a male land developer and a female psychiatrist, but feels compelled to send herself

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<sup>224</sup> *Id.* at 528.

<sup>225</sup> FEMALE PERVERSIONS (October Films 1996).

<sup>226</sup> *Id.*

<sup>227</sup> *Id.*

<sup>228</sup> *Id.*

<sup>229</sup> *Id.*

<sup>230</sup> *Id.*

<sup>231</sup> *Id.*

<sup>232</sup> *Id.*

<sup>233</sup> *Id.*

congratulatory roses at her office because no one else is likely to do so.<sup>234</sup> And she is at odds with her sister, Maddy, a troubled kleptomaniac doctoral candidate whose legal problems Eve attempts to resolve.<sup>235</sup> Eve's professional success co-exists with her sense of personal isolation. It is not surprising that, as she tells her psychiatrist lover, she rejects psychology, where "nothing's concrete," and prefers the law: "black and white. Obey the rules or suffer the consequences. Guilty or not guilty."<sup>236</sup> In her work, if not in her emotional life, Eve finds some solid ground.

Although the film is effective at evoking Eve's sense of isolation, it is less so in exploring the sources of her unhappiness. Fantasy sequences, many featuring shadowy figures with playing card masks and fraying ropes, are interspersed, and the film offers a baffling conclusion, suggesting a childhood trauma in which Eve may have been, or at least feels herself, responsible for her mother's death during an argument with her father.<sup>237</sup> That psychological overlay blurs the film's structure, which tries to illustrate the Kaplan epigraph: the strain of living in a world whose external realities impede a woman's effort to integrate her personal and professional aspects.

At the end of the film, after Eve and her sister have reconciled, word comes that the governor has submitted Eve's name to the state bar committee.<sup>238</sup> In Kaplan's formulation, Eve has managed to satisfy two elements of her identity by restoring a family connection and securing the judgeship, though she has not found a permanent bond with either of her lovers.<sup>239</sup> Where Amanda ponders whether to abandon her chance of a judgeship to preserve her marriage and Marcia willingly surrenders her confirmed appointment, Eve wins the job but remains a solitary figure still in pursuit of a romantic resolution. In the non-comedic version of the woman judge's dilemma, Eve is the heroine who fails to find what she considers a completely happy ending.

## VI. THE WOMAN JUDGE ABROAD

Although Hollywood has produced a steady stream of films about women lawyers in the years since *Female Perversions*, as Christine Corcos's invaluable bibliography demonstrates, the woman judge has become a marginal cinematic presence.<sup>240</sup> Corcos includes numerous films in which a woman appears in a small

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<sup>234</sup> *Id.*

<sup>235</sup> *Id.*

<sup>236</sup> *Id.*

<sup>237</sup> Carole Shapiro suggests that what she calls Eve's "male . . . emotional geography . . . may be explained by the sexual trauma she may have suffered at the hands of her father, something that the film only cryptically presents." Shapiro, *supra* note 43, at 332.

<sup>238</sup> FEMALE PERVERSIONS (October Films 1996).

<sup>239</sup> Shapiro argues that "[w]hile the film's plot movement is toward Eve's judgeship, its heart is her movement toward integrating the female into her life and toward increasing kinship with other women." Shapiro, *supra* note 43 at 332. Her point is supported by Eve's willingness, before she leaves Maddy's house and returns to her life in the city, to comfort the unhappy, self-mutilating adolescent girl she has met through Maddy. FEMALE PERVERSIONS (October Films 1996).

