

**THE LAWYER AS SUPERHERO: HOW MARVEL COMICS’
DAREDEVIL DEPICTS THE AMERICAN COURT SYSTEM AND
LEGAL PRACTICE**
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I. INTRODUCTION

For the last twenty years, superheroes have been enjoying a crest of popularity due to a seemingly never-ending series of movies and television shows that mine decades of comic book source material for action and drama. While these fictional characters are firmly entrenched in the American cultural consciousness, the endless volumes of their cross-media adventures also treat global audiences to a form of modern-day American mythology, thrilling and inspiring viewers around the world. Despite declining comic book sales,¹ mainstream culture is more familiar with these iconic characters than ever before due to the broad exposure given to the genre by film and television.² This has resulted in new fans becoming familiar with more than just the iconic A-list heroes (like Batman, Superman, Wonder Woman, and Spider-Man), but embracing all kinds of superheroes once only known by the geekiest and most committed collectors.³

One of the many superheroes who has overcome decades of obscurity to become a multimedia superstar is Marvel Comics' Daredevil. Unlike all the superheroes who are government super-soldiers, benevolent aliens, crusading journalists, and perhaps most unrealistic of all, billionaire

¹ See Milton Griepp, *Comics and Graphic Novel Sales Down 6.5% in 2017*, ICV2 (July 13, 2018, 6:21 AM), <https://icv2.com/articles/news/view/40845/comics-graphic-novel-sales-down-6-5-2017> [<https://perma.cc/BJ62-MKPX>]. See also Shannon O'Leary, *Comics Retailers Hope to Rebound in 2018*, PUBLISHERS WKLY. (Feb. 9, 2018), <https://www.publishersweekly.com/pw/by-topic/industry-news/comics/article/76031-comics-retailers-hope-to-rebound-in-2018.html> [<https://perma.cc/AW9Z-LZX5>].

² Marvel Comics (owned by the Walt Disney Company) owns our subject Daredevil, as well as Spider-Man, Captain America, the Hulk, Iron Man, Thor, Wolverine, Deadpool, the X-Men, the Avengers, the Guardians of the Galaxy, and all their villains and supporting characters. See *A to Z in Marvel Comic Characters*, MARVEL, <https://www.marvel.com/comics/characters> [<https://perma.cc/H6X2-K66S>] (for a catalogue of Marvel characters). Its longtime rival, DC Comics (owned by Warner Bros.), owns Superman, Batman, Wonder Woman, The Flash, Green Lantern, Green Arrow, Aquaman, the Justice League, and all their villains and supporting characters. See *Characters*, DCCOMICS, <https://www.dccomics.com/characters> [<https://perma.cc/W55E-HRCP>] (for a catalogue of DC characters). When I introduce legal research concepts to 1L students, I tell them to think of Westlaw and LexisNexis as the Marvel and DC Comics of legal research databases. Sometimes it gets a nervous chuckle or two.

³ I have been a superhero fan my whole life, learning to read from comic books, collecting comics and action figures, and loving the movies and television shows that adapted these heroes for larger audiences. As a child in the 1980s, and especially as a teenager in the 1990s, I felt like part of a special club, as most characters weren't exactly household names. I always gravitated toward the underdogs and cult favorites anyway, rather than the most popular characters.

captains of industry with a social conscience, Daredevil just happens to be an attorney, one of relatively few comic book characters who leads this particular double life.⁴ The monthly *Daredevil* comic book series⁵ and recent streaming television show on Netflix⁶ offer unique opportunities to tell allegorical stories about a well-intentioned lawyer navigating the legal profession, acting heroically, and occasionally making major mistakes. They offer commentary and teaching moments about the law to audiences who largely acquire their limited legal knowledge through other popular culture sources.

A case can also be made for using Daredevil comics as a teaching tool for law students to demonstrate legal issues in areas such as criminal law and procedure, constitutional law, and professional responsibility, among others.⁷ Consequently, this article will focus on the portrayals of Daredevil's secret identity, attorney Matthew Murdock, and the legal system in *Daredevil* comic books, and the lessons that readers and television audiences may be absorbing as they consume various writers' interpretations of Daredevil.

Daredevil first appeared in 1964, in Marvel Comics' *Daredevil* #1, a co-creation of prolific writer Stan Lee and artist Bill Everett.⁸ The

⁴ See generally William A. Hilyerd, *Hi Superman, I'm a Lawyer: A Guide to Attorneys (and Other Legal Professionals) Portrayed in American Comic Books: 1910–2007*, 15 WIDENER L. REV. 159 (2009) (for a brief history of attorney characters in comic books).

⁵ Marvel Comics publishes *Daredevil* almost continuously since the character's creation in 1964, in five separate series, each starting with a new #1 issue. Volume 1 was published from 1964–1998, Volume 2 from 1998–2010, Volume 3 from 2011–2014, Volume 4 from 2014–2015, and Volume 5 from 2015 to the present. See *Comics*, MANWITHOUTFEAR.COM, <http://www.manwithoutfear.com/daredevil-comics.shtml> [https://perma.cc/SB25-RXRF].

⁶ Season 1 of *Daredevil* debuted on the Netflix streaming service in April 2015, followed by Season 2 in March 2016, and Season 3 in October 2018. See *Daredevil Episode List*, IMDB, <https://www.imdb.com/title/tt3322312/episodes?season=3> [https://perma.cc/7XDZ-CHDW] (Select a season number from the “Season” dropdown to view a list of episodes organized by airdate from that season).

⁷ See Thomas Giddens, *Comics, Law, and Aesthetics: Towards the Use of Graphic Fiction in Legal Studies*, 6 L. & HUMAN. 85, 87 (2012) (suggesting that comics have the potential to promote narrative discourse on issues of law and justice in a humanities-based approach to interdisciplinary legal studies).

⁸ Marvel Comics, one of the “big two” comic book publishers alongside older rival DC Comics, debuted its first superhero comic, Stan Lee and artist Jack Kirby's *Fantastic Four* #1, in 1961; quickly following it with *Spider-Man*, *the Hulk*, *Iron Man*, *Thor*, *the X-Men*, *the Avengers*, and our *Daredevil*—all co-created by Lee and his artist collaborators, and all beloved, enduring characters to this day. See *Stan Lee Biography*, BIOGRAPHY, <https://www.biography.com/people/stan-lee-21101093> [https://perma.cc/475R-W869].

character was a generic do-gooder with an all-red costume and mask⁹ with a carefree, swashbuckling attitude.¹⁰ Throughout the 1960s and 1970s, he shared many superficial similarities with Marvel's most popular and enduring character, Spider-Man.¹¹ When he isn't dressed up as Daredevil, patrolling the rooftops and alleyways of New York's crime-ridden Hell's Kitchen neighborhood, attorney Matt Murdock works with his loyal best friend and legal partner Franklin "Foggy" Nelson.¹² As a boy, Murdock was blinded by mysterious chemicals when he pushed an old man out of the way of a speeding truck.¹³ Although now blind, the chemicals heightened his other senses to superhuman levels and gave him a "radar

⁹ Daredevil wore an ugly yellow and black costume in his first few issues before artist Wally Wood changed him to the iconic red outfit in the seventh issue, which has remained mostly the same to the present day, barring minor modernizing touches over the years. See Stan Lee & Wally Wood, *In Mortal Combat With The Sub-Mariner!*, DAREDEVIL (VOL. 1) 7 (Marvel Comics Apr. 1965) (for the first appearance of Daredevil's iconic red outfit). The yellow costume is mostly forgotten today or referred to jokingly due to the character's blindness. See Stan Lee, Bill Everett & Steve Ditko, *The Origin of Daredevil*, DAREDEVIL (VOL. 1) 1 (Marvel Comics Apr. 1964). See also *Daredevil Costumes*, MANWITHOUTFEAR.COM, <http://www.manwithoutfear.com/daredevil-costumes-and-alternate-versions.shtml> [https://perma.cc/8AW2-6MUC].

¹⁰ As mentioned by author Britton Payne, the Blue Book does not have a specific citation format for comic books. See Britton Payne, *Appendix: Comic Book Legal Citation Format*, 16 FORDHAM INTELL. PROP. MEDIA & ENT. L.J. 1017, 1017 (2006). For this reason, this article follows Payne's suggested method for citing comic books. See *id.* Most issues of the *Daredevil* comic book cited in this article were compiled in trade paperbacks and other collected editions, which typically do not maintain the original pagination of the single issues. However, readers should be able to find the sources if they reference the single issues in any format, including the collected editions, which are more easily available and affordable. Individual comic book issues average around twenty-two pages.

¹¹ Spider-Man, the working-class high school nerd Peter Parker, became Marvel's breakout character shortly after his first appearance in *Amazing Fantasy* #15, and remains Marvel's most recognizable superhero to this day. See Stan Lee & Steve Ditko, *Spider-Man!*, AMAZING FANTASY (VOL. 1) 15 (Marvel Comics Aug. 1962) (introducing Spider-Man). Spider-Man and Daredevil would always be associated with swinging around New York City and combating relatively low-stakes street crime, compared to the larger, world-threatening dangers the Avengers, X-Men, and Fantastic Four would face. As a result, writers would regularly team Daredevil and Spider-Man up over the decades, and they ended up sharing one significant nemesis. See, e.g., Stan Lee, John Romita Sr. & Mickey Dimeo, *Spider-Man No More!*, AMAZING SPIDER-MAN (VOL. 1) 50 (Marvel Comics July 1967) [hereinafter Lee, *Spider-Man No More!*] (introducing Kingpin, a popular Daredevil thug, as a Spider-Man villain).

¹² Murdock would later say Foggy is "my partner because he's a brilliant litigator with an encyclopedic knowledge of case law." Mark Waid, Paolo Rivera, Joe Rivera, & Javier Rodriguez, *Man Without Fear*, DAREDEVIL (VOL. 3) 1 (Marvel Comics Sept. 2011).

¹³ See Lee, Everett & Ditko, *supra* note 9 (revealing Daredevil's superhero origins).

sense” that functioned like a bat’s echolocation, bolstering his acrobatic skills and fighting prowess despite his disability.¹⁴

Matt’s father, “Battlin’ Jack” Murdock, was a poor, washed-up boxer who forced Matt to study all the time to avoid ending up a “palooka” like him.¹⁵ As a result, local bullies teased Matt and nicknamed him “Daredevil” for reading all the time and never playing outside.¹⁶ The one time he fought back against the bullies, his usually-caring father slapped him hard enough to knock him down and draw blood.¹⁷ Young Matt ran off into the night to think “about right and wrong . . . and how even my father could do bad things[,] . . . how even Dad needed rules to obey. Rules . . . [and] Laws. By morning, the course of my professional life was set. I would become an attorney.”¹⁸

Then more tragedy struck—a mobster had Matt’s boxer father murdered for refusing to throw a fight, the final inciting incident leading young Matt to become both a lawyer and a vigilante in order to fight for justice on behalf of people like his father.¹⁹ He becomes the self-appointed “guardian devil” of Hell’s Kitchen fighting street criminals, organized

¹⁴ See, e.g., Frank Miller, Klaus Janson & Dr. Martin, *Elektra*, DAREDEVIL (VOL. 1) 168 (Marvel Comics Jan. 1981) [hereinafter Miller, *Elektra*] (Daredevil uses his radar sense to discern the location of an attacker by listening for the attacker’s heartbeat). Marvel superheroes, and especially Stan Lee’s creations, were different than their godlike predecessors and contemporaries, often possessing “feet of clay” and all-too-human weaknesses, such as Matt Murdock’s blindness. Daredevil also represents an obvious metaphor for “blind justice.” See Michael Cavna, *In a Superhero-Heavy Summer at the Movies, Stan Lee Talks About Genre’s Appeal*, WASHPOST (May 10, 2011), https://www.washingtonpost.com/lifestyle/style/the-stan-lee-interview-in-this-summer-of-the-superhero-why-does-the-comic-book-genre-mightily-endure/2011/05/08/AF8NAmiG_story.html?utm_term=.8cf9a9cec91b [https://perma.cc/L3B3-ZLEG].

¹⁵ See Frank Miller, Terry Austin & Lynn Varley, *Roulette*, DAREDEVIL (VOL. 1) 191 (Marvel Comics Feb. 1983).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Lee, Everett & Ditko, *supra* note 9. Murdock is a practicing Catholic, one of few superheroes who prescribes to any organized religion, which also contributes to his strong sense of social justice. Though Tony Isabella was the first Daredevil writer to allude to Murdock’s Catholicism, see Tony Isabella, Bob Brown, Don Heck, and Stan Goldberg, *They’re Tearing Down Fogwell’s Gym!*, DAREDEVIL (VOL. 1) 119 (Marvel Comics Mar. 1974), it was Frank Miller, Daredevil’s most influential writer-artist, who included heavy Catholic symbolism in his classic story *Born Again*. See Frank Miller, David Mazzuchelli & Christie “Max” Scheele, *Born Again*, DAREDEVIL (VOL. 1) 230 (Marvel Comics May 1986). Miller remarked that “[a]long the way I decided [Daredevil] had to be a Catholic because only a Catholic could be a vigilante and an attorney at the same time.” See DVD: *Men Without Fear: Creating Daredevil*, documentary special feature from DAREDEVIL (20th Century Fox 2003).

crime, and costumed supervillains with this set of comparatively low-key super powers.²⁰ Some of his ancillary powers assist him in his legal career as well, including being able to read raised print with his fingertips and listening to people's heartbeats to tell if they are lying.²¹ This allows Murdock to screen potential clients to ensure their innocence and maintain his own idealism, and to confirm that witnesses (and terrified criminals he interrogates for information as Daredevil) are being honest and upfront with him.

In 2003, still in the early years of the superhero movie and television boom, Daredevil was adapted into a moderately successful movie.²² After launching multiple successful interconnected superhero film franchises starting in 2008, The Walt Disney Company created a separate division in 2010, Marvel Television,²³ which would produce several television series

²⁰ See *Daredevil (Matthew Murdock)*, MARVEL: CHARACTERS, <https://www.marvel.com/characters/daredevil-matthew-murdock/in-comics> [<https://perma.cc/ZGZ3-U2UN>].

²¹ See David Michelinie, Frank Miller, Klaus Janson & Glynis Wein, *„The Mauler!“, DAREDEVIL (VOL. 1) 167* (Marvel Comics Nov. 1980).

²² See *DAREDEVIL* (20th Century Fox 2003). Directed by Mark Stephen Johnson and starring Ben Affleck, it opened as the number one movie in the country and earned a domestic total gross of \$102,543,518, according to the box office reporting website BoxOfficeMojo.com. *Daredevil (2003)*, BOX OFFICE MOJO, <https://www.boxofficemojo.com/movies/?id=daredevil.htm> [<https://perma.cc/T7XE-VH7G>]. The critical aggregation website, Rotten Tomatoes, gave it a score of 44%—not the most fantastic reviews. See *Daredevil (2003)*, ROTTEN TOMATOES, <https://www.rottentomatoes.com/m/daredevil/> [<https://perma.cc/3T7T-EATP>].

²³ Marvel Studios, Marvel's own movie studio (now owned by The Walt Disney Company), released its first movie, *Iron Man*, in 2008. See *Disney Completes Marvel Acquisition*, THE WALT DISNEY CO. (Dec. 31, 2009), <https://www.thewaltdisneycompany.com/disney-completes-marvel-acquisition/> [<https://perma.cc/42LT-BSQG>]; *Iron Man (2008)*—*Company Credits*, IMDB, https://www.imdb.com/title/tt0371746/companycredits?ref=tt_dt_co [<https://perma.cc/S6XL-LWLJ>]. A short scene after the *Iron Man* credits hinted at an upcoming *Avengers* movie (which came out in 2012) foretelling more superhero films that would eventually team up and cross over with each other. See *IRON MAN* (Marvel Studios 2008); *THE AVENGERS* (Marvel Studios 2012). The MCU concept, spearheaded by Executive Producer Kevin Feige, was new and exciting for moviegoers but familiar to longtime comic book readers: a shared universe of interrelated characters and stories, connected by continuity, in which heroes regularly had adventures together, joined teams, and occasionally fought each other. See Angie Han, *How to Build a Cinematic Universe, According to Marvel Mastermind Kevin Feige*, MASHABLE (Jul. 5, 2017), https://mashable.com/2017/07/05/kevin-feige-marvel-cinematic-universe-interview/#NP_Rugyb2kqo [<https://perma.cc/KC6M-5NAJ>]. Marvel Studios has popularized that continuity-laden storytelling approach and created a precedent many other movie studios (and Marvel Television) have tried to follow, correctly assuming audiences would seek out all the movies to fully get the references and not miss guest appearances from their favorite characters. See *id.*

set on the fringes of its Marvel Cinematic Universe (“MCU”).²⁴ Marvel Television launched *Daredevil* as the first of six Marvel shows on the streaming video service Netflix in April 2015.²⁵ Though Netflix does not release ratings, the show, which received positive reviews from critics and fans alike, was renewed for a second season that premiered in March 2016.²⁶ Despite some storytelling shortcuts,²⁷ the serialized nature of the

²⁴ Marvel Studios movies have been among the highest-grossing movies each year they are released. See *Marvel Comics Movies at the Box Office*, BOX OFFICE MOJO, <https://www.boxofficemojo.com/franchises/chart/?id=marvelcomics.htm> [https://perma.cc/VQX2-43K2]. As of this writing, twenty-one movies set in the MCU have come out: *Iron Man* (2008), *Incredible Hulk* (2008), *Iron Man 2* (2010), *Thor* (2011), *Captain America: The First Avenger* (2011), *Avengers* (2012), *Iron Man 3* (2013), *Thor: The Dark World* (2013), *Captain America: The Winter Soldier* (2014), *Guardians of the Galaxy* (2014), *Avengers: Age of Ultron* (2015), *Ant-Man* (2015), *Captain America: Civil War* (2016), *Doctor Strange* (2016), *Guardians of the Galaxy Vol. 2* (2017), *Spider-Man: Homecoming* (2017), *Thor: Ragnarok* (2017), *Black Panther* (2018), *Avengers: Infinity War* (2018), *Ant-Man and the Wasp* (2018), *Captain Marvel* (2019), and *Avengers: Endgame*; with *Spider-Man: Far From Home* also scheduled for a 2019 releases. *Marvel Movies*, MARVEL, <https://www.marvel.com/movies> [https://perma.cc/Z2H2-UG7R]. See also Nellie Andreeva, *Marvel Entertainment Launches TV Division*, DEADLINE (June 28, 2010), <https://deadline.com/2010/06/marvel-entertainment-launches-tv-division-50150/> [https://perma.cc/ZBU5-L4UL].

