Authorial Voices of Self-Representation in Fiction à Substrat Professionnel (FASP): the Case of the American Lawyer-Author

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*Voix d’auteurs et autoreprésentation dans la fiction à substrat professionnel (FASP) : le cas de l’avocat-auteur américain*

Shaeda Isani

0. Introduction

1 The magnitude of crime fiction as a genre defies any form of coherent critical analysis. Similar challenges arise with regard to legal thrillers. One useful theoretical approach to obtaining manageable genre constructs is *fiction à substrat professionnel* or FASP. In 1999, Michel Petit, a French specialist in English Studies, observed that a certain form of popular fiction distinguished by its highly specialised narrative was becoming sufficiently representative to warrant being considered a genre of its own, a genre he called *fiction à substrat professionnel* or FASP (Petit, 1999; Petit & Isani, 2004). The characteristic feature of the genre is its dependence on a specialism, professional or not, which defines the narrative environment, its characters, plot and denouement. Petit identified five generic conventions inherent to the genre: 1) its status as genre fiction; 2) its assimilation to the thriller genre; 3) the specialised narrative embedded in and arising from the language, culture and discourse of the specialised environment fictionalised; 4) its contemporary setting; 5) the status of the author who, generally, is or was a domain specialist. It is this last generic convention that is the focus of this discussion.

2 FASP as an umbrella genre subsumes a host of sub-genres which cover a wide range of specialisms: the dominant sub-genres, legal FASP, medical FASP, police procedural
FASP, forensic FASP, etc., co-exist alongside more discreet but nevertheless successful ones such as art FASP, academic FASP, financial FASP, techno FASP, espionage FASP, and even ecclesiastical FASP. In terms of support medium, FASP covers a versatile range, from the conventional book, to films and TV series, graphic novels and even video games.

Research in the area of FASP studies has been essentially angled towards ESP\textsuperscript{1} studies and the use of FASP as a teaching tool in the acquisition of specialised language and cultural competencies. As such, it has tended to focus on the diegetic dimension (the specialised language or the professional-protagonists), or on reception studies, i.e. how lay readers access the specialised language and knowledge vectored by the narrative. (Isani, 2009). In a departure from the essentially applied nature of FASP studies, this paper explores a more recent line of enquiry which focuses on the genre as a subject of study in its own right.

0.1 Legal FASP

Crime fiction subsumes several popular genres such as detective novels, murder mysteries, police procedurals, legal thrillers, etc., which may or may not be FASP.\textsuperscript{2} Our interest lies with legal FASP or the “legal thriller” described by Sauerberg as “a work in which legal elements provide its driving force, making the workings of the law into the primary energy of a plot and driving motivation of the characters” (2016: 13). More specifically, our focus bears on the genre that picks up from where the police procedural ends, i.e. the stage involving legal professionals (lawyers, judges, and coroners), their specialised knowledge (the law), dedicated loci (courtrooms, judges’ chambers, lawyers’ firms, etc.), and lay interlocutors (witnesses and juries, for example).

The nexus between law and literature is as ancient as Aeschylus’ \textit{The Eumenides}, the 2,500-year-old play which was the first to fictionalise a courtroom drama (Harvey, 2020). The fascination of fiction for law still holds fast today, provoking Richard Posner, a prominent Law and Literature critic, to observe that “Literature contains a surprising amount of legal subject matter—surprising, at any rate, given how boring most people (including a disheartening number of lawyers) think law is” (1986: 1354). The popularity of the genre is borne out by statistics provided in 2015 by Thomas Herold’s blog for the publishing sector, from which we learn that crime fiction is the most popular genre in terms of readership (47% of respondents)—although largely surpassed by romance and erotica in terms of profits...

0.2 Why American lawyers?

Though legal thrillers are present in the popular fiction of all countries, in terms of sheer output, the genre is predominantly American. The reasons for this overwhelming preponderance have been largely investigated and one of the foremost relates to the difference between the European Civil Law inquisitorial system and the Anglo-Saxon adversarial system, the latter, with the incisive interactive dynamics of its courtroom procedures, being clearly more conducive to the suspense element essential to thrillers. However, if this explains the relative dearth of legal thrillers in European countries, it falls short of enlightening us as to why other countries of the Anglosphere, notably...
Britain, who share the same adversarial court procedure, do not produce as many legal thrillers as the United States.

Another, more plausible, account suggests that due to extensive media coverage, the American public is far more exposed to, and thus more familiar with and interested in, its justice system than other nations.

In the USA especially the genre has found fertile soil, an effect no doubt of the centre-stage role played by law at every level in society. The legal system of the USA is characterized by an extended democratic or popular element reflected in the foregrounding of trials by jury, also in cases of civil litigation, and in that both bench and prosecution positions in many instances are elective offices. (Sauerberg, 2016: 2)

Accordingly, Americans from all walks of life tend to be more or less familiar with the main points of their constitution (although, in a chicken-or-egg conundrum, this may also be the result of their heavy exposure to law-related books, films and TV series).

One of the singularities of American lawyer FASP is the highly negative image it projects of the American lawyer, an aspect striking in both its prevalence and offensiveness (Isani, 2020). In contrast, British lawyer-FASP, for example, paints a more balanced portrait of its solicitors and barristers who, though no saints, do not emerge as contemptible members of a reviled profession. This particular trait of the American lawyer-FASP sub-genre takes on added significance considering the fact that most American lawyer-FASP is written by authors who are or were themselves practicing lawyers, a paradox which gives rise to questions as to what drives real-life lawyers to project such deeply negative fictional images of their own profession. The reasons behind the American lay public’s disenchantment with its lawyers is a well-documented subject of analysis, notably with regard to the role played by adverse fictional representations of the lawyer protagonist. In this paper, however, we propose to shift attention from the perceptions shaped in the public’s mind by these negative fictional representations, to focus, instead, on the representations themselves in an endeavour to understand what motivates these professionals to “foul their own nests”.

0.3 Why novels and not films and TV series?

The three principal media supports for the lawyer FASP genre are books, films and TV series. With increased accessibility to digital media, TV series and films are clearly the most popular in terms of circulation and viewership, apparently confirming McLuhan’s 1966 prediction that books, like clotheslines and seamless stockings, would soon be obsolete. So why focus on a supposedly declining format? Firstly because, in spite of the decline of the book, we have yet to witness its demise, as pointed out by Art Swift and Steve Ander (2017) who comment a Gallup Poll which contradicts the prophets of doom by revealing that the American population still reads! Thirty-five percent had read more than eleven books in the past year, fifty-three percent of young adults had read between one and ten books in the past year and seventy-three percent said they preferred printed books to e-readers or audio books. There was, indeed, a dip in sales of printed books, but sales have been rising since 2012 according to Statista and continue to do so, gathering even more momentum with the emergence of successive “lockdowns”.
Our second reason for focusing on the book format instead of film and TV series is related to the object of our study, the author. Films and TV series are not produced by authors as such: films are written by scriptwriters and, when adapted from novels, the role of the novel’s author is largely diminished.

Writing for TV series, in general, follows a different pattern from that of authoring a book. The Q&A website Quora informs us, in response to the questions “How many writers does a TV drama or comedy need? How do they come together to work on the same show?”, that TV series are written by a group of “staff writers” variously called “screen writers”, “scriptwriters” or “scenarists”, operating in the short-term framework of what is now called the “gig” economy. Broadly speaking, scriptwriting for fictional TV series produced for mass consumption is a collaborative effort by a collective body of staff writers, sometimes as many as seven or eight, who attend an initial meeting under the supervision of “the head writer” in “the writers’ room” provided by the network, during which they breakdown the serial arc of the storyline into episodes. Each “staff writer” is subsequently allotted a number of episodes which, working from home, they flesh out into screenwriting software-formatted episodes and dialogues. Pace is of essence and hence employing multiple writers ensures the production of a whole season of scripts in the same time as it would take a single writer to write an episode.

TV scriptwriting’s imposed collective and fast-paced approach to writing fiction is diametrically opposed to that of an author. A work of fiction of some quality is usually a solo undertaking, situated over a period of time, and related to some insight that the authorial imaginary seeks to transmit through fiction. Seen as such, formulaically structured episodes, produced by a pool of writers with the help of scriptwriting software, are clearly not in tune with the gestational nature of authorial creative writing processes. In this respect, it is revealing that, whilst a novel is clearly identified and recognised as the work of a particular author as attested to by the copyright declaration at the beginning of the book, in the case of TV series, and as is customary in US copyright law, the studio as a company, owns both the story and the characters, and not the scriptwriters.

