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THE LAW ACCORDING TO *SHE-HULK*

Kevin Bennardo*

INTRODUCTION

First introduced in Marvel comics in 1979, Jennifer Walters is the fictional character best known as the She-Hulk.¹ Her profession is an attorney. While this article occasionally draws from source material elsewhere in the Marvel comics, its primary focus is the third *She-Hulk* series, which was published in twelve issues from 2014 to 2015.² This series is considered to be the most legally focused of the She-Hulk series and was written by an attorney, Charles Soule.³ Soule himself describes the series as “a book starring a superhero who rarely super heroes. Instead of that, she *gulp* lawyers.”⁴

As is normal with any work of fiction that depicts attorneys at work, the law in the *She-Hulk* series deviates from the actual law that exists in the world in which we live. That does not mean, however, that Soule ‘got the law wrong.’⁵

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Author’s note regarding citation of comic book sources: In the footnotes that follow, references to comic books will not be pincited to particular pages. Modern comic books generally are not labeled with page numbers and the pagination differs depending on how these sources are accessed (e.g., in printed comic book form with advertisements versus collected in a graphic novel or reproduced in an online database without advertisements). The author takes full responsibility for the inconvenience caused by this omission.

1. See Stan Lee, *The She-Hulk Lives*, SAVAGE SHE-HULK #1 (Marvel Comics Feb. 1980). Although its publication date is 1980, Savage She-Hulk #1 was released for sale a few months earlier in late 1979. See *Savage She-Hulk Vol 1 1*, MARVEL DATABASE, https://marvel.fandom.com/wiki/Savage_She-Hulk_Vol_1_1 (last visited June 24, 2022) [<https://perma.cc/RC9B-J6QJ>].

2. See *She-Hulk Vol 3*, MARVEL DATABASE, https://marvel.fandom.com/wiki/She-Hulk_Vol_3 (last visited June 24, 2022) [<https://perma.cc/9UR9-K6AE>]. To clarify, this was the third series to be titled *She-Hulk*. The first two series featuring She-Hulk were titled *Savage She-Hulk* (25 issues from 1980-1982) and *Sensational She-Hulk* (60 issues from 1989-1994), respectively. See *Savage She-Hulk Vol 1*, MARVEL DATABASE, https://marvel.fandom.com/wiki/Savage_She-Hulk_Vol_1 (last visited June 24, 2022) [<https://perma.cc/LNC9-WEGK>]; *Sensational She-Hulk Vol 1*, MARVEL DATABASE, https://marvel.fandom.com/wiki/Sensational_She-Hulk_Vol_1 (last visited June 24, 2022) [<https://perma.cc/TXJ8-8W5A>].

3. See *About Charles Soule*, CHARLES SOULE, <https://www.charlessoule.com/about> (last visited June 24, 2022) [<https://perma.cc/NLG8-E82U>]; see also Dan Spinelli, *Penn Alum Is Lawyer by Day, Comics Writer by Night*, DAILY PENNSYLVANIAN (Feb. 18, 2015, 12:30 AM), <https://www.thedp.com/article/2015/02/penn-alum-balances-law-and-comics> [<https://perma.cc/QWH8-E7JD>].

4. See Charles Soule, *Legal Briefs*, SHE-HULK (VOL. 3) #12 (Marvel Comics Apr. 2015).

5. In his reflection on the series, Soule mentioned that attorney-readers of the *She-Hulk* series “pull[ed] exactly zero punches” pointing out “legal fudging” in the series in their communications to him. See *id.* Frankly,

Rather, it should be assumed that he got the law right for She-Hulk's universe. He is, after all, the author of the series, and an author creates the rules of his characters' universe.

According to Marvel canon, She-Hulk lives in a different world than we do. Without getting too much into it, the Marvel universe is a multiverse comprising infinite versions of alternate universes.⁶ She-Hulk lives on Earth-616, which is the primary universe depicted in Marvel comics.⁷ You and I do not live on Earth-616. Within the Marvel multiverse, our reality—the one in which you and I exist—has been dubbed Earth-1218.⁸ While Earth-616 shares some similarities with Earth-1218, it has many notable differences. For one, numerous individuals on Earth-616 have superpowers while superpowers are conspicuously absent here on Earth-1218.⁹

If we are willing to accept this notable difference between Earth-616 and Earth-1218, then we should be willing to accept other milder differences as well. For one, it should not be surprising that the legal systems on Earth-616 evolved with at least slight differences from the law and legal systems to which we've grown accustomed here on Earth-1218. In this article, I will attempt to identify at least some of the rules and norms of the legal system that exist in She-Hulk's universe. To do so, I will use observations of specific events in the *She-Hulk* series to extrapolate rules. Think of it as a codification through reverse engineering.

The third *She-Hulk* series opens with Walters¹⁰ resigning her job as a big-law associate at the New York law firm of Paine & Luckberg, LLP.¹¹ After billing over 2800 hours for the year, Walters is informed at her annual review that she was hired because the firm's partners hoped that she would be able to use her

this makes little sense to me. These readers were willing to suspend their disbelief enough to accept the superhuman feats of a green giantess, but not enough to accept that the rules of evidence might be slightly different in the green giantess's world?

6. See *Multiverse*, MARVEL DATABASE, <https://marvel.fandom.com/wiki/Multiverse> (last visited June 24, 2022) [<https://perma.cc/74YB-3G5U>].

7. See *Earth-616*, MARVEL DATABASE, <https://marvel.fandom.com/wiki/Earth-616> (last visited June 24, 2022) [<https://perma.cc/MNF8-WWU7>].

