



# Star Trek

## Where Lawyers Boldly Go



***Justice Mariano-Florentino Cuéllar***  
***California Supreme Court***

**Favorite Series:**  
**Tied: TNG and Voyager**

**Favorite Ship:**  
**USS Voyager**

**Favorite Episode:**  
**The Enemy Within (TOS)**  
**Tapestry (TNG)**  
**Endgame (Voyager)**





# ***Jessica Mederson***

**Favorite Series:  
Next Generation**

**Favorite Ship:  
USS Enterprise NCC-1701**

**Favorite Episode:  
Parallels**



**@ediscmatters**



# ***Paul Grewal***

**Favorite Series:  
Original Series**

**Favorite Ship:  
USS Reliant**

**Favorite Episode:  
This Side of Paradise**



**@iampaulgrewal**



# *Megan Hitchcock*

**Favorite Series:**  
**Galaxy Quest**

**Favorite Ship:**  
**N.S.E.A. Protector (N.T.E. 3120)**

**Favorite Episode:**  
**81**



**@mhocshark**



# *Neel Chatterjee*

**Favorite Series:  
Next Generation**

**Favorite Ship:  
USS Enterprise NCC-1701-D**

**Favorite Episode:  
Space Seed**



**@neelchatterjee**





# ***Christine Peek***

**Favorite Series:  
Next Generation**

**Favorite Ship:  
Klingon Bird-of-Prey  
(24th Century)**

**Favorite Episode:  
Trouble with Tribbles**



**@mcmanslaw**





# *Joshua Gilliland*

**Favorite Series:  
Deep Space Nine**

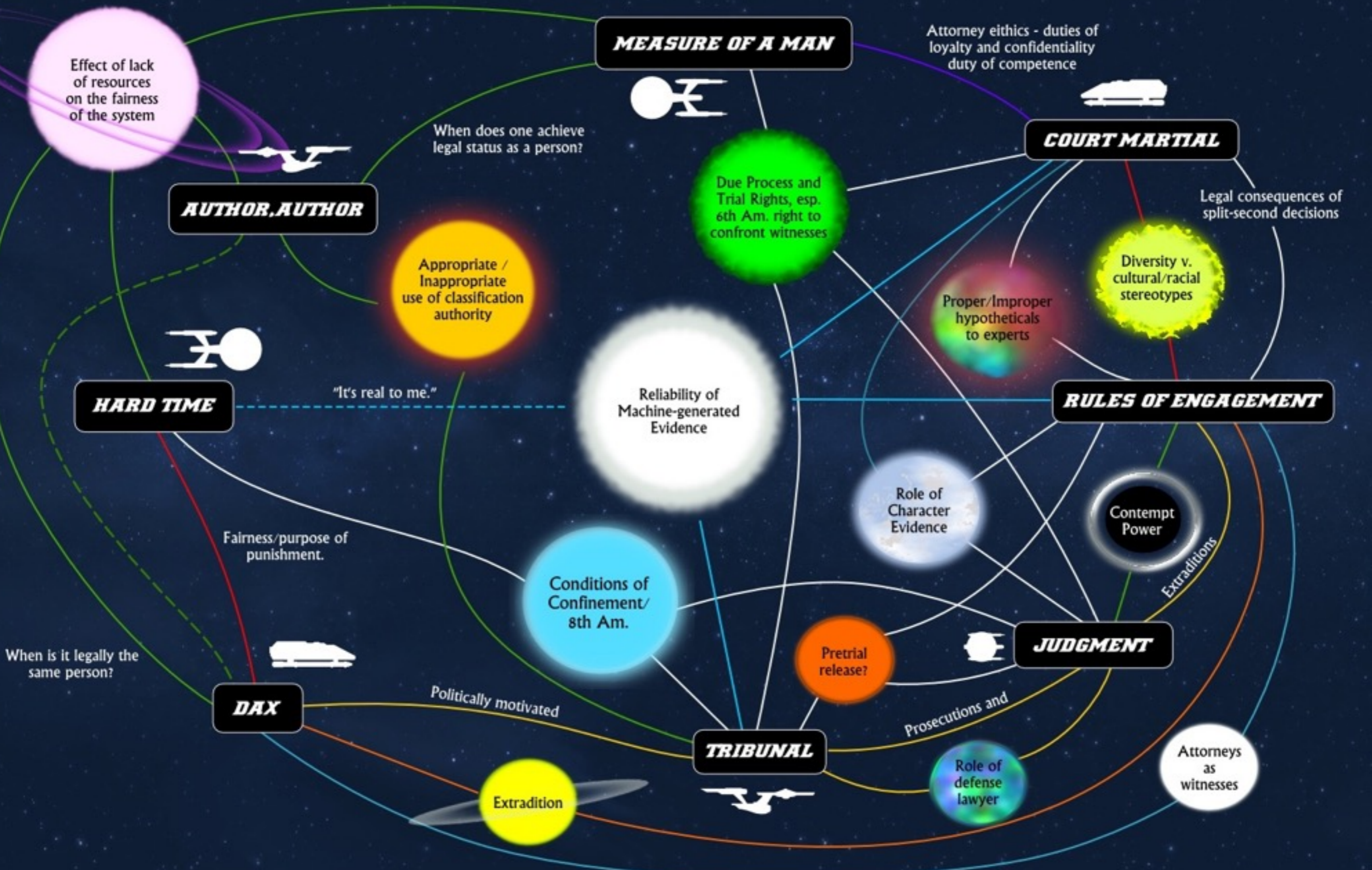
**Favorite Ship:  
USS Enterprise NCC-1701  
[Refit]**