<sup>240</sup> Christine Corcos, *Films Featuring Women Attorneys* (last updated Aug. 8, 2012), <http://faculty.law.lsu.edu/ccorcos/lawhum/womenlawyersinfilm.htm>.

role as the presiding judge.<sup>241</sup> Notably absent from the bibliography, however, are recent Hollywood films, comedic or dramatic, featuring a woman judge as a central character.<sup>242</sup> Thus, as the number of women on the bench has grown, their representation on film has dwindled to a token acknowledgment of their actual presence in the federal and state courts. In one such nod to reality, the 1997 television remake of a classic legal film, *Twelve Angry Men*, placed Mary McDonnell on the bench formerly occupied by an uncredited actor.<sup>243</sup>

The same pattern, however, seems somewhat less true of the film industries in European countries, where a handful of recent foreign films have plots focused squarely on women in judicial roles. One scholar has offered the following explanation of that difference from American film, one that places “its spotlight more often on the judiciary”:<sup>244</sup>

In contrast, European cinema, representing legal traditions more inquisitorial in essence, tends to focus more on the judiciary and the legal system as such, rather than on dueling lawyers—thus offering different perceptions. It meditates on the nature of the judicial system rather than on the variety of combative stances available to the adversarial advocate and portrayed in American cinema.<sup>245</sup>

Unfortunately, not all of these films are available with English subtitles, but those that are suggest that the dominant theme of the earlier American films—the relationship between personal and professional lives—nonetheless continues to resonate as women assume substantial judicial authority in other legal systems.<sup>246</sup> European film makers seem to approach that issue, however, from a markedly different perspective. The three films discussed below, one French, one Austrian, and one Australian, are not comedic in form like their Hollywood predecessors. Instead of offering comfortable resolutions of the tension between personal and professional roles, they illustrate the broad range of seriousness and sensitivity with which that theme can be addressed.

*Comedy of Power*, a 2005 film by the distinguished French director Claude Chabrol, is emphatically not a comedy in any traditional sense.<sup>247</sup> The original title, *L'Ivresse du Pouvoir*, might more literally be translated as “the drunkenness of power,” the condition of the businessmen pursued by the appropriately named

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<sup>241</sup> *Id.*

<sup>242</sup> *Id.*

<sup>243</sup> *Id.* For the cast list of the 1957 film, see *Twelve Angry Men*, IMDB, <http://www.imdb.com/title/tt0118528>.

<sup>244</sup> Orit Kamir, *Feminist Law and Film: Imagining Judges and Justice*, 75 CHI.-KENT L. REV. 899, 902 (2000).

<sup>245</sup> *Id.* For a brief account of the inquisitorial system in France, see Ignatius, *infra* note 249.

<sup>246</sup> The subtitled films include *COMMIS D'OFFICE* (Bac Films 2009), *UNE JUGE SOUS INFLUENCE* (Belgium 2006), and *FILLES UNIQUES* (Les Films Alain Sarde 2003). Corcos, *supra* note 240.

<sup>247</sup> *COMEDY OF POWER* (Koch Lorber Films 2005). Chabrol also co-authored the screenplay with Odile Barski. *L'ivresse du pouvoir*, IMDB, <http://www.imdb.com/title/tt0463486>.

Jeanne Charmant-Killman, the investigating judge assigned to the case.<sup>248</sup> The film's plot, based on France's notorious Elf Aquitaine scandal of the 1990s and Eva Joly, the actual judge in the case, involves an elaborate kickback scheme in which officials of a public corporation receive bribes to do business with leaders of developing countries.<sup>249</sup> Jeanne, who combines a quiet charm with a deadly determination to uncover and punish any misconduct, is known in legal circles as "The Piranha."<sup>250</sup> A slight figure usually dressed in a dark suit, she also wears red gloves and carries a red purse,<sup>251</sup> suggesting the fierce nature beneath the calm façade. When the Presiding Judge of her court makes the assignment and tells her to "sweep it under the rug if you like," Jeanne responds simply, "I hate rugs."<sup>252</sup>

At home, Jeanne is so focused on her case that she seems, at times, to barely notice her withdrawn husband, Philippe. When she tells him that at work, "I said you ran a medical lab," though he is apparently only a lab technician,<sup>253</sup> it is unclear whether she is protecting him or herself. Philippe's response, "The usual crap. Isn't life wonderful,"<sup>254</sup> suggests that he resents her commitment to her high profile career. Jeanne seems detached from their domestic life, ordering pizza for dinner because she lacked time to shop and later puts off Philippe's sexual advances with a promise of "tomorrow" and the comment, "I love you, you know."<sup>255</sup> The arrival of Philippe's nephew Felix to stay for several weeks further complicates the household, as Jeanne seems more comfortable talking with Felix than with her husband about her investigation. As it progresses and Jeanne's photograph appears on the cover of the popular magazine *Paris Match*, Philippe reports his new name at the lab, "Mr.