Besides these elements, there is also the myth and mystique of the idealised ergonomics generally associated with authorial inspiration and creation: windows of time propitious for the Muse (writing first thing in the morning or late at night), self-isolation in a dedicated space for creative work (isolating in the study, the garden shed, or a hotel room), an atmosphere conducive to creativity (scented candles, music, a glass of wine, suitable Feng Shui, a magnificent view...), etc., all of which pale into irrelevance when compared to the quasi-industrial conditions in which TV series scriptwriters work.

In view of these elements, and given the object of this discussion, the question of focussing on lawyer FASP novels rather than on lawyer TV series becomes a moot point. Our references are neither intended to be exhaustive nor based on a precisely delimited corpus, but refer to a selected body of well-known lawyer novels which provide an appropriate degree of representability and respect two fundamental criteria: the fictional protagonist must be an American lawyer, and the author a member of a law-related profession, including, as Lilli Paquet puts it, “any author who qualifies as ‘ex-justice profession’” (2019, online)—all that is, except one, Andrew Neiderman.
1. The lawyer FASP author

In his foundational article introducing FASP as a genre, Petit identifies four categories of FASP authors according to their status vis-à-vis the specialism: a professional-turned-author, a professional-cum-author, an author with personal access to the specialised domain and, finally, an author who depends on research (Petit, 1999: 63). Our discussion focuses on the first two categories, the “auteur professionnel” or professional-turned-author and the “professionnel auteur” or professional-cum-author, which we suggest transcribing as professionnel-auteur to underline the inherent dualism of the authorial profile.

Since successful authors rarely launch into a career of creative writing right from the word go, they invariably hold “day jobs” to support themselves during the transition from starving writer to best-selling author. Annals of creative writing abound with now famous authors who held modest jobs in their early years, as documented by Brendan Brown (2016): high school janitor (Stephen King), postman (William Faulkner), airline reservation clerk (Harper Lee), plumber (John Grisham), apothecary’s assistant (Agatha Christie), Saab dealer (Kurt Vonnegut), and so on. Petit’s observation, however, relates not to the casual jobs held by writers in early years but to the full-fledged professions they exercise and careers they pursue after specialisation.

1.1 Vocation and/or avocation?

The existence of two careers pursued concomitantly raises the question of which one is seen as a vocation (a principal professional activity) and which as an avocation (a true passion in life, auxiliary to the principal occupation). Such crossovers are commonplace at all levels of society, and history is replete with eminent examples of people who pursued both vocation and avocation and became famous for the latter: Franz Kafka was an insurance assessor (and a writer whose works gave the word “Kafkaesque” to several languages including English), Toni Morrison was an editor (and a Nobel prize-winning writer of fiction), Peter Mark Roget was a physician (and a famous lexicographer who gave us Roget’s Thesaurus), J. R. R. Tolkien was a philologist (and a writer who has gone down in history as the author of The Hobbit), and Iannis Xenakis was an architect (and a composer who helped revolutionise 20th-century classical music).

Juggling the crossover between vocation and avocation may not always be a straightforward move as Neil White, a successful British solicitor-author, admits when he confides in The Law Society Gazette, “I still feel like a lawyer who writes. I’m trying to get my head around the idea that I’m a writer who’s a lawyer. It still feels like a bit of a hobby.” On the other hand, Jonathan Shapiro, a practising attorney and legal FASP TV series scenarist, has no such existential problems and finds his career crossover perfectly manageable as he says, with self-deprecating humour, “Anyone can enjoy two careers. All it takes is desire, opportunity, and the willingness to be mediocre” (2014: 16).

The main reason behind juggling two demanding jobs, whatever the professional field, is basically financial. Relatively few writers of fiction can depend on their creative output as a career capable of ensuring a sustainably comfortable life style, as we gather
when Martin Edwards, a British solicitor-author confesses that “becoming a solicitor was a way of keeping the wolf from the door while I pursued my childhood writing ambition” (The Law Gazette, 2008). There are, however, “a happy few” lawyers-turned-authors whose fictional work has been successful enough to allow them “to turn professional” by giving up their lawyering vocation and dedicating themselves entirely to their writing avocation: the most celebrated lawyer FASP author to do so is, of course, John Grisham who, after the runaway success of The Firm in 1991 and its subsequent screen version, gave up the practice of law to devote himself entirely to writing fiction, producing a steady stream of lawyer-FASP best-sellers on a quasi-annual basis ever since.

1.2 Why do so many lawyers become lawyer-FASP authors?

While it appears quite natural for teachers of English and/or literature to turn their hand to writing their own fiction, it appears less so regarding other professions. Medicine and law are two exceptions. Medicine’s closeness to the human drama of life-defining moments makes it a rich source of inspiration for creative writing and there are a number of “physician-writers” who have put their professional training and experience at the service of their imaginary to make a successful crossover between vocation and avocation, as, for example, Sir Arthur Conan Doyle whose fiction is often reflects his medical knowledge. Law professionals, however, take the lead in this particular area of vocation/avocation crossovers, raising the question of what it is that attracts lawyers to writing fiction. Given the status and reputation of lawyers, one explanation which comes to mind is the first of four suggested by George Orwell in his often-quoted essay on “Why I write” (1946, online):

Sheer egoism. Desire to seem clever, to be talked about, to be remembered after death, to get your own back on the grown-ups who snubbed you in childhood, etc. It is humbug to pretend this is not a motive, and a strong one. Writers share this characteristic with scientists, artists, politicians, lawyers, soldiers, successful businessmen—in short, with the whole top crust of humanity.

In spite of Orwell’s specific reference to lawyers, writing through egoism and for glory is a quasi-universal trait and in no way unique to the legal professions. But, besides knowledge of the law itself, there are other aspects of the legal profession which may be seen as “transferable skills” with regard to writing law-related fiction.

a) Rapport with language

According to Tom Corson-Knowles, “Every writer starts with zero writing skills” (2020). However, people with a proclivity for creative writing are, arguably, already “programmed” for language, capable of combining mastery of the language with an intuitive and inventive approach which goes beyond prescriptive or habitual usage.

Since language is the essence of law and of the texts that embody it, legal professionals are trained to understand, interpret, manipulate and use language. And this is not limited to “legalese”; the diversity of their professional interlocutors (peers, law-related professionals, professionals of other domains, and diversified members of the lay public, ranging from clients to jurors and witnesses, etc.), together with their different professional roles (counsellor, advocate, mediator, negotiator, drafter, etc.),
endow them with across-the-board language competences which enable them to address a broad scope of audiences and purposes.

A lawyer must also excel at both oral and written modes of communication. Though televised fiction naturally depicts the lawyer in full oratorial splendour, in reality a large part of a lawyer’s work is devoted to writing, an activity which cuts across several legal genres and registers (correspondence, memoranda, motions, briefs, requests to judges, written arguments, etc.). Tom Goldstein and Jethro K. Lieberman define two categories of lawyers, the first of which, described below, writes incomprehensible “legalese”:

Most lawyers write poorly. [...]. They think modern legal writing is flabby, prolix, obscure, opaque, ungrammatical, dull, boring, redundant, disorganised, grey, dense, unimaginative, impersonal, foggy, infirm, indistinct, stilted, arcane, confused, heavy-handed, jargon—and cliché—ridden, ponderous, weaselling, overblown, pseudointellectual, hyperbolic, misleading, incivil, labored, bloodless, vacuous, evasive, pretentious, convoluted, rambling, incoherent, chocked, archaic, orotund, and fuzzy. (2002: 3)

In contrast, the second category considers writing well an obligation lawyers owe to their clients, the public, the court and themselves: the former produce “workman-like prose [...] and settle for the pedestrian” (ibid.: 6), whereas for the second “writing is an art and a skill, a process and a business, an end in itself and a means to other ends...” (ibid.: 10). In the context of lawyer-authors and the vocation-to-avocation crossover, we are obviously concerned with the latter category, those imbued with a passion for language: “Good lawyers are genuinely interested in words, in their nuances, in the subtle distinctions between them, in the growth of the language. Good lawyers browse through usage books [...] not from pedantry but from fascination with language and the power of writing. Good lawyers revere English” (ibid.: 5–6).

b) Art of storytelling

As Marlyn Robinson observes in the opening line of her history of legal thrillers, “Whoever tells the best story, wins the case” (1998). Given the persuasive nature of the task, particularly when facing a judge and jury, lawyers need to excel in the skills of structured, step-by-step oral narrative and its attendant rhetoric, they need to be master storytellers who derive “pleasure in the impact of one sound on another, in the firmness of good prose or the rhythm of a good story” (Orwell, ibid.). A well-documented area of research, the literature abounds with studies relative to the lawyer-as-a-storyteller trope, which Pulitzer-prize winning legal analyst, Kate Coscarelli sums up below (2018, online):

Lawyers, at their essence, are storytellers. The tools attorneys use every day to perform their work are the very guts of good storytelling: artful and careful use of words and the craft of organizing complicated thoughts and themes into reasoned prose that is backed up with citations and evidence.

