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Law and emotions in *The Split*

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ABSTRACT

The representation of female lawyers in film and television has long been indicative of wider issues of patriarchal crisis. Seminal works by Cynthia Lucia (*Framing Female Lawyers*, 2005) and Orit Kamir (*Framed: Women in Law and Film*, 2005) have alerted us to the ambivalent representations of female lawyers as personifications of progress, embodiments of social justice and epithets of powerful career women. Women lawyers, Lucia contends, regularly end up on trial themselves for violating norms of femininity and rebelling against patriarchal authority. This paper analyses the representation of female lawyers in the BBC drama *The Split* (2018–2022) and suggests a more positive reading of female ambivalence. The paper is informed by law and visual culture theory, professional identity theory and community of coping theory to shed light on the emotional complexities, tensions and conflicts that divorce lawyers manage daily.




KEYWORDS TV drama; female lawyers; emotional labour; display rule conflict; communities of coping

Lawyers! You poke around in our lives.

You take a look at your own! (David McKenzie, Series 1, Episode 5)

Introduction

The Split (BBC 2018–2022) narrates the story of three remarkable women who rule London's high-profile divorce-case world. Described by Nicola Walker as 'high octane TV drama',¹ this series about a family of female divorce lawyers speaks to their difficult balancing acts between the professional, the political

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¹Interview with Nicola Walker, BBC (16 April 2023).

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and the private. Series 1 opens with Hannah Stern (Nicola Walker), having just left the small family firm of Defoe's (established in 1855), run by her mother Ruth (Deborah Findlay), to join the much larger international corporate firm of Nobel & Hale. The series follows Hannah's story and depicts how her new job challenges her professional values and integrity. The narrative positioning of Hannah in her roles as lawyer, mother and eldest sibling also allows us to explore the extent of her identity crisis in both public and private spheres. This TV drama deals with cultural anxieties about successful female professionals. Cynthia Lucia and Orit Kamir, amongst others, have long alerted us to the ambivalent representations of female lawyers.² Women lawyers, Lucia contends, regularly end up on trial themselves for violating norms of femininity and rebelling against patriarchal authority. One of the staples of female-lawyer representations is the transgression of having abandoned the private for the public sphere, where they find only doubtful fulfilment.³

In the genealogy of female lawyers on British television Hannah Stern is in a league of her own. The first fictional female barrister on British TV can be found in the 1970s at the height of second-wave feminism, when women started protesting against discrimination in the workplace.⁴ Harriet Petersen (Margaret Lockwood) in *Justice* (ITV, 1971–1974) was a barrister who challenged the patriarchal establishment.⁵ Although classic British law series like *Rumpole of the Bailey* (ITV, 1978–1992) feature female barristers in secondary roles, it is only in 2011 that the next female lead appears on the small screen: Martha Costello (Maxine Peak) as a criminal barrister in *Silk* (BBC, 2011–2014). By contrast, in the same 40-year period there are over 30 legal dramas with male protagonists.⁶ Viewers who are aware of these television antecedents might compare earlier representations of female lawyers to *The Split* to reflect on the development and the social reality of career women. In the context of British TV history, *The Split* is also noteworthy because the scriptwriters are women, most notably Abi Morgan who 'had viewers hanging on her every word'.⁷ This results in a female gaze, i.e. 'a female perspective which controls situations and their definitions'.⁸ This perspective inextricably links the private and the public. The opening credits of old

²Cynthia Lucia, *Framing Female Lawyers: Women on Trial in Film* (University of Texas Press 2005); Orit Kamir, *Framed: Women in Law and Film* (Duke University Press 2006).

³Lucia (n 2) 22.

⁴See *Encyclopædia Britannica* for a definition of second-wave feminism, <<https://www.britannica.com/topic/feminism/The-second-wave-of-feminism>> accessed 8 November 2022.

⁵The ITV series was based on the West-End play *Justice is a Woman* (1967). In 1969 the play was screened on ITV. For more details, see Peter Robson, 'Women Lawyers on Television—The British Experience' (2014) 5 *Nordic Journal of Law and Social Research* 101–16.

⁶Ibid 104.

⁷Charlotte Cripps, 'Abi Morgan: *The Split* Is Filled with a Lot of the Pain I've been through' *The Independent* (London, 16 May 2022) <<https://www.independent.co.uk/arts-entertainment/books/features/abi-morgan-the-split-iron-lady-b2078275.html>> accessed 8 November 2022.

⁸We follow Gamman and Marshment's definition of the female gaze. Lorraine Gamman and Margaret Marshment, *The Female Gaze: Women as Viewers of Popular Culture* (The Women's Press 1994).

Super 8 family films and the jolly theme tune set the scene for a family drama rather than a law show. Indeed, most opening and closing scenes are set in the private space of the female lawyers' homes. Interestingly, the BBC classifies the TV drama as pertaining to the genres of both legal drama and relationship/romance series. While at first sight, they might appear to have few common concerns, both romance and divorce dramas are about love and the breakdown of relationships, respectively. The title of the series does not proclaim its ideological project in instantly recognizable terms. *The Split's* surface meaning refers to divorce and the viewer learns about the complexity of the divorce narratives as they unfold. Yet at a deeper level, it refers to lawyers being 'split' between the private and professional lives as well as the tension between private and professional ethics, and its resulting moral ambiguity.

The second series of *The Split* averaged over six million viewers and over 19 million streams, becoming the third most-watched drama series on BBC iPlayer in 2020.⁹ Yet despite its popularity with the viewers and its critical acclaim, the series was criticized by real-life female lawyers:

I know I was not the only family lawyer to find watching *The Split* [...] cringe-worthy. The show depicts the personal and legal battles of a family of lawyers [...] and it ramps up the spectacle to engage viewers. [...] The show ignores the real work divorce lawyers do, and the fundamental problems with the outdated system we're dealing with.¹⁰

The authenticity question, while clearly important to lawyers, misses the point of TV drama.

Pauline Ellis at the law firm Dutton Gregory offers a more nuanced review: 'So what did I think? Taking my "family lawyer hat" off for a moment, the programme was entertaining and compelling to watch, and I will certainly be back for Season 2 tonight!'¹¹ It should also be noted that Ellis then guides the reader through a list of facts and fiction, clearly managing the expectations that viewers and future clients of Dutton Gregory might have. This suggests that she is aware of the discursive power of culture and realizes that most people learn what they know, or think they know, about law from popular culture.