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<sup>248</sup> COMEDY OF POWER (Koch Lorber Films 2005).

<sup>249</sup> For an account of the scandal and the powerful role played by Eva Joly, the actual investigating judge on whom Jeanne is based, see David Ignatius, *The Scent of French Scandal*, LEGAL AFFAIRS, May-June 2002, at 62. Joly's investigation took eight years and identified forty-two people as implicated in corrupt practices, including a former French interior minister. *Id.* France's civil law system is inquisitorial rather than adversary. Thus, "[a]s one of France's 660 juges d'instruction, Joly had the power to gather evidence, interrogate witnesses, and direct the work of the police judiciaire assigned to her—with the exclusive prerogative of deciding when an inquiry should end." *Id.* at 63. That authority also included the right to imprison anyone who might otherwise undermine the investigation. *Id.* The final phase of the Elf Aquitaine investigation resulted in a prosecution of thirty-seven defendants, "one of the largest criminal trials in French history," with "criminal sentences and fines . . . imposed on many of the defendants." Ndiva Koefele-Kale, *Change or the Illusion of Change: The War Against Official Corruption in Africa*, 38 GEO. WASH. INT'L L. REV. 697, 711 (2006). Joly wrote her own account of her role in the scandal, *Notre Affaire A Tous*, in 2000. For a review essay on her book, translated as *Everybody's Business*, see Martin A. Rogoff, *Corruption, Democracy, and the Rule of Law in France*, 15 TUL. EUR. & CIV. L.F. 107 (2000-01).

<sup>250</sup> COMEDY OF POWER (Koch Lorber 2005).

<sup>251</sup> *Id.*

<sup>252</sup> *Id.*

<sup>253</sup> *Id.*

<sup>254</sup> *Id.*

<sup>255</sup> *Id.*

Jeanne Charmant-Killman.” Jeanne’s brief response, “It’s really stupid,” does little to improve the situation.<sup>256</sup>

In contrast to her self-absorption at home, Jeanne is a clever and determined interrogator at work, willing to use her power to imprison her first target, a company president who has charged lavish gifts for his mistress to company credit cards, in order to extract information about the larger scheme.<sup>257</sup> As she works her way up the chain of corruption toward high ranking government officials, including the Presiding Judge himself, Jeanne finds herself the target of intimidation tactics.<sup>258</sup> When she leaves her office late one night, the brakes of her car fail, sending her briefly to the hospital.<sup>259</sup> After Philippe tells her that she “never knows when to quit,” Jeanne responds, “I never give up,” and accepts the bodyguards assigned to her.<sup>260</sup> She is also forced to accept what a senator calls “the promotion play,” an effort to derail her investigation by giving her an assistant, Erika, another woman judge in an adjoining office, with the expectation that women who work together will engage in “dirty tricks” against one another.<sup>261</sup> The strategy fails, however, as Erika becomes as committed to the investigation as Jeanne and the two work effectively together. That outcome is a deliberate irony. As the men questioned by Jeanne betray one another to help themselves, the two women share a determination to pursue their investigation wherever in the French power structure it leads.

As the case progresses, Jeanne’s domestic situation deteriorates. Infuriated by the constant presence of the bodyguards, Philippe insists, “This can’t go on” and claims Jeanne is “as smooth as stone.”<sup>262</sup> Her commitment to her work has come between them. When she tells Philippe, “You’ve become a stranger,” he responds “So have you.”<sup>263</sup> At four o’clock in the morning, Jeanne packs and returns to her office to find it trashed, with a skull and the message “Die Bitch” painted on the wall,<sup>264</sup> a comment that seems to implicate both her public and private lives. More determined than ever to complete her investigation, Jeanne, working with Erika, comes dangerously close to identifying the most powerful figures behind the corruption. At that point, the Presiding Judge tells Jeanne that she has “lost her objectivity” and that he “need[s] a fresh eye” on the case.<sup>265</sup> Recognizing her defeat, she observes ironically, “Don’t they call my post the most powerful in France?” before she asks Erika to take over for her and then leaves.<sup>266</sup>

