
CULTIVATING THE TRIAL MYTH: THE HARMFUL ABSENCE OF ADR IN MOVIES

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I. INTRODUCTION

The misleading portrayal of lawyers and the legal system in film and television is well documented in the literature.¹ There is a glaring lack of representation, however, in Alternative Dispute Resolution (“ADR”) in film and television.² This gap is made even more significant when one considers how ADR is the most common method for resolving legal disputes.³ This Article is the first to quantitatively document this lack of representation and examine how, in the limited instances that do exist, ADR is frequently portrayed inaccurately and negatively. This novel framework provides a valuable tool for better understanding how representations of the legal system affect public sentiment, which in turn affects the legal system itself.

The power of movie and television portrayals to influence public opinion and public behavior is well documented. Viewers—especially adolescent

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1. See generally MICHAEL ASIMOW & SHANNON MADER, *LAW AND POPULAR CULTURE: A COURSE BOOK* (2004); 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 (2003); Charles B. Rosenberg, *An L.A. Lawyer Replies*, 98 YALE L.J. 1625 (1989); Kimberlianne Podlas, *The Tales Television Tells: Understanding the Nomos Through Television*, 13 TEX. WESLEYAN L. REV. 31 (2006) [hereinafter Podlas, *The Tales Television Tells*]; Michael Asimow, *When Harry Met Perry and Larry: Criminal Defense Lawyers on Television*, 1 BERKELEY J. ENT. & SPORTS L. 77 (2012) [hereinafter Asimow, *When Harry Met Perry and Larry*]; Kimberlianne Podlas, *Guilty on All Accounts: Law & Order’s Impact on Public Perception of Law and Order*, 18 SETON HALL J. SPORTS & ENT. L. 1 (2008) [hereinafter Podlas, *Guilty on All Accounts*]; Michael Asimow, *Bad Lawyers in the Movies*, 24 NOVA L. REV. 533 (2000) [hereinafter Asimow, *Bad Lawyers in the Movies*]; Victoria S. Salzmänn & Philip T. Dunwoody, *Prime-Time Lies: Do Portrayals of Lawyers Influence How People Think About the Legal Profession?*, 58 SMU L. REV. 411, 425 (2005); Victoria S. Salzmänn, *The Film Law Abiding Citizen: How Popular Culture is Poisoning People’s Perceptions of Pleas*, 41 SW. L. REV. 119 (2011); Michael Pfau, Lawrence J. Mullen, Tracy Deidrich & Kirsten Garrow, *Television Viewing and Public Perceptions of Attorneys*, 21 HUM. COMM’N RSCH. 307 (1995); Nancy B. Rapoport, *Dressed for Excess: How Hollywood Affects the Professional Behavior of Lawyers*, 14 NOTRE DAME J.L. ETHICS & PUB. POL’Y 49 (2000).

2. See Carrie Menkel-Meadow, *Legal Negotiation in Popular Culture: What Are We Bargaining For?*, in *LAW AND POPULAR CULTURE* 583, 583 (Michael Freeman ed., 2005).

3. See Andrew B. Mamo, *Putting the “Alternative” Back into ADR*, 70 WASH. U. J.L. & POL’Y 219, 219 (2023).

viewers—develop habits in part from observing others modeling certain behaviors.⁴ There is evidence to suggest that movies and television serve as a “super peer” to adolescents, increasing alcohol and illegal drug consumption through positive portrayals.⁵ A 2002 study found a correlation between exposure to smoking in movies and receptivity to smoking in adolescents.⁶ The predominant framework for interpreting how entertainment programming influences the perceptions of viewers is cultivation theory.⁷ This theory posits a subtle, cumulative influence whereby a viewer, after repeated exposure to a particular representation, will presume that this representation is consistent with reality.⁸

Positive depictions of LGBTQ+ individuals in the twenty-first century likely led to increased social acceptance.⁹ Repeated exposure to incompetent doctors on television results in a belief that real-life doctors are likewise incompetent.¹⁰ People who watch soap operas are more likely to overestimate the real-life rate of infidelity.¹¹ Reports of UFO sightings peak when a major alien movie is released, such as *Independence Day* and *Close Encounters of the Third Kind*.¹² The release of a new *Fast and Furious* movie corresponds with increases in speeding.¹³ Sales of the Etch-A-Sketch and Mr. Potato Head increased 4,500% and 800% respectively after they appeared in the movie *Toy Story*.¹⁴

Given the power of movies and television to affect public perceptions and behavior, it is no surprise that effective storytelling is routinely emphasized by trial advocacy experts.¹⁵ Some even advise lawyers to take a “cinematic approach” at trial.¹⁶ Others emphasize how storytelling is “the art of the

4. See *Media and Adolescent Substance Abuse*, JOHNS HOPKINS MED. (Mar. 16, 2011), <https://www.hopkinsmedicine.org/news/articles/2011/03/media-and-adolescent-substance-abuse> [<https://perma.cc/JKY5-9H4C>].

5. *Id.*

6. James D. Sargent et al., *Viewing Tobacco Use in Movies: Does It Shape Attitudes That Mediate Adolescent Smoking?*, 22 AM. J. PREVENTATIVE MED. 137, 142 (2002).

7. Podlas, *Guilty on All Accounts*, *supra* note 1, at 10.

8. *Id.* at 11.

