

# HOMERUS LEX: INVESTIGATING AMERICAN LEGAL CULTURE THROUGH THE LENS OF *THE SIMPSONS*

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## ABSTRACT

*Historically, scholars of legal culture have focused on the “mandarin ideals” of law to the exclusion of its depictions in popular culture. As the media has increased its dominance in society, however, pop legal culture has emerged as a valid area of inquiry. Indeed, because few people have direct experience with the law, citizens rely on television to make sense of it. Though not categorized as traditional law programming, THE SIMPSONS is one rich source of legal commentary. It includes some of television’s most profound depictions of the legal system, regularly referencing statutes, private settlements, and trials. Accordingly, it is important to understand what it communicates about the American legal system.*

*Embracing a socio-anthropological perspective, this paper studies the function, role, and ideology of law in Springfield, the hometown of the Simpson family. Rather than critiquing a few memorable episodes, it recognizes that law includes the formal and informal, public and private, institutionally-enforced and normatively-enforced. Thus, it employs ethnographic analysis of Seasons One through Eight, systematically recording each “instance” of law, organizing these into predominant themes, and analyzing them with an eye toward understanding the values and operation of law.*

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*The paper concludes that, while the media often presents a pessimistic view of the legal system, THE SIMPSONS depicts a system that is beneficial to society. Episode after episode, THE SIMPSONS shows us that law in Springfield is a tool by which citizens obtain justice and are made whole, and its legal system is the institutional mechanism that ensures these objectives are met. Settlements are equitable and multifaceted, taking into account not only economic injuries but also personal ones; individuals tend to comply with the law, and those who do not are portrayed negatively or denounced; legal procedures secure equality in treatment and access to the system, but are not so rigid as to impede justice.*

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## INTRODUCTION

Historically, scholars studying legal culture focused on the “mandarin ideals” of law to the exclusion of its depictions in popular culture.<sup>1</sup> As the media has increased its dominance in American society, however, pop legal culture has emerged as a valid area of inquiry.<sup>2</sup> Indeed, because few people have direct experience with the law, citizens rely on television to help them make sense of it.<sup>3</sup> Television communicates information about law in a variety of forms: through news reports, reality courtroom shows, legal dramas, and by depicting legal issues. As a result, some scholars believe that the line distinguishing formal law from pop culture has vanished.<sup>4</sup>

Though not categorized as traditional legal programming, *The Simpsons* is a rich source of legal commentary. It includes some of television’s most profound depictions of the legal system, regularly referencing statutes, private settlements, and trials. Accordingly, it is important to understand what its legally-tinged themes communicate about the American legal system.

Embracing a socio-anthropological perspective, this paper studies the function, role, and ideology of law in Springfield, the hometown of the Simpson family. Rather than critiquing

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1. Austin Sarat & Jonathan Simon, *Introduction: Beyond Legal Realism?: Cultural Analysis, Cultural Studies, and the Situation of Legal Scholarship*, 13 YALE J.L. & HUMAN. 3, 13 (2001); David A. Harris, *The Appearance of Justice: Court TV, Conventional Television, and Public Understanding of the Criminal Justice System*, 35 ARIZ. L. REV. 785, 795-96 (1993); STEVE REDHEAD, UNPOPULAR CULTURES: THE BIRTH OF LAW AND POPULAR CULTURE (1995).

2. TIMOTHY O. LENZ, CHANGING IMAGES OF LAW IN FILM AND TELEVISION CRIME STORIES 12-13 (2003) (visual mass media’s impact on public’s attitudes and behaviors); Norman Rosenberg, *Looking for Law in All the Old Traces*, 48 U.C.L.A. L. REV. 1443, 1444 (2001); Austin Sarat, *Exploring the Hidden Domains of Civil Justice: “Naming, Blaming, and Claiming” In Popular Culture*, 50 DEPAUL L. REV. 425, 450 (2000).

3. Kimberlianne Podlas, *The CSI Effect, Exposing the Media Myth*, 16 FORDHAM INTELL. PROP. MEDIA & ENT. L.J. 429, 430-31 (2006) [hereinafter *CSI Effect*]; Richard K. Sherwin, *Law and Popular Culture: Nomos and Cinema*, 48 U.C.L.A. L. REV. 1519, 1521 (2001) [hereinafter *Nomos*]; NEAL FEIGENSON, LEGAL BLAME, HOW JURORS THINK AND TALK ABOUT ACCIDENTS 11 (2000); Timothy E. Lin, *Social Norms and Judicial Decision-Making: Examining the Role of Narratives in Same-Sex Adoption Cases*, 99 COLUM. L. REV. 739, 758-59 (1999).

4. RICHARD K. SHERWIN, WHEN LAW GOES POP, THE VANISHING LINE BETWEEN LAW AND POP CULTURE 8-11 (2000) [hereinafter POP].

a few memorable episodes, it recognizes that law includes the formal and informal, public and private, institutionally-enforced and normatively-enforced, and thus is reflected throughout society in a myriad of ways. Consequently, to study expressions of law in society, this paper employs ethnographic analysis: It considers every episode of the first eight seasons, systematically recording each "instance" of law, organizing these into predominant themes, and analyzing them with an eye toward understanding the values and operation of law.

The paper concludes that, while the media often presents a pessimistic view of the legal system, where litigation is out of control and law impedes common sense justice,<sup>5</sup> *The Simpsons* depicts a system that is just and beneficial to society. *The Simpsons* may satirize situations prompting legal action, but typically venerates the institution as a rational mechanism on which the average citizen can rely to right wrongs, make her whole, and enhance civility.