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<sup>256</sup> *Id.*

<sup>257</sup> *Id.*

<sup>258</sup> *Id.*

<sup>259</sup> *Id.*

<sup>260</sup> *Id.*

<sup>261</sup> *Id.*

<sup>262</sup> *Id.*

<sup>263</sup> *Id.*

<sup>264</sup> *Id.*

<sup>265</sup> *Id.*

<sup>266</sup> Jeanne’s comment on the reach of the investigating judge echoes “a saying attributed to Balzac that he is the most powerful man in France.” Rogoff, *supra* note 249, at 114.

Just as the investigation has neared its climax, so has Jeanne's personal situation. That night, Philippe attempts suicide and is hospitalized with serious injuries.<sup>267</sup> Waiting with Felix and Erika at the hospital for the doctor's report, she recalls that years earlier Philippe "said that I lacked something. That he'd tell me some day. What do I lack?"<sup>268</sup> The question goes unanswered. Later that night, following news that Philippe will recover, Felix asks his own question: whether, having "cleaned up" the corruption, Jeanne will continue her investigation.<sup>269</sup> Jeanne first responds, "There's still a lot of dirt left and right" to be dealt with. But when Felix presses his point Jeanne ends the film with a terse reply: "To hell with them."<sup>270</sup> The ambiguity resonates. Is Jeanne referring to the malefactors she has been pursuing or to the officials who have been working to derail her investigation before it reaches the most powerful actors? Is she announcing the abandonment of her case to salvage her marriage or her determination to see the investigation through to a just outcome, whatever the cost?

In its two intertwined narratives, one about Jeanne's successful investigation and the other about her troubled marriage, *Comedy of Power* provides a subtle exploration of the pressures on a woman judge with a powerful commitment to justice. Asked earlier by one of her targets why she was pursuing him so fiercely, Jeanne replied, "To set an example, once and for all. It will do the nation good."<sup>271</sup> But even with that noble goal, there is no easy resolution to Jeanne's conflict. Unlike Cornelia and Margaret, she cannot reconcile her professional and private lives with the right man. And unlike Amanda, she cannot choose to protect her marriage without abandoning a role that satisfies her more deeply than her role as Philippe's wife. The film leaves us, as it leaves Jeanne, with an unresolvable conflict between justice and love, judge and wife.

As its title signals, *The Scorpion Woman*, a 1989 Austrian film directed by Susanne Zanke, offers a darker version—and resolution—of the conflict between professional and personal roles.<sup>272</sup> At the start of the film, Lisa, one of a small number of women judges in Vienna,<sup>273</sup> has a carefully compartmentalized life. She lives with her son George, a university student, and has conducted a seven year affair with Felix, a devoted attorney.<sup>274</sup> In court, Lisa is known as "a tough one," and she is also tough in her private life, firmly putting off Felix when she has to work.<sup>275</sup>

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According to Rogoff, "[t]he exact source of this description remains undiscovered." *Id.* at n.35.

<sup>267</sup> COMEDY OF POWER (Koch Lorber 2005).

<sup>268</sup> *Id.*

<sup>269</sup> *Id.*

<sup>270</sup> *Id.*

<sup>271</sup> *Id.*

<sup>272</sup> THE SCORPION WOMAN (Satel Group 1989).

<sup>273</sup> At a course for young lawyers, another judge remarks that he has "few lady colleagues" and that most, unlike Lisa, are "ugly as sin." *Id.*

<sup>274</sup> *Id.*

<sup>275</sup> *Id.*



Teaching in a program for young lawyers, Lisa crosses paths in a garden with Rudi, a handsome student who appears, faunlike, playing his harmonica and charming her.<sup>276</sup> It is a pleasant surprise when both discover the next day that Rudi has been assigned as Lisa's law clerk.<sup>277</sup> In contrast, Lisa's dissatisfaction with Felix is apparent when she dines with him, George, and George's girlfriend in another garden setting.<sup>278</sup> When neither Felix or George is willing to keep dancing, Lisa provocatively dances alone, to the applause of the other diners, and when Felix wants to leave she insists on ordering another bottle of wine, announcing that it's "good to have a fling."<sup>279</sup> She clearly feels constrained by the limits of her personal life.