9. See Qiran Huang, *Analyzing the Impact of Differences in Portrayal of Homosexual Situations in LGBTQ Movies on the Social Acceptance of Homosexuality*, in ADDRESSING GLOBAL CHALLENGES - EXPLORING SOCIO-CULTURAL DYNAMICS AND SUSTAINABLE SOLUTIONS IN A CHANGING WORLD 810, 810 (Parfait M. Eloundou-Enyegue ed., 2024).

10. Rebecca M. Chory-Assad & Ron Tamborini, *Television Exposure and the Public's Perception of Physicians*, 47 J. BROAD. & ELEC. MEDIA 197, 199–201 (2003).

11. L.J. Shrum, *Psychological Processes Underlying Cultivation Effects: Further Tests of Construct Accessibility*, 22 HUM. COMMUN. RSCH. 482, 482 (1996).

12. *Are UFO Sightings Linked to Sci-Fi Films?*, BBC (Aug. 17, 2009, at 13:58 GMT), http://news.bbc.co.uk/2/hi/uk_news/magazine/8205424.stm [<https://perma.cc/H4A7-HB7N>].

13. Anupam B. Jena, Aakash Jain & Tanner R. Hicks, *Do 'Fast and Furious' Movies Cause a Rise in Speeding?*, N.Y. TIMES (Jan. 30, 2018, at 19:56 ET), <https://www.nytimes.com/2018/01/30/upshot/do-fast-and-furious-movies-cause-a-rise-in-speeding.html> [<https://perma.cc/3NEV-4FE2>].

14. Kc Ifeanyi, *Disney Licensed Toy Story 4's Forky for a \$30 Talking Doll—I Made One for \$12*, FAST CO. (June 21, 2019), <https://www.fastcompany.com/90366601/disney-licensed-toy-story-4s-forky-for-a-30-talking-doll-i-made-one-for-12> [<https://perma.cc/3RFR-92GP>].

15. See, e.g., Alan Romero, *A Cinematic Approach to Storytelling at Trial*, ADVOC., Jan. 2025, at 68, <https://www.advocatemagazine.com/images/issues/2025/01-january/reprints/Romero-Jan25-article-Advocate-magazine.pdf> [<https://perma.cc/N983-8FKN>].

16. *Id.*

advocate,”¹⁷ that “[t]rial lawyers are master storytellers, and storytelling is a powerful art.”¹⁸ They highlight how “[a] story, when carefully crafted, is like a Trojan horse—it’s a vehicle for infiltrating the minds and hearts of others with a message,”¹⁹ and that “[s]torytelling is an indispensable tool in the arsenal of trial advocates.”²⁰

Even attorneys and judges are susceptible to being influenced by changing public opinion. For example, a 2008 study found that, in states where their Supreme Court justices are elected, justices were more responsive to public opinion regarding the death penalty.²¹ A 2017 study found that Colorado judges responded to public support for legal marijuana with increasingly lenient sentences.²² In examining prosecutions against draft dodgers from 1967 to 1975, a 1977 study found that as opposition to the Vietnam War grew, prosecutors were less likely to pursue, and judges were more lenient in their sentencing of, offenders.²³ And a 2026 study found that judicial opinions demonstrate a steady increase in “woke” terminology from 2018 to 2024.²⁴

II. PORTRAYALS OF ATTORNEYS

For much of the public, pop culture depictions serve as the primary—if not exclusive—window into the workings of the legal system. Movies and television, in particular, have assumed an outsized role in shaping how lawyers, judges, and legal processes are understood, often substituting dramatic convention for doctrinal accuracy. These portrayals do not merely entertain; they actively construct expectations about how law is practiced, how justice is achieved, and how legal actors ought to behave. By privileging spectacle over substance, legal dramas routinely compress timelines, exaggerate advocacy, and oversimplify—or completely ignore—complex legal principles. The result is a body of cultural narratives that bears only a loose resemblance to the realities of legal practice—narratives that risk misleading jurors, clients, future lawyers, and even judges

17. Don Gale Rushing, *Storytelling: The Art of the Advocate*, A.B.A. (Apr. 24, 2023), <https://www.americanbar.org/groups/litigation/resources/litigation-journal/2023-spring/storytelling-art-the-advocate/> [https://perma.cc/29B3-48T2].

18. M.J. Blakely, *The Power of Story: How to Use Stories at Trial and Mediation*, MILES MEDIATION & ARB. (Nov. 24, 2025), <https://milesmediation.com/blog/the-power-of-story-how-to-use-stories-at-trial-and-mediation/> [https://perma.cc/V3XD-GD2C].

19. *Id.*

20. *The Power of Storytelling in Trial Advocacy*, MISHLOVE & STUCKERT, LLC (Apr. 17, 2023), <https://www.wisconsin-owi.com/blog/2023/04/17/the-power-of-storytelling-in-214362/> [https://perma.cc/J7ED-CQG3].

21. Justin T. Pickett, *Public Opinion and Criminal Justice Policy: Theory and Research*, ANN. REV. CRIMINOLOGY, July 2019, at 405, 419–21.

22. Christina L. Boyd & Michael J. Nelson, *The Effects of Trial Judge Gender and Public Opinion on Criminal Sentencing Decisions*, 70 VAND. L. REV. 1819, 1819–20 (2017).