**Favorite Episode:  
Darmok**



**@bowtielaw**





**MEASURE OF A MAN**



When does one achieve legal status as a person?

Effect of lack of resources on the fairness of the system

**AUTHOR, AUTHOR**



Appropriate / Inappropriate use of classification authority

**HARD TIME**



Fairness/purpose of punishment.

When is it legally the same person?

**DAX**



Politically motivated

Extradition

**TRIBUNAL**



Due Process and Trial Rights, esp. 6th Am. right to confront witnesses

Reliability of Machine-generated Evidence

"It's real to me."

Conditions of Confinement/ 8th Am.

Attorney ethics - duties of loyalty and confidentiality, duty of competence



**COURT MARTIAL**

Legal consequences of split-second decisions

Diversity v. cultural/racial stereotypes

Proper/Improper hypotheticals to experts

**RULES OF ENGAGEMENT**

Role of Character Evidence

Contempt Power

**JUDGMENT**



Pretrial release?

Prosecutions and

Role of defense lawyer

Attorneys as witnesses

Extraditions



No identification of self or mission. No interference with the social development of said planet. No references to space or the fact that there are other worlds or civilizations.

*TOS, Bread and Circuses*



*The Apple*



*Into Darkness*



*Justice*



*The Omega Directive*

# Implication of the Prime Directive

*The implementation of complex laws by organizations rather than courts.*



# Right to Counsel

Judgment, Enterprise



QWERTY ASDFGHIJKL  
ZXCVBNM YUIOPQ



# What is a Person's Right to Counsel?

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, . . . and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, **and to have the Assistance of Counsel for his defense.**”

U.S. Const., Amend. VI.



**It's Honorable For Everyone  
to have the Right to Counsel!  
Even Tribbles.**



**Was Kolos  
effective counsel?**





# *Was Kolos Competent Counsel?*



## **ABA Model Rule 1.1 Competence**

**A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.**

## **Cal. Rules of Professional Conduct, Rule 3-110 Failing to Act Competently**

**(A) A member shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence.**

**(B) For purposes of this rule, “competence” in any legal service shall mean to apply the 1) diligence, 2) learning and skill, and 3) mental, emotional, and physical ability reasonably necessary for the performance of such service.**



# CROSS-EXAMINATION OF DURAS

**Q: You would agree with me that the IKS Bortas is a far better ship than the Enterprise NX-01?**

**A: [Yes]**

**Q: The Bortas features a 360° rotating turret containing twin belly-mounted disruptor cannons?**

**A: [Yes]**

**Q: Whereas the NX-class is merely equipped with some “low-yield” particle cannons?**

**A: [Yes]**

**Q: You would agree with me that humans are inferior to Klingons in combat?**

**A: [Yes]**

**Q: But you failed to prevent Archer from escaping into a nearby planet’s ring system, where he could evade your superior weapons?**

**A: [Yes]**

**Q: And Archer was able to disable your sensors and take out your warp drive?**

**A: [Yes]**





***How Similar is Klingon Jurisprudence to the United States?***



# ***Orak the Prosecutor***

## ***ABA Model Rule 3.8 Special Responsibilities Of A Prosecutor***

***“The prosecutor in a criminal case shall: (a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause[.]”***





# Right to a Fair Trial

*Tribunal, Deep Space Nine*



WHAT DO YOU MEAN  
YOU WANT TO KNOW  
THE CHARGES AGAINST YOU?