²⁵ Marvel Television first announced five interconnected shows: *Daredevil*, *Jessica Jones*, *Luke Cage*, *Iron Fist*, and *The Defenders*, all about “street-level” vigilante characters with generally darker storylines and less family-friendly appeal than the colorful MCU movie superheroes. See David Lieberman & Nellie Andreeva, *Netflix Picks up Four Marvel Live-Action Series & a Mini Featuring Daredevil, Jessica Jones, Iron Fist, Luke Cage for 2015 Launch*, DEADLINE (Nov. 7, 2013), <https://deadline.com/2013/11/disney-netflix-marvel-series-629696/> [https://perma.cc/MG75-DK5B]. These characters were also likely chosen because their series could be made for lower budgets than other MCU movies, with New York filming locations and low-key super powers (mostly demonstrated by fighting prowess) that could be portrayed by stuntmen without as much need for expensive computer-animated special effects. *Daredevil* was the first of these Marvel Television series to premiere on Netflix, most likely due to the character’s slightly higher profile from the 2003 movie. See *id.* The fifth show, *The Defenders*, teamed up the four heroes, and a sixth show, *The Punisher*, featured a violent antihero who was first introduced to Netflix audiences in the second season of *Daredevil*, but shared plenty of history in their respective comics. See JK Schmidt, *‘Daredevil’ Season 3 Shooting Dates Revealed*, COMICBOOK (Aug. 23, 2017), <https://comicbook.com/marvel/2017/08/23/daredevil-season-3-production-dates/> [https://perma.cc/MM3M-SVLY].

²⁶ See Patrick Cavanaugh, *Netflix Orders a Second Season of ‘Marvel’s Daredevil’*, MARVEL (Apr. 21, 2015), http://marvel.com/news/tv/24478/netflix_orders_a_second_season_of_marvels_daredevil, [https://perma.cc/K9GM-D9C3].

²⁷ Attorney James Daily, an expert on superheroes and legal issues, broke down several inaccuracies portrayed in the legal system in *Daredevil*’s second season on his blog, *Law and the Multiverse*. See James Daily, *Daredevil Season 2, Part 1*, LAW & THE MULTIVERSE (June 14, 2016), <http://lawandthemultiverse.com/2016/06/14/daredevil-season-2-part-1/> [https://perma.cc/5N6H-KZD3] [hereinafter Daily, *Daredevil Part 1*]; James Daily, (continued)

Daredevil television series has provided excellent opportunities to tell new stories about crusading, heroic lawyers despite its fantastical setting, contrasting Murdock and Nelson's burgeoning legal practice mostly representing indigent, hard-luck clients against the drama, action, and violence of gritty, urbansuperheroics.²⁸

Daredevil is one of the most conflicted superheroes of all. This vigilante, who is often referred to as the "Man Without Fear," is unique among most of crimefighting peers due to his profession: he is an attorney, a Columbia Law School graduate,²⁹ and a sworn officer of the court who nonetheless acts outside the law every time he puts on his red mask and costume hitting the streets. Daredevil's stories tend to be darker and more influenced by *film noir*³⁰ and crime fiction than other superheroes, leaving him with a more tumultuous personal life and more moral quandaries than his costumed contemporaries. The work of several key Daredevil comic writers³¹ provides ample source material for discussions on the nature of vigilantism, law, justice, and also ethical considerations for attorneys.

This article will explore on the portrayal of lawyers and the legal system in *Daredevil* comic books, particularly issues published in the Twenty-First Century. Because the *Daredevil* movie³² and the first two seasons of the Netflix television series³³ have already been examined from

Daredevil Season 2, Part 2—The Trial, LAW & THE MULTIVERSE (July 10, 2016), <http://lawandthemultiverse.com/2016/07/10/daredevil-season-2-part-2-the-trial/> [https://perma.cc/84MS-R8XZ] [hereinafter Daily, *Daredevil Part 2*]. Daily and Ryan Davidson also wrote the excellent book, *The Law of Superheroes*, which was a huge inspiration for this article. See generally JAMES DAILY & RYAN DAVIDSON, *THE LAW OF SUPERHEROES* (Avery ed., 2013).

²⁸ See Daily, *Daredevil Part 1*, *supra* note 27; Daily, *Daredevil Part 2*, *supra* note 27.

²⁹ See Mark Waid, Chris Samnee & Javier Rodriguez, *Battle Buddies!*, DAREDEVIL (VOL. 3) 12 (Marvel Comics July 2012).

³⁰ *Film noir* is both a film style and a genre that originated around World War II, featuring crime thrillers, hard-boiled mysteries, and lurid, doomed romances set in shadowy, seedy cities and populated with flawed protagonists, vile and violent villains, dangerous women, moral ambiguity, and unhappy endings. See Roger Ebert, *A Guide to Film Noir Genre*, ROGEREBERT (Jan. 30, 1995), <https://www.rogerebert.com/rogers-journal/a-guide-to-film-noir-genre> [https://perma.cc/X3QQ-VDQ6].

³¹ This article will discuss the work of *Daredevil* writers Frank Miller, Brian Michael Bendis, David Hine, Mark Waid, and Charles Soule, particularly in how they portray the practice of law throughout their *Daredevil* issues.

³² See generally Andrew E. Taslitz, *Daredevil and the Death Penalty*, 1 OHIO ST. J. CRIM. L. 699 (2004) (discussing what the *Daredevil* movie can teach about American perceptions of the death penalty).

³³ See generally Stephen E. Henderson, *Daredevil: Legal (and Moral?) Vigilante*, 15 OHIO ST. J. CRIM. L. 133 (2017) (discussing whether vigilantism is morally justified through the vehicle of the 2015–16 *Daredevil* television series).

various legal perspectives in past articles, this piece will highlight legal storylines from the comics themselves. This exploration is important because writers of future Netflix seasons will surely draw story elements from the comics discussed here and will very likely adapt these exact stories, encouraging the larger television audience to seek out and read the original comics. Given the character's newfound fame and popularity, Daredevil can accomplish a heroic feat few superheroes can—his comics and television episodes can add to the general public's ideas of legal practice, ideally portraying lawyers and the legal system accurately, or at least positively, turning entertaining, dramatic, action-packed fictional stories into teaching moments about what lawyers should and should never do.

Part II of this article will examine the theories and mental processes that explain how an audience learns its ideas and beliefs about the world (and the legal system) from watching television and movies, and how the same concepts are equally applicable to comic books, especially now that comics are a dominant force in inspiring television and film. Part III will critique the *Daredevil* comic books by past writers Frank Miller, Brian Michael Bendis, David Hine, and Mark Waid, and how they each developed the character and portrayed him as a practicing lawyer, for better or for worse. And Part IV discusses the current *Daredevil* comic book series written by Charles Soule, the first regular *Daredevil* writer who is also an accomplished attorney himself,³⁴ and analyze how Soule portrays the legal system and the practice of law in his comics.

II. BACKGROUND: POPULAR CULTURE AND THE LAW THEORIES

Media scholars have embraced a concept called cultivation theory, which posits that lifelong exposure to television will influence viewers' beliefs and perceptions about the world around them.³⁵ The theory was crafted in the 1980s, when there were far fewer media and entertainment options available at that time. There was no widespread cable television, yet alone streaming video and high-speed Internet. The theory is even more applicable in modern culture with seemingly limitless viewing

³⁴ See Jenny B. Davis, *10 Questions: A True Marvel, This Brooklyn Lawyer is a Force Across a Galaxy of Comic Book Genres*, ABA J. (Aug. 2018), http://www.abajournal.com/magazine/article/brooklyn_lawyer_marvel_comics/ [<https://perma.cc/D3R8-VZ65>].

³⁵ See generally George Gerbner et al., *Living with Television: The Dynamics of the Cultivation Process*, PERSPECTIVES ON MEDIA EFFECTS 17 (Jennings Bryant & Dolf Zillmann eds., 1986) (proposing their theory called *cultivation process* to show the implications of television).

options and a blurred line between what constitutes a television show—the traditional broadcast networks, cable, and Internet-based content providers.

Asimow,³⁶ Denvir,³⁷ Pfau,³⁸ and other scholars³⁹ have written extensively on how portrayals of lawyers and the legal system on television and in movies have an effect on public opinions about the practice of law, especially when its the comprise viewers' only exposure to the legal world. Consequently,

The study of lawyer films, even unrealistic lawyer films, therefore can provide an important supplement to the curriculum by teaching some important lessons. The most important lesson is that justice counts. The very quantity of 'law' films demonstrates that the human appetite for justice is just as strong as our appetites for power and sex.⁴⁰

While a great amount of scholarship has been produced discussing the intersectionality of law with film and television, not nearly as much has been written about the portrayal of lawyers and the legal system in comic books, for a multitude of reasons. First, comic books have faced declining readership since their peak in the early 1990s, and they are not exactly considered mainstream entertainment for most Americans. But now that comic books are such influential source material for movies and television, both inspiring direct adaptations and affecting popular culture as a whole, they belong within the definition of cultivation theory. Furthermore, because comics are as much a visual medium as a written medium, this article posits that the existing discussions about cultivation theory, as it relates to film and television and the law, apply equally to *Daredevil* comic books. Now is the perfect time to examine Matt Murdock's storied legal

³⁶ See generally Michael Asimow, *Bad Lawyers in the Movies*, 24 NOVA L. REV. 531 (2000) (discussing how public opinion of lawyers form and is formed by negative portrayals of lawyers in film).

³⁷ See generally John Denvir, *What Movies Teach Law Students*, PICTURING JUST. (Aug. 25, 2003), https://cap-press.com/sites/pj/teach_denvir.htm [<https://perma.cc/F5QG-JPDG>] (discussing how movies supplement traditional legal education by teaching important lessons, such as "justice counts").

³⁸ See generally Michael Pfau et al., *Television Viewing and Public Perceptions of Attorneys*, 21 HUM. COMM. RES. 307 (1995) (discussing how prime time television depicts attorneys and how this influences the public's perceptions of attorneys).

³⁹ See generally Taylor Simpson-Wood, *The Rise and Fall of Bad Judge: Lady Justice is no Tramp*, 17 TEX. REV. ENT. & SPORTS L. 1 (2015) (discussing the cultivation effect and the harm caused by legal shows such as *Bad Judge*).

⁴⁰ Denvir, *supra* note 37.

career, as told by several different comic writers, through a lens of cultivation theory.

Professor Michael Asimow, one of the leading scholars on popular culture depictions of lawyers, mourned how modern movies have moved away from presenting heroic, ethical lawyers as more and more legal stories revolve around morally-conflicted antiheroes and other flawed characters.⁴¹ He laments a lack of media portrayals of noble lawyers working hard and doing the right thing for their clients, their profession, and society, to serve as positive lessons for the very audiences who watch these movies.⁴² He details at great length how popular culture, particularly film, led to the public perception of lawyers falling over the last several decades due to some prominent films featuring ethically-challenged, morally ambiguous, and just plain bad lawyers.⁴³ In addition, he characterized the portrayals of “bad” lawyers into two major categories with room for further deconstruction: lawyers as bad people and lawyers as bad professionals.⁴⁴

Despite his unwavering heroism, unfortunately Matt Murdock embodies several of Asimow’s “bad people” character traits, such as having a miserable personal life and going through a series of destructive and doomed relationships, some due to his own rash decisions and poor judgment, and others due to attracting dangerous partners.⁴⁵ Murdock also

⁴¹ See Michael Asimow, *When Lawyers were Heroes*, 30 U.S.F. L. REV. 1131, 1132–33 (1996) (comparing the portrayal of lawyers in older trial movies to those in contemporary movies).

⁴² *Id.* at 1133–34.

⁴³ See generally Asimow, *supra* note 36 (tracing the history of depictions of lawyers in film since the 1920s and discussing the cultivation effects such portrayals have had on public opinion).

⁴⁴ *Id.* at 578–82 (distinguishing between a lawyer’s failures as a person and as a professional with illustrative examples from lawyer movies).

⁴⁵ See *id.* at 578–79 (Asimow’s “bad people” character traits are: crudeness and bad manners; miserable personal life; bad spouse or parent; substance abusers; and bad judgment in choice of sexual partners). Murdock’s first love, Elektra Natchios, would abandon him to become an assassin. See Miller, *Elektra*, *supra* note 14. His next great love, his legal secretary-turned-girlfriend Karen Page, would later betray him and reveal his secret identity for a single hit of heroin. See Frank Miller, David Mazzucchelli & Christie “Max” Scheele, *Apocalypse*, DAREDEVIL (VOL. 1) 227 (Marvel Comics Feb. 1986) [hereinafter Miller, *Apocalypse*]. Murdock would eventually marry Milla Donovan, an innocent blind woman, but once his secret identity became public knowledge, her life would be in constant jeopardy. See Brian Michael Bendis, Alex Maleev & Matt Hollingsworth, *The King of Hell’s Kitchen: Part Three*, DAREDEVIL (VOL. 2) 58 (Marvel Comics May 2004). Murdock eventually granted Milla a divorce, but only after another one of his enemies, Mr. Fear, drove her mad to the point of being institutionalized. See Ed Brubaker, Michael Lark, Stefano Gaudiano, Klaus Janson, Chris Samnee, Paul Azaceta, & (continued)

embodies “bad professional” traits of jeopardizing his clients’ cases when his Daredevil-related problems affect his legal career and later, being a bad prosecutor, purposely throwing a case so he could gamble on appealing to the Supreme Court.⁴⁶

It has been maintained that fictional lawyers’ morals and ethics are regularly tested to create drama and entertainment.⁴⁷ The writers of *Daredevil* comics have definitely done this, forcing Murdock to choose between following ethical rules for attorneys and protecting himself and the people he cares about, and not always making the right choice. Comic book readers automatically root for superheroes, especially when they are the title characters of the comic. However, Daredevil ends up in dangerous ethical terrain multiple times, to the point where readers may lose their patience and empathy with Matt Murdock. Cynical readers could conclude that he brings many of his problems upon himself through a series of rash, hubristic decisions, disregarding the rules of professional responsibility he is bound to follow. As a result, Daredevil suffers and loses more than his costumed contemporaries, due to having a career that demands he follows ethical guidelines that do not mesh well with his vigilante activities.

Matt Hollingsworth, *Return of the King: Conclusion*, DAREDEVIL (VOL. 2) 500 (Marvel Comics Oct. 2009). In that issue, Murdock reflected:

Milla . . . her life would have been so much better if she never sought me out . . . Or if she’d just stayed away once she left me . . . I’m no kind of husband . . . no kind of man for a woman like this . . . And I know it, but I keep letting them get close . . . Living in denial . . . telling myself I can have it all . . . Letting my pride . . . my rage . . . control me . . . Why do I do that? I’m sorry I loved you . . . sorry you loved me . . .

Id.

⁴⁶ See Asimow, *supra* note 36, at 579–82 (Asimow’s “bad professional” character traits are: all around badness; complete crooks; disloyalty to clients; not caring about clients; win at all costs; incompetence; ambulance chasers; rude or disloyal toward own staff; perjured testimony; bad prosecutors; and bad judges). See also Charles Soule, Alec Morgan & Matt Milla, *Supreme: Conclusion*, DAREDEVIL (VOL. 5) 25 (Marvel Comics Oct. 2017) (Murdock explains he threw the case because winning at the Supreme Court creates meaningful change for the entire country, not just a single client).

⁴⁷ See David M. Spitz, *Heroes or Villains?—Moral Struggles vs. Ethical Dilemmas: An Examination of Dramatic Portrayals of Lawyers and the Legal Profession in Popular Culture*, 24 NOVA L. REV. 725, 741–42 (2000).