## I. HISTORY OF *THE SIMPSONS*

Matt Groening's *The Simpsons* debuted in 1987 as a segment on *The Tracy Ullman Show*.<sup>6</sup> These thirty-second "cartoonettes," while rather crudely animated,<sup>7</sup> enjoyed immediate cult success. Thus, two years later, a more refined *Simpsons* aired a Christmas special, and in January 1990, joined the television schedule as a half hour sitcom.<sup>8</sup> Despite

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5. Marc Galanter, *An Oil Strike in Hell: Contemporary Legends About the Civil Justice System*, 40 ARIZ. L. REV. 717 (1998); Marc S. Galanter, *Real World Torts: An Antidote to Anecdote*, 55 MD. L. REV. 1093, 1154 (1996) (media's stories about out of control jurors and litigation explosion are incorrect).

6. JOHN ALBERTI, *LEAVING SPRINGFIELD, THE SIMPSONS AND THE POSSIBILITY OF OPPOSITIONAL CULTURE* xii (2004); ROB OWEN, *GEN X TV* 64-65 (1997). Tracy Ullman sued the producers of "The Simpsons," via Twentieth Century Fox, claiming that she was owed \$2.5 million, i.e., a portion of its profits from merchandising. Frank Spotnitz, *Ullman to Fox: Eat My Shorts!* ENT. WLY., Oct. 23, 1992, at 8 col. 1. She ultimately settled for \$58,000. The Simpsons Archive, <http://www.snpp.com/other/articles/ullman.html> (last visited Aug. 7, 2006).

7. The characters bore a physical resemblance to the rabbits in creator Matt Groening's comic strip *Life in Hell*. With increased budgets and new animation directors hired, the look of each character was fine-tuned and streamlined for a weekly half hour series. For a detailed description of the physical transformation of the characters, see *Series Background*, 2.2, <http://www.snpp.com/guides/lisa-2.html> (last visited Aug. 7, 2006).

8. Although some mark the debut as 1989, the date of the holiday special, the first

being primetime's first animated series in twenty years,<sup>9</sup> it soon attained a level of popularity few imagined possible.<sup>10</sup>

Now in its eighteenth season, *The Simpsons* is not only the most successful cartoon in history,<sup>11</sup> but also America's longest running prime-time comedy.<sup>12</sup> Moreover, throughout its tenure, *The Simpsons* has continued to draw a broad audience<sup>13</sup> and appeal to new generations of viewers.<sup>14</sup> It has even replicated this success overseas, becoming an international hit seen in more than seventy countries.<sup>15</sup> A film version of the series is now in pre-production and will premiere in July 2007.<sup>16</sup>

### A. Critical Acclaim

*The Simpsons* has been lauded as one of the most

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series episode, "Bart the Genius," was broadcast on January 14, 1990. Kevin Ho, *The Simpsons and the Law: Revealing Truth and Justice To The Masses*, 10 UCLA ENT. L. REV. 275, 277 (2003); RAY RICHMOND, *THE SIMPSONS: A COMPLETE GUIDE TO OUR FAVORITE FAMILY* 16-18 (1997).

9. GLEN CREEBER, *THE TELEVISION GENRE BOOK* 74 (2004).

10. CHRIS TURNER, *PLANET SIMPSON, HOW A CARTOON MASTERPIECE DEFINED A GENERATION 2* (2004).

11. KEVIN DONNELLY, *Comedy: Adult Animation*, in *THE TELEVISION GENRE BOOK*, *supra* note 9, at 75 (no art-animation has reached the impact of *The Simpsons*).

12. Hal Boedeker, *The Simpsons's 16th Season As Clever As Ever*, ORLANDO SENTINEL, Nov. 6, 2004, at TV3. *The Simpsons* surpassed Ozzie and Harriet as television's longest running comedy. Ray Richmond, *D'oh!: Homer And The Rest Of The Simpsons Can Celebrate Another Television Milestone*, HOLLYWOOD REP., Feb. 14, 2003, at 52; Alberti, *supra* note 6, at xii; Michael Reese, *A Mutant Ozzie and Harriet*, 114 NEWSWEEK, Dec. 25, 1989, at 70. It aired its 400th episode in May 2007.

13. Alberti, *supra* note 6, at xi, x. Although ratings have declined over the years, *The Simpsons* presently reaches 9.1 million viewers per week, Tim Stack, *Claw Power*, ENT. WKLY., June 9, 2006, at 18, with a worldwide tally of 60 million viewers, Jonathan Gray, *Television Teaching: Parody, The Simpsons, and Media Literacy Education*, 22 CRITICAL STUD. MEDIA COMM. 223, 223 (2005). This is in addition to those watching in daily syndication.

14. Richmond [D'oh], *supra* note 12, at 52-53.

15. Gray, *supra* note 13, at 223. Not only has *The Simpsons* experienced the success it found in the United States, but it has also experienced similar controversy. One infamous episode portraying adoption and poverty in Brazil prompted the City of Rio de Janeiro to protest and threatened to sue FOX. *'D'oh!' Homer And 'Simpsons' Gang Win Two More Years On TV*, Agence France Presse – English, LOS ANGELES, March 20, 2006.

16. Stack, *supra* note 13, at 18. The long-rumored film, which will feature a story written by 11 veteran Simpson writers, *id.*, was originally scheduled to premiere after the series ended, but consistent contract renewals encouraged the project to move ahead. *Id.*; Internet Movie Database, <http://www.imdb.com/title/tt0462538> (last visited Feb. 25, 2006).

intelligent, literate television shows of the past two decades.<sup>17</sup> In 1998, Time Magazine named it the best television series of the twentieth century and, in 2002, TV Guide ranked it as one of the “ten greatest shows of all time.”<sup>18</sup> Additionally, it has won twenty-two Emmys,<sup>19</sup> twenty-four Annie Awards,<sup>20</sup> seven ASCAP Film and Television Music Awards,<sup>21</sup> a Peabody,<sup>22</sup> and one Writers Guild of America Selvin Award (given by the Guild to the television script that “best embodies the spirit of constitutional and civil rights and liberties”).<sup>23</sup>

To Groening, the success of *The Simpsons* was due in part to FOX’s desperation.<sup>24</sup> Because the fledgling network badly needed a hit, it was willing to take chances. Thus, FOX put its hopes in veteran comedy producer James L. Brooks,<sup>25</sup> gave the creative team of *The Simpsons* unprecedented freedom, and allowed it to work in an off-lot compound largely immune from corporate directives.<sup>26</sup> The writing staff was emboldened when the show had exceeded all expectations at the end of its first season. Consequently, in Season Two,<sup>27</sup> *The Simpsons* was able to “express the true, undiluted vision of its

17. Boedeker, *supra* note 12, at TV3. (*Simpsons* has remained “as sharp, pointed, and clever” as ever); Tom Walter, *Still Fresh And Funny, Simpsons On Track To Make Television History*, COM. APPEAL (Memphis), Feb. 14, 2003, at E1 (“as sharp, pointed, and clever as it was when it premiered”).