CHIEF MILES O'BRIEN WAS:  
UNLAWFULLY STOPPED IN BAJORAN  
SPACE  
ARRESTED WITHOUT CHARGES STATED  
STRIPPED  
RETINA SCAN  
TOOTH REMOVED  
CHARGES ANNOUNCED AT TRIAL  
VERDICT ALREADY GIVEN



# FAIR TRIAL

## 5TH AND 14TH AMENDMENTS

“[A] FAIR TRIAL IS ONE IN WHICH EVIDENCE SUBJECT TO ADVERSARIAL TESTING IS PRESENTED TO AN IMPARTIAL TRIBUNAL FOR RESOLUTION OF ISSUES DEFINED IN ADVANCE OF THE PROCEEDING.”  
STRICKLAND V. WASHINGTON, 466 U.S. 668, 685 (1984).

ALTHOUGH THE DEFENDANT HAS THE RIGHT TO REMAIN SILENT, THE DEFENDANT ALSO HAS A CONSTITUTIONAL RIGHT TO TESTIFY. ROCK V. ARKANSAS, 483 U.S. 44, 51-53 (1987) (RIGHT TO TESTIFY IS PROTECTED UNDER THE DUE PROCESS CLAUSES, THE SIXTH AMENDMENT COMPULSORY PROCESS CLAUSE, AND THE FIFTH AMENDMENT RIGHT AGAINST SELF-INCRIMINATION).

## 6TH AMENDMENT

RIGHT TO A SPEEDY TRIAL  
RIGHT TO A PUBLIC TRIAL  
RIGHT TO TRIAL BY JURY IN  
FELONY AND  
MISDEMEANOR CASES  
RIGHT TO BE INFORMED OF  
THE CHARGES AGAINST  
YOU  
RIGHT TO BE CONFRONTED  
WITH THE WITNESSES  
AGAINST YOU  
RIGHT TO USE THE POWER  
OF THE COURT TO COMPEL  
THE ATTENDANCE OF  
WITNESSES IN YOUR  
FAVOR  
RIGHT TO COUNSEL