23. Beverly B. Cook, *Public Opinion and Federal Judicial Policy*, 21 AM. J. POL. SCI. 567, 579, 592–93 (1977).

24. Michael Conklin, *Peak Wokeness in Judicial Opinions: An Empirical Analysis of Recent Trends in Progressive Topics*, 46 LOY. L.A. ENT. L. REV. (forthcoming 2026) (manuscript at 23–24), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5352629.

themselves. This Section examines the ways in which film and television misrepresent the legal system and explores the tangible harms these distortions inflict on public understanding, professional identity, and the functioning of law in a democratic society.

Television dramas about the practice of law have been commonplace since *Perry Mason* debuted in 1957.²⁵ For entertainment purposes, these portrayals tend to focus on the sensational, creating a distorted image of the legal profession.²⁶ Because the average person has minimal engagement with attorneys and the legal system, they formulate their perception of lawyers and litigation from the portrayals they see in popular culture, as this is their only exposure to the profession.²⁷ As one expert explains, “popular culture both *constructs* our perceptions of the law and *changes* the way that the players in the legal system behave.”²⁸ Additionally, the medium of television legal dramas appears to be inadequate for portraying hard-to-visualize abstractions, such as the right against unreasonable searches and seizures and due process.²⁹

Numerous studies have measured both how attorneys are portrayed in movies and television and how this affects public perceptions. A 2006 study found that consumption of legal dramas on television was associated with an expectation of a more “active” bench.³⁰ A 1995 study found that viewers of the television shows like *L.A. Law* were more likely to believe that real-life lawyers are attractive, powerful, and of good moral character, likely because that is how the attorneys are depicted in the television show.³¹ Trial attorneys have accused television legal dramas of creating a bias referred to as the CSI effect.³² The effect results in jurors who are reluctant to convict in the absence of DNA evidence and quick to convict when any scientific evidence is presented.³³

Depictions of law practice in movies and television rarely portray the more mundane aspects of the practice of law.³⁴ This is understandable as an attorney silently searching case law and drafting motions would not make for riveting viewing. A 2005 study documented the amount of time fictional television lawyers spent on different tasks.³⁵ The study found that attorneys dedicated less than 1% of their time to conducting research and less than 1% of their time to drafting documents.³⁶ This juxtaposition between what is depicted for entertainment purposes and the reality of practicing law likely affects the expectations of real-life

25. Asimow, *When Harry Met Perry and Larry*, *supra* note 1, at 77.

26. Jason Low & Kevin Durkin, *Children’s Conceptualization of Law Enforcement on Television and in Real Life*, 6 *LEGAL & CRIMINOL. PSYCH.* 197, 197 (2001).

27. ASIMOW & MADER, *supra* note 1, at 7.

28. *Id.* at xxii.

29. Richard K. Sherwin, *Celebrity Lawyers and the Cult of Personality*, 46 *N.Y. L. SCH. L. REV.* 517, 521 (2003).

30. Podlas, *The Tales Television Tells*, *supra* note 1, at 49.

31. Pfau et al., *supra* note 1, at 325.

32. Michael Conklin, *How Coloradans View Attorneys*, *COLO. LAW.*, Oct. 2018, at 14, 14.

33. *Id.*

34. Rosenberg, *supra* note 1, at 1626.

35. Salzmann & Dunwoody, *supra* note 1, at 435–36.

36. *Id.* at 437.

attorneys. Some researchers have posited that this is the cause of the “professional melancholy,” whereby practicing attorneys are prone to dissatisfaction when tasked with completing the more boring aspects of the practice of law.³⁷ This focus on the sensational is likely why movies and television shows are more likely to feature trial attorneys as opposed to attorneys who draft wills, review real estate contracts, work on regulatory compliance, or prepare tax forms.

These studies suggest that watching legal dramas may lead to more inaccurate perceptions of the legal process. A 2006 study found that frequent viewers of legal dramas on television were more likely to file a lawsuit and to represent themselves in a legal dispute (pro se representation).³⁸ This likely indicates an overly simplistic view of the legal system and/or an overly romanticized view of the process. This study also found that people who watched legal dramas on television demonstrated a slightly worse understanding of the law compared to nonviewers.³⁹ And the public distortions of the legal process could affect trial outcomes. For example, numerous studies have found that jury verdicts are susceptible to a wide range of biases.⁴⁰

Negative portrayals of lawyers in movies and television may have far-reaching consequences.⁴¹ It could diminish the public’s willingness to be governed by laws.⁴² It could cause some to forego pursuing a legal career—or cause some to pursue a legal career for nefarious reasons.⁴³ It could cause someone in need to not seek out legal representation.⁴⁴ It could cause valuable witnesses to not cooperate when contacted by an attorney.⁴⁵ It could affect what type of lawyer a recent law school graduate will aspire to become.⁴⁶ These misrepresentations of the legal profession are of particular concern in a democracy. This is because the politicians that voters elect can dramatically change policy through legislation and appointing judges. Politicians may campaign on nuanced legal issues such as tax policy, criminal justice reform, tort reform, administrative regulation, civil rights enforcement, the scope of executive power, and constitutional interpretation. Even positive misrepresentations can be harmful. For instance, representations of defense attorneys as heroic champions for their clients

37. *Id.* at 419.

38. Podlas, *The Tales Television Tells*, *supra* note 1, at 50.

39. *Id.* at 51. However, this finding did not reach statistical significance. *Id.* at 51–52.