In her professional setting, Lisa presides over the trial of Mrs. Neubauer, a fifty-year-old woman accused of assaulting her fifteen-year-old lover with a fireplace poker.<sup>280</sup> Lisa sternly cautions the withdrawn defendant to "please express yourself more precisely," eliciting from her the humiliating fact that her lover called her "an old hag."<sup>281</sup> Musing aloud about the myth of Oedipus, who married his mother Jocasta, Lisa observes dryly to the courtroom that "[n]o mother marries her own son nowadays."<sup>282</sup> Yet, Lisa immediately expands her professional relationship with Rudi in a flirtatious, champagne-fueled lunch. Pretending to discuss the Neubauer case, she asks him "Would you go to bed with a woman as old as your mother?"<sup>283</sup> When he responds, "It depends on the woman," Lisa asks, "But decency, social morality, doesn't that count for you?" Rudi's reply,, "Never heard of it," only encourages Lisa.<sup>284</sup> When they arrive, both drunk, at her home later that evening, their affair begins in earnest.<sup>285</sup>

The parallel narratives of Lisa's personal and courtroom lives continue to illuminate each other. Viewing the Neubauer home, Lisa finds that, though she is childless, Mrs. Neubauer has a complete nursery, furnished with a bassinet and children's clothing.<sup>286</sup> When Felix proudly reports that his daughter is expecting a child, Lisa's immediate rejoinder is, "I hope George will spare me yet" from a similar fate.<sup>287</sup> Just as Mrs. Neubauer was compelled to give her age in court, Rudi asks Lisa directly how old she is, and she tells him that she is forty-four.<sup>288</sup> His

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<sup>276</sup> *Id.*

<sup>277</sup> *Id.*

<sup>278</sup> *Id.*

<sup>279</sup> *Id.*

<sup>280</sup> *Id.*

<sup>281</sup> *Id.*

<sup>282</sup> *Id.*

<sup>283</sup> *Id.*

<sup>284</sup> *Id.*

<sup>285</sup> *Id.*

<sup>286</sup> *Id.*

<sup>287</sup> *Id.*

<sup>288</sup> *Id.*

response, that his mother is forty-three, does not deter her.<sup>289</sup> Instead, she tells Rudi that she loves him, a statement he fails to answer.<sup>290</sup> He asks her to cut the wedding cake, complete with bride and groom, that they have pillaged from the kitchen of the inn where they are having an overnight tryst.<sup>291</sup> Lisa then bites off the groom's head, which she had wrongly assumed was made of marzipan.<sup>292</sup> She is now openly playing the role of the scorpion woman, prepared to devour her prey though encountering an unforeseen obstacle. Rudi signals that he understands her message by asking "[h]ow many men have you already eaten up?"<sup>293</sup> Lisa answers with her own question—"in court or private life?"<sup>294</sup>—that deliberately blurs the line between the two spheres.

That fusion of the professional and the private emerges clearly in court shortly afterward, as Lisa's previously harsh approach to Mrs. Neubauer's affair becomes so sympathetic that the prosecutor accuses her of "stray[ing] from an objective interrogation" and acting "like counsel for the defense."<sup>295</sup> Insisting "this is my hearing," Lisa proceeds to offer a mitigating version of the affair, one in which the injured victim deliberately seduced the defendant to win a bet with his friends.<sup>296</sup> Despite the prosecutor's angry charge of "inadmissible," Lisa takes the unusual step of addressing the jury herself to offer her reading of the defendant as a woman denied children and faced with an exploitative young man whom her husband had brought into the household.<sup>297</sup> Defending her unorthodox courtroom behavior to Felix, Lisa insists that she had to act because the young man was casting the defendant as "a monster."<sup>298</sup> By defending Mrs. Neubauer, Lisa is also defending her own behavior with Rudi. When she ends her relationship with Felix by insisting that they had "fallen asleep—years ago," he asks, "Who woke you?"<sup>299</sup> In this version of events, Lisa is not the predator but instead the fairy tale heroine awakened by her destined partner.