Benjamine Reid, a litigator, extends the “story” construct to the entire trial itself when he asserts that “A successful trial is identical to a successful story” (1998: 8). He emphasises the crucial role of good storytelling in two key phases of the trial, the opening statement and, more importantly, the closing argument: the lawyer slowly rises to take the floor, faces the jury, and utters the stirring “Ladies and gentlemen of the jury”, before setting out to present the facts in a carefully crafted and methodically structured narrative, deploying all the discursive and rhetorical tools of the
storyteller’s craft to persuade, if not convince, the captive audience of jurors. Some of the closing statements in lawyer FASP recurrently mentioned as state-of-the-art are to be found in Harper Lee’s *To Kill a Mocking Bird* (1960), Barry Reed’s *The Verdict* (1980) or again Grisham’s *A Time to Kill* (1989), the closing line of which is eloquent in its persuasive empowerment of the jury, “Today, you are the law”.

Anthologies of memorable real-life closing arguments abound, as do numerous instruction guides on the subject designed to help budding lawyers. The lawyer is thus primed for the crossover to author, and the vibrant narrative skills acquired through “legal storytelling” segue seamlessly into the lawyer-author’s dramatic narrative of fictional courtroom proceedings.

c) Social crusaders

The last of the four reasons evoked by Orwell in his essay “Why I Write” is what he calls “political purpose”, a term he uses “in the widest possible sense [as a] desire to push the world in a certain direction, to alter other peoples' idea of the kind of society they should strive after” (*ibid.*: online). The urge to address the injustices of the world they live in “and push it in a certain direction” is often a strong motivating factor behind career decisions regarding such professions as priesthood, medicine, journalism, teaching and, of course, law.

From the viewpoint of a lawyer, the very fact of providing an accused or plaintiff with legal representation is a primary act of justice as perceived according to rule of law, and many are the lawyers who situate their calling at this fundamental level of commitment. Others, however, seek to redress wrong at supra-individual or meso-levels, that of social injustice as it exists within the broader environment of clan, community, city or country.

One striking example in this context concerns those lawyers—d diversely called “cause lawyers”, “public interest lawyers”, “crusading lawyers”, “campaining lawyers”—who view the law as a means of addressing social injustice and promoting social change. Often ideologically motivated and pro bono, individual clients for such lawyers may come to matter less than the cause they represent. Two notable iconic real-life examples of such campaigning lawyers are Ralph Nader and his pro-consumer activism in the 1970s and 1980s and, more recently, Ruth Bader Ginsburg, Supreme Court Justice, also known as “The Notorious R.B.G” for her ardent promotion of gender equality and women’s rights.

Lawyer-authors naturally harness fiction to reflect and promote their real-life preoccupations with social issues, even at the expense of misrepresenting the law (Thompson, 2012). The very fact that crime fiction is a genre rooted in crime, whether murder and rape, corruption and embezzlement, or an indictment of the justice system itself, makes it “a window for social commentary”:

Where the transgression is a crime, the story can be a straightforward morality tale—a crime was committed, and the wrongdoer received justice. But within the context of any crime story—including a morality tale—the narrative can examine a wide range of social and political issues. Since the victim and the perpetrator of a crime can come from any strata of society, the genre offers the storyteller great freedom at where they point their lens. (Cann, 2019, online)

Certain lawyer-FASP is instilled with a higher level of social engagement than others: if the first to come to mind in this context is inevitably Harper Lee’s *To Kill a Mockingbird*
(1960) and its inspirational condemnation of racism, today it is clearly John Grisham, the most prolific of all lawyer FASP novelists, who engages critically, overtly and consistently with social issues, as he himself confirms in a *Time Magazine* interview, “Everything I’m thinking about writing now is about politics or social issues wrapped up in a novel” (Grossman, 2006). In this respect, although the protagonist is always a lawyer and the background always unmistakably legal, Grisham’s novels fall into two categories (with inevitable overlaps): on the one hand, those that highlight dysfunctional aspects of the legal system itself ranging from unscrupulous lawyers, jury rigging, elected judges, judicial corruption, wrongful convictions, incarceration and the penitentiary system, to “an indictment of the legal system from law school to the jury’s verdict” (Abrams, 1995, online); and, on the other hand, those who, through the prism of law-related fiction, address broader contemporary social issues such as racism and slavery, capital punishment, ecology, Native Americans and gambling, unscrupulous medical insurance companies, etc. Both angles merge in the depiction of Grisham’s recurrent character of the fallen lawyer Lucien Willbanks:

He had been the first, and for years the only, white member of the county’s chapter of the NAACP. And later, the same for the ACLU. He had represented unions, a rarity in rural north Mississippi. He sued the state over the lousy schools for blacks. He sued the state over capital punishment. He sued the city because it refused to pave the streets in Lowtown. Until he was disbarred. Lucien Wilbanks had been a fearless lawyer who never hesitated to fire off a lawsuit when he thought one was needed, and never failed to help a client who was being mistreated. (*A Time for Mercy*, 2020: 52)

It must, nevertheless, be recognised that behind the socially critical dimension of such novels and the author’s use of fiction to reach a wider public by transposing the “crusading” lawyer-author’s social concerns to his lawyer-protagonist alter ego, there lurk more pragmatic and mercantile intentions: exploring the socio-political issues of contemporary American society definitely lends gravitas to works of fiction which would otherwise be relegated to mere entertainment. Without their social dimension, Grisham’s novels, for example, would be reduced to disembodied law-related potboilers, as Orwell reminds us with regard to his own work:

And looking back through my work, I see that it is invariably where I lacked a POLITICAL purpose that I wrote lifeless books and was betrayed into purple passages, sentences without meaning, decorative adjectives and humbug generally (*Ibid.*: online).

Celebrated professionals-cum-authors are to be found in most fields of FASP: Robin Cook in medical FASP, Kathy Reichs in forensics FASP, Iain Pears in art FASP, John le Carré in espionage FASP, David Lodge in academic FASP, Christopher Reich in financial FASP, to mention but a few. However, for reasons inherent to the profession itself, it is clearly legal FASP that encourages this particular form of career-crossover with a disproportionately high number of lawyers, judges, law school professors and crime journalists who write FASP related to their area of competence.

### 1.3 The FASP author’s status as an expert

*Substrat professionnel*, the specialised narrative which characterises FASP, is a fictional representation of the specialised language, discourse, culture and knowledge of a particular specialism created by the specialist author for a receptor who is, in most cases, a non-specialist lay reader. As discussed elsewhere (Isani, 2009), FASP readership
profiles are complex, with degrees of “(non-)specialisation” ranging, according to specialisms, from completely “naive” readers to specialists themselves (doctors reading medical FASP, lawyers reading lawyer-FASP, etc.), with variations in between which extend from “self-taught” and “experiential expert” readers who, for personal or professional reasons, come to acquire an above average degree of specialised knowledge.\(^9\)

Apart from readers who are themselves domain professionals, the result is an asymmetrical situation, typical of unequal encounters, which only survives on the basis of “author trustworthiness” (Jones, 2019: 9), i.e. the absolute trust lay readers invest in the FASP author as the domain specialist and reliable authorial voice who guarantees the authenticity of the specialised content fictionalised. Since “an author's degree of trustworthiness grows as we ourselves come to have greater reasons to trust his worlds [...]” (ibid.: 10), great care is taken to ensure that the reader is constantly made aware of the FASP author’s expert status at both diegetic and extradiegetic levels.

a) Diegetic highlighting of the lawyer-author’s expertise

At diegetic level, the FASP author’s specialist status is substantiated by three testimonials to his expertise: the “technicity” of the language used, familiarity with the professional culture of the specialism (the different actors involved, the institutions, the rites and rituals, the heroes and villains, the myths and legends, current issues, the profession’s politics, the dark zones, etc.), and the domain-specific factual knowledge displayed. The FASP author cannot, however, throw all his expertise at the reader: in a Goldilocks-like situation, if the technicity cursor is placed too high, it is likely to put the reader off; and if it is too low, it is likely to disappoint the reader’s desire to glean something new about the specialism. Furthermore, FASP readers’ familiarity with the specialised aspects of the substrat professionnel evolves over time depending on their exposure to law-related current events and to the sub-genre itself (Isani, 2009). Also, given the interdisciplinary, and even multidisciplinary, nature of the FASP genre, the reader’s knowledge of adjunct specialisms—as the all-pervading IT—may be greater than the author’s, as acknowledged by writers of legal thrillers in a roundtable discussion held in 2012:

Denise Hamilton: I think one issue with legal fiction is that people are getting more and more savvy about the way the legal system works, and they think that because they’ve seen L.A. Law they know exactly what’s going to happen, it’s the same with CSI. It becomes more and more difficult for all of us as writers because of all the technology [...].