40. See Michael Conklin, *I Knew It All Along: The Promising Effectiveness of a Pre-Jury Instruction at Mitigating Hindsight Bias*, 74 BAYLOR L. REV. 307, 308 (2022); Michael Conklin, *#MeToo Effects on Juror Decision Making*, 11 CAL. L. REV. ONLINE 179, 179–80 (2020); Michael Conklin, *Reasonable Doubt Ratcheting: How Jurors Adjust the Standard of Proof to Reach a Desired Result*, 95 N.D. L. REV. 281, 284 (2020); Michael Conklin, *Combating Arbitrary Jurisprudence by Addressing Anchoring Bias*, 97 WASH. U. L. REV. ONLINE 1 (2019); Michael Conklin, *The Effectiveness of Bayesian Jury Instructions in Mitigating the Defense Attorney’s Fallacy*, 9 HOU. L. REV.: OFF REC. 73, 74–75 (2019).

41. Asimow, *Bad Lawyers in the Movies*, *supra* note 1, at 550–53.

42. Rapoport, *supra* note 1, at 51.

43. *Id.* at 51–55.

44. *See id.*

45. *See id.*

46. *Id.* at 53.

create a false impression when compared to the reality of overworked public defenders.⁴⁷

The depiction of female attorneys in pop culture is also problematic in that it often promotes harmful gender stereotypes. Women are frequently portrayed as less concerned about their legal career and more concerned with finding romance.⁴⁸ Similarly, women are less likely to be depicted as a hero than their male counterparts.⁴⁹ And there is an increased likelihood that female attorneys will be depicted as having difficulty balancing their professional and personal lives.⁵⁰ These stereotypical portrayals seem to negatively affect public perceptions of female attorneys. For instance, a 2018 study found that both men and women prefer male attorneys to female attorneys holding all other variables constant.⁵¹

The overlap of movies and television with the law also appears to be negatively affecting judges who are increasingly using pop culture references in their judicial opinions.⁵² These references further blur the lines between reality and fictional representations of the law.⁵³ Additionally, these references are problematic in that they are easily misunderstood (especially by marginalized populations), depict judges as more interested in self-promotion, are often interpreted as indicative of arbitrariness, and could be interpreted as the judge making fun of the litigant's plight.⁵⁴

The sensationalization of trials in pop culture is likely due in part to how Hollywood often uses a courtroom setting as a tool to promote societal and political positions.⁵⁵ This produces the false notion that cases are won not by arguing precedent and the facts, but instead by making impassioned arguments about what the law should be. This could result in clients who refuse to accept an attorney's advice as to whether a case is winnable.

Perhaps the most unreasonable depiction of attorneys in movies and television involves the speed with which they try cases. Fictional attorneys on television are often depicted as being assigned a case at the beginning of the week and concluding the trial by the end of the week.⁵⁶ This is highly unrealistic as civil and criminal trials can take over a year to reach a verdict.⁵⁷

47. See Asimow, *When Harry Met Perry and Larry*, *supra* note 1, at 97.

48. ASIMOW & MADER, *supra* note 1, at 188.

49. Corcos, *supra* note 1, at 1227.

50. ASIMOW & MADER, *supra* note 1, at 187 (providing the example of the female attorney in the movie *I Am Sam*, who has a somewhat messy personal life).

51. Michael Conklin, *The Effects of Race and Gender on Attorney Selection*, 20 RUTGERS RACE & L. REV. 1, 6 (2018).

52. Michael Conklin, "Be a Lot Cooler if You Didn't": *Why Judges Should Refrain from Pop Culture References in Judicial Opinions*, 46 J. LEGAL PRO. 139, 141 (2021).

53. *Id.*

54. *Id.*

55. Salzmann, *supra* note 1, at 126.

56. See Salzmann & Dunwoody, *supra* note 1, at 432–33.

57. *How Long Does a Civil Lawsuit Take? A Timeline of the Process*, KOHAN L. GRP. (Mar. 20, 2025), <https://kohanlawgroup.com/how-long-does-a-civil-lawsuit-take-a-timeline-of-the-process/> [<https://perma.cc/W39V-DWJ6>]; Micah Schwartzbach, *How Long Do Criminal Cases Take?*, NOLO (Oct. 15, 2024), <https://www.nolo.com/legal-encyclopedia/how-criminal-cases-take.html> [<https://perma.cc/7JRD-RFHQ>].

The most absurd depiction of this likely comes from the first episode of the television show, *Ally McBeal*.⁵⁸ In the span of only three days, she files a sexual harassment complaint against a co-worker which gets Ally fired, she acquires a lawyer to sue that firm for wrongful termination, she participates in depositions for this dispute, she gets a new job at a new law firm, the new law firm assigns her a case, she loses that case at the trial court level, she appeals the trial court decision, she has oral arguments on this appeal, she receives a judgment in her favor from the appellate court, in an unrelated matter she lands a big client for the new firm after discovering a loophole that saves them money on their taxes, and she still has time to go out dancing one night and go to a piano lounge the other.⁵⁹

If a person seeking representation mistakenly believes that an attorney can litigate a case from inception to a verdict in just two days, then the attorney's fees are likely to be viewed as excessive. Perhaps this contributes to why the public has such a low opinion of lawyers.⁶⁰