18. *The Simpsons: The Animated World’s First Family*, MANILA TIMES, Global News Bites, April 19, 2006.

19. Internet Movie Database, at <http://www.imdb.com> (last visited Aug. 7, 2006). It has been nominated for forty-eight Emmys. On Aug. 19, 2006, it won its ninth Emmy for “Best Animated Program.” USA TODAY, Aug. 21, 2006, at D1.

20. Annies are awarded for excellence in animation.

21. These wins were for “Top TV Series (Animated).” Internet Movie Database, <http://www.imdb.com> (last visited Aug. 7, 2006).

22. TURNER, *supra* note 10, at 43; Richmond [D’oh], *supra* note 12, at 52. The Peabody, received for a 1997 episode, is awarded “for providing exceptional animation and stinging social satire....” TURNER, *supra* note 10, at 39.

23. Though twice nominated for this award, Dave McNary, *Simpsons Scribe Nails WGA Selvin Nod*, 286 DAILY VARIETY, Feb. 1, 2005, at 4, it won for Don Payne’s “Fraudcast News” script. Allison Ballard, *‘Simpsons’ Writer Don Payne / Master Of His D’oh-Main*, STAR NEWS (Wilmington NC), Aug. 21, 2005, at 1D, 5D. In this episode, Lisa creates her own literary newsletter that is threatened with a buyout by Mr. Burns. Lisa then takes her writing underground to avoid a Burns media monopoly, making this a “writer’s episode.”

24. TURNER, *supra* note 10, at 23.

25. *Id.*

26. *Id.* at 19-20.

27. *Id.* at 4, 36-37. Season Two also marked the beginning of the “Golden Age” of *The Simpsons*, 1992-1997. *Id.* at 23. According to producers and writers, this is when the staff of the show fully realized the potential of the characters and situations. *Id.*

creators.”<sup>28</sup>

To critics, whether in the field of television or cultural studies, the incomparability of *The Simpsons* lies in its synergistic combination of socio-political commentary, satire, and pop culture salience.<sup>29</sup> It exudes a multi-layered text that mirrors American society<sup>30</sup> while parodying it.<sup>31</sup> *The Simpsons* even includes itself as a target, such as when considering commercialism and its complicity in America’s rampant consumerism.<sup>32</sup> Moreover, in contrast to other more traditional sitcoms, *The Simpsons* refrains from providing the easy answers so common to television.<sup>33</sup> The only platitudes apparent are those that are deconstructed, satirized, or used to expose hypocrisy.<sup>34</sup>

28. *Id.* at 19. Viewer requests for a greater number of thoughtful episodes also encouraged writers that sharper satire would be well-received. James Sterngold, *Media: Entertainment; The Simpsons And Their Progeny Colonize Television In A Golden Era For Animation*, NY TIMES, Mar. 15, 1998, at D8, col. 5. Unlike many prime-time sitcoms, *The Simpsons* realized it did not have to appeal to the intellect of the lowest common denominator. The show tended to balance the slapstick low-brow humor with a seemingly high-art depiction of parody and satire.

29. TURNER, *supra* note 10, at 10.

30. Paul Cantor, *The Simpsons: Atomistic Politics and the Nuclear Family* 160, in *THE SIMPSONS AND PHILOSOPHY: THE D’OH! OF HOMER* 160, 165 (WILLIAM IRWIN, M. T. CONRAD, & A. J. SKOBLE eds., 2001); Donnelly, *supra* note 9, at 74 (cultural references and intertextuality).

31. Lisa Frank, *The Evolution of the 7 Deadly Sins: From God to the Simpsons*, 35 J. POPULAR CULTURE 95, 97 (2001) (parodies all aspects of American culture); see also John L. Allen, *The Simpsons, Pop Culture and Christianity*, 34 NAT’L CATHOLIC REP. 25 (July 17, 1998) (emblematic of life).

32. Its Krusty merchandise references mirror the merchandising of more than 1,100 *Simpsons* items. Gray, *supra* note 13, at 232. The show had grossed over \$3 billion in merchandising revenue by its 100th episode. Pam Schechter, *No Matter What, Garfield Speaks Your Language*, <http://www.awn.com/mag/issue1.4/articles/schechter1.4.html> (last visited Aug. 7, 2006). *The Simpsons*, in almost fifty episodes, even mocks its parent network FOX and its president. Among these, it mocks the lascivious programming choices of Fox in segments such as “Fox Celebrity Boxing,” “When Buildings Collapse,” and “World’s Deadliest Executions.” Also, Lisa refuses to watch FOX because she claims that the network owns chemical weapons plants (*The Simpsons: Lisa vs. Malibu Stacy* (FOX television broadcast Feb. 17, 1994)).

33. Kevin J. H. Dettmar, *Countercultural Literacy: Learning Irony with the Simpsons*, in *LEAVING SPRINGFIELD*, *supra* note 6, at 88.

34. Frank, *supra* note 31, at 97 (boldly addresses social hypocrisies); Dave Berkman, *Sitcom Reality*, 26 NAT’L ACAD. TELEVISION ARTS & SCI. 63 (Spring 1993).