Alexandra D’Italia: I think that’s true. Denise [Hamilton], you had mentioned keeping up with technological advances, and Michael [Connelly], you had mentioned talking with lawyers—how do you keep up with police procedure, technology and the law, all of which are constantly evolving? I know Sue Grafton set her series in the ’80s because she didn’t want to write mysteries including all those technological advances. (2013, online)\(^{39}\)

FASP authors are therefore constantly juggling between the conflicting need to flaunt their expertise so as to entrench their expert status and, at the same time, to pitch the all-important technicity at just the right level to hold the reader’s interest. One compromise used is to pitch the technicity at a high level but also provide the explanation; a metadiscursive writing technique commonly used to this effect is to integrate the omniscient narrator’s voice-over explanation into the fabric of the
narrative, as in the excerpt below from Turow’s *The Last Trial* with regard to a technical legal term:

“And did you ever talk with Kiril about why he had not planned to see any of his shares?”
“I did. A few times.”
“Foundation,” objects Feld, meaning [the witness] must say where and when the conversation took place and who was present. (2020: 122; our italics)

In a more complex approach, the lawyer FASP author’s expertise is woven into the diegetic narrative at multiple levels, as illustrated by another excerpt from the same novel regarding “hearsay”, a pretty straightforward, quasi-banal, legal term:

“Objection, hearsay,” says Feld. The rule against hearsay evidence is simple enough on its face. A fact—that the sky is blue—may not be proven by offering as evidence how someone described the sky when they were outside court. To establish the color, the witness must be here to say they say that shade and then be subject to cross-examination. But the supposed rule has about thirty recognized exceptions that make its application an opaque mess. Stern would estimate that at least a third of the judges before whom he’s tried cases don’t understand the hearsay rule thoroughly. (Ibid.: 122)

In the first move, the omniscient author-narrator (the classic diegetic Self of the author), begins by acknowledging that the term “hearsay” has become a fairly common word today but deems it nevertheless necessary to warn the uninformed reader (“simple enough on its face”) that, in terms of courtroom procedure, it is a complex issue (“thirty recognized exceptions”). In the next move, the lawyer-protagonist takes over to state, with more than a hint of condescendence, that there are even judges who are unaware of the complexities he has just evoked. Both these moves are buried forms of specialised intrusion through which the lawyer-author’s expert status is subtly threaded into the very warp and weft of the narrative to maintain the “author’s trustworthiness” as a specialist.

Given the stakes involved in gaining and retaining the readers’ unquestioning confidence in the reliability of the specialised fictional representation, great pains are taken to buttress the FASP author’s credentials as an expert at extradiegetic level as well.

**b) Extradiegetic highlighting of FASP author’s status**

At extradiegetic level, the specialised profile of the FASP author is a prized asset which is highlighted by publishers in the “paratext”, a notion invented by French literary theorist Gérard Genette to refer to all those parts of a published work that accompany but are not part of the story, such as the author’s name, the title of the book, copyright information, prizes won, prefaces and other promotional blurbs.

Publishers make use of paratextual space—the back cover, the inside flaps of the dust jacket, or a short “About the Author” often placed in the “front-matter” section preceding the narrative itself—to shape the authorial persona by foregrounding the author’s professional credentials in relation to the specialism fictionalised, as the following examples show:

• All of Scott Turow’s novels have been major international bestsellers. A former US attorney in Chicago, where he is a partner in the law firm of Sonnenschein, Nath and Rosenthal, he is currently teaching fiction-writing at Northwestern University. (*Personal Injuries*, 1999)
Robert Dugoni is the author of *The Jury Master*. He worked as a reporter for the *Los Angeles Times* and was a civil litigator in San Francisco and Seattle for nineteen years. (*Damage Control*, 2007)

Paul Goldstein is the Lillick Professor of Law at Stanford Law School and is widely recognized as one of the country’s leading authorities on intellectually property law. He is regularly included in *The Best Lawyers in America* and testifies before congressional committees and international government meetings on international property issues. (*A Patent Lie*, 2008)

Linda Fairstein, America’s foremost legal expert on crimes of sexual assault and domestic violence, led the pioneering Sex Crimes Unit of the District Attorney’s Office in Manhattan for twenty-five years. [She is also a] Fellow of the American College of Trial Lawyers and a member of the International Society of Barristers […]. (*Bad Blood*, 2007)

Paratext is neither innocent nor neutral. As Genette says, it is “a zone between text and off-text, a zone not only of transition but also of transaction: a privileged place of pragmatics and a strategy, of an influence on the public […].” (1997: 1-2). By placing these “jacket biographies” relative to the author’s profession at paratextual level, the back cover, for example, readers are exposed to the information they contain before actually embarking on the story itself. This means knowledge of the real-world author pre-figures the fictional content and so influences the reader’s approach to the novel from the outset—an explicit nudge towards the “biographical criticism” or “intentional fallacy” school of literary criticism and its interpretation of literary creation in terms of authorial contexts.

At another level, authors themselves resort to paratextual self-enhancement, notably when they seek to authenticate the specialised content of their own or an adjunct specialism. One such means is the often criticised (see Sam Sacks, 2012), “acknowledgements” page, the performative act of expressing thanks, also known as “Author’s Notes”. These are often boiler-plate declarations in which authors thank all and sundry, family, friends, agents, publishers, editorial staff, proof-readers, research assistants, babysitters and pets! More interestingly for our purpose here is the fact that certain acknowledgements also mention the author’s debt to other experts. Such thanks, in addition to expressing the author’s gratitude, may also be seen as an implicit form of endorsement by other domain specialists which further authenticates the specialised content of the novel, as Stuart Evers suggests when he says, “These kinds of acknowledgements can often appear to have been given with one eye on letting the reader know exactly how much research has gone into their fiction” (2010, online). Acknowledging other experts also burnishes the author’s own expert status when seen in the light of the adage that one is judged by the company one keeps. In his day, Erle Stanley Gardner wrote 2-3 page “Forewords” of professional biographies extolling the work of coroners, forensic specialists, law-enforcement officers and fellow attorneys. Today’s authors maintain the tradition, albeit in slimmed-down versions. In the following excerpt, we note the strategies of professional self-enhancement used, first by evoking the specialists associated with the “process of writing the story” (all outstanding in one way or another), and then by mentioning the author’s own long experience in the specialised domain:

The usual suspects sustained me throughout the long process of writing the story. Robert Morgenthau, the great District Attorney of New York Country, and my devoted colleagues in the Sex Crimes Prosecution Unit of that office, and in the Special Victims Unit of the NYPD, will always be the best in the business. Nothing makes me prouder than the thirty years I spent working shoulder to shoulder with
each of them. The men and women of the Office of Chief Medical Examiner of New York, pathologists and serologists, were my heroes before September 11, 2001 and will be forever. (Linda Fairstein, The Bone Vault, 2003: vi–vii)

The following “acknowledgements” is state-of-the-art in the genre: we note how the author begins by mentioning his own professional credentials, then goes on to provide a long list of professionals from the sub-speciality fictionalised (death row incarceration, in this case), who thus “corroborate” the authenticity of the specialised knowledge relative to this area in the narrative:

I was a lawyer once, and represented people charged with all sorts of crimes. Fortunately, I never had a client convicted of capital murder and sentenced to death. I never had to go to death row, never had to do the things the lawyers do in this story. Since I despise research, I did what I normally do when writing a novel. I found lawyers with expertise, and I befriended them. I called them at all hours and picked their brains. And it is here that I thank them.

Leonard Vincent has been the attorney for the Mississippi Department of Corrections for many years, and he opened his office to me. He helped me with the law, showed me his files, took me to death row, and toured me around the vast state penitentiary known simply as Parchman. He told me many stories that somehow found their way into this one. Leonard and I are still struggling with the perplexities of the death penalty, and I suspect we always will. Thanks also to his staff, and to the guards and personnel at Parchman.