The fairy tale comes to a bitter end that same evening. Appearing uninvited at Rudi's apartment, Lisa learns that he and a friend are leaving the next day for Greece. She spends the evening with them, drinking, smoking marijuana, and eventually seducing the friend while Rudi cooks dinner.<sup>300</sup> When Rudi asks Lisa "Was it nice?" she insists that she did not intend to hurt him. Rudi's response, that

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<sup>289</sup> *Id.*

<sup>290</sup> *Id.*

<sup>291</sup> *Id.*

<sup>292</sup> *Id.*

<sup>293</sup> *Id.*

<sup>294</sup> *Id.*

<sup>295</sup> *Id.*

<sup>296</sup> *Id.*

<sup>297</sup> *Id.*

<sup>298</sup> *Id.*

<sup>299</sup> *Id.*

<sup>300</sup> *Id.*

what happened “has no meaning at all,”<sup>301</sup> leaves Lisa, formerly the predator, cast as the victim of a predatory male who is finished with her at precisely the moment when she thought that their relationship was her source of liberation. Driving home, she finds herself the subject of a sexual taunt by two young men crossing the street in front of her car.<sup>302</sup> When one refers to her as “that granny,” Lisa guns her engine, propelling him onto her hood and then crashing the car.<sup>303</sup> The film ends abruptly with her expression of shock and horror at her own brutal awakening.

*The Scorpion Woman* presents a dark inversion of *Comedy of Power*. Both focus on powerful women judges who, under civil law systems, exercise almost unchecked professional authority over the litigants before them. Where Jeanne’s commitment to her judicial role as the scourge of public corruption undermines her marriage, Lisa’s deliberate pursuit of Rudi undermines both her personal relationships and her judicial principles. The ambivalent ending of Jeanne’s film suggests that, whatever the choice she makes about her future, she has at least fulfilled her professional obligation by securing the exposure of men who abused the public trust. The violent ending of Lisa’s film suggests something more disturbing. Although Lisa has presumably secured a more sympathetic jury response to the defendant’s actions, she has also compromised her professional standards of neutrality and detachment by her identification with Mrs. Neubauer. At the same time her behavior has injured not only the accident victim but also Felix and George. Both films offer a harsh account of the consequences of the conflict between the personal and the professional. What Hollywood cast in comedic form, these two European films offer instead as potent and potentially tragic human dramas.

If *The Scorpion Woman* is a dark inversion of *Comedy of Power*, *Crimebroker*, a 1993 Australian film, verges on becoming an even darker parody.<sup>304</sup> This time, the magistrate at the center of the film has an undetected second career.<sup>305</sup> In her public persona, Holly McPhee seems to lead an ideally balanced existence. At work, she is a stern magistrate, seen in court refusing leniency to a drunk driving defendant, while at home she is a devoted wife to her wealthy banker husband and a sympathetic stepmother to his two teenage children.<sup>306</sup> At the same time, however, she is also the mastermind behind a series of carefully planned robberies that are executed by others, to her precise orders, without violence.<sup>307</sup> After leaving the bench, she proceeds to a railroad station, where she retrieves a suitcase from a locker and changes from her conservative business attire into a bolder outfit, comprised of a red jacket, red boots, and a curly wig, to present her latest plan to her criminal partner.<sup>308</sup>

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<sup>301</sup> *Id.*

<sup>302</sup> *Id.*

<sup>303</sup> *Id.*

<sup>304</sup> CRIME BROKER (Sogovision 1993).

