

TEXAS ETHICS: HOLLYWOOD STYLE

UNIVERSITY OF TEXAS LAND USE PLANNING LAW CONFERENCE

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Hollywood is well known for its glitter and glitz. Hollywood, through its most visible medium, the film industry, has provided a long history of providing entertainment and a release from reality for millions of people worldwide. But Hollywood is not all frivolity and fun. The film industry has also been an important vehicle for political and social commentary. Today, I intend to utilize Hollywood as a teaching tool. Hollywood has made pictures about and involving lawyers since the days of the silent films.¹ During the 1950's and 1960's, lawyers in film tended to be decent people and ethical, competent professionals. Starting in the 1970's, lawyers were portrayed as just the opposite.² This paper presents an abbreviated look at lawyers in film.

Every state in the United States and every province in Canada have established some rules governing the ethical conduct of members of the bar. Many states base their ethical rules on the American Bar Association's Model Rules of Professional Conduct. This paper will take a similar course. Law schools and clinical programs throughout the United States and Canada instruct students on the "proper" way to conduct trials and engage in the practice of law. Hollywood has a slightly different way of looking at the practice of law and of trial techniques. This paper will highlight some of the more popular Hollywood portrayals and compare how Hollywood goes to trial with how law schools and clinical programs traditionally teach lawyers to try cases. We will begin with some opening considerations and progress through the various stages in a trial finishing with closing argument. Along the way we will discuss issues such as discovery, attorneys giving testimony in their own trials and client confidences.

Opening Considerations Deck's Big Three

Early on in the film *The Rainmaker*³ the young protagonist Rudy Baylor, played by Matt Damon finds himself in the corridors of a hospital accompanied by Deck Shifflet (Danny Divito). Baylor and Shifflet are in the employ of attorney Bruiser Stone (Mickey Rourke). Rudy and Deck are charged with finding clients for Bruiser, and according to Deck “what better place than a hospital?” Deck and Rudy have just “signed up” a new client, Mr. Van Landel (James Cunningham), who was bedridden, in extreme pain and probably under the influence of pain killing narcotics. Rudy’s uneasiness persists during their walk to the elevator when Rudy finally proclaims “that was blatant ambulance chasing.” Deck responds in terms that of the surface appear superficial, but in reality form the cornerstone of ethics teachings; the Big Three “fight for his client, refrain from stealing money and try not to lie.”

“Fight for your client” embodies the ethical requirements of Rule 1.3 mandating that a lawyer shall not neglect a legal matter entrusted to him and Rule 3.2 that requires a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client. Rule 3.2 is the modern counterpart to the Model Code section DR 7-101 that required an attorney to represent a client zealously.

“Refrain from stealing money” is Deck’s way of encapsulating a centuries old prohibition against taking something that does not belong to you; “Thou shalt not steal.”⁴ It is fairly uncommon for lawyers to steal. The probability of getting caught is high, as evidence of stealing is often difficult to hide. Disciplinary Boards are rather uncompromising and unforgiving of lawyers who engage in this practice. See Rule 1.15

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