*B. Animation and Humor*

*The Simpsons* exploits its characteristics as an animated situation comedy to address social and political issues in ways that deviate from the norms of prime-time television.<sup>35</sup> The primary tool in its arsenal is humor. Humor<sup>36</sup> is a publicly protected mode of expression that can “insulate” an argument.<sup>37</sup> Placing commentary in comedic terms can often make serious or incendiary issues more palatable. In Groening’s words, “you can get away with all sorts of unusual ideas if you present them with a smile on your face.”<sup>38</sup> Thus, whereas framing an issue as “important” or “controversial” might cause network concern or be off-putting to viewers, cloaking it in humor makes it more palatable.<sup>39</sup> Framing issues humorously also provides viewers with a safe harbor of reaction,<sup>40</sup> thereby assisting the exploration of incendiary social issues.<sup>41</sup>

Additionally, much social critique is rooted in or focused on exposing the clash between the “is” and the “ought.”<sup>42</sup> Humor rests on a similar juxtaposition: “[J]okes occur because there are contradictions and incoherencies in the social structure. The social structure leads us to see things one way, but also permits us to frame it differently, in a contradictory way.”<sup>43</sup>

35. Alberti, *supra* note 6, at xiv; Agence France Presse, *supra* note 15.

36. Much of the recent work on humor stems from the writings of Freud and Bergson as mediated through the work of anthropologist, Mary Douglas. See Ray Mission, *Friends and Families and Other Funny Things: TV Comedy in the Socially Critical Classroom (Middle Years)*, 124 AUSTRALIAN SCREEN EDU. 37 (2004); see also MARY DOUGLAS, *IMPLICIT MEANINGS: ESSAYS IN ANTHROPOLOGY* (1975).

37. Stephen A. Smith, *Humor as Rhetoric and Cultural Argument*, 16 J. AM. CULTURE 51 (1993).

38. Douglas Rishkoff, *Bart Simpson: Prince of Irreverence*, in LEAVING SPRINGFIELD, *supra* note 6, at 295 (referencing Groening interview).

39. STEVEN KESLOWITZ, *THE SIMPSONS AND SOCIETY* 94 (2004); Stephen Hall, et al., *Toward An Understanding of Humor as Popular Culture in American Society*, 16 J. AM. CULTURE 1 (1993).

40. Hall, *supra* note 39, at 1; see also Keslowitz, *supra* note 39, at 94 (humor represents social conflicts).

41. Alberti, *supra* note 6, at xiii; Jonah Goldberg, *Homer Never Nods: The Importance of the Simpsons*, 52 NAT’L REV., May 1, 2000, available at <http://www.nationalreview.com/01may00/goldberg050100.html> (last visited Jan. 16, 2007). Additionally, because jokes come in small packages, they are easy to digest and retain. Gray, *supra* note 13, at 234.

42. Mission, *supra* note 36, at 38.

43. *Id.*



Consistent with this, *The Simpsons* does not sacrifice serious commentary on the altar of humor, but uses satire<sup>44</sup> and parody<sup>45</sup> to probe the gap between the American Dream and middle class reality<sup>46</sup> while providing insight into everything from consumerism to religion to socio-political systems.<sup>47</sup> Moreover, in doing so, it does not simply insert jokes in a reflexive, post-modernist way as do some recent adult cartoons,<sup>48</sup> but constructs jokes that flow from the narrative or the characters. By employing parody in this fashion, lessons no longer feel like lessons.<sup>49</sup>

Enhancing *The Simpsons*'s critical voice is its animated nature. Animation has long been considered a children's medium relegated to Saturday morning cartoon shows.<sup>50</sup> Thus, animation helps mask adult or socio-political content.<sup>51</sup>

44. Peter Goodrich has argued that all effective humor is satirical in that it is directed at something that is either individually or collectively laughed at so as to restore or subvert an order, practice, or norm. Peter Goodrich, Symposium, *Law, Satire, Incapacity: Lex Laetans: Three Theses on the Unbearable Lightness of Legal Critique*, 17 CARDOZO STUD. L. & LIT. 293, 294, 304 (2005).

45. Parodic humor speaks through the very form it mocks. Thus, it "lends itself to being juxtaposed to and placed on top of its target." Gray, *supra* note 13, at 234.

46. Dettmar, in LEAVING SPRINGFIELD, *supra* note 6, at 88.

47. Frank, *supra* note 31, at 97 ("mirrors society. . . usually with great insight"); Allen, *supra* note 31, at 25 (referring to *The Simpsons*, "[s]ometimes insight awaits us in the least predictable places").

48. *Family Guy* exemplifies this approach. In fact, *South Park* episodes written by Trey Parker have critiqued *Family Guy* as being a compilation of interchangeable jokes unrelated to the plot. Jahir Johnson, *Lucky for 'South Park' There is a 'Family Guy'*, THE LANTERN, OHIO STATE U., Apr. 18, 2006. One recent episode in which Cartman attempts to get *Family Guy* taken off the air – as a solution to terrorism – includes several jokes that *Family Guy* is a mediocre, brainless show. See Leslie Adkins, *Amid Controversy, 'South Park' Probes Deep Into America*, DARTMOUTH, May 22, 2006. Perhaps joining this refrain, in a December 2005 episode of *The Simpsons*, a book of criminals featured a picture of Peter Griffin above the word "plagiarismo." (*The Simpsons: The Italian Bob* (FOX television broadcast Dec. 11, 2005)). The 2005 "Tree House of Horror" showed Homer repeatedly cloning himself – and one of the dumbest clones was Peter Griffin. (*The Simpsons: TreeHouse of Horror XVI* (FOX television broadcast Nov. 6, 2005)). Don Kaplan, *Battle of The Bulge - Family Guy Takes On Homer*, N.Y. POST, July 13, 2005, at 102. In its defense, others note that *Family Guy*'s "randomness and spontaneity" is purposeful and keeps people tuned in, awaiting the next pop cultural reference. Johnson, *supra* note 48.