This article explores female identity in its public/private dichotomy with particular emphasis on emotional labour and communities of coping. Although the series is a female-centred ensemble drama with multiple principal actors, Nicola Walker is still the 'beating heart [...] with her almost

⁹Italy files for *The Split* BBC website <<https://www.bbc.co.uk/mediacentre/bbcstudios/2022/italy-files-for-the-split>> accessed 8 November 2022.

¹⁰Kate Landells, 'The New BBC Legal Drama Is a Worryingly Misleading' *The Independent* (London, 5 May 2018) <<https://www.independent.co.uk/voices/bbc-the-split-legal-drama-lawyers-divorce-uk-a8337821.html>> accessed 8 November 2022.

¹¹Pauline Ellis, 'A Realistic Interpretation of Family Law?' <<https://www.duttongregory.co.uk/site/blog/bbc-drama-the-split-a-realistic-interpretation-of-family-law>> accessed 8 November 2022.

unmatched ability to express inner turmoil'.¹² Therefore the Hannah Stern character and her high-wire balancing act between competing duties (lawyer, mother, wife, eldest sibling) will be central to our exploration. We will analyse the main cases in Series 1 (McKenzie case) and 2 (Hansen case) as well as a high-profile case involving the foreign secretary (Series 1, Episode 4, hereafter S1 E4).

Given the importance of emotion in family law and life, we will use Plantinga's seminal work on the emotional viewing process.¹³ This allows us to take seriously a popular TV show that might otherwise be decried for its cheap emotionalism. The viewers can judge moral dilemmas in their context, showing the root causes of the characters' moral reasoning.

The Split invites a judgmental viewing process, encouraging us to participate actively in questions of justice and morality. The narratives prompt emotional and cognitive responses in the viewers. Our wish for justice, our concerns and underlying anxiety partly stem from character engagement (the identification with our favourite characters, clients and lawyers), and partly from the way the narrative unfolds to maintain suspense. According to Plantinga, all dramas are affectively pre-focused: 'a particular way of seeing events and characters, a built-in perspective', which is driven by affect.¹⁴ Plantinga's cognitive-perceptual theory suggests that the kind of emotion we attach to a certain event does not depend on its nature but the appraisal of the perceiver. The elicitation of emotions depends on 'paradigm scenarios', i.e. types of events that are associated with certain emotions.

What then are the prevalent emotions of the viewer? In divorce narratives, our emotions are likely to be either sympathetic (compassion, pity, admiration) or antipathetic (anger, disdain, sociomoral disgust).¹⁵ At a surface level in both the McKenzie and the Hansen cases the paradigm scenarios of helpless victims and heroine lawyer engages the viewer with the issue of justice. Yet the viewer is primarily focussed on Hannah, her star performance, professional ethics, and private morality. Our emotions are therefore also ambiguous; sometimes there is no obvious moral position of right and wrong: 'Paradigmatic sorts of emotions (anger, fear, enjoyment) may occur discretely, but emotions often occur in seemingly contradictory or ambiguous combinations.'¹⁶ As in any legal TV series, the paradigm scenarios

¹²Gerard Gilbert, 'Nicola Walker Is the Beating Heart of *The Split*' *The Independent* (London, 4 April 2022) <<https://inews.co.uk/culture/television/the-split-series-3-bbc1-review-nicola-walker-stephen-mangan-1556367>> accessed 8 November 2022.

¹³Carl Plantinga, *Moving Viewers: American Film and the Spectator's Experience* (University of California Press 2009).

¹⁴Ibid 79.

¹⁵Ibid 72. Also 98 where he explains that he uses sympathy and empathy interchangeably, as neither are 'in themselves emotions, but rather a capacity or disposition to respond with concern to another's situation and often an accompanying tendency to have congruent emotions. [...] Sympathy and empathy may arouse emotions as diverse as happiness, fear, anger compassion, resentment, moral disgust.'

¹⁶Ibid 60.

revolve around conversations with clients and evidence gathering. Hannah's professional track record as one of the best divorce lawyers in London, makes her advice sound like the voice of experience. When a footballer's fiancée negotiates a pre-nup, she gets quickly disillusioned with the legal process and thinks her lawyers are creating unnecessary hurdles. Hannah gives her a reality-check, calmly describing the vicissitudes of life rather than law: '20 years from now, when you have followed him all around the world, had his children, you will want to be recompensed. [...] The pre-nup is looking ahead. When one's forgotten that one once loved.' The character engagement with the lawyer gives us double pleasure, Hannah's success is justice for the client.

Another paradigm scenario is that of high-powered professional women in the office toilet (the spatial intersection between the public and private), which serves as a visual convention to communicate women's anxiety around a previous or impending event that is too difficult to cope with. We usually see the woman staring in the mirror, breathing heavily. The first time we see Hannah in the toilet, *The Split* breaks with that convention. She encounters Goldie McKenzie, the wronged wife of her potential, new client David McKenzie, and uses this moment of privacy to recommend Goldie find a good lawyer to defend her (S1, E1). While this might seem strange to the experienced viewer (due to breaking genre conventions and her advising the other party), we learn early on that Hannah Stern prizes integrity over money-making and, more importantly, she is not afraid of affirming her principles. Hannah rises in our esteem and our concern for Goldie is reduced when Hannah soon takes her on as client (instead of her husband David McKenzie, who is poached by her mother Ruth). However, in later episodes, the narrative reverts to convention, when we see Hannah disturbed and anxious in front of the toilet mirror, finding it difficult to cope with her private life (S1, E6; S2, E5, E6). Lucia argues that narrative tension occurs when professional success is disrupted by revelations about the lawyers' private life 'if only to neutralize the threat she poses in the end. The narrative point at which this reversal occurs is often obscured by layers of subtle contradiction, as are the exact motives driving such a textual transition'.¹⁷

In a constant interconnection between the private lives and professional environments, the device most often used is parallel editing. This technique links simultaneous actions in two different spheres, suggesting dichotomies and creating a third meaning in the viewer's mind to create a strong emotional effect. This increases in both frequency and intensity as we move towards the climactic ending of each episode. Professional ethics and private morality are some of the main themes. In no particular order here are a few examples: Hannah having an affair with her colleague Christie; her husband Nathan

¹⁷Lucia (n 2) 27.

having had an affair when away on business; Ruth helping pervert the course of justice to protect a client. When Hannah confronts her mother about poaching a client, Ruth blames her for walking out of the family business. Foreshadowing events, Hannah tellingly replies: 'Maybe I was tired of being counted on' (S1, E1). Hannah's complex identity (and transgressions) can be explained through the motherly role she assumes in her own family: caretaker for her mother after Ruth's divorce; caring for her two younger sisters; and bringing up three children. This results in conflicting feelings that are socially unacceptable. Women's maternal instincts should be all-encompassing society insists, their caring capacity endless. Instead, we witness Hannah's ambivalence – both professional and private.