# CARDASSIAN JUSTICE

Antithesis of 5th, 6th, and 14th Amendments

No Presumption of Innocence

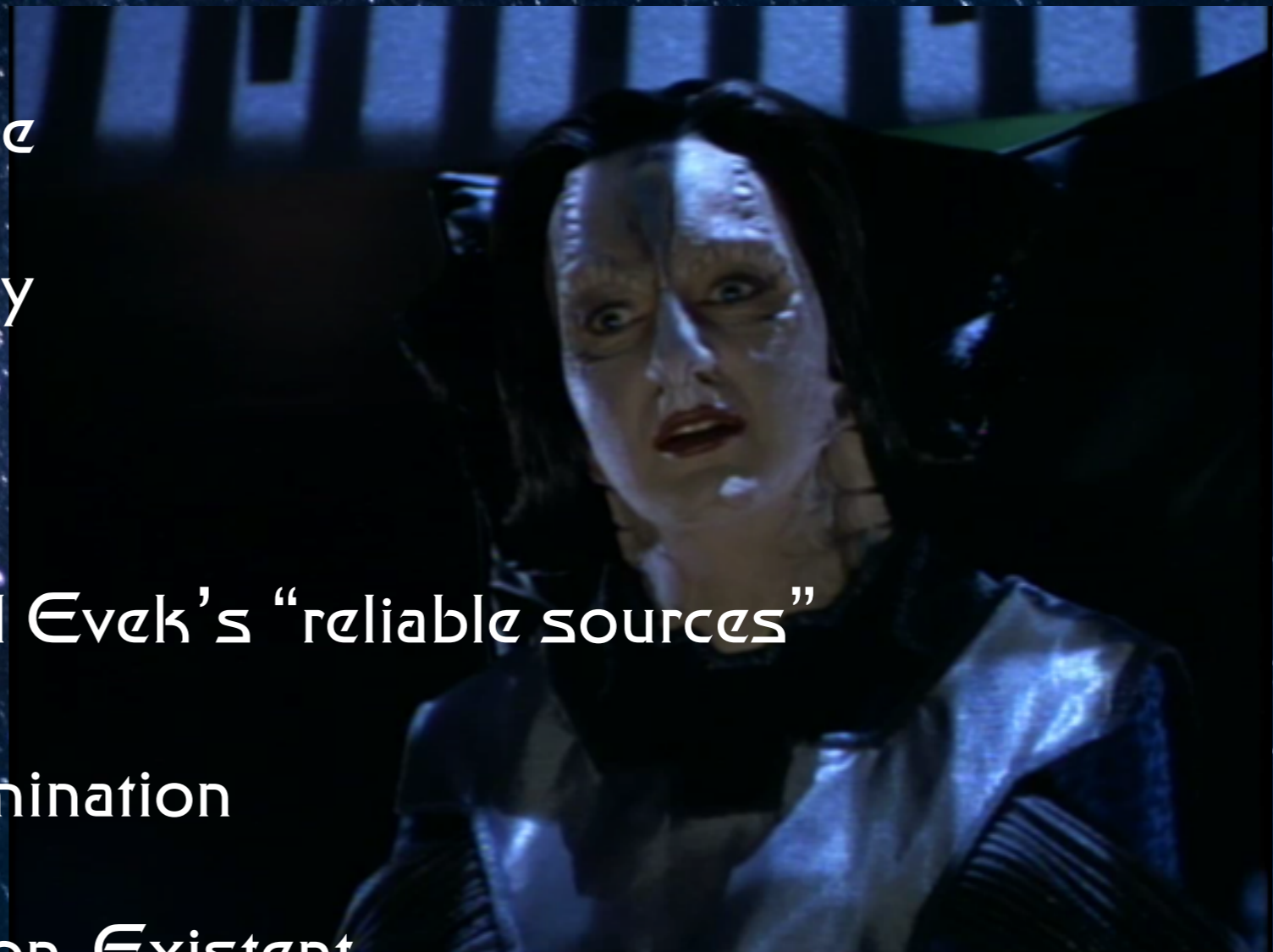
Sets New Record for Speedy

Public Trial for Propaganda

No cross-examination of Gul Evok's "reliable sources"

No Right Against Self-incrimination

Right to Counsel Virtually Non-Existent





**Phew!**

**Thank Goodness For Lawyers!  
Hope My Constitutional Rights  
Are Never Violated Again.**





# EQUAL PROTECTION

*Measure of a Man, TNG*



**What Do You Mean I'm Property?**



# *Duty of Loyalty*

Did Commander Riker's professional and **personal relationship with** Commander

Data **substantially affect**

Commander Riker's representation of Commander Maddox in violation of Cal. Rules of Professional Conduct, Rule 3-310(B)(2) Avoiding the Representation of Adverse Interests Rule?





# Intellectual Property

*Author, Author, Voyager*



The Supreme Court and Ninth Circuit have repeatedly referred to “persons” or “human beings” when analyzing authorship under the Act.

See, e.g., *Aalmuhammed v. Lee*, 202 F.3d 1227, 1234 (9th Cir. 2000)

*Naruto v. Slater*, 15-cv-04324 WHO





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# SYMBIONT CULPABILITY

*Can a host be legally liable for the actions of a past host? Deep Space Nine, Dax*



# CRUEL AND UNUSUAL PUNISHMENT

*Hard Time, Deep Space Nine*

*Were Chief O'Brien's rights violated with a simulated prison sentence of 20 years?*

**Why Has Another Legally  
Horrible Prosecution Happened to Me?**





“I Don’t Believe in the No Win Scenario”



*The role of individuals and groups in deciding how or when to bend rules.*



# TRIAL ADVOCACY

## *Rules of Engagement, Deep Space Nine*

**IF You Had Any Honor  
You Would Know the Prejudicial Effective  
Outweighs its Probative Value  
Pursuant to Federal Rules of Evidence 403!**





