THE CULTURAL LIVES OF CAUSE LAWYERS

This book seeks to illuminate what we call the cultural lives of cause lawyers by examining their representation in various popular media (including film, fiction, mass-marketed nonfiction, television, and journalism), the work they do as creators of cultural products, and the way those representations and products are received and consumed by various audiences. By attending to media representations and the culture work done by cause lawyers, we can see what material is available for citizens and others to use in fashioning understandings of those lawyers. This book also provides a vehicle for determining whether, how, and to what extent cause lawyering is embedded in the discourses and symbolic practices around which ordinary citizens organize their understanding of social, political, and legal life.

This book brings together research on the legal profession and work that takes up the analysis of popular culture. Contributors include scholars of popular culture who turn their attention to cause lawyers and experts on cause lawyering who in turn focus their attention on popular culture. This is a joining of perspectives that is both long overdue and fruitful for both kinds of scholarship.

Austin Sarat is William Nelson Cromwell Professor of Jurisprudence Political Science at Amherst College and Five College Fortieth Anniversary Professor. He received his PhD from University of Wisconsin and JD from Yale Law School. He is former president of the Law and Society Association and of the Association for the Study of the Law, Culture and the Humanities and of the Consortium of Undergraduate Law and Justice Programs. He is author or editor of more than sixty books, including *Mercy on Trial: What It Means to Stop an Execution; When the State Kills: Capital Punishment and the American Condition; Something to Believe in: Politics, Professionalism, and Cause Lawyers* (with Stuart Scheingold); and *The Blackwell Companion to Law and Society*.

Sarat is editor of the journal *Law, Culture and the Humanities* and of *Studies in Law, Politics and Society*. His public writing has appeared in such places as the *Los Angeles Times* and the *American Prospect*, and he has been a guest on National Public Radio, *The News Hour, Odyssey, The Abrams Report* on MSNBC, *World News Tonight* on ABC, and *The O’Reilly Factor*. His teaching has been featured in the *New York Times* and on *The Today Show*.

In 1997, Sarat received the Harry Kalven Award given by the Law Society Association for distinguished research on law and society. In 2004, he was co-recipient of the 2004 Reginald Heber Smith Award, given biennially to honor the best scholarship on the subject of equal access to justice. In 2006, the Association for the Study of Law, Culture and the Humanities awarded him the James Boyd White Prize for distinguished scholarly achievement in recognition of his “innovative and outstanding” work in the humanistic study of law.

Stuart Scheingold, Professor Emeritus of Political Science, University of Washington, has written widely on rights, the politics of crime and punishment, cause lawyering, and, early in his career, on law and politics in the European Union. He is co-director (with Austin Sarat) of the International Cause Lawyering Project. Among his books are the *Politics of Rights, The Politics of Law and Order, The Politics of Street Crime,* and *Europe’s Would-Be Polity* (with Leon Lindberg).
The Cultural Lives of Cause Lawyers

Edited by

Austin Sarat
Amherst College

Stuart Scheingold
University of Washington
To my son Ben,
in celebration of his many gifts and the joy he brings to my life (A.S.)
Contents

Acknowledgments ix
Contributors xi

Bringing Cultural Analysis to the Study of Cause Lawyers: An Introduction 1
Austin Sarat and Stuart Scheingold

PART I THE CULTURAL WORK OF CAUSE LAWYERS

1 “No sacrifice is too great for the Cause!”: Cause(less) Lawyering and the Legal Trials and Tribulations of Gone With the Wind 27
William P. MacNeil

2 Purpose-Driven Lawyers: Evangelical Cause Lawyering and the Culture War 56
Kevin R. den Dulk

3 Cause Lawyers and Cracker Culture at the Constructive Edge: A “Band of Brothers” Defeats Big Tobacco 79
Tim Howard

PART II THE CULTURAL CONSTRUCTION OF LAWYERS AND THEIR CAUSES

4 “They all have different policies, so of course they have to give different news”: Images of Human Rights Lawyers in the British Press 141
Richard J. Maiman
Contents

   Valerie Karno

6  Of Windmills and Wetlands: The Press and the Romance of Property Rights  188
   Laura J. Hatcher

7  ‘The Kids are Alright’: Cause Lawyering on Television in 1960s America  203
   Thomas M. Hilbink

8  Nothing to Believe In – Lawyers in Contemporary Films About Public Interest Litigation  230
   Michael McCann and William Haltom

9  ‘Of course he just stood there; he’s the law’: Two Depictions of Cause Lawyers in Post-Authoritarian Chile  253
   Stephen Meili

10 Paulina Escobar as Cause Lawyer: ‘Litigating’ Human Rights in the Shadows of Death and the Maiden  278
   Ben Fleury-Steiner and Aaron Fichtelberg