In the final episode of the second series, there is a showdown between mother and daughter which summarizes the generational conflict, double standards, and hypocrisy:

Ruth: I really thought your generation had cleaned up its act. You're meant to be better. I hoped your generation ...

Hannah: ... won't cock up as much as yours?

Ruth: Well, if you can't learn from my mistakes.

Hannah [*shouting*]: I'm so sick of that stupid mantra, mother, 'don't make my mistakes'. Why not? Why are you the only one who can screw up? People screw up, they don't mean to, but they screw up! (S2, E6)

The creators of TV dramas such as *The Split* might not explicitly consider the representation of the emotional labour performed by characters in their everyday work, and the resulting display rule conflict – where a worker is expected to conform to two or more conflicting organization, occupational or societal display rules – they must manage. The viewers' concern, and empathy, for Hannah is based on Nicola Walker's stellar performance of a woman whose inner turmoil is communicated through facial feedback rather than dialogue. Nevertheless, these concepts provide a useful theoretical lens through which we can analyse the ways in which the viewers' concern for Hannah's professional well-being increases episode by episode while we try to make sense of her ambivalent behaviour.

Emotional labour and display rule conflict in the legal professional

There is a growing body of literature analysing the emotional labour of legal professionals.¹⁸ Emotional labour is where workers are paid to manage both

¹⁸Jennifer L Pierce, *Gender Trials. Emotional Lives in Contemporary law Firms* (University of California Press 1995); Jennifer L Pierce, 'Emotional Labor Among Paralegals' (1999) 561(1) *The Annals of the American Academy of Political and Social Science* 127; Kathryn J Lively, 'Reciprocal Emotion Management:

theirs and others' emotions in accordance with the expectations of their employer.¹⁹ These expectations are described as display rules.²⁰ Display rules dictate 'behavioural expectations about which emotions ought to be expressed and which ought to be hidden',²¹ and in family law practice can be organizational, professional and through informal client display rules.²² Organizational display rules are both formal and informal guidelines produced by an organization to fulfil its aims and objectives.²³ Law firms provide a service to clients, and therefore frontline workers are expected to display emotions which ensure the long-term success of the organization.²⁴ As such, clients have expectations in terms of what they consider to be appropriate emotional displays which are predicated on societal norms. Client expectations may change and even during a single case may alter because of changing circumstances.²⁵

There are various means by which family lawyers conform to display rules. Surface acting is where workers do not feel the emotions they are displaying, while deep acting is where the workers align their inner feelings with the emotional display either through experience or a trained imagination.²⁶ A further way of conforming to display rules is through a genuine emotional response, which is where feelings align with emotional displays. Workers may find performing emotional labour in this way less challenging, but they are still expected to regulate their emotions in accordance with

Working Together to Maintain Stratification in Private Law Firms' (2000) 27(1) *Work and Occupations* 32; Lloyd C Harris, 'The Emotional Labour of Barristers: An Exploration of Emotional Labour by Status Professionals' (2002) 39(4) *Journal of Management Studies* 553; Kathryn J Lively, 'Client Contact and Emotional Labour: Upsetting the Balance and Evening Up the Field' (2002) 22(2) *Work and Occupations* 198–225; Chalen Westaby, '"Feeling Like a Sponge": The Emotional Labour Produced by Solicitors in their Interaction with Clients Seeking Asylum' (2010) 17(2) *International Journal of the Legal Profession* 153; Chalen Westaby, 'What's Culture Got to Do with it?: The Emotional Labour of Immigration Solicitors in their Exchanges with United Kingdom Border Agency Case Owners' (2014) 20(1) *European Journal of Current legal Issues* 1; Joy Kadowaki, 'Maintaining Professionalism: Emotional Labor among Lawyers as Client Advisors' (2015) 22(3) *International Journal of the Legal Profession* 323; Hilary Sommerlad, '"A Pit to Put Women In": Professionalism, Work Intensification and Work-Life Balance in the Legal Profession in England and Wales' (2016) 23(1) *International Journal of the Legal Profession* 61.

¹⁹Arlie R Hochschild, *The Managed Heart. Commercialization of Human Feeling* (University of California Press 1983) 7fn.

²⁰Anat Rafaeli and Robert I Sutton, 'The Expression of Emotion in Organizational Life' (1989) 11 *Research in Organizational Behavior* 1; Blake E Ashforth and Ronald H Humphrey, 'Emotional Labor in Service Roles: The Influence of Identity' (1993) 18(1) *The Academy of Management review* 88; A Morris and DC Feldman, 'The Dimensions, Antecedents and Consequences of Emotional Labor' (1996) 21(4) *The Academy of Management Review* 986.

²¹Rafaeli and Sutton (n 20) 8. Also see James Diefendorff and Erin M Richards, 'Antecedents and Consequences of Emotional Display Rule Perception' (2003) 88(2) *Journal of Applied Psychology* 284.

²²Chalen Westaby and Andrea Subryan, 'Emotional Labour in the Legal Professions' in Jake Phillips, Chalen Westaby, Andrew Fowler and Jaime Waters (eds), *Emotional Labour in Criminal Justice and Criminology* (Routledge 2021) 34.

²³Ashforth and Humphrey (n 20).

²⁴Andrea Subryan, *Emotion Work: An Exploratory Study of Experiences among Family Law Practitioners*. Sheffield Hallam University (United Kingdom 2020).

²⁵Ibid.