# Trial Issues

*How were the elements of the trial?*

*Opening Statements?*

*Witness Lists?*

*Burden of Proof?*

*Direct examinations?*

*Cross-examinations?*

*What evidentiary issues existed in the trial?*

*Does the statement, “the truth must be won” adequately describe a trial?*

*Was there an illegal search?*

*Qualifying O’Brien as an expert witness*



*Prior Bad Acts are Normal in Klingon Trials.*





Could Kirk sentence Khan to  
Ceti Alpha V?  
Space Seed, TOS



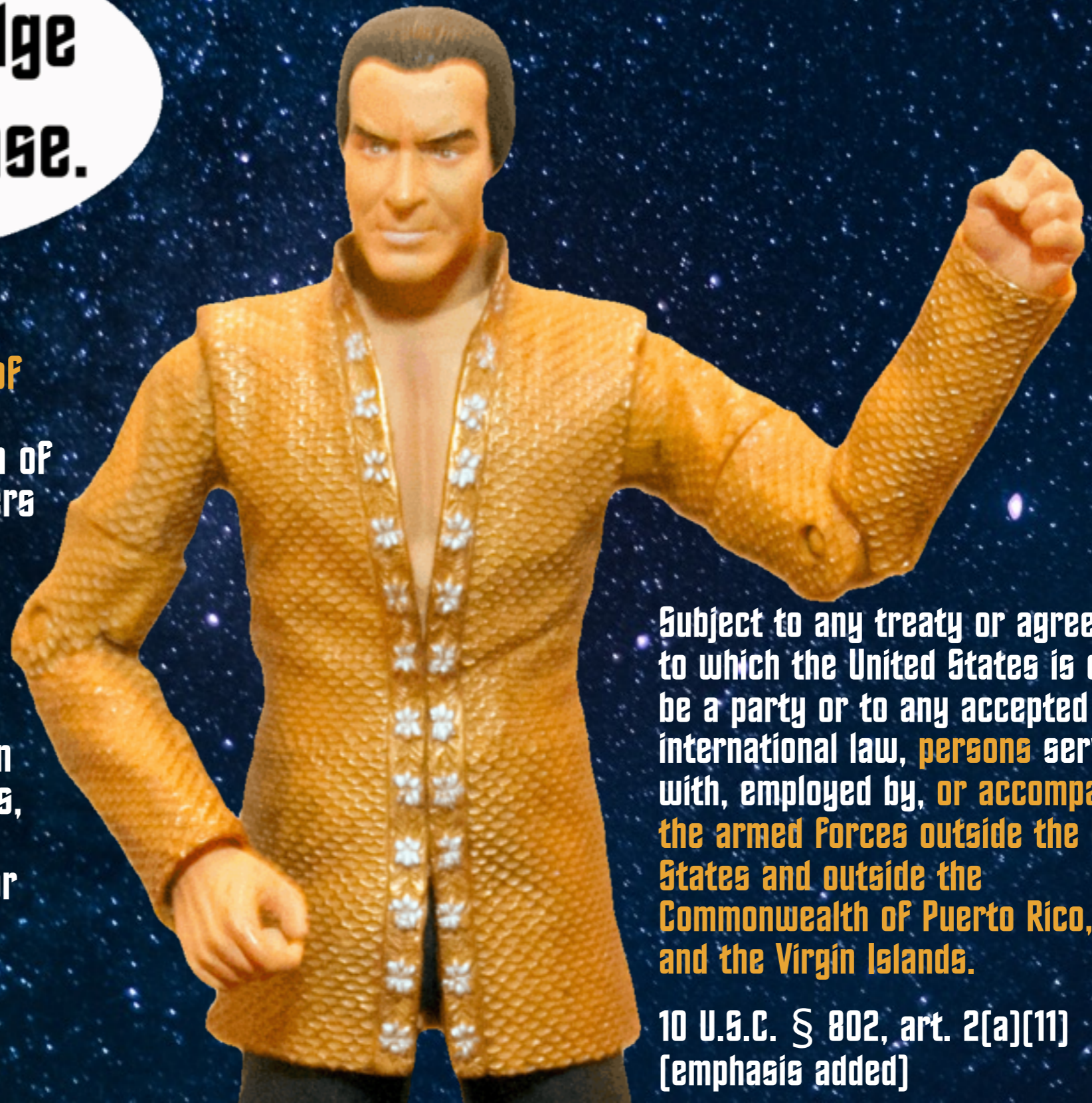
“He was the best of the tyrants and the most dangerous.”

Captain James T. Kirk

No One Can Judge  
My Fashion Sense.

Members of a regular component of the armed Forces, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed Forces; inductees from the time of their actual induction into the armed Forces; and other persons lawfully called or ordered into, or to duty in or for training in, the armed Forces, from the dates when they are required by the terms of the call or order to obey it.