8. See *Earth-1218*, MARVEL DATABASE, <https://marvel.fandom.com/wiki/Earth-1218> (last visited June 24, 2022) [<https://perma.cc/7DD6-VN9Y>].

9. The rules of our universe are so strict that individuals who otherwise possess superpowers would lose their powers while on Earth-1218. See Tim Seeley, *SHATTERSTAR #5* (Marvel Comics Apr. 2019).

10. I struggle with whether to refer to the main character as Jennifer Walters or She-Hulk because she is both at all times. Unlike some superheroes, she has no secret identity. She-Hulk's origin story involves an emergency transfusion of gamma-irradiated blood from her cousin, Dr. Bruce Banner (also known as the Incredible Hulk). See generally Lee, *supra* note 1. As presented in the third *She-Hulk* series, Jennifer Walters/She-Hulk does not have clearly defined dual personas like her cousin. She does not appear human at times and transform into a hulk at other times depending on her mood. While she is physically green and strong at all times, she also retains her intellect and humanity at all times. Because the third series of *She-Hulk* focuses so heavily on the attorney portion of Jennifer Walters/She-Hulk's life rather than the costumed superhero portion, I've decided to generally refer to her as Walters in this article. For consistency of treatment, I will generally refer to other superheroes by their non-superhero monikers as well. For further information regarding Walters's evolution as She-Hulk, see *She-Hulk*, THE MARVEL ENCYCLOPEDIA: THE DEFINITIVE GUIDE TO THE CHARACTERS OF THE MARVEL UNIVERSE 265 (2006).

11. Charles Soule, *Motion*, *SHE-HULK* (VOL. 3) #1 (Marvel Comics Apr. 2014).

connections to powerful people to attract new clients to the firm.¹² The partners express their disappointment with her performance on that front.¹³ In response, she resigns and breaks their twelve-person conference table into two pieces by pressing on it with her index finger.¹⁴

Walters's resignation (and a fortuitously timed monetary infusion) sets her up to open her own Brooklyn-based solo practice, Jennifer Walters, Esq., Attorney-at-Law.¹⁵ She hires an assistant, Angie Huang, who is always accompanied by her mysterious monkey, Hei Hei.¹⁶ She also hires her friend, Patsy Walker (also known as Hellcat),¹⁷ as her investigator.¹⁸ That is enough storyline set-up to set the stage for uncovering the law that governs Walters's universe. So, let's get to it.

As a solo practitioner, Walters doesn't have a well-defined practice area. While she is sometimes described as being a "foremost expert in super hero-related law,"¹⁹ that isn't a subject-matter area as much as it is a clientele. Her clients tend to either possess superpowers or have claims against individuals who possess superpowers, but the nature of the legal work pulls in many directions, from intellectual property²⁰ to political asylum²¹ to negotiating corporate acquisitions contracts²² to wrongful death suits.²³ Because her case load is so varied, it is difficult to discern much in the way of substantive law through the study of

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. Charles Soule, *...And?*, SHE-HULK (VOL. 3) #2 (Marvel Comics May 2014).

17. Patsy Walker has a long history in the comics, first being introduced in teen romance stories in the 1940s. See *Patricia Walker (Earth-616)*, MARVEL DATABASE, [https://marvel.fandom.com/wiki/Patricia_Walker_\(Earth-616\)](https://marvel.fandom.com/wiki/Patricia_Walker_(Earth-616)) (last visited June 24, 2022) [<https://perma.cc/N67K-EH9Z>]. In Marvel's Earth-616 universe, those comics were written by her mother as a semi-fictionalized portrayal of her daughter and her daughter's group of friends. See David Anthony Kraft & Ed Hannigan, *A Death in the Family!*, DEFENDERS #89 (Marvel Comics Nov. 1980). Thus, Patsy Walker of Earth-616 literally grew up as a comic book character. In the 1970s, she donned a catsuit and dubbed herself Hellcat. See Steve Englehart, *Claws!*, AVENGERS #144 (Marvel Comics Feb. 1976).

18. Soule, *supra* note 16.

19. See Charles Soule, *Supreme: Part 3*, DAREDEVIL (VOL. 5) #23 (Marvel Comics Sept. 2017). In an earlier *She-Hulk* series, Walters worked as an attorney for the law firm of Goodman, Lieber, Kurtzberg & Holliway, which is a Manhattan-based firm that specializing in superhuman law. For an overview of the firm and some of their notable cases, see *Goodman, Lieber, Kurtzberg & Holliway (Earth-616)*, MARVEL DATABASE, [https://marvel.fandom.com/wiki/Goodman,_Lieber,_Kurtzberg_%26_Holliway_\(Earth-616\)](https://marvel.fandom.com/wiki/Goodman,_Lieber,_Kurtzberg_%26_Holliway_(Earth-616)) (last visited June 24, 2022) [<https://perma.cc/P2VB-S2DZ>]. The firm maintains an extensive "law library" of comic books to use as precedents. See Dan Slott, *Class Action Comics!*, SHE-HULK (VOL. 1) #2 (Marvel Comics June 2004). During the course of researching for this article, it has been observed that my own office resembles the law library of Goodman, Lieber, Kurtzberg & Holliway.