III. DAREDEVIL—THE STORY SO FAR

A. *Daredevil in the Sights of Frank Miller*

Superhero comic books are serialized narratives written over years by various authors, each following previously-established continuity while introducing their own story elements and character arcs. Daredevil was never one of Marvel Comics' top-tier characters until writer Frank Miller brought his *film noir*-inspired sensibility to the comic,⁴⁸ turning the character into the conflicted, flawed vigilante audiences know and love today.⁴⁹ Throughout Miller's run, Murdock and Foggy's law office in seedy Hell's Kitchen was often referred to as a storefront⁵⁰ with a sign that said "STORE FRONT FREE LEGAL CLINIC,"⁵¹ and the duo took on several poor clients and specialized in criminal defense work.⁵² However, to serve the story lines, they were also often referred to as some of the most prominent attorneys in the country.⁵³ In one story that would be relatable

⁴⁸ Miller became the penciller of *Daredevil* in 1979 with *A Grave Mistake!*, DAREDEVIL #158, but he put his own stamp on the character as a writer in 1980 starting with *Arms Of The Octopus*, DAREDEVIL #165. See Roger McKenzie, Frank Miller, Klaus Janson & George Roussos, *A Grave Mistake!*, DAREDEVIL (VOL. 1) 158 (Marvel Comics May 1979) (introducing Miller as a new artist on the cover); Roger McKenzie, Frank Miller, Klaus Janson & Bob Sharen, *Arms of the Octopus*, DAREDEVIL (VOL. 1) 165 (Marvel Comics July 1980) [hereinafter McKenzie, *Arms of the Octopus*].

⁴⁹ See PAUL YOUNG, FRANK MILLER'S DAREDEVIL AND THE ENDS OF HEROISM 8–10 (2016) (briefly introduces Miller's impact on the *Daredevil* comics before he jumped over to DC). One of the most influential and revered creators in the history of the comics medium, Miller is credited with defining not only Daredevil, but also DC Comics' most popular character Batman, with a pair of iconic stories that made people realize comic books weren't just for kids anymore in *Batman: The Dark Knight Returns* #1–4 (1986) and "Batman: Year One" in *Batman* #404–407 (1987). See Frank Miller, Klaus Janson & Lynn Varley, BATMAN: THE DARK KNIGHT RETURNS (VOL. 1) 1–4 (DC Comics 1986); Frank Miller, Dave Mazzucchelli & Richmond Lewis, BATMAN (VOL. 1) 404–407 (DC Comics 1987). Now Miller is a Hollywood filmmaker, having written and co-directed *Sin City* (2005) based on his own graphic novels, and he has written and directed *The Spirit* (2008). See SIN CITY (Dimension Films 2005); THE SPIRIT (Lionsgate Films 2008).

⁵⁰ See McKenzie, *Arms of the Octopus*, *supra* note 48.

⁵¹ Frank Miller, Klaus Janson & Glynis Wein, *In the Kingpin's Clutches*, DAREDEVIL (VOL. 1) 171 (Marvel Comics June 1981).

⁵² See, e.g., Frank Miller, Klaus Janson & Glynis Wein, *The Assassination of Matt Murdock!*, DAREDEVIL (VOL. 1) 174 (Marvel Comics Sept. 1981) (Foggy stresses over the lack of paying cases and government grant funding. In this issue, Murdock even defended Melvin Potter, a man with dissociative identity disorder, who had committed crimes as the costumed Gladiator).

⁵³ See *id.* (a journalist at Potter's hearing referred to Nelson and Murdock as "the hottest legal team in the country.").

for any young lawyers just starting out, especially one hanging out his or her own shingle, Foggy tearfully admitted to his best friend:

Matt, we haven't had a case that pays any kind of money in over a year. These welfare cases, they just won't pay the bills. And the funding we need to maintain this storefront. It's gone. Our government grant was cut—just like that—and I couldn't get anyone to sponsor us, no matter how hard we tried. It was up to me to keep this dream of ours alive—and I blew it.⁵⁴

In an uncharacteristically tender moment, Miller had Murdock respond: “Do you really believe that, Foggy? You should have seen me in court today. The Potter case is going to pieces without you. You're more than a partner to me. More than a friend. I need you.”⁵⁵

Miller did not focus on their adventures as lawyers as much as contemporary *Daredevil* writers, but it is important to discuss his contributions to Daredevil's long-running mythology to fully understand the character and how later, more legal-minded writers have portrayed him and his struggles. What Miller did do was add a darker and more violent tone to his stories that was completely new to superhero comics in the 1980s, flesh out Murdock's origin, introduce enduring antagonists, and ruin Murdock's life many times over.⁵⁶ Every subsequent Daredevil writer's work is indebted to Miller.

Miller purloined an existing Spider-Man villain, the crime lord known as the Kingpin, to become a recurring thorn in Matt Murdock's side.⁵⁷ As a wealthy, relentless, amoral force behind all of New York City's urban corruption and crime, the Kingpin, better known as Wilson Fisk, was so economically privileged and politically protected that one well-intentioned vigilante would never be able to stop him completely.⁵⁸ They even looked like polar opposites: Murdock, a handsome attorney with a lithe, acrobatic build and a streamlined red costume; Fisk, a bald, super-strong mobster with a mountainous physique and a penchant for white dinner jackets and

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ See generally YOUNG, *supra* note 49 (tracing Miller's *Daredevil* storyline and comparing it to other comic storylines).

⁵⁷ See Lee, *Spider-Man No More!*, *supra* note 11 (Kingpin's first appearance in *Spider-Man*); Frank Miller, Klaus Janson & Glynis Wein, *The Kingpin Must Die!*, DAREDEVIL (VOL. 1) 170 (Marvel Comics May 1981) (Kingpin's first appearance in *Daredevil*).

⁵⁸ See Frank Miller, Klaus Janson & Glynis Wein, *In the Kingpin's Clutches*, DAREDEVIL (VOL. 1) 171 (Marvel Comics June 1981).

ascots.⁵⁹ Ultimately, Fisk developed a twisted respect for the superhero due to Daredevil's moral code.⁶⁰ However, the Kingpin considered him a manageable, predictable antagonist who Fisk could manipulate to help him eliminate his competition.⁶¹

Miller also pitted Daredevil against the supervillain Bullseye, the world's greatest marksman, who could turn anything in his hands into a deadly weapon, even innocuous objects like paper clips and toothpicks.⁶² While Bullseye had previously appeared in *Daredevil* comics,⁶³ Miller transformed the assassin into a psychotic, unstable sadist and a truly terrifying antagonist to contrast against Daredevil's selfless heroism.⁶⁴ After a brutal fight with Bullseye, Daredevil refuses to kill him and monologues his legal philosophy to a disapproving police detective:

[M]en like Bullseye would rule the world . . . were it not for a structure of laws that society has created to keep such men in check. The moment one man takes another man's life in his own hands, he is rejecting the law—and working to destroy that structure. If Bullseye is a menace to society, it is society that must make him pay the price. Not you. And not me. I—I wanted him to die . . . I detest what he does . . . what he is. But I'm not God—I'm not the law—and I'm not a murderer.⁶⁵

Miller regularly tortured Murdock in his *Daredevil* stories, especially destroying any love, happiness, and hope the hero might temporarily enjoy. He introduced Elektra Natchios, Murdock's tragic, beautiful college girlfriend who, after witnessing her ambassador father's assassination, left college and Murdock behind to become an assassin herself.⁶⁶ Elektra returns to New York and runs afoul of Daredevil, but they recognize each

⁵⁹ See *id.*

⁶⁰ *Id.*

⁶¹ See Frank Miller, Klaus Janson & Glynis Wein, *Gang War!*, DAREDEVIL (VOL. 1) 172 (Marvel Comics July 1981).

⁶² See Frank Miller, Klaus Janson & Glynis Wein, *Devils*, DAREDEVIL (VOL. 1) 169 (Marvel Comics Mar. 1981).

⁶³ See Marv Wolfman, Bob Brown, Klaus Janson & Michele Wolfman, *Watch Out for Bullseye, He Never Misses!*, DAREDEVIL (VOL. 1) 131 (Marvel Comics Mar. 1976).

⁶⁴ See Miller, Janson & Wein, *supra* note 62.

⁶⁵ *Id.* (Despite the new levels of violence and despair caused by the new trio of antagonists in Miller's *Daredevil*, he always wrote Murdock as an upstanding figure and an exemplar of morality and hope).

⁶⁶ See Miller, *Elektra*, *supra* note 14.

other⁶⁷ and attempt to rekindle their romance.⁶⁸ However, Bullseye murders Elektra⁶⁹ leading to Murdock experiencing a nervous breakdown.⁷⁰

In 1985, Miller returned to write *Daredevil* and produced an influential and acclaimed story arc, “Born Again,” in which Wilson Fisk discerns Daredevil’s secret identity.⁷¹ He then quickly and systematically ruins Matt Murdock’s life by getting him audited by the IRS, freezing all his assets, bribing a police detective to testify that he saw Murdock pay a witness to perjure himself, getting him disbarred, and blowing up his apartment.⁷² Murdock ends up paranoid, homeless, and almost killed by Fisk.⁷³ At his lowest point, physically and mentally, Murdock is then forced to fight the depraved super-soldier Nuke, who Fisk sent to rampage through Hell’s Kitchen, causing as much murder, mayhem, and collateral damage as possible.⁷⁴ But even when his personal and professional lives are destroyed and he is overcome by grief, rage, and physical and mental fatigue, Miller’s Daredevil never stops fighting, he never loses his moral compass, nor does he succumb to becoming a killer.⁷⁵

⁶⁷ *Id.*

⁶⁸ See Frank Miller, Klaus Janson, Bob Sharen & Christie “Max” Scheele, *Gantlet*, DAREDEVIL (VOL. 1) 175 (Marvel Comics Oct. 1981).

⁶⁹ See Frank Miller & Klaus Janson, *Last Hand*, DAREDEVIL (VOL. 1) 181 (Marvel Comics Apr. 1982).

⁷⁰ See Frank Miller & Klaus Janson, *She’s Alive*, DAREDEVIL (VOL. 1) 182 (Marvel Comics May 1982). Comic books being what they are, Elektra returned to life due to a ninja ritual and continues to remain a popular antihero and *Daredevil* guest star today. She played a pivotal role in Season 2 of the Netflix *Daredevil* series and its spinoff, Season 1 of *The Defenders*.

⁷¹ See Miller, *Apocalypse*, *supra* note 45 (In one of the darkest moments Miller ever wrote, Murdock’s former girlfriend and legal secretary, Karen Page, who first appeared all the way back in DAREDEVIL #1 (Apr. 1964), had since fallen on extremely hard times and traded the information to an underworld figure for a single hit of heroin).

⁷² See *id.*

⁷³ See Frank Miller, David Mazzucchelli & Richmond Lewis, *Purgatory*, DAREDEVIL (VOL. 1) 228 (Marvel Comics Mar. 1986).

⁷⁴ See Frank Miller, David Mazzucchelli & Christie “Max” Scheele, *Armageddon*, DAREDEVIL (VOL. 1) 233 (Marvel Comics Aug. 1986).

⁷⁵ *Id.* Miller and Mazzucchelli would go on to collaborate on an even more popular and influential Miller story, *Batman: Year One* (1987), a major influence on Christopher Nolan’s movie *Batman Begins* (2005). See *BATMAN BEGINS* (Warner Bros. 2005); Miller, Mazzucchelli & Lewis, *supra* note 49. Nickie D. Phillips and Staci Strobl included Miller’s *Born Again* storyline among other seminal comics of the 1980s that “contributed to the increasing literary sophistication of comic books,” alongside Miller’s *Batman: The Dark Knight Returns*. See NICKIE D. PHILLIPS & STACI STROBL, *COMIC BOOK CRIME: TRUTH, JUSTICE, AND THE AMERICAN WAY* 34 (2013).

Miller wrote his version of Matt Murdock as an archetypal noir hero, a flawed underdog trying his best to fight for justice in an imperfect world, with the odds forever stacked against him. Readers will thrill to his tireless quest to do the right thing as a superhero and as a lawyer, sticking up for fellow underdogs, even when beset by psychopaths, demented and disloyal ex-lovers, and the human embodiment of unbeatable corruption and crime. He never betrays his moral code or sink to the murderous level of Bullseye, Elektra, or the Kingpin. Even when he loses everything, he remains a just and honorable defender of innocent lives and moral ideals, and he always finds triumph through tragedy.

B. Daredevil Through the Eyes of Brian Michael Bendis

Although *Daredevil* continued on through the 1980s and '90s, it faded back into relative obscurity⁷⁶ until Marvel Comics relaunched its *Daredevil* series with a new #1 issue in 1998.⁷⁷ In 2001, the prolific and talented Brian Michael Bendis⁷⁸ started writing the Man Without Fear beginning with *Daredevil* #26, and he would change the character and his status quo

⁷⁶ During this period, one more Frank Miller project is worth noting: a five-issue miniseries with artwork by John Romita Jr., Al Williamson, and Christie Scheele called *Daredevil: The Man Without Fear*. See Frank Miller, John Romita Jr., Al Williamson & Christie Scheele, *DAREDEVIL: THE MAN WITHOUT FEAR* 1–5 (Marvel Comics Oct. 1993–Feb. 1994). This miniseries attempted to modernize and update Daredevil's origin story, integrating Elektra and the Kingpin into the narrative from the beginning (whereas Miller both created Elektra and borrowed Fisk from Spider-Man's rogues' gallery in the early 1980s). It read like a movie treatment, and it was extremely influential on both the 2003 *Daredevil* movie and the *Daredevil* television series on Netflix.

⁷⁷ Cult comedy filmmaker Kevin Smith worked with superstar artists Joe Quesada (future Marvel Comics Editor-in-Chief) and Jimmy Palmiotti to write *Guardian Devil*, the most popular *Daredevil* story since Miller's "Born Again." See Kevin Smith, Joe Quesada, Jimmy Palmiotti & Dan Kemp, *Guardian Devil* (pts. 1–8), *DAREDEVIL* (VOL. 2) 1–8 (Marvel Comics Nov. 1998–June 1999). With Smith's independent film and Hollywood credentials, the story was enough of an event for Marvel Comics to start the long-running series from a new #1 issue, thirty-five years after its 1963 debut, to increase sales, visibility, and hype. See SEAN HOWE, *MARVEL COMICS: THE UNTOLD STORY* 396–97 (2012).

⁷⁸ Bendis started his career writing and drawing crime comics for independent publishers before coming to Marvel Comics. See *Bendis! Bio*, JINXWORLD, http://jinxworld.com/wordpress/?page_id=12 [<https://perma.cc/8AHE-AN67>]. He was one of the architects of Marvel's successful Ultimate line that launched in 2000, writing the longest run on a Spider-Man comic ever, from 2000–2018, ending with his much-publicized move to rival publisher DC Comics to write Superman. See Nathan Mattise, *Marvel Loses Creator of Jessica Jones, Miles Morales to DC*, *ARS TECHNICA* (Nov. 7, 2017), <https://arstechnica.com/gaming/2017/11/brian-michael-bendis-comics-writer-behind-jessica-jones-jumps-from-marvel-to-dc/> [<https://perma.cc/VY4R-TVPH>].

forever.⁷⁹ Bendis worked with artist Alex Maleev to bring Daredevil to new heights—or perhaps more appropriately, new depths—for a critically-acclaimed run that would challenge and change Matt Murdock more than ever before. Bendis wrote *Daredevil* issues #26—#50. and #56—#81 as one massive story arc that harkened back to Frank Miller’s crime-noir milieu, while shattering the status quo with his own twist to it: by publicly unmasking Daredevil as Matt Murdock, which would have long-lasting complications.⁸⁰

Daredevil’s secret identity had always been known to a handful of confidantes, like law partner and best friend Foggy Nelson and former lovers Karen Page, Elektra Natchios, and Natasha “Black Widow” Romanoff. His dual persona was also known to certain other superheroes, including Spider-Man, Luke Cage, and Iron Fist.⁸¹ Even Wilson Fisk, the Kingpin himself, knew but kept the information to himself, only using it for his own benefit.⁸² Generally, Daredevil enjoyed a good reputation in New York, even among the police.⁸³ But when a disgraced gangster ran to the FBI for protection, he offered them Daredevil’s secret identity to prove his value.⁸⁴ At that point, an FBI agent who was desperate for money sold

⁷⁹ Bendis first wrote a four-part story; *Wake Up*, with artists David Mack and Mark Morales Richard Isanove, and Scott “Pond Scum” Elmer in *Daredevil* #16–19, but his “run” with artist Alex Maleev began in earnest with *Underboss: Part 1*, DAREDEVIL #26. See Brian Michael Bendis, David Mack, Mark Morales, Scott “Pond Scum” Elmer, & Richard Isanove, *Wake Up: pts. 1–4*, DAREDEVIL (VOL. 2) 16–19 (Marvel Comics May–Aug. 2001); Brian Michael Bendis, Alex Maleev, Matt Hollingsworth, *Underboss: Part One*, DAREDEVIL (VOL. 2) 26 (Marvel Comics Dec. 2001).

⁸⁰ See Brian Michael Bendis, Alex Maleev & Matt Hollingsworth, *Out: Part Two*, DAREDEVIL (VOL. 2) 33 (Marvel Comics July 2002).

⁸¹ See Brian Michael Bendis & Alex Maleev, *The King of Hell’s Kitchen: Part One*, DAREDEVIL (VOL. 2) 56 (Marvel Comics Mar. 2004).

⁸² As in Miller’s “*Born Again*” storyline, when Fisk ruined Murdock’s life, including getting him disbarred. See Miller, Mazzucchelli & Scheele, *supra* note 19.