<sup>305</sup> *Id.*

<sup>306</sup> *Id.*

<sup>307</sup> *Id.*

<sup>308</sup> *Id.*

Holly's successful double life is threatened by the arrival of a distinguished Japanese criminologist, Jin Okazaki, in Sydney to study the local police force's methods.<sup>309</sup> After learning of an unsuccessful attempt to rob the bank across the street from the courthouse, Jin accompanies a police officer to the scene, where he finds a dropped photograph that eventually leads him to Holly's office.<sup>310</sup> By hacking into her computer, he uncovers her plans for the robbery and inserts himself into her life.<sup>311</sup> Although she has already told her associate that the failed robbery was her last, Jin insists that the two of them replay the original scheme themselves.<sup>312</sup> They do so successfully, although this time Jin deliberately kills a teller who has interfered.<sup>313</sup> In spite of her own rejection of violence, Holly finds herself sexually aroused by the robbery and commences a deliberately risky affair with Jin.<sup>314</sup>

Unlike *Female Perversions*, *Crimebroker* makes no attempt to offer a coherent theory to explain Holly's extraordinary double life.<sup>315</sup> When Jin asks her why she commits crimes, she tells him, "It's like riding lightning. That's the only explanation you're going to get."<sup>316</sup> For his part, Jin explains his professional interest in crime to Holly's husband in a curious conversation: "Most of us are domesticated. We agree to respect each other's rights. To commit a crime, you must betray that agreement. You must be not a pet, but a fox."<sup>317</sup> Holly then defends criminals, insisting, "Some of them work quite hard at it," and aims a jab at her husband: "If you want to make real money out of crime, you have to become a company director."<sup>318</sup> Her husband responds to her sociological approach with a blend of politics and psychology, telling Jin that "Holly's by way of being a socialist" and telling Holly that "[y]ou can't help your deprived upbringing, can you love?"<sup>319</sup> These disparate explanations for what appears to be bizarre behavior by a magistrate and a criminologist are rendered even more bizarre by the film's subsequent revelation that the man calling himself Jin Okazaki is in fact an imposter, a homicidal maniac who escaped from a maximum security psychiatric facility to murder the real Okazaki and take his place.<sup>320</sup> The false Jin's modus operandi involves maneuvering other people into performing illegal acts for him and then

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<sup>309</sup> *Id.*

<sup>310</sup> *Id.*

<sup>311</sup> *Id.*

<sup>312</sup> *Id.*

<sup>313</sup> *Id.*

<sup>314</sup> *Id.*

<sup>315</sup> In his negative review of the film, Stephen Holden finds that "'Crime Broker' has the feel of a story concept that was filled out at the last moment with little idea of where to go or how to proceed." Stephen Holden, *An Uneasy Alliance Straddles Many Lines*, N.Y. TIMES, Sept. 16, 1994, at C14.

<sup>316</sup> CRIME BROKER (Sogovision 1993).

<sup>317</sup> *Id.*

<sup>318</sup> *Id.*

<sup>319</sup> *Id.*

<sup>320</sup> *Id.*

murdering them to conceal the crime.<sup>321</sup> Holly, who believes that she and Jin will abscond together to Paris after committing a final art museum robbery,<sup>322</sup> is thus doubly deluded. She believes both that Jin loves her and that they are equal partners in their criminal enterprise. In fact, he plans to kill her before leaving Sydney alone.<sup>323</sup>

In all of her many roles—legal professional, wife, lover, social critic, and criminal mastermind—Holly has shown herself to be naive, dishonest, unfaithful, and tolerant of deliberate murder. She also allows her personal turmoil to interfere with her duties. Distracted in court, she surprisingly grants bail to a suspect when she rules on a defense motion that she hasn't heard.<sup>324</sup> The police sergeant who challenges her by asking, "What the hell's got into you?" turns out to be Holly's former boyfriend, Pierce, who rejected her years before.<sup>325</sup> In a half-hearted effort to provide a feminist clue to Holly's behavior, the film has them rehash their long past break-up. Holly tells Pierce, "You have no right. You dumped me when I was eighteen years old, the day I made the quota for law at Sydney University. I was so proud." Pierce explains, "I didn't want to hold you back. I didn't know how bright you were until I saw your exam results." Still bitter, Holly retorts, "Couldn't handle a wife more intelligent than you?"<sup>326</sup> In this scenario, Holly unwittingly sacrificed love for career, while Pierce was intimidated by her academic success and entry into an exclusive university world while he became a police officer. And in yet another plot twist, it is Pierce who ends the crime spree by killing Jin, perhaps redeeming his earlier abandonment of Holly or meeting the demands of his job as Holly has not.<sup>327</sup>