49. Gray, *supra* note 13, at 234. Parody can also reinforce and encourage viewers to reflect on other media messages. Gray, *supra* note 13, at 236 (cause viewers to reflect on media messages); cf. *id.* at 234 (reinforce lessons of media literacy).

50. Although this has shifted somewhat, any shift is largely due to *The Simpsons*.

51. Douglas R. Bruse, *Notes Toward a Rhetoric of Animation: The Road Runner as Cultural Critique*, 18 CRITICAL STUD. MASS COMM. 229, 229 (2001). Louisa Pilbeam, *PHD'oh!; Exclusive Alison, 24, Is Studying Simpsons For Doctorate*, THE MIRROR

*Simpsons* writers sarcastically made this point through Homer, who assured Marge, "Cartoons don't have any deep meaning. They're just stupid drawings that give you a cheap laugh."<sup>52</sup>

Animated sitcoms are caricatures where a mixture of "real" and "surreal" characters experience real life issues, but in over-the-top situations. Because of this fabricated world, these programs can more easily engage in pointed, pithy commentary. In fact, though controversy often surrounds television comedies that delve into social criticism,<sup>53</sup> the few that do so<sup>54</sup> tend to be animated. Many contemporary animators credit *The Simpsons*<sup>55</sup> with carving out a safe haven for social criticism<sup>56</sup> and ushering in this new era of adult-oriented animation.<sup>57</sup>

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(Ulster Edition), May 31, 2006, at 15 ("These types of cartoons get away with a lot because there is a perception cartoons are only for children"). Most studies of cartoons neglect any analysis of adult content, instead limiting themselves to children and violence. Bruse, *supra* note 51, at 229.

52. *The Simpsons: Mr. Lisa Goes To Washington* (FOX television broadcast Sept. 26, 1991).

53. In the 1970s, *The Smothers Brothers Comedy Hour* became a television landmark as the first television comedy show to employ satire and social criticism. Yet, amid charges of censorship, CBS cancelled the show in its third season. Jon Krampner, *Mom Always Liked Them Best: The Smothers Brothers Story Revisited*, 62 TELEVISION Q. 29 (1998).

54. Nick Belanger, *FOX's Best Show Symbolizes America*, DAILY COLLEGIAN, 2006.

55. In discussing *South Park*'s Emmy losses, Trey Parker acknowledged to Charlie Rose his respect for *The Simpsons*: "Yeah. We always lose to *The Simpsons* . . . We should. *The Simpsons* is a great show." *The Charlie Rose Show: Discussion with the Creators of Comedy Central's "South Park"* (CBS television broadcast Sept. 26, 2005). Even *Family Guy* creator/target Seth MacFarlane admits he was heavily influenced by *The Simpsons*, and has called it "one of the greatest comedy shows of all time. . . ." Kaplan, *supra* note 48.

56. *South Park* reigns as TV's most controversial animated program, with episodes about Scientology, Christianity, and homosexual sodomy. *The Simpsons*'s subject matter is tame by comparison. Tom Cruise, a famed Scientologist, purportedly exercised his clout to remove an episode mocking him from Comedy Central's schedule. "South Park"- *Scientology Battle Rages*, USA TODAY, Mar. 17, 2006, at Section D, available at [http://www.usatoday.com/life/television/news/2006-03-17-south-park-scientology\\_x.htm](http://www.usatoday.com/life/television/news/2006-03-17-south-park-scientology_x.htm). Additionally, *The Boondocks* is a smart, recent addition to the cartoon satire line-up. Adapted from political cartoonist Aaron McGruder's newspaper comic strip, *The Boondocks* recounts the lives of an African-American family that does not quite blend in with white suburbia.

57. In doing so, *The Simpsons* has replaced the term "cartoon," which connotes a children's medium, with the alternate term "animation," which is a medium for all generations, with a mixture of low-art and high art. The Cartoon Network has embraced this extension of cartoons catered to adults, earning their highest ratings ever with their "Adult Swim" block of programming. Press Release, Time Warner,

Furthermore, as a practical matter, animation frees *The Simpsons* from the laws of nature and the expense of location shoots and new sets.<sup>58</sup> Thus, the program can go anywhere and do anything to advance the narrative.<sup>59</sup> The infrastructure of the town can be constantly altered, such as when Springfield built and then crashed a monorail or when the town was literally moved miles away to avoid a garbage crisis.<sup>60</sup> Characters never age<sup>61</sup> and can travel across the world, through space and time.<sup>62</sup> This never-ending flexibility enables writers to construct settings and events that stir the imagination and help viewers vicariously experience or contemplate situations that they have not experienced personally.<sup>63</sup> This also prompts viewers to consider issues without the hindrance of self-interest.<sup>64</sup>

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April 19, 2005, available at <http://www.timewarner.com/corp/newsroom/pr/0,20812,1051560,00.html>.

58. A single episode takes 300 people 8 months to make, and costs approximately \$1.5 million. IRWIN et al., *supra* note 30, at 1.

59. Andrew Wood & Anne Marie Todd, *Are We There Yet?: Searching for Springfield and The Simpsons' Rhetoric of Omnitopia*, 22 CRITICAL STUD. MEDIA COMM. 207, 219-20 (2005). *The Simpsons* has even shown us the personal journey of a successful sperm.

60. *The Simpsons: Marge vs. the Monorail* (FOX television broadcast Jan. 14, 1993). *The Simpsons: Trash of the Titans* (FOX television broadcast Apr. 26, 1998).

61. Characters never age, but flashbacks identify the birthdates (i.e., Bart is born in 1980, according to "I Married Marge," making him about 26 years old today) or high school graduation dates (i.e., 1974 for Marge and Homer, according to "The Way We Was") of some characters. *The Simpsons: I Married Marge* (FOX television broadcast Dec. 26, 1991). *The Simpsons: The Way We Was* (FOX television broadcast Jan. 31, 1991). Homer's age was first and most often placed at 36, "Lisa The Beauty Queen," but he has also been 35, 38, and 39; similarly, Lisa has had her eighth birthday twice.