⁸³ See, e.g., Brian Michael Bendis, Alex Maleev & Matt Hollingsworth, *Underboss: Part Two*, DAREDEVIL (VOL. 2) 27 (Marvel Comics Jan. 2002). Two New York City cops in a car are having a conversation about superheroes that would turn out to be very relevant later on. The rookie says: “My point is—how the hell do we know who’s really in the costume? . . . How do you know when the guy in the outfit is the real deal?” His more experienced partner responds, “You just know! . . . Trust me, you’ll know the real deal when you see ‘em.’” Pages later, after Daredevil apprehended a villain named Nitro who caused a courthouse explosion, the two cops arrived at the scene and the rookie pulled his gun on Daredevil. The experienced partner admonished him: “That man—that man you just pulled your gun on—is the only thing—THE ONLY THING!!—keeping this city from turning into a living hell on Earth!” *Id.*

⁸⁴ See Brian Michael Bendis, Alex Maleev & Matt Hollingsworth, *Out: Part One*, DAREDEVIL (VOL. 2) 32 (Marvel Comics June 2002). The gangster, Sammy Silke, had learned Daredevil’s identity from his old friend, Fisk’s son Richard. Silke attempted to

(continued)

the information to a reporter at the *Daily Globe*, a fictional New York newspaper, and the *Globe* exposed Murdock as Daredevil, ruining his life once again and changing *both* of his lives forever.⁸⁵

Murdock's secret identity being semi-public knowledge was the ultimate nightmare for any superhero with a secret identity. In addition, it would haunt future Daredevil writers, forcing them into new creative directions to escape the corner Bendis wrote them into. It raised the stakes as enemies would be more likely to threaten Murdock's friends and loved ones when he wasn't around to protect them. Furthermore, it cast a shadow of doubt on Murdock as a lawyer, even though he and Foggy consistently denied the very true accusation that he was the masked vigilante Daredevil.⁸⁶ The denial strategy was Foggy's idea:

Matt Murdock tries cases as a lawyer . . . and as Daredevil, he's a vigilante? Working either side of the law? This means Matt Murdock defrauded the American justice system by faking a trial against Daredevil. And that's just the most recent example. Matt—you can't. You can't come clean. You can't come out. First? You'll get disbarred. And then . . . then you go to jail. You know I'm right, pal. So the thing we do? We fight this. We deny! Deny! Deny! 'Til we're blue in the face. I say we get up on the highest tree and we scream: LIARS! We sue everyone in sight until their heads spin off the top of their bodies. We're going to own that dishrag of a paper.⁸⁷

In one issue, Murdock and Nelson meet with the *Daily Globe*'s lawyer, Ingersol, after threatening a \$400 million libel suit, hoping to settle and get the paper to print a retraction.⁸⁸ Of course, truth is the main defense to libel.⁸⁹ Consequently, because the *Globe*'s article was completely true, Murdock was guilty of committing a major breach of the New York Rules

assassinate Fisk and take over his empire, but the plan failed and Fisk's wife Vanessa killed her own son for the part he played in it. *Id.*

⁸⁵ See Bendis, Maleev & Hollingsworth, *supra* note 80.

⁸⁶ See, e.g., Brian Michael Bendis, Alex Maleev & Matt Hollingsworth, *Out: Part Five*, DAREDEVIL (VOL. 2) 36 (Marvel Comics Oct. 2002).

⁸⁷ Bendis, Maleev & Hollingsworth, *supra* note 80.

⁸⁸ See Brian Michael Bendis, Alex Maleev & Matt Hollingsworth, *Out: Part Six*, DAREDEVIL (VOL. 2) 37 (Marvel Comics Nov. 2002).

⁸⁹ See, e.g., *Love v. William Morrow & Co., Inc.*, 193 A.D.2d 586, 587 (N.Y. App. Div. 1993).

of Professional Conduct by which all New York attorneys are bound.⁹⁰ Ingersol warns Murdock:

We know you're Daredevil. YOU know you're Daredevil. And now you're going to challenge it in court? Once the court hears the laundry list of cases you've tried as a lawyer by day, while tampering with the case at night in your fruity costume . . . man, if I was you—I would have moved to Brazil.⁹¹

Then, in one of his less than heroic moments, Murdock obtains the name of the FBI informant and drops by his apartment one night to silently intimidate him.⁹² When Murdock and Foggy finally meet with Rosenthal, the publisher of the *Daily Globe*, to argue settlement offers, Murdock overplays his hand in yet another moment of hubris, using his lie detector-like powers to guess the exact amount the publisher is willing to settle for.⁹³ The publisher reveals that their “source fell apart . . . funny how that works . . . all of a sudden,” correctly insinuating that Daredevil pressured or threatened the FBI agent.⁹⁴ Then, Rosenthal calls Murdock a liar and angrily rescinds the settlement offer.⁹⁵

While beset by rumors and forced to lie repeatedly to protect himself, Foggy, and the integrity of their legal practice, Murdock is called upon to represent Hector Ayala, an obscure and semi-retired superhero known as the White Tiger.⁹⁶ Ayala, a Latino man, was in the wrong place at the wrong time and framed for a robbery attempt that ended in a murder.⁹⁷ Initially, Murdock is hesitant to take on a case involving a superhero due to the Daredevil rumors swirling around.⁹⁸ Ultimately, he still steps up to defend Ayala, demonstrating his abilities as an advocate by calling several superheroes as character witnesses to comment on the need for heroes to

⁹⁰ See N.Y. COMP. CODES R. & REGS. tit. 22 § 1200 (2017) (Rule 3.1, Non-Meritorious Claims and Contentions: Part (a) reads “A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous”; and Part (b)(3) reads “A lawyer’s conduct is ‘frivolous’ for purposes of this Rule if: the lawyer knowingly asserts material factual statements that are false.”).

⁹¹ Bendis, Maleev & Hollingsworth, *supra* note 88.

⁹² *See id.*

⁹³ *Id.*

⁹⁴ *See id.*

⁹⁵ *Id.*

⁹⁶ See Brian Michael Bendis, Manuel Gutierrez & Matt Hollingsworth, *Trial of the Century: Part 1*, DAREDEVIL (VOL. 2) 38 (Marvel Comics Dec. 2002).

⁹⁷ *See id.*

⁹⁸ *Id.*

establish secret identities to protect their families and friends from reprisals.⁹⁹ In the end, the jury still finds the White Tiger guilty, based in part on public anger over Murdock's continual denials of being Daredevil.¹⁰⁰ Despite his zealous defense of his client, Murdock's rash actions tainted his client's case and results in tragedy as the incredulous, grief-stricken White Tiger flees from the courthouse during sentencing and is shot and killed by police.¹⁰¹

Bendis wrote Murdock into a terrible position, professionally and personally, and one of his most morally upstanding friends, Luke Cage, the hard-hitting hero of Harlem, gives it to him straight:

The lawsuits, the lying . . . it's skeevy, shyster lawyer \$%#@! and I don't want my face in the paper . . . standing next to you . . . so it looks like I do. At first I felt bad for you . . . But now that the, you know—the tumult has died down . . . In the clear light of day . . . You're lying. When it comes down to it—you're just a liar . . . What puts us apart from the lowlifes is how we behaved with the crap we didn't ask for. You could just as easily admit to who and what you are . . . Be a man! Stand for something more than just a pair of tights . . . This is you, Matt. This is your life. And we both know that every story has a %\$#&bag in it. And right now, it's you.¹⁰²

Criminals are also aware of the ramifications of Daredevil's secret identity becoming public knowledge. After crashing through one villain's window to intimidate him, Daredevil is met by the villain's own lawyer, who admonishes him, “Mr. Murdock, you simply cannot break into a

⁹⁹ See Brian Michael Bendis, Manuel Gutierrez & Matt Hollingsworth, *Trial of the Century: Part 2*, DAREDEVIL (VOL. 2) 39 (Marvel Comics Jan. 2003). These witnesses included Reed Richards, a wealthy scientist, adventurer, and leader of the Fantastic Four, a family of heroes with publicly-known identities; super-powered private investigator and retired superhero Jessica Jones; Luke Cage, the hero of Harlem, another superhero without a secret identity; and Danny Rand, the wealthy industrialist who also operates as the martial artist superhero *Iron Fist*. *Id.* Between 2015 and 2017, Jones, Cage, and Rand would get their own shows on Netflix that debuted after the first season of *Daredevil*, and the four heroes would later team up on a fifth Netflix series, *The Defenders*, based heavily on their connections in comics written by Bendis.

¹⁰⁰ See Brian Michael Bendis, Terry Dodson, Rachel Dodson & Matt Hollingsworth, *Trial of the Century: Part Three*, DAREDEVIL (VOL. 2) 40 (Marvel Comics Feb. 2003).

¹⁰¹ *Id.*

¹⁰² Brian Michael Bendis, Alex Maleev & Matt Hollingsworth, *Lowlife: Part Three*, DAREDEVIL (VOL. 2) 43 (Marvel Comics Apr. 2003).

person's private dwelling and make unfounded accusations."¹⁰³ The villain and his lawyer had planned to record him with a hidden camera, and when Daredevil senses the camera and breaks it with his billy club, the lawyer doubles down: "What you are doing right now is illegal! Breaking and entering, threatening people, unfounded accusations. It's illegal. And if we see you around here anymore, we're going to have to call the police and press charges."¹⁰⁴ Daredevil leaves, frustrated and haunted by the lawyer's parting words, "You might try to catch us—but we will catch you."¹⁰⁵ In a later issue, Bendis has one particularly well-informed underworld figure summarize all of Murdock's current problems:

Once Daredevil goes to jail all the cases are going to get overturned. Every single one. Lawyer friend told me that. He told me once the feds come down on Murdock . . . every single case Murdock ever tried gets thrown out. Every single guy that went to jail cause Daredevil beat on him . . . gets let out of prison. See, my lawyer friend thinks that's why the feds ain't ever gonna put the hammer down on Murdock. Because of the tidal wave that'll come after it. But I think they will.¹⁰⁶

But Bendis's run of Daredevil ends with Wilson Fisk striking a deal with an ambitious FBI director to turn over his voluminous files on Murdock's activities as Daredevil, in exchange for payment, deportation, and immunity for all of his crimes.¹⁰⁷ Elektra learns of the guarded location of these files and tells Murdock about them, hoping they can steal Fisk's "Murdock Papers" before the FBI gets to them.¹⁰⁸ She explains:

Matt's a member of the American legal system. I know how important it is to him. I was with him in college when he decided to dedicate his life to it. I wasn't sure how he

¹⁰³ Brian Michael Bendis, Alex Maleev & Matt Hollingsworth, *Lowlife: Part Two*, DAREDEVIL (VOL. 2) 42 (Marvel Comics Mar. 2003).

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ Brian Michael Bendis, Alex Maleev & Dave Stewart, *Decalogue: Part Two*, DAREDEVIL (VOL. 2) 72 (Marvel Comics June 2005).

¹⁰⁷ See Brian Michael Bendis, Alex Maleev & Dave Stewart, *The Murdock Papers: Part Two*, DAREDEVIL (VOL. 2) 77 (Marvel Comics Nov. 2005).

¹⁰⁸ See Brian Michael Bendis, Alex Maleev & Dave Stewart, *The Murdock Papers: Part Three*, DAREDEVIL (VOL. 2) 78 (Marvel Comics Dec. 2005).

wanted to fight this. If he wanted to fight it as Matt Murdock, lawyer. Or Daredevil. It's his decision.¹⁰⁹

Murdock doesn't even get a chance to attempt to steal the files before a sniper shoots him, taking him out of the action and forcing him to go on the run.¹¹⁰ Fisk then reveals to the FBI director that he made everything up so Daredevil would take the bait and the FBI could catch him in the act: "As promised, I did give you Matt Murdock. And Matt Murdock gave you all the proof you'll ever need to put him in jail forever. He tried to take the bait. He tried to obstruct justice. A lawyer obstructing federal justice . . . which is what he has always done."¹¹¹ In the final chapter of "The Murdock Papers" story arc, Foggy represents Murdock in his federal criminal trial, Murdock pleads not guilty, and the judge denies Murdock's bail and sends him to Ryker's Island.¹¹² In another typically downcast, noir ending, Bendis's last issue ends with Murdock and Fisk being incarcerated together, with the FBI director speculating out loud that he hopes they kill each other.¹¹³

While Miller always made sure to show Daredevil at his morally-upstanding best, Bendis presents cautionary tales for readers, about how Murdock's carelessness and arrogance get the better of him as a superhero and as a lawyer. He repeatedly violates ethical rules and alienates friends and allies by lying, threatens a baseless libel lawsuit against a major newspaper that printed a true story about him, intimidates a witness into silence, considers stealing evidence against himself (even though the evidence never existed), forsakes the moral high ground against gangsters and supervillains, and loses a client's case due to doubt cast on his own professionalism, resulting in his client's tragic death. While he is still undoubtedly the protagonist of his own story, Bendis's Daredevil is much more of a flawed, morally-ambiguous antihero. Cultivation theory demonstrates that readers may come away from this era of *Daredevil* comics with a less positive view of lawyers as heroic and ethical.

¹⁰⁹ *Id.*

¹¹⁰ See Brian Michael Bendis, Alex Maleev & Dave Stewart, *The Murdock Papers: Part Four*, DAREDEVIL (VOL. 2) 79 (Marvel Comics Jan. 2006).

¹¹¹ *Id.*

¹¹² See Brian Michael Bendis, Alex Maleev & Dave Stewart, *The Murdock Papers: Part Six*, DAREDEVIL (VOL. 2) 81 (Marvel Comics Mar. 2006).

¹¹³ *Id.*

C. Daredevil's Journey to Redemption by David Hine

Running concurrently to the main *Daredevil* series written by Bendis, David Hine¹¹⁴ wrote a miniseries called *Daredevil: Redemption*. The story is told by utilizing an extended flashback set seven years before the events of Bendis's *Daredevil* series.¹¹⁵ It was a rare story that focused on Murdock as a lawyer investigating a case, with minimal superhero action.¹¹⁶ Even before he would agree to take the case of a teenager who was framed for murdering a child in rural Redemption Valley, Alabama, Murdock has a telling conversation with his legal intern, Constance, about a previous client.¹¹⁷ She asks him "Why spend so much time defending a guy who's obviously guilty?"¹¹⁸ Murdock replies with:

We owe it to him to present that in the best possible light, don't you think? . . . My first internship . . . all I wanted was to fight for truth and justice. I still want that. More than you can imagine. But most of the time being a lawyer is about dealing with gray areas. Absolute right against absolute wrong . . . doesn't come along that often.¹¹⁹

That was a perfect segue into Murdock meeting the mother of Joel Flood, the long-haired, heavy metal-loving teenage outcast accused of the

¹¹⁴ Interestingly, the English Hine is the one non-American *Daredevil* writer, yet he zeroed in on problems inherent in the American legal system in his one *Daredevil* story.

¹¹⁵ See David Hine, Michael Gaydos & Lee Loughridge, *DAREDEVIL: REDEMPTION* 1–6 (Marvel Comics Apr.–Aug. 2005).

¹¹⁶ In an April 2005 interview with Kuljit Mithra on ManWithoutFear.com, Hine explained the story was inspired by the infamous West Memphis Three: three teenage outcasts who were arrested, tried, and convicted for the 1993 murders of three young boys in rural Arkansas, based on minimal evidence. See Kuljit Mithra, *Interview with David Hine*, MANWITHOUTFEAR.COM (Apr. 2005), <http://www.manwithoutfear.com/interviews/ddINTERVIEW.shtml?id=Hine> [https://perma.cc/8ZHE-ZYME]. The three men, Jessie Misskelley, Jr., Damien Echols, and Jason Baldwin, were released after serving eighteen years in prison after taking an Alford plea, pleading guilty while maintaining their innocence. See Gavin Lesnick, *Plea Reached in West Memphis Murders*, ARK. DEMOCRAT GAZETTE (Aug. 19, 2011), <http://www.arkansasonline.com/news/2011/aug/19/breaking-plea-reached-west-memphis-murders/?breaking> [https://perma.cc/GLP7-DAXG]. The true killer was never caught. See *id.* The case was the subject of several true crime books and documentary films, including *Paradise Lost: The Child Murders at Robin Hood Hills*. PARADISE LOST: THE CHILD MURDERS AT ROBIN HOOD HILLS (HBO 1996).

¹¹⁷ See David Hine, Michael Gaydos & Lee Loughridge, *DAREDEVIL: REDEMPTION* 1 (Marvel Comics Apr. 2005).

¹¹⁸ *Id.*

¹¹⁹ *Id.*

murder, and agreeing to take the case after listening to her heartbeat and confirming she knew her son was innocent.¹²⁰ When Foggy warned him about taking the case, he reiterated that

justice is hardly ever black-and-white No excuses, no extenuating circumstances. He either did it, or he didn't. Guilty or innocent—that's all there is. If he's guilty, I'll lose in court. I can live with that. But I don't want to see her son go to the chair just because he didn't get a decent defense. That I can't live with. I'm not walking away from this one, Foggy.¹²¹

When Murdock meets Joel Flood in the Alabama jail, the teenager challenges him and asks, "You have to defend me even if I say I killed the kid, right?"¹²² Murdock counters with a great teaching moment Hine wrote for the benefit of his readers, dispelling a common misconception about lawyers: "Wrong. My professional code of ethics would not allow me to enter a plea of not guilty on your behalf if you tell me you are guilty. That information would be protected by the rules of client confidentiality, but I would be obliged to withdraw from representing you."¹²³

Murdock then meets with Flood's Alabama lawyer, who explained the *pro hac vice* system, which would probably be unfamiliar to most comic book readers:

The judge has allowed for you to work in the state of Alabama under *pro hac vice*. He wasn't too happy, but you have a good rep and, with the press watching this one, he didn't want anyone calling bias. Under state regulations, I sign all the paperwork. I sit beside you in court. But otherwise it's your case.¹²⁴

This scene highlights the mutual respect and collaboration between Murdock and Ollsen, the Alabama lawyer, reminding readers that attorneys work together, compare notes, and act professionally in the best interest of their clients, despite the competitive and adversarial relationships too many movies and television shows portray.