10 U.S.C. § 802, art. 2(a)(1)  
[emphasis added]



Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons serving with, employed by, or accompanying the armed Forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

10 U.S.C. § 802, art. 2(a)(11)  
[emphasis added]





# Computer Records

Court Martial, TOS



# Kirk on Trial

**What is the 6th Amendment Right to Confront Witness?**

**What parts of the trial were similar to our courts?**

**How was the trial different?**

**What are the legal issues with confronting a computer report?**

**Is a computer statement hearsay?**





# Business Records Exception

**Records of a Regularly Conducted Activity.** A record of an act, event, condition, opinion, or diagnosis if:

**[A]** the record was made at or near the time by — or from information transmitted by — someone with knowledge;

**[B]** the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

**[C]** making the record was a regular practice of that activity;

**[D]** all these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with Rule 902(11) or (12) or with a statute permitting certification; and

**[E]** neither the opponent does not show that the source of information nor or the method or circumstances of preparation indicate a lack of trustworthiness.



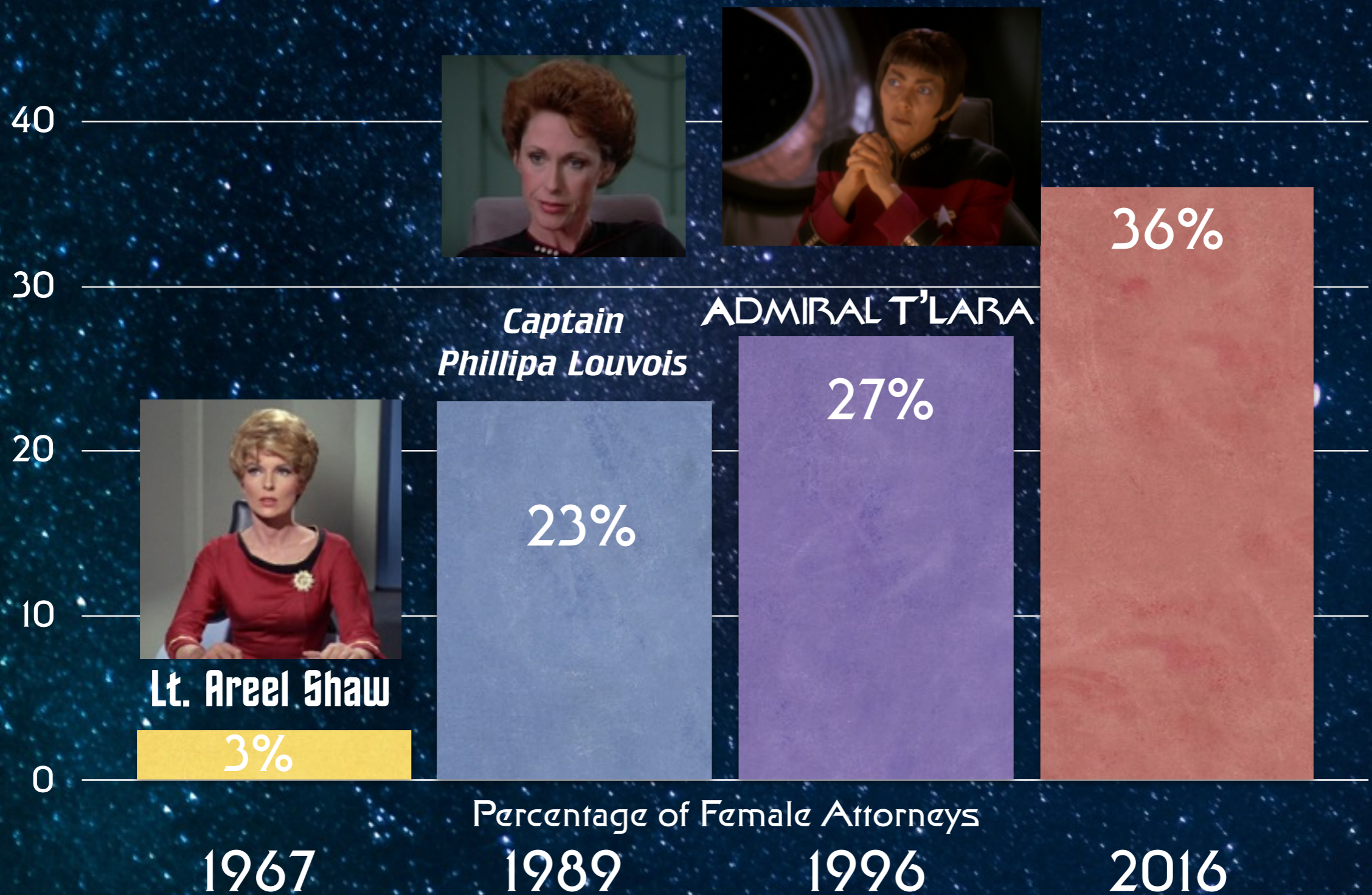