Jim Craig is a man of great compassion and a fine lawyer. As the Executive Director of the Mississippi Capital Defense Resource Center, he’s the official attorney for most of the inmates on death row. He deftly steered me through the impenetrable maze of post-conviction appeals and habeas corpus warfare. The inevitable mistakes are mine, not his.

I went to law school with Tom Freeland and Guy Gillespie, and I thank them for their ready assistance. Marc Smirnoff is a friend and the editor of The Oxford American, and as usual, worked on the manuscript before I sent it to New York. (John Grisham, The Chamber, 1994)

2. Authorial self-replication and negative images of lawyer protagonists

In view of the strategic paratextual positioning of the information that the author of the lawyer FASP is also a real-life lawyer may lead to a certain conflation between reality and fiction in the reader’s mind, a state of confusion which Scott Turow fuels in his 2020 novel The Last Trial, when he bids farewell to 85-year-old Sandy Stern, a recurrent fictional lawyer-protagonist now about to retire from practice:

I initially started writing about Sandy Stern in the mid-1980s, and he has appeared as a character, sometimes center stage, usually in the background, in every novel I have published. I feel like thanking him too, for the pleasure of living again in his skin.

(2020: 482; our italics)

As readers plunge deeper into the narrative, they become increasingly conscious of multiple imbricated reflections of the legal Self present in the work of fiction: the real-life lawyer, the FASP author-lawyer and the fictional protagonist-lawyer. This plurality of self-reflecting authorial voices takes on a further degree of complexity in the case of a first-person narrator, as, for example, in Michael Connelly’s Lincoln Lawyer series narrated in the first person by Mickey Haller, the lawyer-protagonist and eponymous Lincoln lawyer.
Fig. 1. - Multiple self-reflecting authorial voices in lawyer FASP. 
ex. Michael Connelly’s Lincoln Lawyer series first-person lawyer narrator.

In other words, to quote Patricia Waugh, “The reader is made aware that, paradoxically, the ‘author’ is situated in the text at the very point where ‘he’ asserts ‘his’ identity outside it” (1984: 133).

2.1 Authorial self-representation and mise en abyme

The question of how much authors inject of themselves into their fictional text, narrators or characters is a well explored area of literary analysis. Self-reflexive literature, or metafiction, incorporates into the diegetic narrative the author’s reflections on the process of writing fiction during which authors draw attention to the creative processes or to themselves as authors—which is inevitable according to Waugh who observes that “As soon as any of us put fictional characters on paper, we create fictional characters of ourselves. As soon as any of us put fictional characters on paper, we write our own autobiographies” (ibid.: 123).

At this stage it is important to draw a distinction between “presentation” and “self-presentation”. Martin Huang (1995) provides us with a key to understanding the different resonances of the authorial self when he suggests that “authorial presentation” concerns the authorial self as revealed in the novel, while “authorial self-representation” occurs when the author represents himself through other selves, his specular fictional protagonists. A common occurrence in fictional writing, the voice of “authorial presentation” is heard in the many factual autobiographical elements the author draws upon to create his fictional world, following the age-old advice of writing what one knows about: John Grisham’s fiction is impregnated with a penetrating sense of place which is no other than his native Mississippi, leading us to conclude with González Rodríguez that “these authors are not only eager to explore authorial self-awareness, but also insist on making the reader aware of their presence” (1992: 105).

“Authorial self-representation” concerns fictional protagonists drawn in the image of their creators as, for example, Rusty Sabich, a recurring protagonist in Scott Turow’s novels, who is, like his creator, a legal professional, of Russian-Jewish origin, and lives and works in Illinois. John Grisham takes us a step further into “authorial self-
representation” when he declares in the Author’s Note in the 1992 edition of his first and most memorable lawyer FASP novel, A Time to Kill (1989), that he moulded his protagonist, Jake Brigance, in the image of himself:

There’s a lot of autobiography in this book. I no longer practice law, but for ten years I did so in a manner very similar to Jake Brigance. I represented the people, never banks or insurance companies or big corporations. I was a street lawyer. Jake and I are the same age. [...] Much of what he says and does is what I think I would say and do under the circumstances. We both drive Saabs. We’ve both felt the unbearable pressure of murder trials [...]. We’ve both lost sleep over clients and vomited in courthouse rest rooms. (1992: xi–xii)

These differing degrees of authorial self-presence coincide with the distinction drawn by Malcah Effron (2010) between “self-referentiality” and “self-reflexivity”, the former being a “reference” (applicable to Turow’s authorial presence in his novels) and the latter a “reflection” as, for example, Grisham’s quasi-mirror stance in the Author’s Note above.

Building up on the mirror construct, the concept and technique of mise en abyme or self-insertion borrowed from painters is particularly relevant in the context of authorial “self-portrayal” in works of fiction. Mise en abyme refers to the technique of replicating creation within the creation itself. Famous painters have made use of this technique: Diego Velasquez’s The Maids of Honour shows the painter painting himself into the painting; in his portrait of Giovanni Arnolfini and his Wife, Jan Van Eyck places a mirror in the centre which reflects not only the couple but also the painter executing the painting, thus producing a phenomenon of infinitely recursive replication. Mise en abyme is commonly used in literature and films as well when the medium is both the subject and the object of the creative work, one emblematic example being Shakespeare’s Hamlet and the pivotal construct of the play within the play. In the area of cinematographic production, French director Francois Truffaut pushes the conceit close to our real-life lawyer/lawyer-author/fictional lawyer triangulation in his classic La nuit américaine (1973) in which a real-life director shoots a film about a director whose role he himself plays, leading Gonzalez Rodriguez to suggest a state of “literary schizophrenia”:

The author resorts to multiple mises en abyme, thus depicting the narrator’s various representations of himself reflected at different levels of consciousness [...]. The use of the mise en abyme produces replications in different ontological directions since they point at an external or extra-diegetic author who seems as unreal as the intra-diegetic ones. The authorial self has become an integral part of the story and he seems to be involved in a kind of literary schizophrenia since “as the narrator he is reduced to a simple character in the fiction and as the author he finds himself relegated to an unstable, uncontrollable, and eminently visible presence not wholly outside the fiction” (Kiernan: 378). The [...] voices representing the plural identity of the author blend and clash in repetitive, narcissistic self-reflections. The act of narration becomes self-referential and the plot is reduced to a matter of voice. (2009: 105)

We conclude on this point by evoking forensic FASP author Kathy Reichs as an extreme example of “literary schizophrenia” on account of the multiple layers of “narcissistic” mises en abyme present in her work: to start with, she endows the forensic anthropologist of her novels (Temperance Brennan) with a factual CV identical to her own at both professional and personal levels; she then carries the mise en abyme conceit to levels of bafflingly imbricated self-identities by gifting the TV counterpart of the print protagonist with an authorial imaginary similar to her own in that she too writes
forensic fiction and the name of her fictional author protagonist is none other than... Kathy Reichs—“a case of infinite self-replication and a rare instance of the fictional protagonist being cloned in the authorial image as both a professional and an author!” (Isani 2010; 2017)

2.2 Lawyer-protagonist profiles: the good, the bad, the ugly...

In an article entitled “Law and Lawyers in the U.S.: The Hero-Villain Dichotomy”, Judith A. McMorrow states that “lawyers in U.S. culture are often presented in either an extremely positive or extremely negative light” (2013: 1). Fictional representations are less dichotomic and exist along a more graduated spectrum, as proposed in Goethals and Allison’s comprehensive study of the hero concept (2012). Recapitulating on previous work (Isani, 2005), fictional lawyer protagonists may be divided into three broadly defined categories.

First, we have the heroes of legends, the exemplary, outstanding, idealised protagonists who embody the highest ideals of justice, courage and morality. Such heroes are represented in the FASP lawyer context by Paul Biegler in *Anatomy of a Murder* (1958) written by Michigan Supreme Court Justice John D. Volker under the pen name of Robert Traver, and Atticus Finch in Harper Lee’s *A Time to Kill* (1960). Even though both protagonists have failings—Atticus Finch agrees to concur with the sheriff’s rearranged version of the true circumstances of Bob Ewell’s death, and Paul Biegler skirts very close to ethical boundaries in “coaching” his client’s testimony—, these failings are merely minor imperfections buried in the overwhelming nobility of purpose that imbues the protagonists. Written in the mid-1900s, these two fictional lawyer protagonists continue to represent the benchmark of professional and personal integrity, “the dream that young lawyers hope to achieve and that old lawyers regret having lost” (Denvir, 1997: 17).