¹²⁰ *See id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ David Hine, Michael Gaydos & Lee Loughridge, DAREDEVIL: REDEMPTION 2 (Marvel Comics Apr. 2005).

After learning that another teen was also accused, arrested, and intimidated by police into confessing to the crime, Murdock seeks out that other teen's lawyer, a corporate lawyer assigned to him by the panel-attorney roster, who stood by and did not intercede during the police interviews.¹²⁵ Murdock harangues this lawyer and accuses him of failing to zealously represent his client: "You were right there! You sat there while your client was browbeaten. You listened . . . you sat and listened while [the sheriff] put words into your client's mouth . . . I have never witnessed a more blatant dereliction of duty to a client!"¹²⁶

Of course, it wouldn't be a Daredevil story without Murdock putting on his red costume, this time to intimidate a domestic abuser who happens to be the murdered boy's father.¹²⁷ Afterwards, Murdock lies to Constance, his legal intern who accompanied him to Redemption Valley, "[Daredevil has] helped me before. He can do things, go places we can't go."¹²⁸ He then lies again to the corrupt local sheriff, "Daredevil is not in my employ. I have had no contact with him, nor do I intend to."¹²⁹ Constance dresses Murdock down: "I think you should tell [Daredevil] to back off, because he really isn't helping . . . I believe in this country's legal system. Vigilantes are undemocratic and unnecessary."¹³⁰

The fifth issue shows the full trial taking place over several weeks, starting out with Murdock lamenting:

We used all our peremptories, and every "for cause" challenge we could think of to whittle down a panel of over two hundred jurors, to the twelve most honest men and women available. Even so, every one of them has read about the defendants in the newspapers . . . every one of them has come here believing that these . . . kids killed that boy.¹³¹

The story shows all the attorneys' opening statements, multiple direct and cross-examinations of witnesses, objections, sidebars at the bench and *in*

¹²⁵ *See id.*

¹²⁶ *Id.*

¹²⁷ *See* David Hine, Michael Gaydos & Lee Loughridge, DAREDEVIL: REDEMPTION 3 (Marvel Comics May 2005).

¹²⁸ *Id.*

¹²⁹ David Hine, Michael Gaydos & Lee Loughridge, DAREDEVIL: REDEMPTION 4 (Marvel Comics June 2005).

¹³⁰ *Id.*

¹³¹ David Hine, Michael Gaydos & Lee Loughridge, DAREDEVIL: REDEMPTION 5 (Marvel Comics July 2005).

camera meetings, and Murdock's fateful meeting with his teen client, who wants to testify on his own behalf.¹³² Murdock warns him (and the readers), "That's a bad idea, Joel. Once you're up there under cross-examination, they can ask anything. I strongly advise against it."¹³³ But Joel testifies anyway, and it does not go well, despite Murdock's eloquent closing argument.¹³⁴ Joel is sentenced to death, and after exhausting his appeals, seven years later (now in the present time, after Murdock is outed as Daredevil in the main *Daredevil* comic), Murdock goes to visit his former client and be there with him at his execution.¹³⁵ The tragedy is compounded by Daredevil exposing the boy's abusive father as the real murderer, so justice is done, but unfortunately too late to save Joel's life.¹³⁶ However, in a rare and necessary moment of hope, Murdock catches up with his former intern, Constance, who has gone on to become an attorney and an anti-death penalty advocate after being inspired by Murdock's zealous defense of Joel Flood.¹³⁷ Murdock knows she has freed five innocent people from death row, and when he tells her she should feel proud, she counters, "I've advised on twenty-seven cases in the last seven years. Five walked. Twenty-two didn't. I spend more time feeling crappy."¹³⁸

Readers of *Daredevil: Redemption* may be surprised by all the legal lessons they will learn. Hine's story takes its time to discuss and explain criminal investigations, trial and appellate procedure, *pro hac vice* cases, the ethics of representing criminal clients, the need for zealous representation, issues associated with jury selection and death penalty cases, and the disheartening lesson that despite their best efforts, attorneys don't always win and clients don't always earn the justice they deserve. By introducing the characters of Constance the intern and the wrongfully-accused Joel Flood, Hine gives Murdock a chance to explain his legal philosophy for the benefit of the readers, and both new characters challenge Murdock on his stances as well. Murdock sticks to the straight and narrow path in this unique story, and readers who might have lost patience with him in the main *Daredevil* series written by Bendis should be

¹³² See *id.*

¹³³ *Id.*

¹³⁴ See *id.*

¹³⁵ David Hine, Michael Gaydos & Lee Loughridge, *DAREDEVIL: REDEMPTION* 6 (Marvel Comics Aug. 2005).

¹³⁶ See *id.*

¹³⁷ See *id.*

¹³⁸ *Id.*

back on his side, with a more positive view of attorneys as champions and crusaders.

D. Daredevil Goes Public, by Mark Waid

The next writer, Ed Brubaker, picked up exactly where Bendis left off, with Murdock locked up in prison with Fisk and Bullseye.¹³⁹ Eventually, Murdock makes it home safely, the federal government drops the charges against him, and Foggy gets the New York State Bar to reinstate Murdock's law license.¹⁴⁰ Murdock's first move upon reinstatement seems counterintuitive: he files an appeal to get the FBI's case against Wilson Fisk thrown out due to tainted evidence.¹⁴¹ He meets the Kingpin in prison, the very prison he had just been locked up in himself, and explains "I am going to get you a deal. I am going to get your charges dropped. I am going to get you the freedom that you richly don't deserve."¹⁴² Fisk's U.S. citizenship is revoked and he leaves the country, but that would not be the last time the two enemies meet, nor would Murdock defending his arch-nemesis come close to settling the years of bad blood between them.¹⁴³

Starting in 2011, Mark Waid moved away from the unrelenting grimness associated with Daredevil,¹⁴⁴ determined to rebuild Matt Murdock's life after the previous writers had spent so many years ruining it.¹⁴⁵ Waid's run harkened back to the fun-loving, swashbuckling Man Without Fear of the '60s comics, rather than the noir influence of Frank

¹³⁹ See Ed Brubaker, Michael Lark & Frank D'Armata, *The Devil in Cell-Block D: Part One*, DAREDEVIL (VOL. 2) 82 (Marvel Comics Apr. 2006).

¹⁴⁰ See Ed Brubaker, Michael Lark, Stefano Gaudiano & Matt Hollingsworth, *The Devil Takes a Ride: Conclusion*, DAREDEVIL (VOL. 2) 93 (Marvel Comics Mar. 2007).

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ See *id.*

¹⁴⁴ Ed Brubaker wrote *Daredevil* after Brian Michael Bendis, from March 2006—October 2009. See *Daredevil Writers Volume 2*, MANWITHOUTFEAR.COM, <http://www.manwithoutfear.com/daredevil-writers-volume-2-sorted-by-issue.shtml> [https://perma.cc/L6QK-NYEC]. Then Andy Diggle wrote the series from December 2009—January 2011. *Id.* Mark Waid took over, starting with a new #1 issue, in September 2011 and wrote *Daredevil* until November 2015. See *Daredevil Writers Volume 3*, MANWITHOUTFEAR.COM, <http://www.manwithoutfear.com/daredevil-writers-volume-3-sorted-by-issue.shtml> [https://perma.cc/2MBE-556A]; *Daredevil Writers Volume 4*, MANWITHOUTFEAR.COM, <http://www.manwithoutfear.com/daredevil-writers-volume-4-sorted-by-issue.shtml> [https://perma.cc/Y8JL-PNTV].

¹⁴⁵ Waid's *Daredevil* series started from another #1 issue, and he collaborated closely with a series of artists with lighter, brighter styles, including Waid's artistic collaborators Paolo Rivera, Marcos Martin, and Chris Samnee. See Waid, Rivera, & Rodriguez, *supra* note 12.

Miller that inspired Bendis and Brubaker. Daredevil smiles again, has fun, spends more time dealing with legal issues, and actually enjoys his double-life while still publicly denying Matt Murdock and Daredevil are one in the same.¹⁴⁶ For a while, he is even able to find a new outlet for helping clients in need without harming their cases by association.¹⁴⁷

Still living under the cloud of denying his Daredevil identity, Murdock is regularly challenged in court by opposing counsel trying to make every case about his “extracurricular” vigilante activities, often to the detriment of his clients.¹⁴⁸ Representing a client suing the police for brutality and racism, the judge tells Murdock’s client “The court apologizes, but I strongly suggest you find yourself a new lawyer. This one’s doing you no favors.”¹⁴⁹ Later, Assistant District Attorney Kirsten McDuffie introduces herself to Murdock, warning him:

Every litigator in the game is going to use your Daredevil identity against you every time you set foot in a courtroom Even the D.A.’s office can’t order you not to enter a courtroom. Not officially. But . . . we do . . . encourage you to consider what a liability you are to your clients and to an already overburdened judicial system.¹⁵⁰

Murdock and Foggy have an idea that as long as the doubt and debate over his secret identity might lead to prejudice against their clients, they can specialize in teaching and coaching clients to represent themselves in court, with the police brutality victim being the first client to successfully represent himself after Murdock’s professional guidance.¹⁵¹ Murdock’s internal monologue speaks volumes about his good intentions:

I can’t practice trial law directly at the moment. Every time I step inside a courtroom, the opposing counsel harps on the not-very-successful secret that Matt Murdock is Daredevil . . . which even though they can’t prove it,

¹⁴⁶ See, e.g., *id.* (Murdock denies being Daredevil after a newspaper runs an article about Daredevil kissing the bride at a mob wedding).

¹⁴⁷ See, e.g., Mark Waid, Javier Rodriguez & Alvaro Lopez, *Help Wanted*, DAREDEVIL (VOL. 3) 28 (Marvel Comics Sept. 2013) (Murdock counsels his clients on how to plead their own cases).

¹⁴⁸ See Waid, Van Lente, Rivera, Martin, Rodriguez & Vicente, *supra* note 12.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ See Mark Waid, Paolo Rivera, Joe Rivera & Javier Rodriguez, *Sound and Fury!*, DAREDEVIL (VOL. 3) 3 (Marvel Comics Nov. 2011).

upends each case into chaos. But I can't stand by and let clients I believe in go without justice. So I'm doing the next best thing. I'm giving them the tools they need to find justice on their own If you're backed into a hopeless corner . . . if your case is either so dangerous or so unwinnable that no decent litigator will touch it . . . but you're still willing to fight for what's right . . . I'll coach you—perfectly legally—on the sly. Everyone knows all the old clichés about never representing yourself in court . . . but sometimes, there's no other option.¹⁵²

He tells another prospective client,

There are still so many prosecutors and judges who are Murdock-is-Daredevil truthers that it gets in the way of just verdicts. What I do now is coach clients to be their own lawyers. I'll consult. I'll prep and groom you, but you'll be pleading your own case. Take it or leave it.¹⁵³

At one point, Murdock is called to a prison for super-powered individuals to meet with an incarcerated supervillain who he originally beat up as Daredevil, not realizing the villain was after Matt Murdock in the first place.¹⁵⁴ The prisoner claims cruel and unusual punishment because the prison keeps his fire-starting powers nullified with extreme hot and cold temperatures and loud noises around the clock.¹⁵⁵ During their meeting in his cell, the prisoner attacks Murdock and Murdock beats him

¹⁵² Mark Waid, Marcos Martin & Muntsa Vicente, *Daredevil Back in NYC!*, DAREDEVIL (VOL. 3) 4 (Marvel Comics Nov. 2011). In an interview published at the end of *Daredevil* by Mark Waid Vol. 1, Waid told interviewer Dugan Trodglén:

[W]e didn't want to go too heavy on Matt as a lawyer, because there are few things in comics that are duller than courtroom scenes. So the question arose: "How do we have Matt practice his profession in a way that's not visually dull?" . . . [W]e have found a new way for Matt to approach his job in a way that totally makes sense for the character, and I don't think we've seen in a comic book before.

Dugan Trodglén, *Writer Mark Waid Joins the Devil-May-Care Duo of Marcos Martin and Paolo Rivera for an Exciting New Take on DD!*, in DAREDEVIL BY MARK WAID, VOLUME 1 (2012) (collecting issues 1–6).

¹⁵³ Waid, Rodriguez & Lopez, *supra* note 147.

¹⁵⁴ See Mark Waid, Khoi Pham, & Javier Rodriguez, DAREDEVIL (VOL. 3) 10.1 (Marvel Comics June 2012).

¹⁵⁵ See *id.*

into submission before the guards could arrive to witness anything.¹⁵⁶ The prisoner, cowed and terrified, swears to the guards that Murdock isn't Daredevil, despite all the immediate evidence that he is.¹⁵⁷ Regardless of the antagonism between the two, Murdock agrees to file his appeal anyway due to his conditions still "bordering on torture. That he deserves [such treatment] is immaterial."¹⁵⁸

Irrespective of the prior jury verdict finding Murdock's ill-fated former client Hector Ayala, the White Tiger, guilty back when Bendis was writing the comic,¹⁵⁹ Murdock's faith in the jury system remains steadfast, going along with Waid's generally more optimistic take on the character. Murdock narrates, "I am very protective of the jury system in this country. It's far from perfect, but it gives citizens a *voice* in how justice is achieved, and that voice is generally reasonable and trustworthy."¹⁶⁰ Internal monologues like this, which Waid employed throughout his run, go a long way toward demonstrating to readers that Murdock really is a good lawyer, despite his personal and professional shortcomings.

Waid seems to understand the need for these teaching moments, to educate readers more about Murdock's role as a lawyer and the legal system in general, despite his stated hesitance for writing courtroom scenes.¹⁶¹ Another story that could have been ripped from the headlines centers on a wealthy white society woman following and shooting an innocent black teenager in her building.¹⁶² Murdock shows his legal acumen and trial strategy ability as he recounts the trial: "Her team has been exemplary. They've built their strategy around self-defense, exploiting the fact that there were no witnesses but there were clear signs of a struggle. The prosecution, by contrast, paints her as a racist, armed

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* However, Administrative Judge Scott Maravilla wrote a blog post calling attention to this disturbing habit of Murdock's: representing the alleged criminals he captured. See Scott Maravilla, *Conflicts of Interest in the Representation by Matt Murdock of Alleged Criminals Apprehended by Daredevil*, LAW & THE MULTIVERSE (Jan. 23, 2017), <http://lawandthemultiverse.com/2017/01/23/conflicts-of-interest-in-the-representation-by-matt-murdock-of-alleged-criminals-apprehended-by-daredevil/> [https://perma.cc/UNL8-M6T5].

¹⁵⁹ See Brian Michael Bendis, Terry Dodson, Rachel Dodson & Matt Hollingsworth, *Trial of the Century: Part Three*, DAREDEVIL (VOL. 2) 40 (Marvel Comics Feb. 2003).

¹⁶⁰ Mark Waid, Chris Samnee & Javier Rodriguez, *Cosmic Waves*, DAREDEVIL (VOL. 3) 31 (Marvel Comics Nov. 2013) (emphasis in original).

¹⁶¹ See Trodglén, *supra* note 152.

¹⁶² See Waid, Samnee & Rodriguez, *supra* note 160.

vigilante who provoked a confrontation with an unarmed boy.”¹⁶³ In an ending that sounds far too familiar over these last few years,¹⁶⁴ the jury finds the defendant not guilty, and Murdock explains that despite the African-American prosecutor becoming a hero and role model to the community, “the evidence can’t overcome reasonable doubt.”¹⁶⁵

Later, two members of the racist terrorist organization, “Sons of the Serpent,” reveal to Murdock that they are “very active in the New York judicial system. We’ve worked quite diligently to tip the scales of justice back toward good Americans . . . but Daredevil’s open war on the Serpents has, admittedly, taken a toll on our influence.”¹⁶⁶ One of the men is the father of Robert Ogilvy, another Serpent, who was framed for multiple counts of murder and an aggravated arson charge, and the men want Murdock to represent him to earn an acquittal.¹⁶⁷ They threaten Murdock with a dossier containing “extensive details” and “irrefutable proof” about his double identity as Daredevil, including his history of perjury, his lawsuit against the *Daily Globe*, and even Murdock’s intimidation of the identity-leaking FBI agent into silence.¹⁶⁸ If Murdock doesn’t agree to defend Ogilvy, they threaten that

Daredevil’s methods and weaknesses will be loudly made public to every criminal on Earth. Matt Murdock gets disbarred for ethics violations. Your law firm shuts its doors. Your employees get set adrift The information you’ll need on the case has already been sent to your office. The court convenes in 13 hours. See you there.¹⁶⁹

Despite extorting Murdock with his worst fear, he listens to their heartbeats and confirms they are telling the truth about Ogilvy not being anywhere near the horrific crimes, even though he is a Sons of the Serpent member.¹⁷⁰ Murdock tells Elektra:

¹⁶³ *Id.*

¹⁶⁴ See Hal Boedeker, *George Zimmerman Verdict: The Jury Speaks*, ORLANDO SENTINEL (July 20, 2017), <https://www.orlandosentinel.com/entertainment/tv/tv-guy/os-george-zimmerman-verdict-jury-speaks-20170720-story.html> [https://perma.cc/J7TU-DWZG] (for an example similar to the Daredevil case described).