²⁶Hochschild (n 19).

expected display rules. In this way, family lawyers are actors within emotionally controlled arenas. They are expected to convey certain emotions towards colleagues, clients and in the courtroom, which are particularly intense sites of performance and impression management.²⁷ However, unlike actors, they are not formally trained in how to conform to expected display rules. Rather, an understanding of emotional labour expectations results from acculturation into the profession through the observation of other colleagues and experience gained on the job.²⁸

We see that Hannah is the quintessential on-screen legal professional in her interactions with clients. She is often portrayed in her meetings with clients as emotionless – calm, rational and experienced – frequently in sharp contrast to her mostly-female clients. An example of the emotional labour performed by Hannah can be seen with her client, the Foreign Secretary Emma Green (S1, E4). It transpires that Emma's husband Bill is a member of the illicit dating website Indiana Ray. His name, along with the names of 50,000 other members, was published online by a far-right Christian group. Emma, in her first meeting with Hannah (in the Foreign Secretary's Office with staff present), is adamant that she wants to divorce her husband. She explodes with anger, screaming at her husband: 'I want a bloody divorce!'

Hannah demonstrates conformity to both what might be considered traditional organizational and professional display rules as well as societal display rules; her demeanour is therefore emotionless. She is calm, measured and demonstrates her incomparable expertise as Emma's legal advisor. Hannah's emotional displays conform to a code which views outward display of emotion by lawyers as antithetical to legal practice. This is due in part to the fact that historically legal practice was established and maintained by men. Even now, legal professionals, both male and female, conform to displays rules that prioritize rationality, control and expertise.²⁹ The impression is given that Hannah does not need to surface act in this situation. There is no indication that her inner feelings do not match her outward displays. Years of experience ensure that Hannah has become occupationally acculturated into her role as a family law practitioner³⁰ and through deep acting her inner feelings and outward emotional displays align. Therefore, both Emma and the audience can be confident that the case is in the safe and experienced hands of a seasoned professional.

²⁷Erving Goffman, *The Presentation of the Self in Everyday Life* (Penguin Books 1959).

²⁸Westaby (n 18).

²⁹Celia Davies, 'The Sociology of Professions and the Profession of Gender' (1996) 30(4) *Sociology* 661.

³⁰Hilary Sommerlad, 'The Commercialisation of Law and the Enterprising Legal Practitioner: Continuity and Change' (2011) 18(1–2) *International Journal of the Legal Profession* 73.

Often, people base their judgement of good legal practice on what they see in films and TV series. These lawyers demonstrate rationality, control and expertise particularly when others are acting in a contrary manner. In this way, the audience views Hannah as an exceptional family lawyer capable of handling high-profile cases which starkly contrasts Emma's behaviour. Hannah's demeanour demonstrates not only her legal competency, but it also becomes a yardstick to measure female hysteria, much as a typical male character might do in a traditional television show.

Emma's public outburst and her clear determination to divorce her husband also very much align with Noble & Hale's expectation that its legal practitioners perform emotional labour in such a way as to ensure clients go to court, which in turn provides more revenue for the firm. Indeed, when Hannah tells her boss, Zander (Chukudi Iwuji), that she will be representing Emma Graham in her divorce, Zander jumps out of his seat crying, 'Brilliant! Double the hours in court! This could run and run and run!' Hannah, therefore, in suggesting the rewording of a Press Release to read 'review our marriage' rather than 'rebuild our marriage' conforms to both client expectations and organizational display rules. It also presents the audience with the potential for an outcome which sees Emma divorce her morally reckless husband and therefore right the wrongs he has inflicted on his wife.

The suppression of emotion and thus seemingly emotionless displays are a marker of legal professionalism and vital in ensuring, along with demonstrating her knowledge and experience of family law, that Hannah is perceived by her clients to be one of the best divorce lawyers in London. However, there are other emotional displays identified in emotional labour research as being vital to the role of family law practitioner. An essential emotional skill possessed by legal practitioners and particularly those who often interact with clients such as family lawyers is empathy.³¹ Empathy is 'the process of understanding another person's perspective'.³² It is therefore 'a form of emotional response' which also contains 'a cognitive element of understanding derived from imagining the situation from the perspective of the object of your empathy'.³³ Legal practitioners are mindful of organizational and professional display rules and indeed client expectations, to display empathy towards those they represent.³⁴ This in turn ensures the development of trust and

³¹Subryan (n 24).

³²Jennifer Gerarda Brown, 'New Directions in Negotiation and ADR: Deeply Contacting the Inner World of Another: Practicing Empathy in Values-Based Negotiation Role Plays' (2012) 39 Washington University Journal of Law and Policy 189 at 195. See also Lynne N Henderson, 'Legality and Empathy' (1987) 85(7) Michigan Law Review 1574.

³³Chalen Westaby and Emma Jones, 'Empathy: An Essential Element of Legal Practice or "Never the Twain Shall Meet"?' (2018) 25(1) International Journal of the Legal Profession 107 at 110.

³⁴Westaby (n 18); Ibid.

rapport,³⁵ which is 'central to a good client-professional relationship, and the most basic of the conditions in creating this rapport is empathy'.³⁶

Hannah displays empathy towards her clients, particularly when she speaks privately with them. The empathy Hannah displays clearly has the effect of building and maintaining trust and a close rapport with her client. However, it also provides a way of demonstrating to the client – and the audience – that legal professionals are human, even where there is a strong requirement to suppress or disregard certain emotions.³⁷ We see an example of this in Hannah's final scene with Emma. By this point in the episode, it has become clear that Emma cannot risk her political career by filing for divorce. Furthermore, she needs to protect her current position as Foreign Secretary by presenting a united front with her husband in a high-profile televised interview organized by Noble & Hale. Hannah demonstrates empathy for the difficult and distressing position Emma finds herself in, and the feelings that she is experiencing and provides advice and counsel. The empathy displayed by Hannah towards Emma also serves an additional purpose in providing the audience with a logical and/or emotional construct for righting the wrong they believe has been inflicted on Emma. Emma may be trapped in a loveless marriage, but Hannah provides her with a way out and the audience are in no doubt that Hannah will be there for Emma when the time is right for her to divorce her husband. The viewers' empathy here is two-fold: we sympathize with both Emma's emotional incongruence and Hannah's risk of not satisfying the organizational objectives of taking the case to court.