These misrepresentations distort the perceptions of even real-life judges, lawyers, and law students. A 2001 study found that the attitudes of law students towards ethical and unethical lawyer behavior resulted from exposure to legal dramas on television.⁶¹ The misperceptions of attorneys from watching shows like *L.A. Law* discussed above are also present among real-life lawyers.⁶² And this is despite the fact that lawyers appear to be well aware of the problem of how movies and television distorts the image of their profession, as this is a frequent complaint among practicing lawyers.⁶³ Even judges are not immune from the influence of movies and television. They are exposed to the same depictions of the legal system—often including passionate depictions of what the process *should* be.⁶⁴

Other depictions also create a distorted perception of the legal profession. Television coverage of real-life trials is unfortunately one example.⁶⁵ This is because outlets such as *Court TV* are more likely to cover the more high profile trials and focus on the more sensational aspects of those trials.⁶⁶ Also, there are numerous other examples of how media coverage of legal issues is often presented in a biased manner.⁶⁷ The Supreme Court is so skeptical of how coverage

58. ALLY MCBEAL: *Pilot* (Fox television broadcast, aired Sep. 8, 1997).

59. *Id.*

60. *See id.*

61. Carrie Menkel-Meadow, *Can They Do That? Legal Ethics in Popular Culture: Of Characters and Acts*, 48 UCLA L. REV. 1305, 1315 (2001).

62. Pfau et al., *supra* note 1, at 325.

63. Asimow, *When Harry Met Perry and Larry*, *supra* note 1, at 95–96.

64. Salzmann & Dunwoody, *supra* note 1, at 423.

65. *Id.* at 429.

66. *Id.*

67. *See, e.g.*, Michael Conklin, “Officer-Involved Shootings”: *How the Exonerative Tense of Media Accounts Distorts Reality*, 12 U. MIA. RACE & SOC. JUST. L. REV. 53, 54 (2021); Michael Conklin, *The Truth Can Be Deceiving: How Criminal Justice Headlines Are Misinterpreted*, NE. U. L. REV.: EXTRA LEGAL (Mar. 21, 2020), <https://nulawreview.org/extralegalrecent/2020/3/21/the-truth-can-be-deceiving-how-criminal-justice-headlines-are-misinterpreted> [<https://perma.cc/3AX5-KDZM>]; Michael Conklin, *The Inflation of Black Crime*

of its oral arguments will be presented that they ban video recordings altogether.⁶⁸ Sometimes the distinction between legal fiction and legal reality is blurred. For example, works of literary fiction from author John Grisham—some of which have been made into movies—have been permitted to play a role in real-life cases.⁶⁹

III. PORTRAYALS OF ALTERNATIVE DISPUTE RESOLUTION

Although trials dominate cinematic and televisual portrayals of the legal system, they represent only a small fraction of how disputes are actually resolved in the United States.⁷⁰ In practice, ADR has become the default mechanism for resolving both civil and, in some contexts, quasi-criminal disputes, operating largely outside the public courtroom and beyond the confines of adversarial litigation.⁷¹ Despite its prevalence, ADR remains largely invisible in popular film. This Section situates arbitration and mediation within the broader ADR framework and examines how their near-absence, and occasional misrepresentation, in movies contributes to harmful public misunderstanding about how legal disputes are resolved. By comparing the realities of ADR to its sparse and often inaccurate cinematic depictions, this Section highlights a consequential gap between legal practice and popular legal consciousness, one that carries implications for litigant behavior, policy debates, and the perceived legitimacy of dispute resolution in a democratic society.

Alternative dispute resolution encompasses a variety of non-judicial processes used to resolve a legal dispute.⁷² Examples include arbitration, mediation, case evaluation, mini-trial/mock trial, and negotiation.⁷³ Given its widespread use compared to trial, it is sometimes referred to as “appropriate dispute resolution.”⁷⁴ Arbitration and mediation are the two main forms of ADR and are therefore the two used for this study.⁷⁵

Arbitration is a non-judicial dispute resolution process where the parties agree to have a private neutral—the arbitrator—hear from both sides and then

Statistics: Age-Adjusted Rates Paint a More Accurate Picture, 25 U.C. DAVIS SOC. JUST. L. REV. 40, 42 (2020); Michael Conklin & Louis S. Nadelson, *Supreme Court Coverage: Using Kelo and Citizens United to Measure Media Bias*, NEB. L. REV.: BULL. (June 26, 2018), <https://lawreview.unl.edu/supreme-court-coverage-using-ke-lo-and-citizens-united-measure-media-bias/> [https://perma.cc/R2SD-ELA8].

68. See Nancy S. Marder, *The Conundrum of Cameras in the Courtroom*, 44 ARIZ. ST. L.J. 1489, 1491–93 (2012).

69. Salzmann & Dunwoody, *supra* note 1, at 423–24.

70. See John H. Langbein, *The Disappearance of Civil Trial in the United States*, 122 YALE L.J. 522, 522 (2012) (“Since the 1930s, the proportion of civil cases concluded at trial has declined from about 20% to below 2% in the federal courts and below 1% in state courts.”).

71. See Mamo, *supra* note 3.

72. *Dispute Resolution Overview*, A.B.A., https://www.americanbar.org/groups/dispute_resolution/resources/overview/ [https://perma.cc/K5NA-WESV] (last visited Mar. 9, 2026).