Secondly, as a foil to the lawyer-protagonist depicted in terms of the hero of legends, we have the unmitigated villain who also occupies “heroic” status, not merely as the protagonist around whom plot and characters revolve, but also as a reflection of societal dynamics as projected by the authorial imaginary.

The ultimate example of negative fictional depictions of lawyers is no doubt to be found in Andrew Neiderman’s *The Devil’s Advocate*. Classified by certain sites as “horror fiction”, this 1990 novel’s enduring impact is evidenced by the fact that it continues to generate reader interest today with a prequel, *Judgement Day*, published in 2015, plans underway for a TV series by NBC, and a musical comedy and a play for European audiences, according to a 2015 interview by the author in *CVIndependent* (March 16, 2015).

The protagonist, named John Milton as a nod to Lucifer in *Paradise Lost*, is a lawyer who is a reincarnation of the Prince of Darkness himself. He recruits Kevin Lomax, a brilliant young Harvard graduate of modest origins who, attracted by the huge salary and luxury apartment that comes with the job, moves to Manhattan, along with his young wife, and is soon inducted into the satanic legal and sexual practices of the firm. Published a year later, John Grisham’s *The Firm* (1991) vectors the same ethos of evil as the eponymous firm—“an embodiment of evil”, according to Azimow (2001)—which resonates as a metaphor for Hell from where the partners collectively operate their money-laundering, mayhem and murder schemes for the mafia.
At a more worldly level, another John Grisham character, Clay Carter in *The King of Torts* (2003), provides an illustration of a lawyer-protagonist cast in the stereotype of the avaricious American lawyer: a poorly-paid public defender, he uncovers the evil doings of a drug company but accepts payoffs to conceal the evidence. Heady with greed, he decides to convert to tort law and soon comes to embody all the negative tropes relative to the ambulance-chasing, unscrupulous and acquisitive American lawyer:

> The December cover of Capitol Magazine featured Clay Carter, looking tanned and quite handsome in an Armani suit, perched on the corner of his desk in his finely appointed office. How often would the magazine have the chance at the unbelievable story of a broke young lawyer who got rich so fast? There was Clay on his patio with a dog, one he'd borrowed, and Clay washing his new Porsche. He confided that his passion was sailing, and that there was a new boat docked down in the Bahamas. (2003: 213)

The third category of lawyer-protagonists lies between idealised and demonised depictions, heroes who are, in some way or the other, morally compromised characters. Such in-between protagonists may be seen in varied hues. One is that of “spent heroes” i.e. protagonists who pursue long and successful careers which eventually come to be tainted by personal failings. One such example is Scott Turow's recurrent Rusty Sabich, who first appears in *Presumed Innocent* (1987) as a 39-year-old ambitious prosecutor (and principal suspect), and then again in *Innocent* (2010) as a 60-year-old appellate judge and candidate for the state Supreme Court (and recidivist principal suspect)—a successful professional whose inability to resist complicated extra-marital affairs consumes him and presents a final image of dissipation.

This in-between category may also be seen as inherently flawed characters that are presented, at the very outset, as a mixed bundle of professional and/or personal merits and failings. The pioneer of lawyer-protagonists, Erle Stanley Gardner's Perry Mason is a typical example of the professionally flawed hero who defends his client tooth and nail (his outstanding virtue), but with little regard for legal and ethical considerations (his chronic failing). In other words, as suggested by Jacqui Shine, “Perry Mason's victories are always moral, never technical or legal” (2020, online).

Later flawed heroes are more rounded figures in that, contrary to Perry Mason who remained aloof from the societal issues of his time, these lawyer-protagonists are socially-involved, responsible citizens (which in no way inhibits them from taking legal and ethical shortcuts to achieve their ends). One of John Grisham's most popular recurrent fictional lawyers, Jake Brigance can be seen as one such hero: In *A Time to Kill* (1989) in which he makes his first appearance, the case he accepts, and for which he will not even get paid enough to meet his expenses, is grounded in key legal and societal issues such as child rape, racism, white supremacy, a justice system biased against Afro-Americans, vigilantism, and capital punishment. By accepting the case, Jake Brigance espouses these causes and clearly takes the moral highroad. His professional and legal ethics, however, are more questionable: his attempts to persuade and cajole a (female) court clerk into divulging the jurors' names are ethically damning but pale in comparison with the empathy he expresses with his client's intention to kill the perpetrators of his daughter's rape—echoed in the title of the novel, *A Time to Kill*—and his failure to alert the authorities, a “lapse” which means he not only violates the rules defining lawyer-client relationships with regard to murderous intent, but also fails to avert further bloodshed. Likewise, in *A Time for Mercy* (2020), he pursues the
same dubious line by committing the egregious ethical breach of deliberately concealing vital evidence.

68 The ironic point here is that these flawed protagonists, foregrounded unapologetically as such from the outset, are calculated to attract the reader's sympathy, as Meredith Borders points out in her selection of the top ten fictional antiheroes:

What makes a character an antihero? Certainly, he must be a protagonist who doesn't display traditionally heroic traits, but there must be more. The reader must truly root for the character; we must be drawn to him despite ourselves. Perhaps his motivations are impure, his choices unconventional, but ultimately he must possess a certain allure that ignites our sympathy and engages our interest. The antihero is complex and unknowable, and because of that, he is fascinating in ways a pure hero or villain could never be. (2010, online)

69 These flawed print-fiction heroes find strong resonance in subsequent TV series lawyer-protagonists as epitomised by the character of Alan Shore in *The Practice* and *Boston Legal*: at professional level, he is a brilliant lawyer with a strong moral fibre regarding societal issues in defence of which he is perfectly happy to bend and break the law, while at a more personal level, he is an inveterate sexist and womaniser with an insatiable sexual appetite—all of which audiences apparently relate to since he is one of the most popular on-screen lawyer-protagonists today.

70 Another element that often evokes the reader's sympathy is redemption, a protagonist who rises above the disintegration of his professional and personal life to achieve something, if only once (see Bergman, 2001). Paul Levine, himself a lawyer-turned-author, identifies protagonist Frank Galvin from Barry Reed's 1980 *The Verdict*, as one such antihero:

In [...] *The Verdict* [Galvin is] a bedraggled lawyer reduced to scavenging for clients at funerals. Yet, it's a story of redemption. The [...] character is the classic loner pitted against a corrupt judge and a shady defense lawyer, minions of an evil establishment. (2020, online)

71 By refusing the generous payoff proposed by the opposing lawyer in exchange for his silence, Galvin rises above the failure and alcoholism that alienate him from his fellow-beings to become, if only for a moment, a beacon of moral integrity which inspires admiration, even if it comes at the price of sliding back into the darkness of before.

72 To conclude on lawyer-protagonist profiles, we note that, with the exception of a handful of fictional lawyers cast in the mould of what Goethals and Allison call “the Perfect Hero”, the bulk of lawyer-protagonists are depicted as morally compromised. Given that most authors who write lawyer FASP are or were themselves members of the legal profession brings these novels into the genre of self-reflexive fiction and, as such, raises interogations as to why the lawyer's authorial imaginary creates such tainted reflections of the very professionals they themselves are or were.

3. Why the negative fictional self-representations?

73 The widespread negative depiction of American lawyer protagonists by American lawyer-authors is a phenomenon distinctive to the profession (other professionals, such as doctors, law enforcement officers, teachers, etc., do not suffer from such recurrently malevolent portrayals), and to the country (fictional representations of British and European lawyers are far more positive).
If the effects produced by adverse fictional representations of American lawyers is a well-developed line of academic research, notably with regard to “the venomously negative public perception of the profession” (Azimow, 2001: 541), we now turn our attention to a new line of enquiry by shifting the discussion upstream to look at reasons that motivate authors to project such representations.

### 3.1 The legal thriller as “a literary ware”

Concerns with bestseller lists are not specific to “popular” fiction since even the most classic of writers writes to be read! Book sales are all the more important a stake when, unlike the “gentleman” writers of yore whose inherited fortunes guaranteed them a suitable lifestyle independent of their writing, for later writers—starting with Charles Dickens and his “penny dreadfuls”—, creative writing is a means of livelihood and novels are “a literary ware” inextricably bound up in the pedestrian logic of “pecuniary rewards”. The title of John Thompson's insightful book on the world of publishing, *Merchants of Culture*, underlines the fundamentally commercial nature of the business, referred to in terms of “trade publishing” and “creative industries”, “business of publishing” (2010: viii; our italics).