As the plot develops, and Hannah's vulnerabilities manifest themselves, viewers begin to see the price she pays for performing emotional labour and their concern for Hannah's well-being likely rises. In Series 2 (S2 E1) Hannah displays empathy in a different and riskier way than with Emma. At the beginning of the episode, we are introduced to Fi Hansen. Fi hosts a TV music programme with her husband, Richie Hansen, a former musician turned producer. Fi and Richie are a 'golden couple'. However, Fi meets Hannah at her office for advice suspecting that Richie, not for the first time, has had an affair with the couple's nanny. Fi is torn between initiating divorce proceedings and feeling bad as a mother; on her first meeting with Hannah, Fi clearly presents her position. However, as the episode progresses the audience sees that Richie not only has had several sexual relationships

³⁵Kristin B Gerdy, 'Clients, Empathy and Compassion: Introducing First-year Students to the "heart" of lawyering' (2000) 87(1) *Nebraska Law Review* 1; Westaby (n 18); Brown (n 31).

³⁶John Barkai and Virginia O Fine, 'Empathy Training for Lawyers and Law Students' (1983) 13 *Southwestern University Law Review* 505 at 511.

³⁷Gerdy (n 35); James Duffy, 'Empathy, Neutrality and Emotional Intelligence: A Balancing Act for the Emotional Einstein' (2010) 10(1) *University of Technology Law and Justice Journal* 44.

with other women whilst being married to Fi, but also exerts physical and mental control over her.

Hannah displays empathy towards Fi's situation: 'If it's any consolation my kids had a chocolate bar and a packet of crisps for breakfast', which makes Fi laughs through her tears. Hannah demonstrates empathic concern towards Fi by putting herself in Fi's shoes and responding in such a way as to bind herself to Fi as a member of the same group – in this case as a mother. This empathetic stance is intensified through a shot/reverse shot sequence which draws the viewers into the dialogue to see the different perspectives of motherhood. While we admire Hannah's self-disclosure, we might also pity her for the stressful life she leads.

Self-disclosure, described as an 'act of revealing something about oneself to a client in the context of a professional relationship',³⁸ is a technique subconsciously used by family law practitioners to display empathy and thus bind themselves more closely to that person. It has been proven to be effective because it allows authenticity, transparency, and respect for the client within the relationship.³⁹ Furthermore, it can also bring a more authentic or human dimension to the relationship which can aid in decreasing power differentials as well as opportunities for role modelling.⁴⁰ Self-disclosures can be made in several ways, and the self-disclosure made by Hannah to Fi – used to portray her as authentic – is an example of a 'there and then' disclosure.⁴¹

Interestingly, in her self-disclosure to Fi, Hannah uses humour to develop an empathic connection both with Fi and the audience. This way of developing or maintaining a good working relationship is an example of 'edgework'. Edgework is where a worker voluntarily takes a risk which is a 'clearly observable threat to one's physical or mental well-being or one's sense of an ordered existence'.⁴² In the workplace 'the "edge" can be any boundary where the worker potentially can lose control and harm themselves'.⁴³ In terms of family law practice, the loss of control would be that the humour used by the practitioner is not understood or misinterpreted by the client.

³⁸Jake Phillips, Andrew Fowler and Chalen Westaby, 'Self Disclosure in Criminal Justice: What Form Does it Take and What Does it Achieve?' (2018) 62(12) *International Journal of Offender Therapy and Comparative Criminology* 3890 at 3890.

³⁹Florence Kaslow, Bernard Cooper and Myrna Linsberg, 'Family Therapist Authenticity as a Key Factor in Outcome' (1979) 1 *International Journal of Family Therapy* 184; Christine G Robitschek and Patricia R McCarthy, 'Prevalence of Counselor Self-Reference in the Therapeutic Dyad' (1991) 69 *Journal of Counseling & Development* 218.

⁴⁰Robert C Lane and James W Hull, 'Self-disclosure and Classical Psychoanalysis' in George Stricker and Martin Fisher (eds), *Self-Disclosure in the Therapeutic Relationship* (Springer 1990).

⁴¹Carol Ganzer and Eric D Ornstein, 'A Sea of Trouble: A Relational Approach to the Culturally Sensitive Treatment of a Severely Disturbed Client' (2002) 30 *Clinical Social Work Journal* 127.

⁴²Stephen Lyng, 'Edgework: A Social Psychological Analysis of Voluntary Risk Taking' (1990) 95(4) *American Journal of Sociology* 851 at 857.

⁴³Anne Worrall and Rob Mawby, *Doing Probation Work. Identity in a Criminal Justice Occupation* (Routledge 2013) at 113.

The harm this would cause is the alienation of the client and therefore the failure to develop or maintain rapport and thus a good working relationship. It might even risk the loss of the client if handled particularly poorly. Edgework is therefore a highly skilled form of emotion management. We see Hannah use what would be described as edgework to bind herself more closely to Fi. Hannah talks about herself as a mother in a self-deprecating way, which shows Fi not only that she is human but, importantly, fallible in relation to her family life. However, Hannah is mindful of her professional position and is careful not to go too far. She does not therefore include her husband in the references she makes about her less-than-perfect family life.

In the next scene, we see an example of a second self-deprecating disclosure by Hannah which creates further intimacy between Fi and herself.⁴⁴ However, in this case, the edgework undertaken by Hannah backfires and results in Fi commenting on Hannah's marital difficulties, which also reminds the audience of the fallibility of Hannah's marital relationship in contrast to her professional life. When Fi says her son Callum is in the same class as Hannah's son Vinnie, Hannah gives the impression that she cannot remember Fi's son, and in attempt to recover the situation she makes a further self-deprecating disclosure again about her role as a mother. Although Hannah attempts to bring the conversation back to more legal matters by telling Fi that anything discussed is in the strictest confidence, Fi refers to Hannah's difficult marital affairs which catches her off guard. Towards the end of Series 1 (S1 E5) Hannah's husband, and highly successful family law barrister, Nathan Stern is revealed as being a member of the Indiana Ray website and as having committed adultery.

Hannah recovers her composure quickly and manages the situation with Fi well – underplaying the interest the public would have in her private family life – and refocusing the conversation back on Fi. Nevertheless, the conversation between Hannah and Fi highlights the risks associated with using self-disclosure as a tool to develop rapport between the practitioner and client, one of which is that the boundary between the professional and the private become blurred, leading to clients crossing the line between the two.⁴⁵ Once again the use of a shot/reverse shot sequence intensifies the viewer's empathy, but this time the wronged person is Hannah herself and Fi is empathetic to the adultery narrative. It also provides a convenient reminder to the audience of Nathan's indiscretions in the first series, and the contrast between Hannah's successful professional life and her private marital issues.