73. *Id.*

74. *Id.*

75. See Larry D. Foster, II, Michael Conklin, David Orozco, Carrie Shu Shang & Lawrence J. Trautman, *Alternative Dispute Resolution: A Comprehensive Review and Call for Reform*, 28 ATL. L.J. 164, 170 (2025).

render a binding decision.⁷⁶ Arbitrations generally remain confidential, including the final award.⁷⁷ And the process is streamlined with relaxed evidentiary and procedural rules.⁷⁸ Over the last 100 years there has been a steady increase in arbitrations relative to trials.⁷⁹ This is likely the result of the judiciary adopting ever-increasingly more expansive jurisprudence toward the use of compelled arbitration clauses and the enforcement of arbitrators' decisions.⁸⁰

Mediation is another private, non-judicial form of ADR.⁸¹ In a mediation, the neutral acts as a facilitator, helping the disputing parties reach an agreement.⁸² In contrast to arbitration, a mediator does not render a binding decision.⁸³ Though a mediator may render a "mediator's proposal" whereby they suggest final agreement terms, the parties remain free to reject this suggestion and, if not forbidden by prior agreement, to take the matter to court.⁸⁴

The methodology for this study was initially intended to be a rather ambitious one: to document every instance of American ADR in popular movies. Each occurrence would be coded for the release date of the movie, the gender of the neutral presiding over the process, whether it was a mediation or an arbitration, whether the neutral and the process were portrayed in a positive or negative light, and the accuracy of the portrayal. It quickly became apparent, however, that there were not enough instances of ADR in movies to perform such a quantitative analysis. Therefore, a qualitative analysis is performed instead.

After thorough searching, only eight movies depicting mediation or arbitration in the U.S. were found. These were *The Break-Up*,⁸⁵ *The Change-Up*,⁸⁶ *Disclosure*,⁸⁷ *Erin Brockovich*,⁸⁸ *Life of the Party*,⁸⁹ *Marriage Story*,⁹⁰ *Mediation*,⁹¹ and *Wedding Crashers*.⁹² While this limited sample size did not allow for the detailed, quantitative analysis initially hoped for, a qualitative analysis can

76. Michael Conklin, *To Infinity and Beyond All Reasonable Bounds of Arbitration Clauses: Disney's Attempt to Compel Arbitration in a Restaurant Wrongful Death Claim from a Disney+ Arbitration Clause*, 40 OHIO ST. J. ON DISP. RESOL. 185, 186 (2025).

77. Ryan A. Faulkner, Note, *Critical Analysis: How Mandatory Arbitration Agreements Perpetuate Racial Inequality in the NFL*, 60 HARV. C.R.-C.L. L. REV. 217, 233 (2025).

78. Michael Conklin, *Benchmarked for Arbitration: Work Avoidance as an Explanation for Why Judges Have Become Increasingly Favorable Toward Compelled Arbitration*, 2024 PEPP. L. REV. 129, 132.

79. See Michael Conklin, *The Arbitration Web Ensnaring Every Consumer: The Next Evolution in Corporate Strategy to Compel Arbitration*, 78 MAINE L. REV. (forthcoming 2026) (manuscript at 4–8), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5112193 (documenting the steady growth of arbitration from the 1600s to present day).

80. Conklin, *supra* note 78, at 139–41.

81. *Dispute Resolution Overview*, *supra* note 72.

82. *Id.*

83. *Id.*

84. See Erin R. Archerd, *Evaluating Mediation's Future*, 2020 J. DISP. RESOL. 31, 49 (2020).

85. THE BREAK-UP, Amazon Prime (Wild West Picture Show Productions 2006).

86. THE CHANGE-UP, Amazon Prime (Original Film, Relativity Media & Big Kid Pictures 2011).

87. DISCLOSURE, Amazon Prime (Warner Bros., Constant c Productions & Baltimore Pictures 1994).

88. ERIN BROCKOVICH, Peacock (Universal Pictures, Columbia Pictures & Jersey Films 2000).

89. LIFE OF THE PARTY, Amazon Prime (New Line Cinema & On the Day Productions 2018).

90. MARRIAGE STORY, Netflix (Heyday Films 2019).

91. Francisco Lorite & Bill Winett, *MEDIATION* (2014).

92. WEDDING CRASHERS, HBO Max (Tapestry Films 2005).

still be conducted. Furthermore, the small sample size elicits a more important discussion surrounding the lack of representation of ADR.

The lack of representation of ADR in movies compared to the widespread representation of trials is a particularly glaring omission when one considers how legal disputes are resolved in the real world. At the state court level, civil trial disposition rates are generally less than one percent.⁹³ And criminal cases are similarly unlikely to result in a jury verdict.⁹⁴ Therefore, it is the trial that is truly the “alternative” method to dispute resolution, with ADR being the primary method. The reality that even some students starting law school at an Ivy League institution have never heard of ADR is illustrative of the problem.⁹⁵

The eight movies that featured ADR demonstrated varying levels of accuracy. In *Erin Brockovich*, which is based on a real-life case, the attorney accurately explained that in arbitration there is no jury, it is similar to a trial, and the decision is final.⁹⁶ In *Life of the Party*, the mediator accurately corrects the parties who are mistakenly treating the mediation as a court hearing and the mediator as a judge.⁹⁷ The most common mistake in representing ADR is likely the distinction between mediation and arbitration. In *The Change-Up*, the self-described “mediator” states that “any and all agreements made during this mediation are binding”⁹⁸—which would be more like an arbitration. But this mediator then relays settlement offers between the parties and allows them to reach an agreement as a mediator would.⁹⁹ In *Disclosure*, the process takes place at a “mediation center,” the neutral starts by saying “this is a mediation,”¹⁰⁰ but it proceeds like an arbitration with both sides represented by attorneys, cross examination of witnesses, and a stenographer recording testimony.