# Diversity in the Practice of Law

Court Martial, TOS



# Women in the Practice of Law



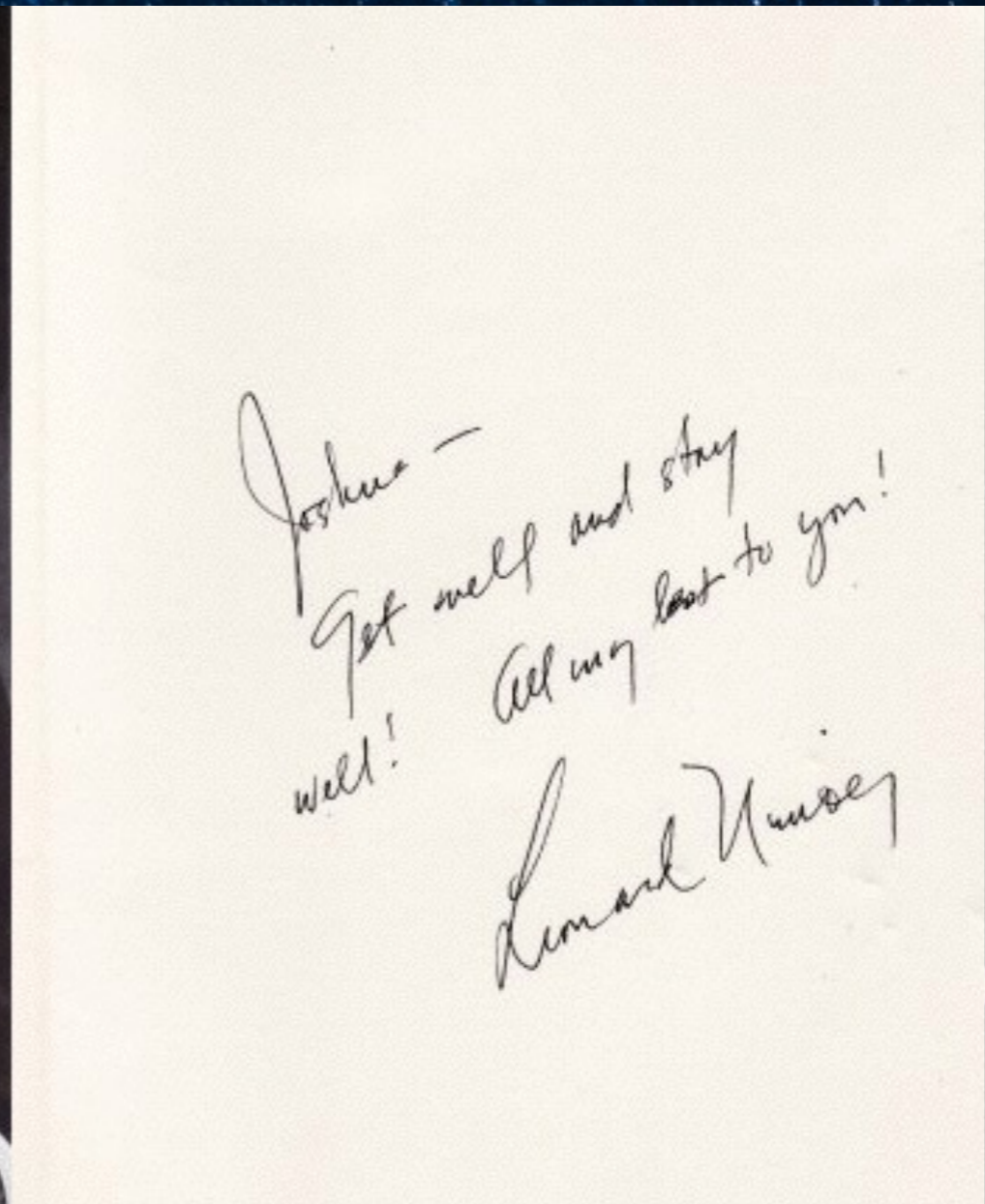
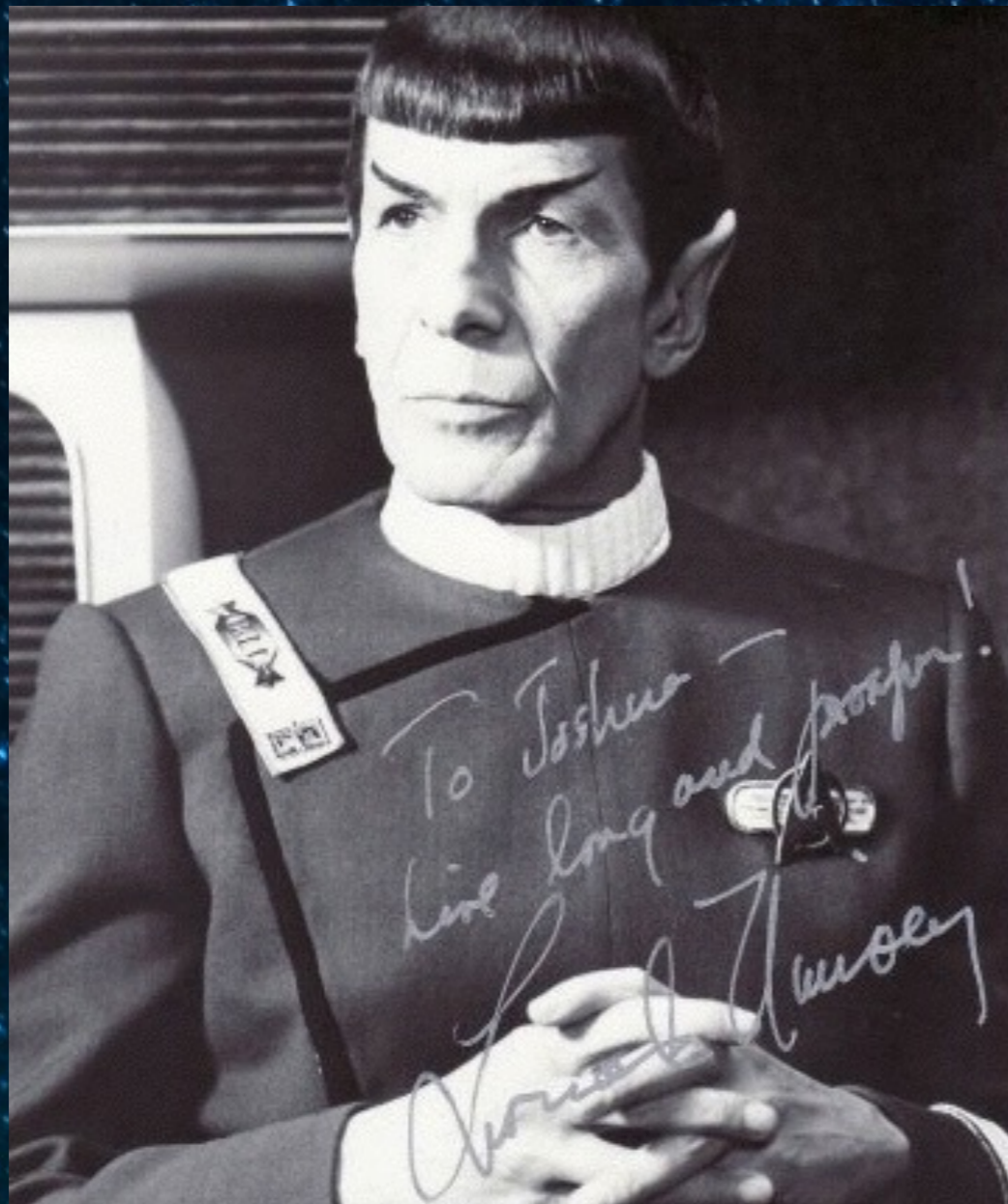




# ***Trial of Humanity***

WAS Q'S TRIAL FAIR?





# Leonard Nimoy

February 1990





# Thanking Nimoy

May 2009



The *Legal Adventure* is Just Beginning

Questions?





# Thank You

*Justice Mariano-Florentino Cuéllar*  
*California Supreme Court*

*Jessica Mederson*

*@ediscmatters*

*Paul Grewal*

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*Megan Hitchcock*

*@mhocshark*

*Neel Chatterjee*

*@neelchatterjee*

*Christine Peek*

*@mcmanislaw*

*Joshua Gilliland*

*@bowtielaw*

*@TheLegalGeeks*