⁴⁴Kathleen A Sullivan, 'Self-Disclosure, Separation and Students: Intimacy in the Clinical Relationship' (1993–1994) 27 *Indiana Law Review* 115.

⁴⁵Carolyn Knight, 'Social Worker's Attitudes Towards and Engagement in Self-Disclosure' (2012) 40 *Clinical Social Work Journal* 297.

With respect to display rule conflict, in Series 1 (S1 E1) Hannah briefs Zander, her boss, about a meeting with her client Davey McKenzie, a high-profile businessman, and his wife Goldie McKenzie who built the multi-million-pound business up with him. It transpires that Davey McKenzie has been having a secret long-term affair with Goldie's best friend and has decided to divorce Goldie. Davey makes it clear in the meeting that he wants a quick divorce and to give Goldie as little money as possible. However, Zander demands Hannah litigate despite her saying, 'I don't do circus. This will be circus.' The climax of the scene sees Zander cut Hannah off mid-sentence saying pointedly, 'He's a multi-millionaire. He wants us to litigate, so *you* will litigate, and it will be war.' Zander insists Hannah prioritize the organizational display rules which focus on the business needs of the firm – to maximize its revenue – even if this contradicts Hannah's professional identity which is predicated on integrity and decency and informed by professional display rules.

Family lawyers are occupationally acculturated into the legal profession through the law firms for which they work.⁴⁶ The organizational and professional display rules within law firms influence legal practitioner's behaviour and, as has been demonstrated above, Hannah is influenced by these display rules.⁴⁷ Display rules inevitably inform and are informed by a worker's professional identity or how they define themselves in terms of the work they do.⁴⁸ The altercation with Zander makes clear the organizational display rule expectations of Noble & Hale. The consequence in this case is that Hannah demonstrates inter-display-rule conflict, which is conflict amongst two or more different display rules.⁴⁹ The display rule conflict experienced by Hannah in her encounter with Zander is used as a device to remind the audience of her integrity and decency, which she prizes above making money. Hannah therefore displays her true feelings which conflict with organizational display rules expressed by Zander. This is described as emotional deviance, which is where a worker displays emotions which are not prescribed by the organization.⁵⁰ While the viewers' admiration for Hannah's resolve grows, so does our concern for her, as we expect that Hannah might pay a price for her moral position either by losing her job or her own mental well-being at having to face such conflict.

In Series 2 (S2 E2), we see a further display of emotional deviance by Hannah in a confrontation she has with her new colleague, Tyler. Tyler is

⁴⁶Sommerlad (n 30).

⁴⁷Subryan (n 24).

⁴⁸Fred Mael and Black E Ashforth, 'Alumni and their Alma Mater: A Partial Test of the Reformulated Model of Organizational Identification' (1992) 13(2) *Journal of Organizational Behavior* 103.

⁴⁹Subryan (n 24).

⁵⁰Jennifer A Scarduzio, 'Maintaining Order through Deviance? The Emotional Deviance, Power and Professional Work of Municipal Court Judges' (2011) 25(2) *Management Communication Quarterly* 283.

an ex-lawyer and management consultant who has been brought in by Zander to assess the working practices at the new merger between Noble & Hale and Defoe's. His aim, as he puts it, is to 'cut away the fat'.

Tyler: I was just going over the comparison of quarterly profit, lawyer by lawyer adding up billable hours. I was curious, the Carlton case that never went to court?

Hannah: Ah, yeah. They were married for 28 years and went to mediation. So, it wasn't necessary to drag them both through court.

Tyler: It's just though in that particular case it falls between two stools. Right, I mean it's neither high-profile enough nor litigious enough for you to dedicate quite so much time. Mergers don't come cheap [...], so can we step it up? I was saying to Mikey much the same.

Hannah: [*laughs*] Right. A good old fashioned dog fight then?

Rather than suppress the negative feelings Hannah has about the organizational display rules expressed by Tyler, Hannah engages in emotional deviance. Her sarcastic language puts in stark terms what Tyler expects from her. Emotional deviance will not result in adverse repercussions in situations where the worker has elevated power status. Contrast this with Hannah's veiled threat – 'I don't do circus' – not to conform to Zander's demand (S1 E1) that she represent Davey McKenzie in court and go to 'war'. We see how Hannah is presented with a clear message from Zander that he will not tolerate her defying Noble & Hale's organizational display rule expectations, and presses upon her the need – whether she likes it or not – to advocate zealously for the client in court. This unambiguous command from a member of the firm with elevated power status means Hannah is required to protect this aspect of her professional self fervently but carefully. Therefore, Hannah conceals her true feelings in future interactions with Zander where they do not conform to the organizational display rule to prioritize making money. For example, in Emma Green's case (S1 E4) Zander quizzes her as to why Emma 'suddenly' did not want a divorce and Hannah lies to him to conceal the fact that her mother had perverted the course of justice. Hannah is therefore made to reflect upon her emotional labour priorities and her understanding of professional legal conduct. She outwardly conforms to organizational display rules she does not agree with, and Zander seems satisfied with her explanation. However, given that the audience knows about Hannah's involvement in Emma Green's decision, the discomfort that Hannah feels in having to act in opposition to her high moral standards is visible and the pain she feels for not being true to her professional self.

Communities of coping and the legal professional

In the previous section, the concepts of emotional labour and display rule conflict were explored in relation to *The Split*. The decisions and behaviours required to deal with multiple and competing display rules can lead to tensions and conflicts in the workplace.⁵¹ While emotional pain in organizations is inevitable, it is the way in which organizations handle such pain that could make all the difference for employees.⁵² The culture in law firms has considerable influence on the ways in which lawyers feel they can deal with or offload emotional pain experienced in the workplace. For example, traditional legal culture is known to prioritize the success of the business by focussing on factors such as billing clients. This type of culture can result in a focus on competition over well-being for employees. As such, employees may feel unable to offload or share their experiences with colleagues.