¹⁶⁵ Waid, Samnee & Rodriguez, *supra* note 160.

¹⁶⁶ Mark Waid, Chris Samnee & Javier Rodriguez, DAREDEVIL (VOL. 3) 35 (Marvel Comics Mar. 2014) (A narration box from Murdock notes that by “good Americans” means “white supremacists.”).

¹⁶⁷ *See id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *See id.*

I can't let someone I believe to be innocent go to trial without the best defense . . . This isn't about blackmail or knuckling under! This is about a core principle! You're not in my shoes! What are my options? If I take the case, I do the right thing for the wrong reason! If I walk, I do the wrong thing for the right reason! I lose either way!¹⁷¹

As if there was any doubt, Murdock takes Ogilvy's case and shows up with former Assistant D.A. (and now girlfriend) Kirsten McDuffie as his co-counsel.¹⁷² He then waives his opening statement and announces that Kirsten will be lead counsel, much to everyone's surprise.¹⁷³ Kirsten calls Murdock as her first witness, which the judge nervously allows over the prosecutor's objection.¹⁷⁴ Murdock is sworn in, takes the stand, and in a moment that shocks characters and readers alike, announces "Under oath and with God and the media as my witness, I'm telling you that I am Daredevil."¹⁷⁵ His internal monologue explains, "[Y]our only two choices when dealing with a blackmailer are to pay him off . . . or make him hold on you worthless."¹⁷⁶ He directs Kirsten to submit his medical history into evidence, and he explains his entire origin story in open court: the accident that blinded him but heightened his other senses and granted him 360-degree "radar sense," and how he became Daredevil to seek justice for others, starting with his murdered father.¹⁷⁷

Kirsten continues examining Murdock, asking him why he sued the *Daily Globe* when their story was true, and he launches into an improvised speech that sums up his entire character and motivation so perfectly:

We all want to live in a world where we can make a difference, Ms. McDuffie. That's why Spider-Man fights the good fight. Or Captain Marvel. Or me. Or . . . there are a lot of us. And we don't all wear masks these days. Iron Man went public. So did Captain America. Others. Probably because it's harder to keep secrets in an Internet

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *See id.*

¹⁷⁴ *Id.*

¹⁷⁵ Mark Waid, Chris Samnee & Javier Rodriguez, DAREDEVIL (VOL. 3) 36 (Marvel Comics Apr. 2014).

¹⁷⁶ *Id.* This is what Bergman refers to as "redemptive lawyering," when fictional lawyers are redeemed by moments of crisis. *See* Paul Bergman, *The Movie Lawyers' Guide to Redemptive Legal Practice*, 48 UCLA L. REV. 1393, 1394-95 (2001).

¹⁷⁷ *See* Mark Waid, Chris Samnee & Javier Rodriguez, *supra* note 175.

surveillance age. But I think some of it, too, is that the ethical paradox can wear you down. No one on the white-hat side has ever hidden his or her identity with less than noble intent: To make the right about something bigger than us. To represent a greater justice, where the focus can be on right and wrong . . . and not on whether the bad guys will exact reprisal on those close to us. And sometimes, you have to lie. Sometimes, someone guesses—"Aren't you really Spider-Man?"—And you look them dead in the eye and say "Absolutely not" because you can justify a lie if lives are riding on it. Even as you fight for, as the saying goes, truth and justice . . . even if you're a lawyer who has sworn to live by the truth . . . you willingly bear false witness. When the *Globe* came after me, I lied to shield my friends. That's the truth. It's not the kind of excuse I look forward to giving to St. Peter—a sin is a sin—but maybe he'll understand. I hope so. But where I took it too far was in counter-attacking the *Globe*. That wasn't me shielding anyone or dismissing a perceived danger. That wasn't an act of integrity. That was me fighting to preserve a lie. Keep it alive. Give it power. That's different. That's not what we should be doing. My dad taught me better than that. I'm Daredevil. That's the truth.¹⁷⁸

While all of this is going on, Ogilvy's father, the original blackmailer, storms out of the courtroom to signal the Sons of the Serpent to advance on the courthouse.¹⁷⁹ Murdock reveals that the judge and Ogilvy's father are both Serpent members in a struggle for control of the organization and he removes his suit, revealing his Daredevil costume underneath, ready to fend off the Serpents' siege on the courtroom.¹⁸⁰

The reader next sees a newspaper headline showing that the District Attorney and Department of Justice successfully ferreted out the secret Serpent members hidden among their ranks, while an article next to it features the headline "Daredevil Murdock Faces Ethics Charges."¹⁸¹ He

¹⁷⁸ *Id.*

¹⁷⁹ *See id.* (Artist Chris Samnee drew the Sons of the Serpent advancing on the courthouse interspersed with scenes of Murdock on the witness stand, while Murdock's passionate testimony is overlaid in text boxes serving as narration for both concurrent events).

¹⁸⁰ *See id.*

¹⁸¹ *Id.*

appears before a panel of three judges of the New York State Supreme Court, Appellate Division, and a tense conversation follows:

Judge 1: Mr. Murdock, this court is not unmoved by your years of service to the cause of justice both publicly and privately.

Judge 2: For that, we thank you. There is no question in anyone's mind that this city benefits from Daredevil's presence and actions.

Judge 1: Moreover, the majority here are sympathetic to you[r] . . . unique situation and the courage you showed the other day with your heartfelt testimony. However. It's hard to believe you weren't aware of how outrageous a piece of judicial theater that was.

Murdock: I was aware of the risks, yes. But it was the only way to restore justice to the system.

Judge 1: We understand. And we are grateful. But it is our sworn duty to uphold the written standards of professional judiciary conduct in this state regardless of intent.

Judge 3: Our issue is less with your sabotage of the Ogilvy case than with Nelson & Murdock's now-disclosed history of ethics violations. Your past activities as a vigilante, as well as the questionable actions you and your law partner have taken to preserve that identity, leave us no flexibility.

Judge 1: With a heavy heart, this court hereby disbars Matthew M. Murdock and Franklin P. Nelson. This hearing is adjourned. You are no longer licensed to practice law in New York State.¹⁸²

However, Murdock had previously been a California Bar member during the 1970s comics when he briefly relocated to San Francisco and

¹⁸² *Id.* Retired lawyer and comic book writer Bob Ingersoll (the namesake for the *Daily Globe*'s attorney who cautioned Murdock against suing the paper for libel back during Bendis's run) discussed Murdock's disbarment in his regular column on legal issues in comics, and suggested that disbarment, compared to an indefinite suspension of his license, was an extremely harsh penalty, considering the judges expressed their appreciation for the good he did at the same time. See Bob Ingersoll, *The Law is an Ass #325: Did Daredevil Have to be Disbarred?*, COMICMIX (Sept. 5, 2014), <https://www.comicmix.com/2014/09/05/the-law-is-a-ass-325-did-daredevil-have-to-be-disbarred/> [<https://perma.cc/MBB5-7G8A>].

practiced law there.¹⁸³ After his disbarment in New York, he decides to return to San Francisco, this time with Kirsten and Foggy, where he is fully licensed to practice law with his secret identity out in the open for the first time.¹⁸⁴ A San Francisco news reporter narrates:

—Last seen in the New York area, San Francisco’s newest super hero sensation is turning heads wherever he goes . . . he’s certainly enjoying his celebrity status—and why wouldn’t he? By day, he’s one of the most fearless lawyers in town, championing the rights of ordinary folks against corporate tyrants—but by night, he dons the mask and takes to the back alleys to challenge the underworld. Though as blind as the justice he represents . . . he’s been here only a few short weeks, and since then he’s already become one of the city’s most beloved and respected figures.¹⁸⁵

But it isn’t long before Murdock starts pushing his luck as a lawyer again. He arrives late to court in a garish red and black suit, angering a judge as he announces his entrance: “Daredevil for the defense!”¹⁸⁶ Murdock narrates:

Back in New York, I had to forego trial cases because the open suspicion that I was a masked vigilante by night was a liability in court. In celeb-obsessed California, especially now that I’ve come clean, people are a lot more tolerant of it. In fact, they seek me out. Hell, there are litigants here who would risk losing their cases just to say they were represented by Daredevil. The old Matt Murdock turned those clients away. The new Matt remembers how much he loves being in the courtroom, defending the innocent.¹⁸⁷

¹⁸³ See Gerry Conway, Gene Colan & Tom Palmer, *From Stage Left, Enter: Elektro!*, DAREDEVIL (VOL. 1) 87 (Marvel Comics May 1972).

¹⁸⁴ See Mark Waid, Chris Samnee & Javier Rodriguez, *supra* note 175.

¹⁸⁵ Mark Waid, Chris Samnee & Javier Rodriguez, DAREDEVIL (VOL. 4) 2 (Marvel Comics June 2014). Bergman’s “redemptive lawyering” has worked out, as Murdock emerged from the crisis with “improved happiness and moral values”—at least temporarily. See Bergman, *supra* note 176, at 1394.

¹⁸⁶ Mark Waid, Chris Samnee & Matthew Wilson, DAREDEVIL (VOL. 4) 14 (Marvel Comics May 2015).

¹⁸⁷ *Id.*

Unfortunately, Murdock's openness about his dual life and his newfound celebrity makes him get careless, putting him back in the crosshairs of an old enemy, Leland Owlsley, a vengeful underworld figure also known as "The Owl."¹⁸⁸ Murdock records confidential meetings with his clients and The Owl gains access to those hours of footage, threatening Murdock that even though he had come clean about his secrets, he was responsible for keeping plenty of other people's secrets: "Every lawyer has secrets, Matt. What's the sacred term you use? The ethic you all swear never to violate? Oh yes: Attorney-client privilege."¹⁸⁹ Even Murdock's new friend, the Deputy Mayor of San Francisco, harangues him: "What were you thinking, recording all your confidential meetings? You're ruined, you're aware of that, right? You and Kirsten both."¹⁹⁰ And so it always goes for the hardest-luck hero in comic books—every time anything good happens to Matt Murdock, or he gets a chance at a fresh start, something much worse happens, often due to his own hubristic arrogance.

In Mark Waid's final issue of *Daredevil*, Murdock had a crisis of confidence as he second-guesses writing his tell-all autobiography.¹⁹¹ He laments to Foggy and Kirsten, his research assistants and the two people he cares about the most:

I was never being honest except on my terms! I was being defiant! This is the secret to being "fearless," okay? You attack a problem before it can attack you. Outing myself that hard and that thoroughly wasn't an act of integrity. It was recklessness. It was an attempt to out-clever everyone. To take my secrets out of the mix before they could be used against me. That's all. And it backfired. That was my ammo. That was our protection. Now what do we have to shield us? Every day, standing next to me is a gamble! Who am I to be so arrogant as to believe I can always save you?¹⁹²

Always the voice of reason, the ever-loyal Foggy Nelson counters:

¹⁸⁸ See Mark Waid, Chris Samnee & Matthew Wilson, *DAREDEVIL* (VOL. 4) 15 (Marvel Comics June 2015).

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ See Mark Waid, Chris Samnee & Matthew Wilson, *DAREDEVIL* (VOL. 4) 18 (Marvel Comics Nov. 2015).

¹⁹² *Id.*

It's the 21st Century. No one gets to hide safely behind a mask anymore. You tried to when you were first exposed. You "saved" us, your friends, by doubling down and lying point-blank to a group of reporters just like the one outside, swearing you weren't who they knew you were—and I have never felt less safe in my life because you are my best friend and I did not like you when I saw the truth! . . . The truth is that you don't keep secrets to shield anyone but you. You think it's okay because you've convinced yourself that keeping secrets is a brave and noble act. Stop thinking that. It's not true. That's not your ammunition, Matty. When you were a kid, you got blinded just trying to help an old man across the street. That wasn't fair. Ever since then, you've devoted your life to balancing those scales. To making the world a fairer place for everyone else despite the fact that it is a vast, random entity of incomprehensible power. You get up every morning and you fight an unjust universe because you think you can make a dent. That is exactly the level of arrogance Kirsten and I will always trust to protect us.¹⁹³

The two best friends and law partners embrace, and Mark Waid concluded his four-year run writing *Daredevil* with a final interior monologue:

My name is Matt Murdock. I'm a fighter, I'm a lawyer and I am a friend of inconsistent quality Whether I mean to or not, I tend to keep to the shadows. I always have. I also make a lot of bad decisions. Perhaps those two things aren't wholly unrelated. I can see that now. That the light is nothing to be afraid of. Not really.¹⁹⁴

Readers who make it through Mark Waid's run will encounter Matt Murdock's eventual redemption from the dark hole Bendis and the subsequent *Daredevil* writers dug him into. They will learn lessons about the different ways attorneys can do well and do good at the same time, including teaching clients how to represent themselves in certain situations. They will realize the paramount importance of information security for practicing attorneys, especially when recording confidential meetings with

¹⁹³ *Id.*

¹⁹⁴ *Id.*

clients, to avoid the problems Murdock faced when his client records were hacked by The Owl. They will comprehend the value of honesty, truthfulness, and respect for the rules of professional conduct attorneys must follow, as Murdock finally suffered some real professional consequences for the series of lies he told to cover for his extralegal superhero activities. They may be surprised that an attorney who is disbarred in one state may still practice law in another state. And they will see that even major career setbacks cannot keep a good lawyer from fighting the good fight for long.

IV. DAREDEVIL'S FRESH START AND BIGGEST CASE EVER, BY CHARLES SOULE

Practicing attorney Charles Soule followed Waid as the next *Daredevil* writer and once again, Marvel Comics relaunched the comic with a new #1 issue in February 2016,¹⁹⁵ signifying a fresh start for new and old readers alike. Soule returned Murdock to New York, but this time as a low-ranked New York City prosecutor with an office literally at the bottom of an unused elevator shaft.¹⁹⁶ He threatens an uncooperative informant: "Let me be clear. You might know me as Matt Murdock, defense attorney, here to help. That guy's gone. I've changed sides. I'm now a prosecutor for the great city of New York. I put the bad guys away."¹⁹⁷ After almost flippantly trying to reassure his skeptical new boss, District Attorney Ben Hochberg (that in his new role, Murdock doesn't have clients anymore) the D.A. quickly reminds Murdock, "Oh, but you do You have exactly one client. This city. I had my doubts about you, Matt . . . if not for pressure from the mayor's office, you would never have been readmitted to the Bar, or have joined this office."¹⁹⁸

Later, against Murdock's protests, Hochberg reassigns Murdock to the Early Case Assessment Bureau (ECAB),¹⁹⁹ a chaotic night court environment in which prosecutors frantically process criminal court

¹⁹⁵ See Charles Soule, Ron Garney & Matt Milla, DAREDEVIL (VOL. 5) 1 (Marvel Comics Feb. 2016).

¹⁹⁶ *Id.* (This is justified in the story because as a visually-impaired man, he wouldn't need any sort of view).

¹⁹⁷ *Id.*

¹⁹⁸ Charles Soule, Ron Garney & Matt Milla, DAREDEVIL (VOL. 5) 2 (Marvel Comics Feb. 2016).

¹⁹⁹ See Charles Soule, Ron Garney & Matt Milla, DAREDEVIL (VOL. 5) 3 (Marvel Comics Mar. 2016).

complaints for most Manhattan arrests.²⁰⁰ Soule wrote a teaching moment for lay readers about the criminal justice system when Elektra challenged him: “Why are you doing this, Matt? Putting petty criminals in jail? Arguing about bail. It seems . . . beneath you.”²⁰¹ For the benefit of the readers, and to redeem himself for them, Murdock explains:

I’ve been assigned to something called E.C.A.B.—Early Case Assessment Bureau. Getting cases into the flow—mostly street-level stuff . . . The D.A. put me in E.C.A.B. as . . . punishment, I guess. More like a chance to prove myself. See if I can stick it out, I think. I’m lucky to be able to practice law in New York at all. I’ll take what I can get. Anyway, every part of the system is important. It needs skill and attention at every level.²⁰²

Readers have seen Murdock as a defense attorney since Daredevil’s creation in 1964, but now they are learning what it is like to represent the other side as a prosecutor.

But when an ally signals him for a Daredevil mission, Murdock runs out when he has to appear in court, commanding his loyal paralegal, Ellen King, to cover for him.²⁰³ Ellen poignantly reminds him that she is not an attorney, and Murdock’s own internal monologue correctly warns him that “This is gonna bite me in the ass.”²⁰⁴ Even with a fresh start, his old risky behavior returns to threaten both of his careers and put his professional ethics at risk again. Hochberg rightfully chews him out:

I don’t really care how you manage your shifts, Matt, as long as the work gets done. Everyone engages in a little horse trading now and then. But it sounds like you just walked off the job and left your cases in the hands of your

²⁰⁰ See John Eligon, *In a Complaint Room, a Prosecutor’s-Eye View of Crime*, N.Y. TIMES (Aug. 22, 2010), <https://www.nytimes.com/2010/08/23/nyregion/23ecab.html> [https://perma.cc/JEV8-MTAY].

²⁰¹ Charles Soule, Matteo Buffagni & Matt Milla, DAREDEVIL (VOL. 5) 6 (Marvel Comics June 2016).