62. Alberti, *supra* note 6, at xiii; TURNER, *supra* note 10, at 23; see also Owen *supra* note 6, at 64 (animated characters can do things real people cannot). We can see dolphins eject humans from land ("Treehouse of Horror XI") and Apu marry and have a stable of children ("Eight Misbehavin'") all while Bart and Lisa remain in the 4<sup>th</sup> and 2<sup>nd</sup> grades. *The Simpsons: Treehouse of Horror XI* (FOX television broadcast Nov. 1, 2000). *The Simpsons: Eight Misbehavin'* (FOX television broadcast Nov. 21, 1999). Homer has even traveled into another dimension ("Treehouse of Horror VI") and flooded the entire city by placing welcome mats over sewer drains for art's sake ("Mom and Pop Art"). *The Simpsons: Treehouse of Horror VI* (FOX television broadcast Oct. 29, 1995). *The Simpsons: Mom and Pop Art* (FOX television broadcast Apr. 11, 1999).

63. Writers can prioritize story elements and add emotional complexity. Jennifer L. McMahon, *The Function Of Fiction: The Heuristic Value of Homer*, in SIMPSONS AND PHILOSOPHY, *supra* note 30, at 216-17.

64. *Id.*

II. *THE SIMPSONS* AND POP CULTURE

Pop culture<sup>65</sup> pervades modern society:<sup>66</sup> It is something to which we are all exposed and by which we are all influenced.<sup>67</sup> Importantly, pop culture possesses a dual nature, both reflecting what its producers think people do and believe, and impacting what consumers actually do and believe.<sup>68</sup> *The Simpsons* inhabits both of these universes: It is not only a vast catalogue of pop culture but is also an important contributor to pop culture.<sup>69</sup>

With regard to the former, every episode makes dozens of references to television and film. *The Simpsons* has performed songs inspired by musicals<sup>70</sup> and re-enacted scenes from *Psycho*,<sup>71</sup> *The Flintstones*'s opening sequence,<sup>72</sup> *Citizen Kane*, *Sex and the City*, *Gone With the Wind*, and Bud Light Superbowl advertisements. It also references individuals in the public eye. For instance, the Simpson family has been neighbors with George Bush, played tennis with Venus and Serena Williams, and commissioned work from architect Frank Gehry.<sup>73</sup> Indeed, the program is a pop culture barometer: if *The Simpsons* makes fun of it, it matters in

65. Although debate about the definition of pop culture could fill volumes, MICHAEL ASIMOW & SHANNON MADER, *LAW AND POPULAR CULTURE* 3-4 (2004), this paper employs the most typical definition of pop culture. Hence, pop culture is that which is commercially produced for the consumption of ordinary people, as distinguished from high culture, the weightier or aesthetically profound works of the intellectual elite. JOHN STOREY, *CULTURAL THEORY AND POPULAR CULTURE* 1-2, 6 (2001).

66. ASIMOW & MADER, *supra* note 65, at 4-5.

67. Richard K. Sherwin, Symposium, *Introduction: Picturing Justice: Images of Law and Lawyers in the Visual Media*, 30 U.S.F.L. REV. 891, 898 (1996); DENNIS MCQUAIL, *MASS COMMUNICATION THEORY* 103-04 (1994) (media's production of and power of pop culture).

68. ASIMOW & MADER, *supra* note 65, at 6-7.

69. TURNER, *supra* note 10, at 5 (one of the most important cultural institutions of its time).

70. This includes *Evita*, *The Phantom of the Opera*, *Paint Your Wagon*, and *Mary Poppins*.

71. *The Simpsons: Itchy and Scratchy and Marge* (FOX television broadcast Dec. 20, 1990).

72. In the first scene of "Marge vs. the Monorail," Homer sings to the Flintstone musical theme, "Simpson, Homer Simpson, he's the greatest guy in history. From the town of Springfield, he's about to hit a chestnut tree." The homage was appropriate as *The Simpsons* was the first prime-time cartoon since the Flintstones. *The Simpsons: Marge vs. the Monorail* (FOX television broadcast Jan. 14, 1993).

73. John King, *Culture of Celebrity Embraces Pop-Star Architects*, SAN FRANCISCO CHRONICLE, Apr. 7, 2005.

contemporary society.<sup>74</sup>

With regard to the latter, *The Simpsons* has become a pop cultural icon in its own right.<sup>75</sup> Week by week, episode by episode, *The Simpsons* has woven itself into our cultural landscape,<sup>76</sup> becoming a touchstone of our age.<sup>77</sup> Simpsonian catchphrases such as "Ay carumba," "Don't have a cow man," and "'D'oh!" have become part of our language<sup>78</sup> and the impact of its characters have been publicly debated. In fact, *South Park* paid homage to *The Simpsons* in an episode entitled "Simpsons Made Me Do It."<sup>79</sup> Each time eight year old "Butters" and his evil alter ego "Professor Chaos" proposed a unique course of action or plot, his sidekick replied, "The Simpsons Already Did It." Indeed, its catalogue of episodes rivals any single body of work in American pop culture.<sup>80</sup> With a contract renewal into its nineteenth season,<sup>81</sup> no other American primetime television show has spanned so many years while remaining consistently culturally significant.

Due to this rare pop cultural resonance, scholars have canonized *The Simpsons* as a "valid object of media study."<sup>82</sup> They have explored what it tells us about religion,<sup>83</sup> Descartes,<sup>84</sup> the meaning of life, philosophy,<sup>85</sup> post-modern identity,<sup>86</sup> and mental health issues.<sup>87</sup> Ranking among the

74. Owen, *supra* note 6, at 66 (being mocked designates important part of pop culture).

75. *Id.* at 65-66.