Though, “writers are still endowed with a stature in our society, an aura even, that is accorded to few other professions” (ibid.: viii), the symbiotic nature of the commercial relationship between author and publisher means that, in spite of the much hyped “authorial liberty”, the publisher exerts influence on a number of aspects, from editing to publishing deadlines and, most importantly, even content. As Daniel Shealy so tellingly records in his account of the relations between Louisa May Alcott and her publisher, when requested by her publisher to diverge from her sensational novels to write “a girls’ book”, she overcame her initial reticence and wrote *Little Women* in 1868, a novel whose TV serialisation in 2017 and film version in 2019 testify to its enduring popularity.

Aspiring writers need to remember that, most of the time, “publishers know best” and that one reaches bestseller status only by keeping in mind the facts and figures of publishing. As Mandy Little, a literary agent, reminds aspiring solicitor-authors “it all comes down to the book track figures—if sales go below a certain level, publishers will drop authors. It’s very difficult to get through as a first-time novelist, but it’s possibly even harder to sustain it” (*The Law Society Gazette*, 2008, online).

Nevertheless, some do get there. According to the site Celebrities’ Net Worth, James Patterson (a police procedural FASP author) is the highest-earning celebrity (all categories) with a net worth of $470 million and earnings amounting to $94 million for 2016, while John Grisham lags behind with a net worth of $350 million and an average earning of $50-80 million per year in royalties and advances. Such considerations undeniably raise questions as to the authorial compromises made to achieve spectacular sales figures and enduring popularity.

### 3.2 Reader expectations

According to the maxim, writers of literary fiction write for themselves and writers of popular fiction write for their readers. In this context, Shealy points out to one of the truisms of all forms of creative writing when he says of Louisa May Alcott that “she was
Moving in concentric circles, from genre fiction in general to FASP in particular, three main areas of reader expectations and desiderata may be identified:

a) Concerning genre fiction in general, the most outward of our concentric circles, the desire for entertainment is the primary reason which prompts the casual reader to pick up a book to read. Whether romance or horror or historical or science fiction, the reader first and foremost seeks distraction from the mundane aspects of everyday life through fiction.

b) Crime fiction—englobing murder mysteries, detective fiction, etc.—is the second of our concentric circles in which we see readers' expectations defined more narrowly in terms of entertainment coupled with narratives of thrill and suspense. As James Patterson underlines in his introduction to an anthology of stories entitled *Thrillers* (2006: ii), “what gives the [huge] variety of thrillers a common ground is the intensity of emotions they create, particularly those of apprehension and exhilaration, of excitement and breathlessness, all designed to generate that all-important thrill”.

c) The inner core of the concentric circles is FASP-based crime fiction with its specialised environment, institutions, professionals, knowledge and language. In this context, reader expectations, particularly in regard to their favourite sub-genre, are fuelled by an added desire, i.e. to learn and advance their knowledge through fiction.

The downside of writing with a view to building up and catering for a fan base is the risk of writing formula fiction, as Sauerberg points out when he says, “One [risk] is the high degree of generic uniformity: readers expect more of the same and writers provide texts accordingly, so that we end up with fiction of a formulaic nature” (2016: 5). One of the singular “formulaic” features of lawyer-FASP is the consistently adverse depiction of the lawyer-protagonist, a form of genre fidelity which explains itself in the light of the reader-driven dynamics of the genre and the irrefutable fact that readers’ imaginations are fired up more by sinners than saints. The gravitational pull of evil has drawn readers from times immemorial, from Milton to Walt Disney, as Terry Eagleton, professor of literature and literary critic, underlines:

> Virtue may be admirable, but it is vice we find sexy. Nobody would have an orange juice with Oliver Twist if they could have a beer with Fagin [...] Roguery is more alluring than respectability. Once Victorian middle classes had defined normalcy as thrift, prudence, patience, chastity, meekness, self-discipline and industriousness, the devil was clearly going to have all the best tunes. [...] Few readers of Paradise Lost would prefer Milton’s God, who speaks like a constipated civil servant, to his smouldering defiant Satan. (2013: 50–51)

Given the drawing power of evil in the imagination of readers, we see how the negative portrayal of lawyers in lawyer FASP fans out to concomitantly satisfy publisher demands, authorial ambitions and reader expectations.
3.3 Cathartic release

At a more psychoanalytical level, the negative representations of lawyer-protagonists may be interpreted in the light of Aristotelian catharsis. Initially conceived of in the framework of ancient Greek tragedy, in the Aristotelian acceptance of the term, catharsis is a form of emotional release (“purgation” or “purification”) achieved after experiencing strong tension or other forms of conflict. Though catharsis habitually tends to be studied from the receptor’s stance, writing as a process of “purging” for the writer is also a legitimate concept as explained by Jeffrey R. Wilson from the Harvard College Writing Program:

If, in the Aristotelian tradition, the social function of tragedy is to purge the emotions of pity and fear from us in the audience, [...] it should also be noted that tragedy provides a catharsis for the author as well. Here we can start to theorize “authorial catharsis” as the notion that literary authors, especially when writing tragedy, express emotions of pain and suffering, thereby purging those emotions, and thus experience a release of troublesome passions. It works much like psychotherapy: expressing one’s sadness leads to an exploration of the root causes of that depression [...]. Understanding is an inherently pleasurable phenomenon, and it is what writers of tragedies experience when they craft their stories. (2019: 207)

Viewed in the light of the psychoanalytic trope, the toxic images of fictional lawyers may be interpreted as a form of “authorial catharsis” for the lawyer-turned-author and such negativity construed as a reflection of the conflicting tensions of the lawyer’s dual identity: the professional Self, a righteously-minded person trained and conditioned to don the societal straitjacket of the calling of the law and, on the other hand, the darker Other, the suppressed authorial doppelganger yearning to break free of the constraints imposed by his professional Self. John Grisham himself expresses it very aptly in the “Author’s Note” at the end of A Time for Mercy (2020), when he says, “As a young attorney so many years ago, I was bound to follow [statutes and procedural laws] to the letter of the law. Now, as a writer of fiction, I feel no such bondage”.

The authorial imaginary thus affords a moment of freedom during which the inner socially unacceptable demons break free for a brief instance of cathartic release—an interpretation which serves to remind us that good and evil are the parallel dimensions of the lawyer’s persona, a situation very similar to the Justice they serve, fluctuating between the antonymic and shifting values of what society considers as Right and Wrong (see Isani, 2017).

3.4 The kernel of truth in a sea of fiction?

Present at diegetic and extradiegetic levels, the lawyer-author’s status as an expert is the quasi-generic given which delivers the imprimatur of authority regarding the accuracy of the specialised aspects of the narrative: the specialised fiction is born of insider knowledge. As is often the case, insider narratives seek to change if not subvert the alter ego protagonist’s own world. In this line of logic, the negative representations of lawyers may be seen less as an authorial conceit designed to heighten reader interest, and more as a true reflection of the darker sides of the profession only known to insiders.
Viewed in this light, the lawyer-author may be perceived as a whistleblower who seeks to shed light on the murkier areas of the profession (see Johnson & Buchanan, 2001). Seen from this angle, the lawyer FASP novel is perhaps a dramatisation of real-life conditions in which the unethical, immoral and illegal doings of fictional lawyers are related more to specular mimesis than to storytelling diegesis, a hiatus evoked by American legal scholar and lawyer, Rodney Smolla:

> Perhaps in the dissonance between image and reality something is revealed. Perhaps the gap between the noble ideal of the law as an honorable profession and the popular perception of the law as something less is worth plumbing for what it may uncover about the nature of lawyering and the currents of modern culture. (1997: 44)

As with all whistleblowers, lawyer-authors operate from the inside to denounce what they see as wrong with their profession. However, unlike most whistleblowers, by choosing fiction as the means to do so, they bypass internal regulatory bodies, official government institutions, NGOs and even the press, to address themselves directly to “the court of public opinion”. In so doing, they naturally come to be perceived as traitors to the profession by fellow-professionals, and their success as akin to qui tam cases.

What is clear is that the whistleblowing lawyer-author is now an outsider. This gives rise to an interesting situation when looked at in the light of Epimenides’ Paradox according to which a Cretan who affirms all Cretans are liars disproves his own affirmation since he is a Cretan who speaks the truth and is, therefore, not a liar: by exposing the unscrupulous practices of fellow-lawyers, the lawyer-author distances himself from his fictionally decried fellow-professionals to emerge as the Redeemer who salvages part of the profession’s tattered reputation.

**Conclusion**

Understandably, there is considerable dismay over the impact of the negative fictional images that lawyer-authors project of their own profession and the legal system on the minds of the lay public. However, we would like to conclude this discussion by looking at some of the more positive fallout of lawyer FASP.