²⁰² *Id.*

²⁰³ See Charles Soule & Ron Garney, Sara Pichelli & Matt Milla, DAREDEVIL (VOL. 5) 5 (Marvel Comics May 2016). Lawyer and comic writer Bob Ingersoll speculated on three possibilities resulting from Murdock’s grossly unprofessional actions, all resulting in him getting disciplined. See Bob Ingersoll, *Daredevil is Given the Finger*, COMICMIX (Apr. 22, 2016), <https://www.comicmix.com/2016/04/22/bob-ingersoll-the-law-is-a-ass-386/> [https://perma.cc/HL9Z-CX2K].

²⁰⁴ Soule, Garney & Milla, *supra* note 203.

fellow A.D.A.s, with no notice. Didn't win you any friends around here. And, son, take it from me—you could use a few . . . You are supposedly one of the best attorneys of your generation, Matt. Please . . . do us both a favor. Prove it.²⁰⁵

Murdock gets a chilly reception from his ECAB colleagues, teaching him some necessary humility.²⁰⁶ Ellen King, the paralegal, explains:

You gotta understand, you beat half these guys when you were in private practice on the defense side. And you know the salary difference between what you were making and what they make . . . And on top of that you came here under weird circumstances, that special deal with the mayor, and immediately leapfrogged most of the guys who've been here for years. They were thrilled you screwed up [a case] and got sent down here. You're going to have to take your lumps for a while.²⁰⁷

Meanwhile, Matt's identity as Daredevil is once again a secret to everyone in the world except Foggy Nelson.²⁰⁸ This was a bold, but excellent move on the part of Soule, because when Murdock was revealed to be Daredevil, both his legal career and his effectiveness as a superhero had been irrevocably damaged.²⁰⁹ This ongoing mystery runs throughout the first two years of Soule's *Daredevil* series. During a team-up with his old ally Spider-Man, Daredevil explains: "Everyone used to know my identity, and I did something to change that. I'm still the man you trusted. The only difference is that now you don't know my name."²¹⁰

In a flashback sequence to his most recent time in San Francisco, Murdock admits "I had to stop practicing law. It was just too complicated. Daredevil cast a shadow on everything I did as an attorney."²¹¹ Murdock

²⁰⁵ Charles Soule, Ron Garney & Matt Milla, *Dark Art Part II*, DAREDEVIL (VOL. 5) 11 (Marvel Comics Nov. 2016).

²⁰⁶ See Charles Soule, Ron Garney & Matt Milla, *Dark Art Part I*, DAREDEVIL (VOL. 5) 10 (Marvel Comics Oct. 2016).

²⁰⁷ *Id.*

²⁰⁸ See Soule, Garney & Milla, *supra* note 195.

²⁰⁹ See Charles Soule, Ron Garney & Matt Milla, *Dark Art Part V*, DAREDEVIL (VOL. 5) 14 (Marvel Comics Feb. 2017).

²¹⁰ Charles Soule, Goran Sudzuka & Matt Milla, *Blind Man's Bluff Part II*, DAREDEVIL (VOL. 5) 9 (Marvel Comics Sept. 2016).

²¹¹ Charles Soule, Ron Garney & Matt Milla, DAREDEVIL (VOL. 5) 17 (Marvel Comics Apr. 2017).

later adds: “I had the law. Now I don’t, and I haven’t found anything to replace it . . . Daredevil makes every case about me, not the clients. It’s just not fair. Not ethical.”²¹² The flashback continues to show his first meeting with District Attorney Hochberg in New York, who reminded him he was disbarred in that state for ethical reasons.²¹³ In an interior monologue, Murdock laments:

I became Daredevil to help people. I became a lawyer to help people. The only way those two things worked together was when no one knew I was doing both. Ever since I went public, I’d been chasing some new version of my life, carving the old parts away, trying to replace them with new things which, honestly . . . just . . . didn’t . . . fit. I helped so many people on both sides of the coin for years. It worked. And it all stopped dead once I was outed. Everyone in the world knew exactly who I was. And I had absolutely no idea.²¹⁴

In a sequence of events that could only happen in comic books, Soule later reveals that the mind-controlling children of a supervillain purposely wiped the memories of everyone in the world to make them forget Matt Murdock was Daredevil, in an attempt to allow him a fresh start at life after he rescued them from their evil father.²¹⁵ The children sent a mental signal out to the world: “You don’t know Daredevil’s real name. Anything you see or hear or learn that tells you who Daredevil is, you won’t see or hear or learn, unless Daredevil wants you to. Daredevil does good things. Forget anything else.”²¹⁶ Before the means of Murdock’s newly-secret identity were revealed, he cryptically tells Foggy, “Everything I had to do to get here was worth it.”²¹⁷ A year and a half into Soule’s Daredevil series, readers finally learned what he meant:

[W]hen I got back to New York, I barely had to pull any strings to get myself reinstated to the bar. I think no one could remember any reason why I shouldn’t be readmitted . . . I hadn’t done anything like that in a long

²¹² *Id.*

²¹³ *See id.*

²¹⁴ *Id.*

²¹⁵ *See* Charles Soule, Ron Garney & Matt Milla, *Purple: Conclusion*, DAREDEVIL (VOL. 5) 20 (Marvel Comics July 2017).

²¹⁶ *Id.*

²¹⁷ Soule, Garney & Milla, *supra* note 195.

time. Just tearing through the city, going after every bad guy I could find. I hadn't let myself, out of fear that the involvement of Matt Murdock could spoil some poor D.A.'s case It felt incredible.²¹⁸

Soule's series reaches its thematic and dramatic zenith in the "Supreme" story arc, in which Matt Murdock hatches a plan to legitimize superheroes being able to testify in court while wearing their costumes and masks, without having to reveal their secret identities.²¹⁹ He confidently presents his plan to Hochberg, his boss: "I'm not sure you'll like it, and I know I haven't earned much credibility here yet . . . the absences, friction with the other A.D.A.s . . . all of it. But if it works . . . all will be forgiven."²²⁰ A long-running critique of superhero comics is that masked heroes with secret identities who foil crimes and capture criminals act extralegally, regularly violating people's civil rights. Furthermore, criminals left tied up by vigilantes like Daredevil would easily be able to have the charges against them dropped if the heroes fail to show up to testify against them in court.²²¹ If the superheroes do testify, they would have to prove their identities by unmasking and revealing their real names.²²² The Sixth Amendment contains what is referred to as the Confrontation Clause, which provides that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him."²²³

²¹⁸ Soule, Garney, & Milla, *supra* note 215.

²¹⁹ See Charles Soule, Goran Sudzuka & Matt Milla, *Supreme: Part One*, DAREDEVIL (VOL. 5) 21 (Marvel Comics Aug. 2017).

²²⁰ Soule, Garney, & Milla, *supra* note 215.

²²¹ See DAILY & DAVIDSON, *supra* note 27, at 8.

²²² See, e.g., Dan Slott, Juan Bobillo, Marcelo Sosa & Chris Chuckry, *Web of Lies*, SHE-HULK (VOL. 1) 4 (Marvel Comics June 2004) (in which Spider-Man finally sued *The Daily Bugle* and its antagonistic publisher, J. Jonah Jameson, for libel). To protect his secret identity, Spider-Man refused to unmask when testifying in court, but She-Hulk's law firm, which specialized in superhuman law, used a ridiculous *deus ex machina* sort of device that could only exist in comic books to confirm he was truly Spider-Man, without having to remove his mask or reveal his secret identity. See *id.*

²²³ U.S. CONST. amend. VI. James Daily examines how the Confrontation Clause would relate to superheroes testifying in court in deeper detail in a blog post. See James Daily, *Costumes and the Confrontation Clause*, LAW & THE MULTIVERSE (Jan. 3, 2011), <http://lawandthemultiverse.com/2011/01/03/costumes-and-the-confrontation-clause/> [<https://perma.cc/7GCC-2ZSN>] (He posits that if a superhero is asked to reveal his real name upon cross-examination, he might have to plead the Fifth Amendment against self-incrimination and that protection would only apply in criminal cases, not civil cases).

To implement his plan, Daredevil oversees the arrest of a terrorist named Slugansky, also known as Slug, directing fellow heroes Luke Cage and Echo to physically stop him without ever laying a hand on Slug himself, to avoid tainting the case.²²⁴ In the New York Supreme Court, Murdock's fellow prosecutor then calls Daredevil, masked and in full costume, as a witness against Slug.²²⁵ She presents a brief Murdock wrote, anticipating and challenging every argument Slug's defense lawyer would make against allowing Daredevil to testify.²²⁶ Sitting on the witness stand and using his super-hearing to eavesdrop on the *in camera* discussion, Murdock's interior monologue reveals his worry that if his arguments failed and he was forced to unmask in open court, his entire plan, starting with the unexpected boon of the "Purple Children" erasing knowledge of his identity from the world, would be for naught.²²⁷ But when Slug's terrorist teammates storm the courtroom to break out their ally, guns blazing, Daredevil leaps into action and subdues them all, saving dozens of lives and convincing the skeptical defense attorney it was really him under the mask and not just a random person.²²⁸

Though the rest of the trial court scenes takes place off-panel,²²⁹ a flash forward to two weeks later reveals that the trial court judge treated Daredevil as a confidential witness, allowing him to testify without removing his mask, and Slug and his gang were all convicted.²³⁰ Hochberg warns Murdock that "It's just a matter of time before someone challenges [Daredevil's masked testimony]. The Fourth Amendment implications—this could go all the way up."²³¹

And comics being comics, of course it does. Wilson Fisk, New York's Kingpin of Crime, secretly hires a mysterious attorney known as "Legal"—who was once Tony Stark's "all-the-way-at-the-top lawyer"²³²—to

²²⁴ See Soule, Sudzuka & Milla, *supra* note 219.

²²⁵ See *id.*

²²⁶ See Charles Soule, Goran Sudzuka & Matt Milla, *Supreme: Part Two*, DAREDEVIL (VOL. 5) 22 (Marvel Comics Aug. 2017).

²²⁷ See *id.*

²²⁸ See *id.*

²²⁹ Possibly worried about boring or alienating their readers who are accustomed to more action and plot development, Soule and Sudzuka made the artistic decision to not show the rest of the trial and skipped ahead in time to reveal the important outcome. See *id.*

²³⁰ See *id.*

²³¹ *Id.* (Hochberg may be referring to the issues that would arise from searches and seizures conducted by superheroes with secret identities, as opposed to dedicated law enforcement personnel).

²³² See Charles Soule, Alec Morgan & Matt Milla, *Supreme: Part Three*, DAREDEVIL (VOL. 5) 23 (Marvel Comics Sept. 2017). Wealthy industrialist and inventor Tony Stark is

(continued)

prevent what Murdock is trying to accomplish, as superheroes being able to testify in court would be an expensive and dangerous recurring problem for his flourishing criminal empire. Legal explains to Fisk (and to the readers) that between panels, Slug's attorney appealed, the ruling was upheld by the intermediate-level Appellate Division of the New York Supreme Court, and they then appealed again to New York's highest court, the Court of Appeals.²³³ Fisk and Legal express their concern that if the ruling is upheld again, superheroes and vigilantes could act with impunity against criminals and testify against them anonymously.²³⁴

In a consultation with Jennifer Walters, also known as the She-Hulk, the Marvel Universe's foremost expert in superhero-related law,²³⁵ Murdock states: "If I win . . . it sets the precedent. Any secret I.D. hero could get up on the stand without unmasking. They won't have to just drop off criminals at the precinct house and hope it all works out in court."²³⁶ As he consults with Walters (who no longer knows Murdock is Daredevil), he edges into a dangerous ethical zone: "Look. Daredevil has super-hearing. He's a one-man wiretap. And since he's a private citizen, no warrant required. It'd be a goldmine."²³⁷ He continues: "[Every] case is partly about every subsequent case. Think of whom this ruling might inspire down the line. Future heroes who might not want to operate outside the system—now they'd have a path too."²³⁸ Walters warns him, "Shouldn't you be focused on the conviction? You seem to care more about Daredevil than you do about putting a terrorist in jail!"²³⁹ She leaves Murdock with an ominous warning, "I can turn into a Hulk any time I

the publicly-known alter ego of the armored superhero Iron Man, who has run several lucrative corporations over the years. See *Iron Man: In Comics Full Report*, MARVEL, <https://www.marvel.com/characters/iron-man-tony-stark/in-comics> [https://perma.cc/7N79-5N72].

²³³ See Soule, Morgan & Milla, *supra* note 232 (appeals structure confirmed at *The Courts—General Information*, N.Y.COURTS.GOV, <https://www.nycourts.gov/courts/structure.shtml> [https://perma.cc/Y9A4-HVXV]).

²³⁴ See Soule, Morgan & Milla, *supra* note 232.

²³⁵ See Barry Malone, *She-Hulk Comic Turns its Focus to Solo Practice at the Urging of its Writer, a Practicing Attorney*, A.B.A. J. (July 2014), http://www.abajournal.com/magazine/article/she-hulk_comic_turns_its_focus_to_solo_practice [https://perma.cc/4B97-BKKA]. See also generally Dale Mitchell, *Paradoxes and Patriarchy: A Legal Reading of She-Hulk*, 24 GRIFFITH L. REV. 446 (2015).

²³⁶ Soule, Morgan & Milla, *supra* note 232.

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Id.*

want. But just because you can do something doesn't always mean you should."²⁴⁰

When the case goes before the New York State Court of Appeals in Albany, Legal argues that Slug's due process rights were violated because the defense could not have known with 100% certainty that the real Daredevil was the witness against Slug, despite being cross-examined by the defense attorney.²⁴¹ In his narration, Murdock laments that the judges were letting Legal raise arguments that weren't used in either of the earlier hearings, that they could throw "[s]tare decisis right out the window, if they feel like it. And today . . . they feel like it."²⁴²

Soule flashes forward to the aftermath of the trial in his next issue, revealing that the New York State Court of Appeals ruled against Murdock in a 4-3 decision and this time, the tactic of putting Daredevil back on the witness stand failed.²⁴³ Hochberg dresses Murdock down back at the office, arguing that it made both men and the New York County District Attorney's Office look bad.²⁴⁴ Murdock wants to file a writ of certiorari to take the case all the way to the U.S. Supreme Court, justifying it by noting his wins at the trial level and the first appeal, and how he only lost by a 4-3 split decision.²⁴⁵ Hochberg argues: "But if [the Supreme Court doesn't] agree to hear the case, or worse, if they do and you lose . . . you'll look like a maniac. Tilting at windmills. It'll end your career."²⁴⁶ Murdock interrupts: "Wouldn't be the first time."²⁴⁷ Hochberg continues: "I won't stop you—it's still your case—but you're on your own. D.A. resources and personnel are off limits."²⁴⁸ Moving forward, Murdock not only exemplifies the archetype of the heroic lawyer for the reader, but

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.* (This will likely be most readers' first exposure to the legal concept of *stare decisis*, and I hope most comic book readers are geeky enough to look up what it means, because they will learn it refers back to Murdock's earlier line from that issue, "Every case is partly about every subsequent case.").

²⁴³ See Charles Soule, Alec Morgan & Matt Milla, *Supreme: Part 4*, DAREDEVIL (VOL. 5) 24 (Marvel Comics Sept. 2017).

²⁴⁴ See *id.*

²⁴⁵ *Id.* (This conversation, and one that follows between Legal and Wilson Fisk, explain to readers how a case makes it before the Supreme Court, another teaching moment).

²⁴⁶ *Id.*

²⁴⁷ *Id.* Murdock was referring to his disbarment during Miller's "*Born Again*" storyline, and again at the end of Waid's "*Sons of the Serpent*" storyline, and his federal indictment and imprisonment at the end of Bendis' "*The Murdock Papers*" storyline in *Daredevil* #81. See Miller, Mazzucchelli, Scheele & Rosen, *supra* note 82; Waid, Samnee & Rodriguez, *supra* note 175; Bendis, Maleev & Stewart, *supra* note 112.

²⁴⁸ Soule, Morgan & Milla, *supra* note 243.

represents every underdog from legal fiction, every crusading David going up alone against a relentless, deep-pocketed Goliath, fighting for noble ideals in a long shot of a case.