76. TURNER, *supra* note 10, at 5; Keslowitz, *supra* note 39, at 8 (echoes American life).

77. TURNER, *supra* note 10, at 10.

78. Webster's New Millennium Dictionary of English now includes the following entry:

d'oh.

Part of Speech: interjection

Definition: a self-reprimanding grunt upon doing something stupid or foolish

Etymology: 1990; fr Homer Simpson of "The Simpsons" television cartoon

Usage: slang

79. *South Park: Simpsons Made Me Do It* (Comedy Central broadcast June 26, 2002).

80. TURNER, *supra* note 10, at 15.

81. Stack, *supra* note 13, at 18.

82. JASON MITTEL, *GENRE AND TELEVISION, FROM COP SHOWS TO CARTOONS IN AMERICAN CULTURE* 178 (2004).

83. Frank, *supra* note 31, at 95; Allen, *supra* note 31, at 25.

84. KESLOWITZ, *supra* note 39, at 91.

85. Margaret Bet Hull, *Postmodern Philosophy meets Pop Cartoon: Michel Foucault and Matt Groening*, 34 J. POPULAR CULTURE 57 (2000).

86. Brian Ott, *"I'm Bart Simpson Who The Hell Are You" A Study In Postmodern*

more erudite writings, one study used *Simpsons* episodes as the stimulus to study human brain response to, and understanding of, humor,<sup>88</sup> while another used the program to explore viewers' construction of narrative.<sup>89</sup>

### A. *The Impact of Television*

As evidenced by its centrality in American life, television is our culture's most powerful medium.<sup>90</sup> Consequently, whether broadcast networks acknowledge the impact of their programs,<sup>91</sup> they can be powerful social forces.<sup>92</sup> The accumulation of television's images and stories<sup>93</sup> constitutes a cultural text<sup>94</sup> that elucidates values and can even impact beliefs.<sup>95</sup> Indeed, research on the effects of television show that depictions on entertainment-oriented television programming<sup>96</sup> can influence the social perceptions and

*Identity (Re)Construction*, 37 J. POPULAR CULTURE 56 (2003).

87. Bruce Ballon, *Diagnosing The Simpsons...*, 8 J. ADDICTION & MENTAL HEALTH 16 (2005). For a collection of the books intended and in print, see [www.harpercollins.com](http://www.harpercollins.com).

88. Marina Krokovsky, *Sitcoms on the Brain: Different Brain Areas "Get It" and Find It Funny*, 290 SCI. AM. 28 (2004).

89. Brad Chisholm, *Difficult Viewing: The Pleasures of Complex Screen Narratives*, 8 CRITICAL STUD. MASS COMM. 389 (1991).

90. L. J. Shrum, *Effects of Television Portrayals of Crime and Violence on Viewers' Perceptions of Reality*, 22 L. STUD. FORUM 257 (1998).

91. Denise D. Bielby, C. Lee Harrington, & William T. Bielby, *Whose Stories Are They? Fans' Engagement With Soap Opera Narratives in Three Sites of Fan Activity*, 43 J. BROADCASTING & ELECTRONIC MEDIA 35 (1999).

92. Sarat, *supra* note 2, at 450. This paper does consider whether television programming, and *The Simpson's* specifically, purposely portrays a socially dominant, capitalist, or other ideologies. For more on this topic, see John Fiske, *Television: Polysemy and Popularity*, 3 CRITICAL STUD. ON MASS COMM. 391 (1986).

93. A narrative is an ordered group set of images and sounds that make up a story. RICHARD A. POSNER, *LAW & LITERATURE* 345, 348 (1999); DAVID A. BLACK, *LAW IN FILM* 100 (1999). Most narratives follow a linear structure with a beginning, middle, and end, i.e., a disturbance, a crisis, and resolution. DAVID BORDWELL, *NARRATION IN FILM* 35 (1985).

94. A popular framework for analyzing television programs conceptualizes a program as a text, and then analyzes its narrative. Jennifer K. Wood, *Justice As Therapy*, 51 COMM. Q. 296 (2003) (describing narrative analysis).

95. Michael J. Porter, et al., *Re(de)fining Narrative Events: Examining Television Narrative Structure*, 30 J. POPULAR FILM & TELEVISION 23, 28-29 (2002); GEORGE COMSTOCK & ERICA SCHARRER, *TELEVISION, WHAT'S ON, WHO'S WATCHING, AND WHAT IT MEANS* 8 (1978).

96. Although some television programs, such as news programs and do-it-yourself shows, attempt to provide useful and veridical information, most programs seek to entertain. Shrum, *supra* note 90, at 257.

attitudes of viewers.<sup>97</sup> Moreover, research demonstrates that entertainment television reaches people that news or factual programming does not.<sup>98</sup>

Accordingly, when considering the messages of *The Simpsons* regarding law, it is not important whether the writers intend to send a message, let alone a particular one.<sup>99</sup> In fact, some individuals assert that *Simpsonian* critique is devoid of a point of view, neutrally exposing social and political problems,<sup>100</sup> while others claim that it is encoded with a conservative<sup>101</sup> or liberal agenda.<sup>102</sup> After all, television programs are not simply vanity projects whose primary purpose is to vocalize the political views of their

97. Shrum, *supra* note 90, at 257 (viewers gather information from entertainment programs) and 260 (television's impact may manifest itself in subtle, long-term nature). Additionally, the influence of television is confined to neither the uninformed nor the gullible. *Id.* at 267

98. Michael Irvin Arrington & Bethany Crandell Goodier, *Prostration Before the Law: Representations of Illness, Interaction, and Intimacy in the NYPD Blue Prostrate Cancer Narrative*, 2 POPULAR COMMUN. 67, 68 (2004).

99. Though fictional characters cannot have agendas, writers can. Writers can craft storylines that highlight or favorably portray issues with which they are concerned, craft dialogue that makes competing positions sound ridiculous, and align those opinions with either positive or evil characters.

