

the closer

By Stacy D. Phillips

Reality Divorced

Like Perry Mason of the past, TV law shows today entertain but don't show the truth.

Remember the old television series Perry Mason? Like many others of my generation who grew up during the heyday of this weekly trek into the halls of justice, my first impressions of the practice of law were of those dramatic courtroom scenes wherein, at the last moment, someone rushed to the front of the courtroom, clutching the envelope containing new evidence that ultimately proved the innocence of Mason's client and magically extracted a confession from the real culprit (who, inexplicably, always attended the trial). The show then concluded amidst a confetti of triumphant hugs and expressions of everlasting gratitude to the heroic Mason.

Not a very realistic portrayal of lawyering. Well, I'd like to say "we've come a long way, baby" from those days. Unfortunately, I don't believe we have—at least, not as can be gleaned from the current family law-based television shows.

It is little wonder, however, that these programs have gained popularity. After all, according to statistics, the number of couples who have "been there, done that" is 49 percent nationwide, jumping to approximately 75 percent in California (a disgraceful percentage even if divorce has shed that adjective). And among single people and those fortunate couples whose marriages do not bear a case number, it would be impossible to find someone without either a divorced relative or friend. So, we can all "relate."

But what impressions of family law do these programs convey to the public and how might they ultimately affect the practice of family law? Those questions were brought home to me one morning several weeks ago when a few of the secretaries were chatting together over coffee before the computers booted up and the day officially began.

"So, Stacy," one of the secretaries asked, "attorneys can't really do that stuff, can they?"

"What stuff?" I asked.

"On 'Family Law,' there was an order to show cause hearing that was continued. So it hadn't been decided yet, and there's a scene in the parking lot where one of the attorneys is having a friendly little chat about the case with the judge hearing the matter. I mean, that's not really kosher, is it?"

"Oy vey," I exclaimed and slapped my forehead with the palm of my hand. "That's called an ex parte communication, and nooooo, we can't do that stuff."

But that's only one of many misleading scenes which weave their way into our living rooms. A recent episode of "Family Law" showed the resolution of an extremely complex custody issue as though with a magic wand. Even opposing counsel seemed absent from the script. In reality, this case would have taken many, many months to decide, involving extensive psychological testing, a psychological evaluation, therapy, possibly monitored visitation and maybe separate legal representation for the child.

Scenarios such as the above could leave some real-life family law attorneys in much the same predicament that many doctors complain of. "But Doc, I don't want that medicine. I want that stuff that pretty blonde actress takes for her sneezes and sniffles."

A family law client already has a whole steam-trunk full of snarls to untangle. It's a tough job made tougher by such television-inspired statements such as, "When the judge hears my story, I'm sure she'll make him reimburse me," or "Why can't you get those kids away from her? I've already explained to you that she's horrible. And why are you not completely, personally and emotionally involved in my case? You did not even come with me last weekend for my child visitation!"

In addition to blurring the role of the attorney, television greatly oversimplifies the issues that fall under the wing of family law and the remedies that attempt to resolve those issues. Divorce, from the initial filing of the petition to entry of final judgment, is a long, painful journey, especially when children are involved. A man or a woman in the death throes of a marriage must deal with some of the most demanding emotional, physical, financial and spiritual struggles he or she may ever face. It is seldom over after a few conferences with one's lawyer, an emotional scene with the "ex," and a day in court.

Television looks no farther down the road at the aftermath of divorce, the lifelong devastating effect it has on some children, the financial struggle when the support check does not arrive on time or the relationship problems with an ex's second family.

A family law practice consists of a lot of plain, hard work. In addition to depositions, document productions, interrogatories and subpoenas, form after tedious form must be painstakingly filled out and filed with the court. The work is mundane, time-consuming and expensive. Yet television depicts law firms almost devoid of activity—no support staff in sight, no computers are humming, no phones are ringing, no copy machines are whirring. No papers are in sight, not even a telltale Bekins box trying to find its way to storage.

And what about actual court hearings? "Divorce Court," in order to preserve the show's entertainment value, understandably deviates from the rules of evidence and strict courtroom procedure. But, even allowing for this, a hearing in a court of law is not a free-for-all, a side show, a three-ring circus in which the judge doubles as ring master. A friend of mine remarked that she has seen more decorum in traffic court. A 15-minute recitation of a divorcing couple's bedroom practices is irrelevant in a no-fault state. Representations such as this do nothing to remove the tarnish from the public's perception of lawyers and the court system.

I do not contend that these programs fail consistently in their portrayal of family law. On the plus side, if these shows do not always illustrate the processes and dynamics of family law in a realistic light, they do pinpoint and highlight very real and complicated issues and situations. But can't these family-law programs commit to a more realistic approach to, and resolution of, those issues and processes and still retain their entertainment value? I think so. On the surface, television law certainly "walks the walk and talks the talk," but why not delve deeper? Why not expand the more sophisticated and challenging questions and scenarios to two or even three episodes and render more accurately the challenges faced by all who are involved in the real world of family law attorneys and the public, alike.

Family law itself is grappling with ever new and challenging issues and questions, resulting in decisions with far-reaching and serious effects in a rapidly changing society. What transpires in family court affects not only the parties to a case, but all of us. We need only switch the channel to the 10 o'clock news for evidence of this. In this whirlwind of change, the traditional family unit struggles for survival. Would it not be preferable if these shows, through imparting a deeper understanding of this serious social issue, actually had the effect of reducing that 75 percent divorce rate statistic to a number a little less "disgraceful?"

And as for all that old Perry Mason type stuff? Well, sitting here in Department 27 waiting for my case to be called, I must admit that it would be fun—just once—to see an associate from my office burst into the courtroom waving respondent's real Income and Expense Declaration. Just once... please?

Stacy D. Phillips is a founding partner of Mannis & Phillips, a Los Angeles law firm.

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