In movies, the ADR process is sometimes portrayed positively and sometimes negatively. In *Wedding Crashers*, the mediation was ultimately successful, but only because the parties agreed to the incompetence of Owen Wilson and Vince Vaughn’s characters as mediators, and therefore were more willing to reach an agreement to avoid any further dealings with them.¹⁰¹ In *Marriage Story*, the divorce mediator was professional but ultimately unsuccessful because Scarlett Johansson’s character refused to participate.¹⁰² In *The Break-Up*, the

93. Jeffrey Q. Smith & Grant R. MacQueen, *Going, Going, but Not Quite Gone: Trials Continue to Decline in Federal and State Courts. Does It Matter?*, JUDICATURE, Winter 2017, at 26, 28, <https://judicature.duke.edu/wp-content/uploads/sites/3/2020/06/JUDICATURE101.4-vanishing.pdf> [<https://perma.cc/V4V9-SM6P>].

94. Carrie Johnson, *The Vast Majority of Criminal Cases End in Plea Bargains, a New Report Finds*, NPR (Feb. 22, 2023, at 05:00 ET), <https://www.npr.org/2023/02/22/1158356619/plea-bargains-criminal-cases-justice> [<https://perma.cc/68QG-CX28>].

95. See Valerie Gutmann, *The Draw and Importance of Alternative Dispute Resolution: Perspectives from HNMCP Student Leaders*, HARV. NEGOT. & MEDIATION CLINICAL PROGRAM, <https://hnmcp.law.harvard.edu/hnmcp/blog/the-draw-and-importance-of-alternative-dispute-resolution-perspectives-from-hnmcp-student-leaders/> [<https://perma.cc/AMH5-24NR>] (last visited Mar. 9, 2026).

96. ERIN BROCKOVICH, *supra* note 88.

97. LIFE OF THE PARTY, *supra* note 89.

98. THE CHANGE-UP, *supra* note 86, at 1:25:45.

99. *Id.*

100. DISCLOSURE, *supra* note 87, at 1:05:43.

101. WEDDING CRASHERS, *supra* note 92.

102. MARRIAGE STORY, *supra* note 90.

mediator initially allows the parties to engage in unproductive personal attacks but later refocuses them on the central issue—who gets the apartment—despite having a personal interest in the outcome.¹⁰³ In *Disclosure*, the neutral was professional, maintained control of the proceedings, and the truth came out.¹⁰⁴

The glaring omission of not portraying ADR in movies and sometimes portraying it in a negative light likely results in numerous negative consequences. When the overwhelming instances of disputes are resolved through trial in movies,¹⁰⁵ this promotes the false notion that this is what happens in the real world. If two parties to a real-world dispute incorrectly believe that trial is the only available avenue to resolve a legal dispute, they are unlikely to pursue ADR. This could result in wasted time and money.

Because a trial is based on the adversarial system, promoting the notion that trials are the standard inaccurately promotes antagonism between real-life parties.¹⁰⁶ This is unfortunate because trials often result in lose-lose outcomes when there are win-win options that can be reached through the use of ADR. This problem may be made worse by the fact that people who watch a lot of television perceive the world as more cruel—*i.e.* they believe people to be less trustworthy—which would likely lend more towards trial than a mutually beneficial ADR process.¹⁰⁷

The lack of understanding regarding the prevalence of ADR that results from its lack of representation in movies is further harmful in a democracy where there are contested public policy issues surrounding ADR. Voters need to be aware of these issues in order to make informed voting decisions.

The deceptive portrayals of the legal process in general and ADR specifically are exacerbated when one considers other aspects of legal education. A common criticism of legal education is that it focuses too much on the blackletter law at the cost of covering the pragmatic aspects.¹⁰⁸ Examples of these pragmatic aspects include whether the time and stress of pursuing legal recourse is worth it, the discomfort of putting your friends and family through depositions and hostile cross examination, what is provable at trial (witnesses may lie), how sympathetic witnesses will be perceived by the jury, attorney's fees which can exceed forty percent and may not include court costs, the undesirability of making private matters public, and the potential inability of a defendant to satisfy a judgment.

103. THE BREAK-UP, *supra* note 85.

104. DISCLOSURE, *supra* note 87.

105. Salzmann & Dunwoody, *supra* note 1.

106. Menkel-Meadow, *supra* note 2.

107. See Marti Cecilia Collins, *Ripped from the Headlines: The Use of Real Crime in Law & Order Episodes*, 2009 J. INST. JUST. & INT'L STUD. 88, 89–90.

108. See, e.g., Michael Conklin, *Scott's Tots: A Class Activity in Contract Formation*, 42 J. LEGAL STUD. EDUC. 23, 28 (2025).