The Split provides a very interesting case study in terms of demonstrating how culture can impact the ability of employees to access workplace support systems to deal with pain. The viewer is privy to both front and backstage portrayals of culture in the law firm. To clients, Noble & Hale is illustrated as a reputable, international corporate law firm as it is known to retain and attract high-profile clients. However, the way in which the culture is depicted paints a picture that the law firm exists to make money at any cost, including ramping up fees by going to court, even when this is not in the client's best interests. This is reinforced when the managing partner, Zander, actively encourages Hannah to bring in high-asset cases and increase her billable time by conducting contested divorce cases, rather than settling out of court. A contested divorce would enable Hannah to bill tens of thousands of pounds to the client. In some countries such as the U.K., the legal profession has a competitive culture and this environment, along with hierarchical structures and power imbalances, can create toxicity and pain in the workplace,⁵³ which can impact on workplace support mechanisms.⁵⁴ Further, in workplace cultures that advocate extreme individualism, characterized by excessive independence and competition, employees may not have the emotional permission to access a support network needed to express their emotions.⁵⁵

In *The Split*, Hannah joins Noble & Hale as a senior partner. She established herself as a leading expert in the practice of family law at Defoe's, which is a

⁵¹ Subryan (n 24).

⁵² Joan V Gallos, 'Learning from the Toxic Trenches: The Winding Road to Healthier Organizations—and to Healthy Everyday Leaders' (2008) 17(4) *Journal of Management Inquiry* 354–67.

⁵³ Maryam Omari and Megan Paull, "'Shut Up and Bill!': Workplace Bullying Challenges for the Legal Profession' (2013) 20(2) *International Journal of the Legal Profession* 141.

⁵⁴ Susan Saab Fortney, 'Soul for Sale: An Empirical Study of Associate Satisfaction, Law Firm Culture, and the Effects of Billable Hour Requirements' (2000) 69 *UMKC Law Review* 239.

⁵⁵ Charmaine Härtel, 'How to Build a Healthy Emotional Culture and Avoid a Toxic Culture' [2008] *Research Companion to Emotion in Organizations* 575.

small, family-run law firm. In starting her new role, we see Hannah is mindful of her position as a senior family law partner operating in a corporate firm. She must adopt a corporate law firm mentality, completely distinct to her previous mindset at Defoe's. We see some evidence that Hannah's professional identity and values as a family lawyer are somewhat challenged when she arrives at Noble & Hale. She prefers to conduct divorce cases in a conciliatory manner, whereas Noble & Hale take a more aggressive approach. She is expected to fit into a new corporate culture, and even alters her appearance. This is noticed by her sister Nina:

Nina: Hello, Hannah.

Hannah: Hello, Nina.

Nina: New hair?

Hannah: New job.

As the newcomer, Hannah stands on the periphery of the existing workplace cultures and communities and at the beginning of the narrative just observes. However, as a senior partner, she is expected to be an active, authoritative participant and contribute to discussions. Generally, among professionals, informal offloading is done with trusted others, although the concept of 'trusted others' may be difficult to establish in a legal setting, particularly as a newcomer. In corporate law, legal cultures can be steeped in achieving and surpassing billable targets. Such cultures promote individualistic and competitive working practices where lawyers are reluctant to share cases or even take time off.⁵⁶ In a study on communities of coping among family lawyers, it was found that there is a degree of mistrust within such communities as lawyers prioritize preserving their reputation and status.⁵⁷ As such, lawyers may find that to reap the benefits of communities of coping, they must choose or create their community wisely.

We see that Hannah steers clear from offloading with senior colleagues such as Zander. Perhaps in doing so, Hannah can preserve her reputation and reassure Zander that he made the correct decision in hiring her. She can conduct her work the way she sees fit without notifying Zander that she's uncomfortable with the firm's more aggressive tactics. Hannah also does not appear to offload with other colleagues including junior lawyer Maggie with whom she works very closely. This dynamic becomes difficult for Hannah, and we see her take a cautious, measured approach to Maggie's involvement in discussions. While she may appear flustered at times with Maggie, Hannah quickly takes charge and maintains her professionalism. As a line manager, Hannah shows Maggie how to mute emotions

⁵⁶Deborah Rhode, 'Balanced Lives for Lawyers' (2001) 70 Fordham Law Review 2207.

⁵⁷Subryan (n 24).

and maintain professionalism. Working with a senior partner is a huge opportunity for a junior lawyer as this provides invaluable learning. However, at Noble and Hale, Maggie cannot learn the importance of working in an open and supportive work culture as Hannah perpetuates the vicious circle and prioritizes professionalism and stoicism.

We see Hannah reinforce her belief to keep her private life separate. In a scene in the first series (S1 E5) we observe Hannah interrupting a meeting among senior partners to sternly request that they refrain from discussing Nathan's involvement with the Indiana Ray scandal. This followed an awkward discussion with her client, Mrs McKenzie, who overheard Hannah's colleagues gossiping about Nathan. Hannah does not give the impression that she is upset, hurt, or embarrassed. Instead, she maintains her professionalism and reinforces her determination to keep her private life separate.

Hannah chooses to offload with one person, Christie. As a senior partner, she considers him a trusted other. She does not offload her emotions with Nathan at home, despite him working in the same area of law and even on some of her cases. Hannah and Christie have a long history together, including an affair before Hannah's marriage to Nathan, and it may be that they both have something to lose if their relationship was exposed so they have no choice but to trust each other. In this way, we see that Hannah is determined to keep her professional and private life separate, including husband and lover. Christie knows her well, so Hannah permits him to see her vulnerable side, even in a work context, which inevitably starts to blur public/private boundaries.

From sharing experiences of ethical issues to making jokes about cases to ease the pressure, Hannah and Christie lean on each other. They are both experienced and principled which perhaps makes them ideal colleagues to offload with. An example of such offloading is the Emma Graham case (S1 E4), in which Hannah learns that Ruth helped Emma to lie for her husband in a previous case. This act would have had catastrophic consequences for Emma and Ruth should it be revealed, so Hannah faced a dilemma. She chooses to confide in Christie, who in turn, reassures and helps Hannah by calling in a favour from a reporter, which also puts him in a risky position. Christie offers an exclusive story to the reporter on Emma's case if he agrees to keep certain details confidential, thus protecting Emma and Ruth. Both Hannah and Christie find themselves in a vulnerable position with each other, reinforcing their trust in one another.