PART III THE CULTURAL RECEPTION OF LAWYERS AND THEIR CAUSES

11 Cause Lawyering ‘English Style’: Reading Rumpole of the Bailey  297
   Leslie J. Moran

12 Now You See It, Now You Don’t: Cause Lawyering, Popular Culture, and A Civil Action  331
   Stuart A. Scheingold

13 Not What They Expected: Legal Services Lawyers in the Eyes of Legal Services Clients  359
   Corey S. Shdaimah

Index  389
Acknowledgments

We are grateful to the scholars whose work is collected in this book and with whom we have collaborated. Some are veterans of the cause lawyering project; others are newcomers to it. Yet, each of them made important contributions to the conceptualization of the project as well as to its execution. We are also grateful to Greg Coy, the Dean of the Faculty of Amherst College, for his generous financial support and interest in our work. Almost a decade ago, Amherst College provided a congenial setting for our first cause lawyering conference. We were delighted to have the chance to return. Finally, we owe a debt of gratitude to whatever twist of fate brought the two of us to think about cause lawyering. Our joint work, as organizers, editors, and authors, has been, and remains, for both of us, a treasure.
Contributors

Kevin R. den Dulk, Political Science, Grand Valley State University. Den Dulk is co-author of *Religion and Politics in America*, as well as numerous journal articles, book chapters, and reviews. His primary area of research is religion and public life, with an emphasis on religious uses of law and courts.

Aaron Fichtelberg, Department of Sociology and Criminal Justice, University of Delaware. Fichtelberg's research is on international criminal law and legal theory. He is the author, most recently, of *Crime Without Borders: An Introduction to International Criminal Justice* (Prentice-Hall, 2007).

Benjamin Fleury-Steiner, Criminal Justice, University of Delaware. Steiner's recent research focuses on cause lawyers and activists who work on behalf of HIV-positive prisoners. This study documents the struggles of such actors in both institutional and broader sociopolitical contexts in the United States. His latest book, *Dying Inside: HIV/AIDS in the Penal Health Care Crisis from Limestone Prison*, will be published by the University of Michigan Press in 2008.

William Haltom, Political Science, University of Puget Sound. Haltom is a professor of political science and is co-author of *Distorting the Law*.

Laura J. Hatcher, Political Science, Southern Illinois University. Hatcher's research has centered on the production of legal ideology, specifically beliefs about property and land ownership as they relate to processes of social change and the structure of environmental regulation. Her current work includes a book project entitled *Drawing Lines in the Sand: Takings*.
Contributors

and the Mobilization of Libertarian Legal Activism, as well as several journal articles.

Thomas M. Hilbink, Legal Studies, University of Massachusetts-Amherst. Hilbink’s research, focusing on the historical development of cause lawyering in the United States after 1945, has appeared in Law & Social Inquiry, Studies in Law, Politics & Society, and Cause Lawyers and Social Movements.

Tim Howard, Law & Policy, Northeastern University. Howard is a former Visiting Health Law Scholar and Instructor in Constitutional Law, Judicial Process, and Media & Politics, Boston University Law School in the Department of Public Health and Department of Political Science. He is a practicing consumer interest cause lawyer and the former Florida Assistant Attorney General and Senior Health Care Attorney.

Valerie Karno, English, University of Rhode Island. Karno teaches courses in Law and Literature and contemporary American culture. Her work can be found in such journals as Postmodern Culture, American Quarterly, Critical Matrix, and Studies in Law, Politics, & Society. She is currently researching a book on small claims court television shows.

William P. MacNeil, Griffith Law School, Griffith University. MacNeil has published widely in Australia, the United Kingdom, the United States, and Hong Kong on critical and cultural legal studies and has been a guest speaker at a variety of international conferences and symposia. His most recent book is entitled Lex Populi: The Jurisprudence of Popular Culture.

Richard J. Maiman, Political Science, University of Southern Maine. Maiman is a Fellow at the Human Rights Centre of the University of Essex. His current research is on litigation activity based on human rights legislation in the United Kingdom.

Michael McCann, Political Science, Law, Societies and Justice, University of Washington. McCann is the author of Taking Reform Seriously: Perspectives on Public Interest Liberalism, Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization, and Distorting the Law: Politics, Media, and the Litigation Crisis. He is co-editor, with David Engel, of
Contributors

Stephen Meili, Consumer Law Litigation Clinic, University of Wisconsin Law School. Meili’s past publications have focused on a variety of areas that include transnational comparative analyses of the legal profession, complex litigation, and clinical legal education. His current research is on attitudes of members in consumer class actions toward the U.S. justice system. He is also analyzing novel regulatory approaches to payday lending, subprime mortgages, and other forms of predatory lending that focus on the disparate racial impact of such products.

Leslie J. Moran, School of Law, Birkbeck College. Moran has published extensively on law and visual culture. His current research project focuses on the cultural lives of the judiciary. This work examines not only representations of judges in film and television but also includes a multi-jurisdictional study of judicial portraiture.

Austin Sarat, Law, Jurisprudence and Social Thought and Political Science, Amherst College. Sarat is the author or editor of more than sixty books. He co-authored, with Stuart Scheingold, Something to Believe in: Politics, Professionalism, and Cause Lawyers. He has also written in the area of capital punishment and is currently at work on a book entitled Hollywood’s Law: Film, Fatherhood, and the Legal Imagination.

Stuart Scheingold, Emeritus, Political Science, University of Washington. Scheingold is co-director (with Austin Sarat) of the International Cause Lawyering Project. Among his books are the Politics of Rights, The Politics of Law and Order, The Politics of Street Crime, and Europe’s Would-Be Polity (with Leon Lindberg).