IV. THE FUTURE

Technological and cultural shifts are reshaping how the public learns about the legal system, often in ways that further distort rather than illuminate the realities of legal practice. Social media platforms, remote work, and emerging artificial intelligence tools increasingly function as primary sources of information about the legal system, yet each may prioritize speed and sensationalism over accuracy.¹⁰⁹ As these forces supplant traditional avenues of informal legal knowledge, the gap between popular perceptions of law and its everyday operation is likely to widen. This Section examines how these developments exacerbate existing misconceptions, while also exploring a limited but promising pedagogical opportunity to counteract those effects through deliberate and critical engagement with pop-culture depictions of legal processes.

With social media quickly taking over as the dominant form of entertainment, the inaccuracies regarding the practice of law in general and ADR specifically, are likely to get worse. Misinformation travels faster on social media than accurate information.¹¹⁰ Social media accounts of legal disputes are more likely to focus on those that are resolved at trial, rather than a private mediation.¹¹¹ Social media is reducing our attention spans, which incentivizes overly simplistic takes on complex issues.¹¹²

Recent increases in remote work may also exacerbate the negative effects discussed in this Article. This is because increases in remote work may result in fewer real-world interactions involving discussions of the legal system and therefore an increasing reliance of pop culture depictions of the practice of law. Such pop culture depictions, which disproportionately focus on the sensational, are a poor replacement for the use of social circles to hear about commonplace, real-world legal disputes.¹¹³

The rapid adoption of artificial intelligence is also likely to amplify the problems from this Article. This is because artificial intelligence platforms such as ChatGPT and Google Gemini are large language learning models that sometimes have difficulty distinguishing between the frequency of representations and the accuracy of representations.¹¹⁴ This issue is further problematic because

109. See Joe Tidy, *AI 'Slop' Is Transforming Social Media - and a Backlash Is Brewing*, BBC (Feb. 4, 2026), <https://www.bbc.com/news/articles/c9wx2dz2v44o> [https://perma.cc/5PM5-8JCC].

110. Peter Dizikes, *Study: On Twitter, False News Travels Faster than True Stories*, MIT NEWS (Mar. 8, 2018), <https://news.mit.edu/2018/study-twitter-false-news-travels-faster-true-stories-0308> [https://perma.cc/U5QY-FCH5].

111. See Salzman & Dunwoody, *supra* note 1.

112. *Speaking of Psychology: Why Our Attention Spans Are Shrinking*, with Gloria Mark, PhD, AM. PSYCH. ASS'N (Feb. 2023), <https://www.apa.org/news/podcasts/speaking-of-psychology/attention-spans> [https://perma.cc/2K7S-V8CM].

113. Furthermore, there is evidence to suggest that working remotely leads to increased unethical behavior. Cf. Michael Conklin, *Lowering the Bar for Cheating: An Explanation of Remote-Proctored Bar Exams and Cheating*, 49 J. LEGAL PRO. 1, 8 (2024) (finding a large increase in cheating “that coincided with remote proctoring of the bar exam”).

114. See Kristie Wright, *ChatGPT Large Language Model: Everything You Need to Know*, INDATA LABS (Sep. 12, 2023), <https://indatalabs.com/blog/chatgpt-large-language-model> [https://perma.cc/4G99-4MU9].

artificial intelligence is rapidly being adopted for legal scholarship and the practice of law.¹¹⁵

There is one glimmer of hope, however, regarding how technological advancements may help alleviate the problem. Depictions of the legal system from film and television may be utilized to help better inform. This is because the use of movie clips in the higher education classroom is an effective active learning tool.¹¹⁶ Even if the video depiction is inaccurate, it can nevertheless be used as an illustration of how pop culture often gets things wrong regarding the legal process. Therefore, these class activities can help cultivate the critical reasoning skills of students which is an additional defense against future misrepresentations they may be exposed to.

V. CONCLUSION

Popular culture does not merely reflect the legal system; it actively participates in constructing public understanding of how law functions and how disputes are resolved. While the misleading portrayal of lawyers and trials in film and television has been well explored, this Article has shown that the more consequential distortion lies in what popular culture omits altogether. ADR—now the dominant mechanism for resolving legal disputes—is largely invisible in movies. And when it does appear, it is frequently mischaracterized in ways that blur doctrinal distinctions, undermine its legitimacy, and confuse audiences about its benefits.

By systematically surveying depictions of ADR in American film, this Article provides the first empirical account of ADR's cinematic absence and inconsistency. These portrayals stand in sharp contrast to the reality of how legal disputes are resolved. The consequences of this distortion are not merely academic. Cultivation theory suggests that repeated exposure to inaccurate legal narratives shapes public opinion. There are numerous negative consequences to depicting trials as the standard method for resolving legal disputes. These include perpetuating harmful stereotypes of an overly adversarial legal system thus discouraging mutually beneficial resolutions, keeping hidden the numerous benefits of ADR, and impeding informed public debate over contested public policy issues. These harms are magnified by gaps in legal education and the growing influence of social media which incentivizes the sensational. As ADR continues to expand in scope and significance, its absence from popular legal narratives becomes increasingly problematic. Bridging the gap between legal reality and popular representation is therefore not simply a matter of cultural accuracy; it is essential to the legitimacy, accessibility, and democratic accountability of modern dispute resolution.

115. Michael Conklin & Christopher Houston, *Measuring the Rapidly Increasing Use of Artificial Intelligence in Legal Scholarship*, 15 ST. MARY'S J. ON LEGAL MALPRACTICE & ETHICS 309, 311 (2025).

116. Conklin, *supra* note 108, at 24.