However, the support system with Christie is not without its tensions. We see a conflict play out (S1, E5) when Hannah learns of Nathan's involvement in the Indiana Ray scandal. Christie forewarns Nathan that the list is going to be made public and that he should inform Hannah, possibly because Christie does not want Hannah to be hurt further by being caught off guard.

Following an awkward arrival at work the following morning, Christie attempts to offer support for Hannah until Hannah finds out that Christie also cheated on his wife. Hannah is deeply disappointed, as she interprets this behaviour as duplicitous, and realizes that perhaps he is no better than her adulterous father or Nathan. This sense of betrayal is doubly painful, as she realizes that her trust in her husband and lover has been called into question. Later in the episode, Hannah lashes out at Christie, for the first time displaying raw emotions of hurt and anger. Hannah begins to question her decision to confide in Christie.

At Noble & Hale, communities of coping are not shown in an obvious way. It is alluded to informally in a variety of ways including reference to colleagues gossiping in the toilet. The law firm culture that is stereotypically depicted is one where lawyers should not display unprofessional emotions at work and where emotional displays are seen as a weakness. We see limited evidence of offloading among colleagues which suggests that lawyers are encouraged to keep their emotions and feelings to themselves. This is not dissimilar to what researchers have found about individualistic cultures.⁵⁸ In terms of coping, we see evidence that the characters find alternate ways to deal with organizational pain. For example, Hannah's sister, Nina, who is also a family lawyer, engages in destructive behaviour such as excessive drinking and kleptomania. We are left thinking that there is no room to show vulnerability among colleagues, the real aim is to maintain perceptions of competence and achievement. As a managing partner, Zander is not considered someone who would be sympathetic and supportive if it did not align with the firm's bottom line. In S1, E6, we see Zander seeking reassurance from Hannah that although Defoe is struggling, she will not go easy on Ruth in court. Communities of coping instead appear to be used as arenas to prioritize preserving reputations and status while maintaining a degree of mistrust among colleagues.⁵⁹

In many TV series lawyers are portrayed as clever, competent, and confident. They work well under pressure and do not seem to have a trusted system of support around them. They keep their issues to themselves and in some way manage to suppress any stress. They may have a trusted person with whom they share negative experiences but are mostly keen to display excellence. Moreover, Hannah is always needed by members of her family, members of her firm, and her clients. She finds herself in a position of perpetual responsibility, and when she lets her guard down with Christie, some viewers forgive Hannah for any indiscretion, as they witness her vulnerable and softer side. It is also an opportunity for some viewers to safely delight in Hannah's forbidden indulgences with Christie. While the viewers

⁵⁸Härtel (n 55).

⁵⁹Subryan (n 24).

might not be aware of the concept of communities of coping, the lack of support for Hannah is palpable throughout the series, making it a cautionary tale for viewers. The absence of a support system throws her into the arms of Christie, who is besotted with her. While her affair with him is immoral, viewers' empathy lies firmly with Hannah, particularly since her husband became unfaithful long before she stopped resisting Christie. However, the viewers' emotions might also be ambiguous. While we are sympathetic of her professional pressures, some viewers may also feel uneasy or critical of her adultery, moral duplicity and emotional deviance in her own life.

Conclusion

The Split does not attempt to present its characters in neat representations, nor does it work with binary oppositions (good lawyer/bad mother and wife). Instead, it allows viewers to explore the feminist potential of female ambivalence. Hannah goes from eldest daughter being taken for granted to self-realization in a promotion to a corporate law firm, only to find that she made the wrong move. She was acculturated in a very different legal culture in her mother's firm, and thus will not subscribe to the emotional labour asked of her. At the end of Series 1 when Defoe's is on the brink of bankruptcy, Hannah confesses to Zander: 'I can't just stand by and watch the company being destroyed, the name erased. I really wanted to come here; I really love working at Noble & Hale. But I'm a Defoe to my core.' Although the conversation seems to be about bankruptcy, Hannah's realization goes much further than financial health. Her defiant statement at the very end of the scene ('I am Hannah Defoe') signals that her fight is one of morality rather than money. Hannah proves she is the best divorce lawyer in London by winning both the McKenzie and the Hansen cases, restoring the lives, and dignity, of these women. She admirably and fearlessly stood up to patriarchal power. However, these high-profile cases take their toll and make her transgress boundaries in her own life. She ultimately pays the price for her professional brilliance when her own marriage breaks down.

This TV series recognizes the difficult balancing act between the professional, the political and the private. While Lucia argued that this ambivalence weakens the figure of the lawyers, we propose a more positive reading. The final scene (S3, E6) in Hannah's garden depicts a woman who is at peace with herself, after having worked through her ambivalent feelings as regards her profession and the men in her life. Having accepted Nathan's wish to divorce, and not accepted Christie's offer of a new life in New York, Hannah is on her own. She bumbles around aimlessly, enjoying the flowers, then abruptly looks into the camera and by extension at the viewer. The final close-up is a content face that tells us she agrees with her mother's maxim: 'Men come and go, the only relationship in your life

worth having is with yourself.’ (S1, E1) At the time of writing Series 3 has just been screened on British television. The entire third series focuses on the private lives of the Defoe women and explores the concept of a ‘good divorce’. Abi Morgan, the scriptwriter, whose own parents divorced when she was small, describes her worldview: ‘Divorce isn’t failure. Some marriages are finite. [...] We live long lives, sometimes too long to spend it with the one person.’⁶⁰ Concurrently, a new divorce law came into force in England and Wales (6 April 2022), introducing a no-fault divorce, which will, no doubt, allow for less acrimonious splits. While no fourth series is planned for the BBC drama, the format has been licenced to Italian, Korean, Spanish, and Turkish broadcasters, again confirming its popular appeal.⁶¹

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⁶⁰Rachel Cooke, ‘Screenwriter: Abi Morgan: “I am absolutely the same, but profoundly changed”’ *The Observer* (London, 1 May 2022) <<https://www.theguardian.com/stage/2022/abi-morgan-interview-split-this-is-not-a-pity-memoir>> accessed 8 November 2022.

⁶¹BBC (n 9). *Il Split italiano* boasts Simone Spada as director and renowned actors Barbora Bobulova, Lunetta Savino and Massimo Ghini.