20. See Soule, *supra* note 11.

21. See Charles Soule, *He Who Wouldn't Be King*, SHE-HULK (VOL. 3) #3 (Marvel Comics June 2014).

22. See Charles Soule, *Small Victories*, SHE-HULK (VOL. 3) #7 (Marvel Comics Oct. 2014).

23. See Charles Soule, *The Good Old Days: Part 1*, SHE-HULK (VOL. 3) #8 (Marvel Comics Nov. 2014); Charles Soule, *The Good Old Days: Part 2*, SHE-HULK (VOL. 3) #9 (Marvel Comics Dec. 2014); Charles Soule, *The Good Old Days: Conclusion*, SHE-HULK (VOL. 3) #10 (Marvel Comics Jan. 2015).

individual observations. What is most observable, however, are rules that transcend practice area: rules of procedure and rules and norms of professional responsibility. Thus, those shall be the focus.

A. *Permissible Attorney Behavior of Behalf of Clients*

In her role as an attorney, Walters engages in a variety of behaviors that would be considered criminal or otherwise unethical here on Earth-1218, including the use of violence, threats of violence, and the destruction of private property. For example, her first client is a woman with an intellectual property claim against Stark Industries, the company run by Tony Stark (also known as Iron Man).²⁴ Walters visits the headquarters of Stark Industries and asks to speak with Stark about the claim.²⁵ She is instead routed to Stark's legal department, which gives her the "runaround."²⁶ She then appears in court seeking a temporary injunction, and Stark's legal team frustrates her efforts by filing a plethora of motions.²⁷

As her next step, Walters does not get to work responding to the motions. Instead, she returns to Stark Industries in a second attempt to personally meet with Tony Stark.²⁸ She is informed by security robots that all communication regarding legal matters should be directed to the legal department.²⁹ She is then asked to leave the premises.³⁰ Instead of complying with the security robots' requests, she demolishes the security robots in order to gain personal access to Stark himself.³¹ She then discusses her client's claim with Stark.³² He agrees to settle the claim and writes a healthy check to her client.³³ Walters later explains to her client that lawyering is 90% conversations and that the other 10% is "[m]ostly beating up robots, apparently."³⁴

Walters's representation of her second client confirms this norm because again she finds herself beating up robots on a client's behalf. Her second client is Kristoff Vernard, the son of Dr. Victor von Doom, the ruler of Latveria.³⁵ Vernard seeks Walters's assistance in filing an asylum application. He wants to

24. *See Soule, supra* note 11.

25. *Id.*

26. Walters is actually routed to a character whose full name is apparently "Legal." *Id.* ("I am neither bad nor good. I am simply Legal.")

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.*

31. *See id.*

32. *Id.*

33. *Id.*

34. *Id.*

35. Soule, *supra* note 21.

leave Latveria because he is afforded insufficient autonomy by his autocratic father.³⁶ On the journey between Walters's law office and the courthouse, numerous Doombots³⁷ attempt to capture Vernard to return him to Latveria.³⁸ To cap it off, Walters and her investigator, Walker, destroy an entire crowd of Doombots on the courthouse steps.³⁹

Inside the courthouse, Walters succeeds in getting Vernard's asylum application granted.⁴⁰ Moments later, however, Dr. Doom himself appears by descending through the roof of the courtroom. He then whisks Vernard back to Latveria.⁴¹ Walters's response is to travel to Latveria using a falsified passport.⁴² Once she is there, she launches an assault on Castle Doom.⁴³ She fights her way inside, destroying numerous Doombots and causing a significant amount of structural damage to the castle. Once she gains an audience with Dr. Doom, she advocates for Vernard.⁴⁴ She explains that Vernard truly does not desire to leave Latveria, but rather he seeks the freedom to live a less controlled life.⁴⁵ Doom says he will consider it, and Walters returns to Brooklyn.⁴⁶

Let's assume that Walters conducted herself in accordance with professional norms in both examples. There is no reason to think otherwise—she faces no negative consequences for her actions, and no one states or implies that they are wrongful in any way. These examples demonstrate that the law governing lawyers on Earth-616 permits a wide amount of latitude regarding the means through which an attorney may seek to pursue her client's objectives. Specifically, in both examples, the representation of clients is elevated above the property rights of others.

The Stark example provides clearer support for this proposition than the Doom example. In the Doom example, Walters used force to prevent her client from effectively being kidnapped and then used force to gain an audience with her client's kidnapper.⁴⁷ While physically protecting her client blurs the line between Walters's role as an attorney and as a hero, she was reacting in response to the aggression of another.⁴⁸ In the Stark example, however, her client was never in any physical peril.⁴⁹ She was only in legal peril.⁵⁰ Her client had a legal claim against Stark Industries.⁵¹ Instead of continuing to press the claim through

36. *Id.*

37. As the name suggests, Doombots are robots that serve Dr. Doom. *See Doombot*, MARVEL DATABASE, <https://marvel.fandom.com/wiki/Doombot> (last visited June 24, 2022) [<https://perma.cc/BML3-NP6Y>].

38. Soule, *supra* note 21.

39. *Id.*

40. *Id.*

41. *Id.*

42. Charles Soule, *The Zealous Advocate*, SHE-HULK (VOL. 3) #4 (Marvel Comics July 2014).

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*; Soule, *supra* note 21.

48. Soule, *supra* note 21; Soule, *supra* note 42.

49. *See* Soule, *supra* note 11.