Meanwhile, Legal meets again with the intimidating Fisk, and their expository conversation helps Soule explain the appeal process for readers who are probably unfamiliar with the legal system.²⁴⁹ Legal explains,

The law is on no one's side. It can be used to support any position, if the attorney making the relevant arguments is sufficiently skilled. The law is an abstraction. A tool. Nay, an instrument to be played. Mr. Murdock and I are both virtuosos. The justices simply enjoyed my tune more than his.²⁵⁰

He continues, doubling down on explaining the certiorari process for readers: "The D.A. could continue the Slugansky matter by filing a petition for a writ of certiorari . . . but that would be a desperate move. It would require an exceptional legal mind if it were to even have the slightest chance of success."²⁵¹

Murdock meets again with Foggy, still the only person left who knows his secret identity. Always the voice of reason, Foggy admonishes him: "You dressed up in a costume and put yourself on the witness stand! You screwed up an easy conviction because you wanted to pursue some dumb idea about letting Daredevil testify. Which, by the way, goes completely against the oath you took when you became an attorney."²⁵² Foggy reminds Murdock (and educates the readers) that the Supreme Court grants fewer than one percent of certiorari petitions.²⁵³ A contrite Murdock apologizes for dragging Foggy through hell countless times over the years, and the estranged partners reunite.²⁵⁴

The finale of "*Supreme*" begins with another flash-forward to Murdock and Nelson in front of the Supreme Court Building, allowing them to temporarily bask in the glory of fulfilling a shared dream they had since law school.²⁵⁵ Murdock ruins the moment by admitting to losing the appellate case on purpose, another ethical violation and another classic

²⁴⁹ *See id.*

²⁵⁰ *Id.*

²⁵¹ *Id.*

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *See id.*

²⁵⁵ *See Soule, Morgan & Milla, supra note 46.*

“Matt Murdock move.”²⁵⁶ It was all part of his master plan, which he explains in a rousing speech at the courthouse steps:

How much power does any one lawyer really have? Most of the time, we work with a single client. We can help them, but in terms of our impact on the world . . . it’s a one-at-a-time thing. Incremental. But here . . . if you can get the Supreme Court to decide in your favor, their ruling becomes the rule. Here, with wit, words and will, an attorney can create meaningful change for the entire country. Here, a lawyer’s ordinary power is amplified a thousand times. Here, a lawyer becomes a super hero.²⁵⁷

Foggy, incredulous, explains more about Supreme Court procedure:

You’re about to go up against ten of the most brilliant legal minds in the country. That’s not hyperbole. These are the best of us. And all you get to do is talk. No tricks, no surprise witnesses, no using your Daredevil powers to eke out a win . . . [y]ou’re risking your entire career, probably your identity as Daredevil, and you’re telling me you didn’t have to? . . . [I]f you could have won this at the appellate level . . . ended it there . . . why are you still pushing this?²⁵⁸

Murdock replies, “The truth is . . . I’m not sure why. But I’m sure it’s right.”²⁵⁹ At this moment, he is the symbol of every crusading attorney from every novel, every movie, every television show from which readers and viewers have cultivated their views of the legal profession. The audience for these comics may not be as large, but Soule (through Murdock) is telling a story about another flawed hero lawyer—arguably an antihero—taking on the system against all odds, hoping to use the law to make his mark and change things for the better.

Murdock begins his oral argument, relying on the *Roviaro* case to determine whether “the testimony of a person with superhuman abilities . . . in a criminal trial, offered under existing rules with respect to

²⁵⁶ See *id.*

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ *Id.*

confidential informants, violates the United States Constitution.”²⁶⁰ The following quote depicts the back-and-forth of the Supreme Court oral arguments as a fantasy sequence: a fast-paced battle between the Justices and Murdock, as they rain physical blows and even gavel attacks upon him while peppering him with questions he attempts to parry and dodge with his rebuttals.²⁶¹ This fantasy version of Murdock bleeds more throughout the battle as they put all of his defenses to the test:

Justices: *Roviaro* and similar rules are designed for informants selected and vetted by the government! Why should these rules apply toward an entirely voluntary submission of evidence by an ordinary citizen?

Murdock (through a nosebleed after taking a thrown gavel to the face): Masked super hero testimony is within the penumbra of the clear social intent expressed within confidential informant precedent.

Justices: You believe the government should encourage activities by vigilantes? Because it seems that this would be doing exactly that.

Murdock: I would not call Daredevil a vigilante. And I think the public agrees. I would call him a hero, a well-established position within—

Justices (kicking Murdock in the face): But you aren’t just talking about Daredevil, are you? You want this new rule to apply to any powered person who wishes to keep their identity hidden.

²⁶⁰ *Id.* See also generally *Roviaro v. U.S.*, 353 U.S. 53 (1957) (centered around the government withholding the identity of an undercover informant who purchased drugs from the defendant. The defendant had sought the informant’s identity and tried to discern it from questioning witnesses, but the trial court refused to reveal the informant, due to his privileged identity. The Supreme Court reversed and remanded, ruling that the trial court erred in allowing the government to withhold the informant’s identity).

²⁶¹ See Soule, Morgan & Milla, *supra* note 46. Denvir may not have had this physical battle, creatively and expertly rendered by artist Alec Morgan and colorist Matt Milla, in mind when he wrote, “[W]e also must admit that movies and television take a great deal of artistic license with procedural rules, thereby diluting any claim that these fictions show students how law actually plays out in a courtroom.” Denvir, *supra* note 37.

Murdock: Implementation will clearly need some thinking out, yes. But this isn't the first time—²⁶²

Murdock is out of time, and it is now Legal's turn to present his oral argument, so he starts out by kicking Murdock in the imagined fantasy fight sequence:

Legal: The first prong of the *Roviaro* test disallows confidentiality for informants who are, themselves, involved in the criminal activity about which they testify. It is therefore within the penumbra of the rules—to use petitioner's counsel's term—to prevent criminals from testifying anonymously. Daredevil and his ilk can call themselves what they like—but they are vigilantes. They are, in fact, criminals. The due process issues could not be more clearly drawn, and of course the confrontation clause violation. I believe that once you have given these points due consideration, you will agree. Thank you.²⁶³

Murdock had wisely reserved five minutes to rebut in his initial argument, so he launches into a long, eloquent monologue that sums up Soule's humanistic view of superheroes and Murdock's inherent heroism:

Murdock: You're afraid. I know that. World like this, days like these, who wouldn't be? We're hanging on by a thread. The people out there with powers . . . it's like the law doesn't touch them. Like it can't even see them. They do whatever they want, and we try to pretend it doesn't touch us, like their lives aren't our lives. Because if we really did think about it . . . what a guy who could drop-kick a tank could do to us no matter what laws we put into place . . . it's terrifying. So, we pretend that when the Avengers go fight Thanos it all happens off in its own little box. That, essentially, it is someone else's fight. I get it. That's easier. It's safer. It's less frightening, and we have to stop doing it. Everyone good on this planet is fighting exactly the same battle. We all want the world to be better tomorrow than it is today. I believe the policy at issue today is constitutional, despite my esteemed colleague's

²⁶² Soule, Morgan & Milla, *supra* note 46.

²⁶³ *Id.* (Legal refers back to the confrontation clause of the Sixth Amendment of the Constitution. *See* U.S. CONST. amend. VI).

arguments to the contrary. But to an extent, that is not the question. It is whether this nation wants to look the reality of its situation in the eye. It is whether we acknowledge that people with powers, good and bad, are us. Ignoring powered individuals' ability to help us because we fear what it might mean if we bring them into the system is a terrible waste. A criminal waste, in fact. Accepting that may alter society in ways we cannot yet anticipate. Today could herald the beginning of a long, complex discussion—but it is long overdue. Let the heroes help. Let us all help each other. Don't be afraid.²⁶⁴

Soule flashes forward to ten days later, revealing that the Supreme Court ruled 7-2 to extend confidentiality protections to superheroes, allowing them to transcend their status as extralegal vigilantes and participate fully in the justice system.²⁶⁵ In the next issue, Murdock notes that the lasting effects of the *Slugansky* verdict are yet to be known, but “[t]hat [it would] happen just like everything else in the legal system: case by case, day by day, ruling by ruling . . . [H]eroes couldn't testify, couldn't seal the deal. Now . . . they can. And that means a city full of well and truly freaked-out bad guys.”²⁶⁶ And in classic Matt Murdock fashion, rather than stick around to start working on new guidelines to allow superheroes to testify in court, he drops everything and jets off to China to help a former superhero protégé who is in danger.²⁶⁷

Charles Soule wrote the following series of tweets on July 26, 2018, commenting on current events involving high-profile lawyers turning on higher-profile clients making worldwide news:

Knowing the law can be a superpower. Attorneys understand society's infrastructure and how to manipulate it . . . Lawyers are magicians, in a very specific, boring, but incredibly powerful way. But, of course, power can be abused. And if you're not careful, you end up a supervillain. Some attorneys believe that because they understand the law, they're above it, or they can abuse it and never get caught. Some pass that belief on to their

²⁶⁴ *Id.*

²⁶⁵ *See id.*

²⁶⁶ Charles Soule, Ron Garney & Matt Milla, *Land of the Blind: Part One*, DAREDEVIL (VOL. 5) 26 (Marvel Comics Nov. 2017).

²⁶⁷ *See id.*

clients, who then hire them not to do what lawyers swear an oath to do—uphold the law—but to break it. . . . Fortunately, there's another kind. Some—no, most—lawyers care about their clients, put them above themselves, do everything they can to use their knowledge of the law to help them, or society as a whole.²⁶⁸

Soule then tweeted two panels from *Daredevil* #25, the last issue of the “Supreme” story arc, in which Matt Murdock, on the phone with Foggy, refers back to their earlier conversation on the courthouse steps, when he said: “The truth is . . . I’m not sure why [I appealed this case all the way to the Supreme Court]. But I’m sure it’s right.”²⁶⁹ At the end of the issue, he has a straight answer for his loyal friend and partner: “As *Daredevil*, I get to save the world. As a lawyer . . . maybe I can fix it.”²⁷⁰

V. CONCLUSION

The American Bar Association has been presenting annual Silver Gavel Awards for the last sixty-one years, “to recognize work in media and the arts published or presented during the preceding year that have been exemplary in helping to foster the American public’s understanding of law and the legal system.”²⁷¹ They specifically consider media that educates the American public about the Constitution, the legal system, court procedures, and the roles that attorneys play in the justice system, and they grant awards to print and visual media—books, articles, documentaries, film and television, and more—that meet those objectives.²⁷² Earlier this year, the American Bar Association Standing Committee on Gavel Awards chose a well-deserving list of 2018 Silver Gavel Award winners from a variety of media,²⁷³ but this author would love to have seen Charles Soule’s “*Supreme*” story arc from *Daredevil* listed among the worthy winners, for using the medium of comics to craft an illuminating story

²⁶⁸ Charles Soule, TWITTER (July 26, 2018, 7:53 PM), <https://twitter.com/CharlesSoule/status/1022676206486007808> [<https://perma.cc/89AU-NUNK>].

²⁶⁹ Soule, Morgan & Milla, *supra* note 46.

²⁷⁰ *Id.*

²⁷¹ *Silver Gavel Awards for Media and the Arts*, ABA, https://www.americanbar.org/groups/public_education/Programs/silver_gavel/instructions/ [<https://perma.cc/P2C2-R323>].

²⁷² See Jamie Hwang, *American Bar Association Announces 2018 Silver Gavel Awards for the Media and the Arts*, ABA J. (May 23, 2018, 11:00 AM), http://www.abajournal.com/news/article/aba_announces_winners_of_the_2018_silver_gavel_awards [<https://perma.cc/WZ75-BBMJ>].

²⁷³ See *id.*

about a crusading lawyer bringing a case from a criminal trial court all the way to the Supreme Court in a world that isn't too different from our own.

Like so many fictional lawyers in literature, film, and television, Matt Murdock is portrayed as a morally upstanding and heroic figure, yet he is not above relying on situational ethics as he balances his two careers as attorney and masked superhero, both in the pursuit of seeing justice done. His abilities to eavesdrop on conversations far and wide and hear people's heartbeats to tell if they are lying give him unfair advantages any real-life lawyer would kill to have. Until the conclusion of Soule's "*Supreme*" storyline, he regularly lied in and out of court to deny that he is really Daredevil, and his secret identity led to more than one disbarment. After publicly revealing his dual identity during Waid's run, it took Soule writing a super-powered *deus ex machina* event to reset the status quo, wiping that knowledge of Matt Murdock being Daredevil from the minds of the world to allow him a fresh, clean start and a chance to execute his master plan to bring a case before the Supreme Court. Even then, Murdock admits throwing the case before the New York Court of Appeals, gambling a successful conviction of a known terrorist while he is working as a prosecutor on behalf of the District Attorney on what was an extreme long shot. Surprisingly, it works out in his favor, giving Daredevil a rare happy ending and a chance for even more interesting stories to be told in his comic book series, with legal ramifications to resonate throughout the interconnected Marvel Universe.

Murdock's risky plan pays off, so following the tenets of cultivation theory, readers (and most probably, a larger audience of Netflix series viewers in the future) will leave with a more positive view of lawyers as crusading underdogs, despite the acts Murdock performed that no lawyer should ever do, and got away with unethical methods lawyers should never perform. "Good lawyer films . . . teach [an] important lesson: the practice of law is fraught with ethical consequence,"²⁷⁴ and that is one of the major takeaways from reading Bendis, Hine, Waid, and Soule's *Daredevil* as well.

In the end, Charles Soule brought his substantial legal experience to the comic and educated readers about some useful lessons on the inner workings of the legal system and court procedure, including how a case makes its way through the court system to the Supreme Court, going into far more detail than previous writers of *Daredevil* comic books and current episodes of the Netflix television series. The individual issues of

²⁷⁴ Denvir, *supra* note 37.

“*Supreme*” and the trade paperback collecting the story all came out in 2017,²⁷⁵ so it could conceivably be several years before the Netflix series adapts that storyline, thereby improving the accuracy of its portrayal of the legal system. At that point, Marvel’s *Man Without Fear* will still be a star of comics and in all likelihood, still a hit on streaming television as well,²⁷⁶

²⁷⁵ The website COMICHRON.COM features sales and business information for the comic book industry. In June 2017, *Daredevil* #21 sold 31,622 copies, becoming the 73rd highest-selling comic of the month, and #22 sold 26,199 copies, becoming the 96th highest-selling comic of the month. See John Jackson Miller, *June 2017 Comic Book Sales to Comics Shops*, COMICHRON, <http://www.comichron.com/monthlycomicssales/2017/2017-06.html> [https://perma.cc/38HQ-NUSR]. In July 2017, *Daredevil* #23 sold 30,757 copies, becoming the 69th highest-selling comic of the month, and #24 sold 25,519 copies, becoming the 88th highest-selling comic of the month. See John Jackson Miller, *July 2017 Comic Book Sales to Comics Shops*, COMICHRON, <http://www.comichron.com/monthlycomicssales/2017/2017-07.html> [https://perma.cc/NX9J-7XMJ]. In August 2017, *Daredevil* #25 sold 25,317 copies, becoming the 87th highest-selling comic of the month. See John Jackson Miller, *August 2017 Comic Book Sales to Comics Shops*, COMICHRON, <http://www.comichron.com/monthlycomicssales/2017/2017-08.html> [https://perma.cc/6YJ5-2ESW]. Compare these single-issue sales figures to the sales for *Daredevil* #1 in March 2014, which sold 76,006 copies, becoming the 6th highest-selling comic of the month. See John Jackson Miller, *March 2014 Comic Book Sales to Comics Shops*, COMICHRON, <http://www.comichron.com/monthlycomicssales/2014/2014-03.html> [https://perma.cc/VT9C-3FEW]. The trade paperback, *DAREDEVIL BACK IN BLACK VOLUME 5: SUPREME*, came out in November 2017, in which it sold 1,488 copies just to comic book stores, becoming the 56th highest-selling trade paperback of the month. See John Jackson Miller, *November 2017 Comic Book Sales to Comics Shops*, COMICHRON, <http://www.comichron.com/monthlycomicssales/2017/2017-11.html> [https://perma.cc/7YGR-HJD5]. Coming out so late in the year, it ended 2017 as the 991st highest-selling trade paperback of the year, selling 1,573 just to comic book stores. See *Top 1000 Graphic Novels—2017, Part 2*, ICv2 (Jan. 15, 2018, 9:38 PM), <https://icv2.com/articles/markets/view/39358/top-1000-graphic-novels-2017-part-2> [https://perma.cc/9DXC-UGQQ]. Obviously, far more copies would have been sold through Amazon.com, Barnes & Noble, library vendors, and other distributors.

²⁷⁶ This article was submitted for publication in early September, 2018, and went through the editing process until May 2019. This perfectly highlights a unique problem that accompanies the delays between writing and publishing: Netflix unfortunately announced the cancellation of its *Daredevil* television series on November 29, 2018, shortly after its third season debuted in October, 2018. See Nellie Andreeva and Dominic Patten, ‘*Daredevil*’ Canceled By Netflix After 3 Seasons; Future in Other Marvel Projects, DEADLINE (Nov. 29, 2018), <https://deadline.com/2018/11/daredevil-canceled-netflix-3-seasons-1202511521/> [https://perma.cc/Y4SP-XC6L]. The last remaining Marvel shows on Netflix, *Jessica Jones* and *The Punisher*, were canceled on February 18, 2019. See Dominic Patten, ‘*The Punisher*’ & ‘*Jessica Jones*’ Canceled By Netflix; Latter’s 3rd Season Still To Air, DEADLINE (Feb. 18, 2019), <https://deadline.com/2019/02/the-punisher-jessica-jones-canceled-netflix-marvel-krysten-ritter-jon-bernthal-1202535835/> [https://perma.cc/QB8W-JCXT]. While fans (myself included), critics, and industry pundits took to the Internet to mourn the untimely demise of these shows and speculate about ways Disney and Marvel could save them, it does not look good for *Daredevil* returning, at least not in its current incarnation with its fan-favorite cast. An online auction has been scheduled for August

(continued)

fighting not only gangsters, ninjas, and depraved supervillains, but also negative public sentiments about lawyers and misperceptions and ignorance about the legal system.

2019, which will auction off official props from *Daredevil* and other canceled Marvel Netflix shows *Luke Cage* and *Iron Fist*. See *Marvel Television Live Auction*, PROPSTORE.COM, <https://propstore.com/marvel/> [https://perma.cc/D3AQ-FV5S]. But you can't keep a good superhero-vigilante-lawyer down, especially when he is a valuable piece of intellectual property owned by The Walt Disney Company. Marvel continues to publish *Daredevil* comic books, as they have since 1964, and the characters will surely return to television or film at some point, in some form, to continue their adventures.