There is one final exchange between Holly and Pierce when they meet at the courthouse that introduces a final ambiguity. After Holly tells Pierce, "I'm glad he didn't get you," Pierce tells her that he has evidence obtained from Jin about her role in the robberies.<sup>328</sup> Holly's response is crisp and unthreatened: "I think you should do what you have to do. I'm sorry, I'm late for court."<sup>329</sup> In the film's final scene, Holly is once again in a courtroom, but this time in the dock, a criminal defendant rather than a magistrate.<sup>330</sup> Pierce has apparently once again met his professional responsibilities, even at the cost of exposing Holly. And she, pleading not guilty, seems once again to be evading responsibility for her actions. As both a magistrate and a criminal, Holly has proved herself dangerously incompetent. The judge presiding at her trial is an older man, a traditional masculine figure sitting in judgment of Holly's corrupt version of legal authority.

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<sup>321</sup> *Id.*

<sup>322</sup> *Id.*

<sup>323</sup> *Id.*

<sup>324</sup> *Id.*

<sup>325</sup> *Id.*

<sup>326</sup> *Id.*

<sup>327</sup> *Id.*

<sup>328</sup> *Id.*

<sup>329</sup> *Id.*

<sup>330</sup> *Id.*

What are we supposed to make of this incoherent screenplay? Where the earlier films mined the tension between a woman judge's personal and professional roles for comic or serious effect, *Crimebroker* instead seems uncertain of how to treat Holly's double life. She is presented as a stern magistrate and a skillful criminal operative who rejects violence while at the same time betraying her commitment to the law and to her family. In spite of her professional and personal successes, Holly insists on viewing herself as a victim. She tells Jin, "I've never had the luxury of doing just what I like. I've never been free."<sup>331</sup> In the last scene, she seems poised to lose whatever freedom she had found in her criminal career. For purposes of this film, the betrayal of Holly's judicial role is exploited rather than explored, and the woman judge, emptied of any dignity or substance, becomes merely a plot device for an unsuccessful action flick.

#### VII. CONCLUSION

In the seventy years since Hollywood welcomed the woman judge as a useful comedic character, her off-screen progress has been dramatic. Women judges are no longer amusing rarities on the bench. Instead, as their increased presence on the Supreme Court indicates, they now enjoy unchallenged admission to the highest tiers of judicial power and influence without, as Justices O'Connor and Ginsburg illustrate, forgoing marriage and family life. Yet, ironically, their occasional on-screen counterparts continue to face the same dilemma that formed the crux of the classic woman's film, the conflict between a satisfying career and a happy marriage. This curious history of women judges in film suggests that they were more easily accommodated by the conventional romantic comedy plots of the 1940s, in which the right man can both reshape and accept a powerful professional partner than by more recent films in which a female protagonist tries on her own to combine a judicial career with a conventional private life. Those later films, both American and foreign, show their heroines struggling unsuccessfully to reconcile judicial authority with the more traditional feminine virtues of nurture and compliance.

That resurgent conflict of public and private lives in films of the late twentieth and early twenty-first centuries, itself in conflict with the reality of professional women's lives, reveals a lingering discomfort with the notion of a woman wielding judicial power without having to compromise her personal life in return. It is this element of discomfort that explains the paradox with which this Article began, the inverted relationship between the reality of women on the bench and their invented counterparts on the screen. When the woman judge was an intriguing anomaly, she fit comfortably within the conventions of romantic comedy and was allowed both professional success and personal happiness. Now, however, when she has become an accepted member of the legal establishment, her cinematic counterpart seems to be allowed the former only at the cost of the latter.

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<sup>331</sup> *Id.*