50. *See id.*

51. *Id.*

the judicial system, Walters used physical force and destruction of property to gain personal access to Stark and negotiate a settlement.⁵²

This is not isolated behavior, either. Later, Walters defends an elderly Steve Rogers (also known as Captain America) against a wrongful death lawsuit.⁵³ Upon landing at an airport, a crush of reporters surrounds Rogers with questions regarding the lawsuit.⁵⁴ Walters's response is to "hulk-out" at the reporters and to tell them that they are making her mad. She reminds them that when hulks get mad, they lose control, and things get smashed.⁵⁵ The reporters then scatter in fear of Walters.⁵⁶

There are some limits to what attorneys may do on behalf of their clients on Earth-616. During the course of the representation, Rogers conferences with Walters and her investigator, Patsy "Hellcat" Walker.⁵⁷ Rogers informs them that a certain classified government document is relevant to his defense, and Walker retrieves it for him by "break[ing] into a highly classified U.S. Government records facility."⁵⁸ Walters has complete knowledge of the plan for her employee to retrieve the document for her client, and she intends to introduce it in court until Rogers forbids her from doing so.⁵⁹ After Walker arrives with the stolen record, there is discussion regarding whether the document would be admissible as evidence because of how it was acquired.⁶⁰ Such discussion indicates that Walker, and by extension her employer, Walters, crossed the line into impermissible behavior by stealing the classified document on behalf of a client. This example helpfully establishes that some attorney behavior is impermissible on Earth-616. There is a line which attorneys may not cross on behalf of their clients.

Even if we cannot pinpoint exactly what behavior is permissible on behalf of a client and what behavior is not, it is clear through Walters's actions that attorneys on Earth-616 have significant latitude to engage in destructive behavior in furtherance of a client's goals. In other words, Earth-616 balances the interests of zealous representation relative to other societal interests somewhat differently than we do here on Earth-1218. As a result, it wouldn't be surprising if the citizens of Earth-616 were more fearful of attorneys than citizens here on Earth-

52. *Id.*

53. See generally sources cited *supra* note 23. At the time of Walters's representation, Rogers is an elderly man whose physical characteristics match his chronological age. See Rick Remender, *The Tomorrow Soldier: Part 1*, CAPTAIN AMERICA (VOL. 7) #22 (Marvel Comics Sept. 2014) (explaining the rapid aging process that occurred when the super-soldier serum was drained from Rogers's body).

54. Soule, *The Good Old Days: Part 1*, *supra* note 23.

55. *Id.*

56. *Id.* Walters appears to be in complete control of herself throughout the process. As explained in note 10, *supra*, Walters does not transform between a human form and a hulk form in the third *She-Hulk* series. In this series, Walters's "hulking out" appears to be nothing more than her flexing her muscles, which causes her clothing to tatter. While inconvenient in terms of maintaining a professional wardrobe, it is effective at achieving other desired effects. In the situation with the reporters at the airport, Walters "hulks out" as a calculated measure to cause the reporters to scatter and plays on the trope of hulks losing control. Afterward, she makes the comment "The things I do for my clients," confirming that the hulking out was intentional. *Id.*

57. *Id.*

58. Soule, *The Good Old Days: Conclusion*, *supra* note 23.

59. *Id.*

60. *Id.*

1218. After all, attorneys on Earth-616 represent a threat to the personal safety and property of anyone who potentially stands in the way of their clients' goals.⁶¹

Elevating zealous representation over other societal interests likely leads to negative consequences for the legal system on Earth-616. While attorneys on Earth-616 might be able to pursue their clients' goals more effectively because they are burdened with fewer constraints, the legal system likely suffers reputationally and has difficulty establishing its legitimacy. A legal system that permits its members to operate outside of otherwise-applicable laws could understandably be seen as illegitimate because it fails to follow its own rules. Moreover, if legal outcomes are meaningfully influenced by which party's legal team was able to muster more destructive force, the correctness of those outcomes are likely to lose respect.⁶²

B. Attorney Communications with Non-Clients

Here on Earth-1218, attorneys are restricted in their communications with judges, opposing parties, and others. For example, attorneys are prohibited from divulging client confidences to third-parties, from communicating directly with adversaries who are represented by counsel, and from *ex parte* communications with judges.⁶³ The rules in Walters's universe are more of a grey area.⁶⁴

The rules regarding attorneys keeping clients' confidences from third parties on Earth-616 appear to be similar to the rules here on Earth-1218. For example, after a client is abducted by his father at the end of his impromptu asylum hearing, Walters pays a visit to fellow attorney Matt Murdock in San Francisco, seeking his advice about what to do next.⁶⁵ However, in the course of their conversation, she does not divulge any confidential client information.⁶⁶ In a sort of quid pro quo, Murdock later visits Walters in New York to ask for her advice regarding how he should handle an ongoing representation.⁶⁷ During this meeting, he *does* divulge client confidences, but he openly acknowledges that he is

61. Another example of violence by attorneys occurs after Rogers is found not liable in the wrongful death lawsuit. *Id.* After the verdict, he explains to Walters and opposing counsel, Matt Murdock (also known as Daredevil) that the entire lawsuit was ginned up by his nemesis Dr. Faustus to tarnish his legacy. *Id.* Walters and Murdock don their superhero costumes and fight their way through Faustus's security team so that Rogers can access Faustus and "wham" him with his cane as retribution. *Id.* While Walters and Murdock are acting in their role of Rogers's friends rather than his legal counsel in this sequence, such extra-legal actions by attorneys on behalf of a former client/former adverse party would likely make the public understandably wary of members of the profession.

62. *Cf.* STEPHEN D. KELSON, UTAH STATE BAR ASSOCIATION, VIOLENCE IN THE LEGAL PROFESSION: A STUDY OF OUR COLLEAGUES NATIONWIDE (2019) (recognizing violence in the legal profession, including violence by opposing counsel, as a troubling issue).