An undisputedly positive starting point here is the basic premise that negative depictions of lawyers will already have served a very laudable purpose if they make aspiring law students decide that it is not the type of lawyers they want to be and that, over half a century after its publication, according to a 2015 poll, it is Atticus Finch who “is invoked as a guiding influence more frequently in essays for law school admission than any other factor by far.” (Rosenbaum, 2015; our italics)

At a broader level, a major positive outcome of negative fictional portrayals is when fiction becomes a forum for critiquing the law and denouncing injustice, and perhaps leading to reform. Though critics of the Law and Literature movement claim that law in literature has little effect on the law, Nicole Thompson's doctoral thesis seeks to demonstrate the contrary. In this perspective, she first discusses Charles Dickens’ forceful critique of the abuses of Chancery law in *Bleak House* (1852)—no doubt fueled by his own experience as a lawyer’s clerk—and its influence on on-going Chancery law reform in 19th century Britain. Even today, *Bleak House*, and Jarndyce vs Jarndyce are used as metaphorical references to dysfunctional laws. Another more unexpected novel
discussed in this light is Upton Sinclair’s *The Jungle* (1906), a powerful fictional exposé of the harsh conditions, sanitary and health violations prevailing in the Chicago meat packing industry during the early 20th century, a novel which led to the rapid enactment of the Federal Meat Inspection Act of 1906. Thompson explains her inclusion of *The Jungle*—which theoretically does not qualify as legal FASP due to the absence of a law-related core—on the grounds that it describes an ethos steeped in the absence of law: “*The Jungle* is not obviously concerned with the law. It is about the absence of law, or a proper law, regulating workers’ conditions [...] and the lack of regulation surrounding the industry.” (2012: 8)

A more contemporary example of the power of fiction to arouse public awareness and prod the law may be observed with the popular British TV series *Downton Abbey* (2010-2015) whose plot is foregrounded in probate law and the gender inequality inherent to titled property law in Britain through the “male only entail” which disinherits female heirs. Revealed to an unsuspecting British public through the series, public indignation led to the Equality (Titles) Bill, popularly known as the “Downton Abbey Law”, meant to introduce gender equality regarding hereditary titles and peerages.16

At quite another level of our positive prism, we may see popular fiction, warts and all, as a means of access to the hermetic world of law. The “edification school” of the L&L movement has always seen the benefits that law derives from “Literature” as the enhancement of the law professional’s mind in the domains of rhetoric, literary aesthetics, reasoning, philosophy, etc. “Literature in law”, an emerging area of study in L&L, sheds light on judges’ propensity for literary quotations. Extending this line of study to contemporary genre fiction, we see a certain embracing of legal FASP by judges, sometimes dismissively, sometimes as “persuasive authority” and at other times in an effort to reach out to the lay public, as Nicholas Mignanelli highlights in his study on frequent references to John Grisham in judicial opinions:

> It could be that judges believe that analogizing to popular literature will make the law at hand easier to comprehend and their opinions more entertaining to read. Whether it points to a shared literature or an attempt by jurists to write more readable opinions, the results are surely encouraging for those who fear that the legal system grows increasingly alien to the average person. It may be a small sign that judges have some conception of the cultural lens through which the public views their profession. (2018: 734–735)

And finally, and perhaps most importantly, exposure to lawyer FASP has considerably helped develop the public’s knowledge of matters related to the law, as Mignanelli points out when he says, “We are forced to accord cultural significance to Grisham’s novels [...] when we consider how they have served as a major source of exposure to the inner workings of the courtroom and the legal profession for countless Americans over the past three decades”. (ibid.: 735). However fragmentary and misleading lay knowledge gleaned from lawyer fiction may be, it has undeniably contributed to developing greater public legal awareness, literacy and empowerment in a country where the law is one of the major driving forces of societal dynamics.
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**NOTES**

1. English for Specific or Specialised Purposes.
2. An Agatha Christie murder mystery, for example, does not qualify as FASP since the plot, characters and dénouement do not derive from a specialised professional environment.
3. Staff writers working on specialised TV series (legal, forensic or medical FASP, for example), also generally benefit from the advice and guidance of a domain-specific professional consultant.
4. One notable exception to collective scriptwriting is David E. Kelly, who is a television writer and producer—in addition to being an attorney—known, in particular, for the scenarios of such blockbuster legal-TV series as *The Practice, Ally McBeal, Boston Legal*, etc.

5. We note that the meaning of the term “vocation” has evolved over time. Initially, used to designate a profession that was considered “a calling”—priesthood, for example—, since the beginning of the 20th century, it is also used to designate a job or profession, as in “vocational training”, “vocational guidance”, “vocation counsellor”, etc. Applied to the legal professions, the term bridges the two acceptances.

6. Defined as such and at the possible risk of over-simplification, we are mindful that “vocation” and “avocation” are equivocal terms whose meanings may vary according to sources.

7. The law, of course, is not the only profession which has a certain rapport with language: journalism, naturally, shares the same traits. While there are a number of crime reporters who have become professional crime fiction writers—Edna Buchanan, a Pulitzer Prize winner for reporting, and the well-known lawyer FASP writer Michael Connelly of *The Lincoln Lawyer* (2005) fame—, most journalists who turn to fiction write journalism FASP, one celebrated example of which is the three novels collectively known as the *Millennium* trilogy (2005) by Swedish journalist-author Stieg Larsson.

8. A sampling of some of well-known American law professionals-turned-or-cum-author: Erle Stanley Gardner (lawyer), Scott Turow (lawyer), Michael Connelly (crime journalist), John Grisham (lawyer), Robert Traver (judge), Stephen L. Carter (Yale Law School Professor), Robert Dugoni (prosecutor), Paul Levine (attorney), David Baldacci (attorney), Lisa Scottoline (attorney), Marcia Clark (prosecutor), Linda Fairstein (prosecutor), Paul Levine (attorney), etc. In this context, we note that that although Harper Lee, author of the most celebrated lawyer-FASP of all, *To Kill a Mocking Bird* (1960), was not a law professional as such, she did attend law school and came from a law-related background in that her father was a lawyer and served in the legislature.

9. One apposite example of such “experiential experts” and “quasi-domain specialists” concerns teachers of English for specialised purposes who, through investment and experience if not training, possess an above average capital of specialist knowledge relative to the variety of specialised English they teach (English for Legal Purposes, English for Medical Purposes, English for Economic Purposes, etc.).

10. In fact, Sue Grafton actually published her first novel, *A is for Alibi*, in 1982. Perhaps the remark in the quote applies to the fact that she continued to set her novels in the 80s, right up to the last one published in 2017.

11. We note that, with the increasing fame of authors as Scott Turow and John Grisham, such paratextual highlighting of their professional credentials has declined in recent novels. Turow’s 2020 *The Last Trial* contains no such references, as is also the case with John Grisham’s 2020 *A Time for Mercy*.

12. *The Oxford American* is an American quarterly literary magazine which focuses on regional writers and culture of the American South, the setting of John Grisham’s novels.

13. Also referred to as “the Droste effect”, the mise en abyme technique of self-reflection is a commonly used marketing technique found in images of products: the Droste packaging is an image in which a box of the Dutch brand of cocoa itself appears. Likewise, the famous recursive image of the French Laughing Cow (*La vache qui rit*).

14. Andrew Neiderman, unlike the other lawyer-authors in our selection, is not a lawyer and has no legal background. He has a degree in English and taught English in High School before devoting himself to writing.

15. Our translation of Alain Rey’s “*le héros usé*” (2005: 1614–1617)

16. In spite of majority support in the Commons, the bill was rejected at committee stage in the Lords, and progressed no further.
ABSTRACTS

Focussing on authorial imaginary, this article seeks to determine what leads American lawyers-turned-authors to project negative fictional images of their own profession. After a brief introduction to FASP (specialised fictional narrative) and other defining parameters of this discussion, we examine the vocation/avocation profile of the lawyer-author and the commonalities which facilitate the crossover from lawyer to author. We then go on to discuss the diegetic and extradiegetic foregrounding of the FASP author’s original status as a domain specialist. After presenting three broad categorisations of lawyer protagonists and the predominance of negative lawyer portrayals, we look at different reasons which help understand the phenomenon. To conclude, in a departure from customary denunciation of such negative portrayals, we attempt to find elements of a more positive fallout.

INDEX

**Mots-clés:** romans policiers, avocats-auteurs, FASP juridique, autoréplication d’auteur, images fictionnelles négatives des avocats, attentes du lectorat, catharsis

**Keywords:** crime fiction, lawyer-authors, legal FASP, authorial self-replication, negative fictional images of lawyers, reader expectations, catharsis

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