63. See discussion *infra* Part B.

64. Yes, that was a Grey She-Hulk pun. See Steve Gerber, *Secret Warts*, SENSATIONAL SHE-HULK #15 (Marvel Comics May 1990) (featuring Walters's first transformation into Grey She-Hulk). Unlike Walters's usual green self, her grey version's increase in muscle mass comes with at the expense of a decrease in mental acuity. See Mariko Tamaki, HULK (VOL. 4) #11 (Marvel Comics Dec. 2017).

65. Soule, *supra* note 42.

66. *Id.*

67. Soule, *supra* note 19.

breaking the rules by doing so.⁶⁸ Thus, attorneys on Earth-616 are likely restricted by something resembling Rule 1.6 of the ABA Model Rules of Professional Conduct, which prohibits lawyers from disclosing information relating to the representation of a client.⁶⁹

On the other hand, Earth-616 seems to have no counterpart of ABA Model Rule 4.2, which that provides that “a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer” without a court order or permission of the person’s lawyer.⁷⁰ Many legally trained readers likely raised an eyebrow at my earlier description of Walters’s communications with Tony Stark regarding her client’s claim against his company.⁷¹ To recap, Walters knew that Stark, an adverse party, was represented by legal counsel.⁷² Stark’s security robots told her to direct her communications to Stark’s legal counsel.⁷³ Instead of doing that, she smashed the security robots and went to talk directly to Stark.⁷⁴ Her reasoning was that she could resolve the dispute more efficiently through a short conversation with Stark than through drawn-out proceedings with Stark’s attorneys.⁷⁵ While she was correct in terms of the outcome, it is her process that provides information about the law governing lawyers on Earth-616.

Again, assuming that Walters conducted herself according to the professional standards of Earth-616, this means that attorneys are free to communicate directly with adverse parties, regardless of whether they are represented by counsel or not. While such a system would likely produce occasional efficiencies (like in the matter with Stark), those occasional efficiencies would come at some financial and reputational cost to the profession.

One reason that individuals pay to retain attorneys is to erect a barrier between themselves and their legal adversaries.⁷⁶ Here on Earth-1218, the rule that prohibits direct communications with represented adversaries ensures that attorneys fulfill that intermediary role. Another reason that folks retain legal counsel

68. *Id.* As part of his advice-giving during their meeting in San Francisco, Murdock also tells Walters about a time that he and Spider-Man broke one of his clients out of the Riker’s Island Prison Complex while she was awaiting trial on a murder charge. Soule, *supra* note 42. Murdock (as Daredevil) and Spider-Man had come to the conclusion that the client, Felicia Hardy (also known as Black Cat), had been framed for the murder. *Id.* They apparently brawled with a crowd of prison guards as part of the break-out operation. *Id.* Given that Murdock has already demonstrated himself not to be a paragon of professional responsibility, it seems safe to assume that storming a prison to free an innocent client falls outside the professional norms of Earth-616. If it is acceptable attorney behavior, however, that only ratchets up the observations made in Part A, *supra*.

69. See MODEL RULES OF PROF’L CONDUCT r. 1.6(a) & cmt. 2 (AM. BAR ASS’N 1983) (“A fundamental principle in the client-lawyer relationship is that, in the absence of the client’s informed consent, a lawyer must not reveal information relating to the representation.”).

70. MODEL RULES OF PROF’L CONDUCT r. 4.2 (AM. BAR ASS’N 1983).

71. See *supra* notes 24–34 and accompanying text.

72. See Soule, *supra* note 11.

73. *Id.*

74. See *id.*

75. *Id.*

76. See, e.g., MODEL RULES OF PROF’L CONDUCT r. 4.2 cmt. 1 (AM. BAR ASS’N 1983).

is to rely on their attorney's expertise on legal matters.⁷⁷ By hiring an attorney, a client pays money in return for having someone else handle their legal matters—in short, it is outsourcing.⁷⁸ Prohibiting attorneys from engaging directly with represented parties helps to maximize the benefits of this outsourcing. However, without that protection, hiring an attorney is less attractive because it carries fewer benefits. It no longer creates a buffer between an individual and their legal adversaries. Presumably, Walters and the other attorneys in her universe have reflected that in their fees. Because attorneys on Earth-616 provide less utility for their clients than attorneys here on Earth-1218, they likely aren't able to charge as much for their services as attorneys do here on Earth-1218.⁷⁹

There is also a concern about fairness and legitimacy of process. In Walters's universe, attorneys can circumvent dealing with other legally trained individuals and instead confront their client's adversaries directly.⁸⁰ While these individuals are free to refuse to speak with them (indeed, that is exactly what Stark's security robots were attempting to do when Walters destroyed them), presumably some represented individuals would engage in direct discussions with their adversary's attorney. And some of these people would be ignorant of the law and would, for example, agree to things that are counterproductive to their own interests. Thus, part of zealously representing a client on Earth-616 might be an expectation—or even an obligation—to take a run at the adverse party directly. That's what Walters did when she grew frustrated with her lack of headway with Stark's legal department.⁸¹ Reputationally, this behavior does not reflect well on attorneys. Bypassing legal counsel could easily be viewed as an attempt to take advantage of non-legally trained adverse parties. To whatever extent attorneys have a collective reputation for deviousness here on Earth-1218,⁸² presumably attorneys fare much worse in the public opinion on Earth-616.

The differences between attorney communications with non-clients on Earth-616 and Earth-128 don't stop with attorney communications with represented individuals. Recall Walters's representation of Kristoff Vernard, the son of Dr. Doom who seeks asylum to escape his father's oppressiveness.⁸³ When

77. See, e.g., *Top Ten Reasons to Hire a Lawyer*, FINDLAW (Oct. 22, 2018), <https://www.findlaw.com/hirealawyer/do-you-need-a-lawyer/top-ten-reasons-to-hire-a-lawyer.html> [<https://perma.cc/75FY-L8GV>].

78. See, e.g., Nathan Heller, *What If You Could Outsource Your To-Do List?*, NEW YORKER (Nov. 30, 2020), <https://www.newyorker.com/magazine/2020/12/07/what-if-you-could-outsource-your-to-do-list> [<https://perma.cc/2P4T-JGVP>] (“People usually get recognized and elevated for the achievements they have time to make . . .” One way to make such time available is to outsource other tasks to “bookkeepers, housecleaners, lawyers, strategists, and nannies.”).

79. See, e.g., RICHARD A. POSNER, *ECONOMIC ANALYSIS OF LAW* 3-15 (7th ed. 2007) (explaining foundational concepts of economic analysis, including value and utility).

80. See, e.g., Soule, *supra* note 11.

81. See *id.*

82. According to at least one jurist here on Earth-1218, attorneys “are generally ranked down around used-car salesmen and vice presidents for credibility.” See LawProse with Bryan A. Garner, *Hon. William J. Skow, Ohio Court of Appeals (Toledo): On Plain Language*, YOUTUBE (Dec. 25, 2014), at 0:59, <https://www.youtube.com/watch?v=MPC21QR2W8> [<https://perma.cc/BE52-M59P>].

83. See *supra* notes 35–46 and accompanying text.

Vernard retains Walters to assist him with his asylum application, she learns that the one-year limitations period on his application is set to expire that very day.⁸⁴ They then race to the courthouse to file the application before the deadline.⁸⁵ On the way, Walters telephones a federal judge and asks the judge to set up a hearing in ten minutes.⁸⁶ According to Walters, the judge owes her a favor because Walters previously saved the judge's niece from some Skrulls.⁸⁷ The hearing is held as promised, complete with a short-notice appearance by an attorney for the Government.⁸⁸ The hearing is brief and results in Vernard's asylum application being granted, notwithstanding the fact that no paper application has yet been filed.⁸⁹

Here on Earth-1218, judges are not permitted to have *ex parte* communications with attorneys regarding impending matters.⁹⁰ Attorneys and judges certainly are not permitted to exchange personal favors for professional ones.⁹¹ These rules do not seem to apply in Walters's legal universe, which is beginning to resemble a professional free-for-all. Permitting attorneys to call in favors with judges who are then assigned to their clients' cases poses a substantial risk to the integrity, both actual and perceived, of the judicial system. It would be challenging to view a judge's ruling as legitimate if the true motivations for it were not aired out in the open and subject to challenge by the opposing party.

C. *Scope of Client Participation in the Representation*

While the last Part covered attorney communications with non-clients, this Part covers aspects of the attorney-client relationship. Admittedly, it is challenging to identify the extent to which rules govern client participation in decision-making based on a small sample of observations. Depending on their relationship with the client, an attorney may defer to the client's preferences for a variety of reasons. In *She-Hulk*, however, Walters defers to the wishes of her client, Steve Rogers, more than even she would prefer regarding strategic decisions throughout the course of her defense of his wrongful death lawsuit.⁹² For example, Walters theorizes that perhaps she can get the lawsuit dismissed because Rogers (as Captain America) had actually died several years ago and she doubts that liability

84. Soule, *supra* note 21.

85. *Id.*

86. *Id.*

87. *Id.* In Walters's universe, Skrulls are a frequently warring race of shapeshifting humanoids from the Andromeda Galaxy. See *Deviant Skrulls*, MARVEL DATABASE https://marvel.fandom.com/wiki/Deviant_Skrulls (last visited June 25, 2022) [<https://perma.cc/YMS2-NAJM>].

88. Soule, *supra* note 21.

89. *Id.*

90. MODEL CODE OF JUD. CONDUCT r. 2.9(A) (AM. BAR ASS'N 2020). Here, the communication between Walters and the judge may fall within the exception for "scheduling, administrative, or emergency purposes." *Id.* r. 2.9(A)(1).

91. See, e.g., *id.* r. 2.4(B) ("A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment."); 28 U.S.C. § 455(a) (requiring recusal of federal judges from any proceeding that may raise reasonable questions regarding the judge's impartiality); Leslie W. Abramson, *Specifying Grounds for Judicial Disqualification in Federal Courts*, 72 NEB. L. REV. 1046, 1055–57 (1993) (discussing judicial bias toward counsel).

92. See generally sources cited *supra* note 23.

extends post-mortem for actions that occurred pre-mortem.⁹³ Rogers tells her that he doesn't want to win on a technicality and she drops this avenue of dismissal.⁹⁴

When she walks into the courtroom for the first day of trial, Walters is surprised to discover that the opposing counsel is Matt Murdock (also known as Daredevil).⁹⁵ After the first day of trial, she suggests to Rogers that she could likely get Murdock removed as counsel or maybe even get a mistrial declared because Murdock and Rogers have a lot of history together as Daredevil and Captain America.⁹⁶ Again, Rogers forbids her from making the motion because he only wants to win "fair and square."⁹⁷ Although Walters smiles through it, she immediately slouches in her chair and states that "[w]e are *screwed*" as soon as Rogers leaves the room.⁹⁸

Finally, recall the classified document that Rogers suggested would be useful to his defense.⁹⁹ After Walker steals it for him, Walters wants to attempt to introduce it as evidence.¹⁰⁰ It will, after all, essentially exonerate Rogers.¹⁰¹ Rogers tells her not to even try to introduce it in court, which she finds exasperating, but she obeys.¹⁰²

At each of these junctures, Walters is noticeably upset that Rogers is preventing her from defending him against the lawsuit as effectively as possible. However, she complies with each of his requests even though she believes it will jeopardize the likelihood of a favorable outcome.¹⁰³ Again, it is not clear whether Walters's deference to Rogers's trial strategy preferences is required by rules governing attorney representation on Earth-616. Perhaps she agrees that winning on a technicality isn't in his best interest because it won't clear his name in the court of public opinion. That could plausibly explain her decision not to seek a

93. The events underlying the wrongful death lawsuit occurred in 1940, but Rogers was not sued until the present day. Soule, *The Good Old Days: Part 1*, *supra* note 23. Without getting too much into it, Rogers died and was reborn in the late 2000s. *See generally* Ed Brubaker, Bryan Hitch & Butch Guice, *CAPTAIN AMERICA: REBORN #1* (Sept. 2009). Thus, Walters is representing Rogers after his rebirth for an event that occurred before his death.

94. Soule, *The Good Old Days: Part 1*, *supra* note 23.

95. *Id.* She explains that Murdock must've filed his notice of appearance at the last possible minute to throw her off. Soule, *The Good Old Days: Part 2*, *supra* note 23.

96. *Id.* Concerns about Murdock/Daredevil's ability to completely commit to representing a party adverse to Rogers/Captain America appear to be well warranted. While it appears that Murdock does his level best to argue on behalf of his client, it also appears that he is rooting for Rogers to prevail. At one point, Murdock states that he is putting Rogers on the stand because "[i]f he won't let either of us [Murdock or Walters] save him, maybe he'll save himself." *Id.*

97. *Id.* Rogers's perception of "fair and square" is off kilter in this exchange. Rules of procedure and professional responsibility exist to ensure that legal proceedings are conducted in a fair and square manner. By choosing not to enforce the rules, Rogers is not ensuring that the proceedings will be fair and square; in fact, he is risking the opposite. This is perhaps not surprising, as we later learn that it was actually Rogers who instructed Murdock to represent the plaintiff in the lawsuit against him (albeit, to try to his best). *Id.*

98. *Id.*

99. *See supra* notes 57–60 and accompanying text.

100. Soule, *The Good Old Days: Conclusion*, *supra* note 23.

101. The classified document corroborates Rogers's otherwise uncorroborated self-serving testimony. *Id.*

102. *Id.* According to Rogers, he wanted the document so that Walters herself would know the truth about what happened, not to use it as evidence in court. *Id.*

103. *See generally id.*

dismissal of the case. However, the decision not to attempt to introduce exonerating evidence is even more baffling. Perhaps she concedes to his request simply out of respect or friendship. Or perhaps she is convinced that it isn't worth the trouble because he will subvert any attempts to introduce the evidence.¹⁰⁴ Or perhaps she realizes that his initial suggestion that they steal a classified government document isn't something that is going to reflect well on either of them in the long run. It's hard to know, but she certainly seems frustrated by his refusal to allow her to introduce the evidence.¹⁰⁵

If Walters's deference to her client's strategic preferences is required by the rules governing lawyers on Earth-616, that would be a noticeable difference from the relevant rules here on Earth-1218. Indeed, the ABA's Model Rules of Professional Conduct grant attorneys wide latitude in including clients in the decision-making process regarding strategic matters. Attorneys shall "reasonably consult with the client about the means by which the client's objectives are to be accomplished."¹⁰⁶ While this clearly means that attorneys should communicate settlement offers to clients before accepting or rejecting them,¹⁰⁷ it does not require an attorney to consult with a client prior to taking all steps in furtherance of the representation.¹⁰⁸ Indeed, the commentary states that "a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail" although a lawyer is expected fulfill "the client's overall requirements as to the character of representation."¹⁰⁹

Aside from a couple clear-cut categorical limits, it is difficult to prescribe a one-size-fits-all-representations approach to client involvement. Thus, the ABA's rules and commentary here on Earth-1218 use terms like "reasonable," "consultation," and "guiding principle[s]."¹¹⁰ In Walters's representation of Rogers, she was faced with a client who wanted to have the final say in litigation strategy, and she made the decision to concede to her client's approach even though it impaired her ability to defend him against ultimate liability. Her approach—effectively considering the whole person of her client and recognizing that his goals would not be achieved by successfully defending the lawsuit if it was done through certain means—is not at odds with the ABA's Model Rules of Professional Conduct.¹¹¹ In short, more observation of legal practice on Earth-616 is necessary to further mete the bounds of that jurisdiction's rules regarding client involvement in strategic decisions.

104. Rogers is, after all, a particularly persnickety customer who is known to go to great lengths to pursue his personal view of righteousness. *See generally*, e.g., Mark Millar, *CIVIL WAR #1* (Marvel Comics July 2006).

105. Soule, *The Good Old Days: Conclusion*, *supra* note 23.

106. MODEL RULES OF PROF'L CONDUCT r. 1.4(a)(2) (AM. BAR ASS'N 1983).

107. *Id.* cmt. 2.

108. *See id.* cmt. 3.

109. *Id.* cmt. 5.

110. *Id.* cmts. 3 & 5.

111. Indeed, this approach has a name: holistic lawyering. *See generally* Edward D. Shapiro, *Fresh Perspectives: The Practice of Holistic Lawyering*, 16 CBA REC. 38 (2002); Ruth L. Rickard, *Authentic Lawyering: Engaging Your Head and Your Heart*, 87 MICH. BAR J. 50 (2008).

D. Compressed and Abbreviated Pre-Trial Procedure

Consistent with many portrayals of attorneys in popular media,¹¹² Walters’s lawyerly work moves very rapidly and, in dramatic fashion, disproportionately takes place in the courtroom. Recall from earlier that she rushes Vernard to his asylum hearing on the very same day that he retained her as counsel, and he is granted asylum before his paper application was even filed.¹¹³ She prepares for the wrongful death trial against Steve Rogers in only a matter of a few days with apparently no pre-trial appearances.¹¹⁴ She doesn’t know that Matt Murdock is her opposing counsel until she walks into the courtroom for the first day of trial, and it does not appear that the attorneys were involved in jury selection.¹¹⁵

Such abbreviated pre-trial procedure must be very taxing on attorneys on Earth-616. They are routinely called upon to perform at a high level in situations for which they are underprepared.¹¹⁶ While Walters consistently handles herself well inside the courtroom, she suffers some of the negative mental and emotional consequences that are unfortunately prevalent in the legal profession. On numerous occasions, she references feeling stressed by her work and questions her worth as an attorney.¹¹⁷ However, she tends to hide these feelings and insecurities from others except her immediate staff.¹¹⁸ Instead, as an outlet for her work-related stress, she turns to binge drinking and superheroing.¹¹⁹

Indeed, throughout the third *She-Hulk* series, much of Walters’s superheroing is presented as an opportunity for her to relieve some of the pent-up frustration, stress, and aggression that results from day job. After their first day of trial, Murdock—in full Daredevil regalia—shows up in Walters’s hotel room and leads her on a joyride chase bounding across the Los Angeles skyline.¹²⁰ His reason? “After a day in the courtroom, you probably needed a run as much as I did.”¹²¹

While superheroing and related physical activity are beneficial ways for Walters and Murdock to work off the stress associated with lawyering, these outlets are not available to non-superpowered attorneys on Earth-616. Moreover,

112. See, e.g., Victoria S. Salzmann & Philip T. Dunwoody, *Prime-Time Lies: Do Portrayals of Lawyers Influence How People Think About the Legal Profession?*, 58 SMU L. REV. 411, 429–30 (2005).

113. See Soule, *supra* note 21.

114. See Soule, *The Good Old Days: Part 1*, *supra* note 23.

115. See *id.*; Soule, *The Good Old Days: Part 2*, *supra* note 23.

116. See *supra* notes 113–15 and accompanying text.

117. E.g., Soule, *The Good Old Days: Part 1*, *supra* note 23 (“I’m stressing out enough as it is!”); *id.* (“What if I screw it up?”). As a foil for Walters’s litigation-induced stress is the seemingly care-free entertainment attorney whose California practice Walters uses during the Rogers trial. Dressed in relaxed tennis outfit (in noticeable contrast to Walters’s suit), the care-free attorney explains that he never goes to court. Soule, *The Good Old Days: Part 2*, *supra* note 23.

118. E.g., Soule, *The Good Old Days: Part 1*, *supra* note 23 (lying to Rogers that she “slept like a baby” the night before the first day of trial when, in fact, she was unable to sleep all night).

119. For example, after an aggravating day at the office, Walters knocks off early to get intoxicated with Walker. Soule, *supra* note 16. Once intoxicated, they dabble in some messy late-night superheroing. *Id.*

120. Soule, *The Good Old Days: Part 2*, *supra* note 23.

121. *Id.*

managing stress on an individual level is less efficient than addressing its root causes on a more systemic basis.¹²² Stress is undeniably unavoidable for attorneys on Earth-616 given the extremely abbreviated nature of pre-trial preparation, which likely leads to even more burn-out and negative health consequences for its attorneys than is present here on Earth-1218.¹²³ To begin to rein in some of these issues, the legal system of Earth-616 would benefit from significant introspection accompanied by structural change, including greater time for attorney preparation and discovery.

CONCLUSION

In sum, the legal profession on Earth-616 shares some similarities with the legal profession here on Earth-1218. However, the system on Earth-616 presents a more extreme version of lawyering. Indeed, in many respects, it looks like a recipe for disaster. Attorneys on Earth-616 operate in a very compressed and highly stressed environment. Yet, they are afforded greater latitude to go to whatever lengths they deem fit—to include property damage, threats of violence, and exchanging favors with judges—in furtherance of their clients. While our legal system and the profession of lawyering has its share of problems here on Earth-1218, we are relatively well off compared to the legal environment of Walters’s world.

122. See Noor Nasir Kader Ali, Priyah Wilson & Ismeth Yazmin Mohammad, *Symptoms Versus Problems Framework (SVP): An Innovative Root Cause Analysis Tool*, 7 INT’L J. ORGANIZATIONAL INNOVATION 66, 67 (2014) (“If the real cause of the problem is not identified, then one is merely addressing the symptoms and the problems will continue to exist. For this reason, identifying and eliminating root causes of problems is of utmost importance.”).

123. See, e.g., Karen Miller-Kuwana & Linda Ouyang, *ANALYSIS: Attorney Well-Being Declines, with Burnout on the Rise*, BLOOMBERG LAW (Mar. 3, 2022, 4:00 AM), <https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-attorney-well-being-declines-with-burnout-on-the-rise> [<https://perma.cc/4E2U-M7FR>]; Jacquelyn Palmer & Linda Ouyang, *ANALYSIS: Survey Finds Lawyer Burnout Rising, Well-Being Falling*, BLOOMBERG LAW (June 28, 2021, 4:01 AM), <https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-survey-finds-lawyer-burnout-rising-well-being-falling> [<https://perma.cc/R3MJ-6CVT>].