100. Larry M. Wertheim, *The Law of The Simpsons*, 60 BENCH & BAR OF MINNESOTA, 30 (2003) (arguing that *The Simpsons*, unlike much television, does not promote any particular moral or political agenda). *Simpson* writer George Meyer disclosed in a "20/20" interview that "[I]f there is [a purpose], it's to get people to re-examine their world, and, specifically, the authority figures in their world." TURNER, *supra* note 10, at 56. Groening has also said that the purpose of *The Simpsons* is to "entertain and subvert." Sean Elder, *Is TV The Coolest Invention Ever Invented? Subversive Cartoonist Matt Groening Goes Prime Time*, 14 MOTHER JONES 828 (1998).

101. MARK I. PINSKY, *THE GOSPEL ACCORDING TO THE SIMPSONS* ix-xiii, 6-10 (2001) (noting conservative-friendly views)..

102. IRWIN et al., *supra* note 30, at 175. Supporting this view, Groening has said, "if I can make myself and my friends laugh and can annoy the hell out of a political conservative, I feel like I've done my job." Robert Sloane, *Who Wants Candy? Disenchantment in The Simpsons*, in LEAVING SPRINGFIELD, *supra* note 6, at 138, and some writers label themselves "liberals," TURNER, *supra* note 10, at 222-23.

*The Simpsons* attributes politically conservative views with evil characters such as Montgomery Burns (embodying the greed and amorality of big business) and Sideshow Bob (representing the vengeful criminal mind) who both ran on the Republican ticket for office. (Burns ran for governor in "Two Cars in Every Garage, Three Eyes on Every Fish" while Sideshow Bob ran for mayor in "Sideshow Bob Roberts." *The Simpsons: Two Cars in Every Garage, Three Eyes on Every Fish* (FOX television broadcast Nov. 1, 1990)) Similarly, Count Dracula (clearly a cross-cultural reference not related to Springfield) is visibly present at a meeting at the Republican Party Headquarters. "Sideshow Bob Roberts." *The Simpsons: Sideshow Bob Roberts* (FOX television broadcast Oct. 9, 1994).

writers; they are commodities.<sup>103</sup> Therefore, decisions regarding stories are not made in isolation, but with an eye toward network profit, advertising dollars, and commercial success.<sup>104</sup> Evidencing these concerns, *The Simpsons* itself has subsequently re-edited episodes involving guns, religion, and sexually suggestive dialogue. Furthermore, a television comedy is commonly structured to create a situation,<sup>105</sup> after which hilarity will ensue.<sup>106</sup> The gymnastics necessary to do so may undercut any message writers intend to send. This is why ideological messages are more unstable in comedy than in other television genres.<sup>107</sup> Hence, any agenda insinuated by writers is mediated by the actualities of television programming.<sup>108</sup>

### *B. The Impact of Pop Legal Culture*

Television communicates a great deal of information about law and justice in American society.<sup>109</sup> Because most individuals lack direct experience with the legal system, they learn about it through entertainment television.<sup>110</sup> Its stories

103. Bielby, Harrington, and Bielby, *supra* note 91, at 35.

104. *Id.* Indeed, the primary purpose of a television program is to persuade as many people to watch it as possible. Shrum, *supra* note 90, at 258.

105. Vessey, *supra* note 30, at 203.

106. Additionally, *The Simpsons* itself possesses a structure in terms of both each episode and across each season. Producers of the show set aside an allotment of episodes each season to explicitly ignore the traditional situation comedy format, including an episode that challenges linear storytelling and one that puts the family into another mode of storytelling. Nonlinear narrative storytelling includes episodes such as "Twenty-Two Short Films about Springfield," where alternative storytelling includes putting *Simpsons* characters in biblical tales, tall tales, Shakespearean plays, and historical narratives. *The Simpsons: Twenty-Two Short Films About Springfield* (FOX television broadcast Apr. 14, 1996).

107. Naomi Mezey & Mark Niles, *Screening The Law: Ideology and Law in American Popular Culture*, 28 COLUMBIA J. L. & ARTS 91, 133 (2005). This instability is even more pronounced in postmodern satire. That is, unlike traditional satire, postmodern satire need not be based on an explicit or implicit set of values, but reflexively critiques everything. Duncan Stuart Beard, *Local Satire with a Global Reach: Ethnic Stereotyping and Cross-Cultural Conflicts in The Simpsons*, in LEAVING SPRINGFIELD, *supra* note 6, at 287-89 (recounting popular criticisms of postmodern satire and process of satiric "defamiliariation"). Where everything is a target, an underlying philosophical bent is likely obscured.

108. Additionally, because viewer attention spans are short, a television show must be able to tell stories quickly and efficiently. This is commonly accomplished by using stereotypes. Shrum, *supra* note 90, at 258.

109. Sherwin, *supra* note 3, at 1521.

110. Podlas, *supra* note 3, at 443-44; Kimberlianne Podlas, *Blame Judge Judy: The*



nurture assumptions about law, inform us about socially acceptable ways to respond if wronged, and help us understand the legal system.<sup>111</sup> In fact, some legal scholars believe that the line between law and pop culture has vanished.<sup>112</sup> As a result, legal scholars have begun looking at the way that pop legal culture<sup>113</sup> and entertainment programming can cultivate in viewers attitudes and understandings about law.

Indeed, research shows that the laity's *Emmanuel* of law is television.<sup>114</sup> In one of the more extensive investigations into the impact of pop legal culture, Podlas found that heavy viewers of syndi-court<sup>115</sup> expect real judges to act like those seen on TV, i.e., to be active, opinionated, and sometimes demeaning interrogators.<sup>116</sup> Her related studies further disclosed that the types of disputes and remedies shown on syndi-court can become normative guides, influencing viewers' assessments of litigious events and opinions about the appropriateness of litigation.<sup>117</sup> In a similar vein, Menkel-Meadow found that significant exposure to fictional lawyer dramas can impact law student perceptions of legal ethics.<sup>118</sup>

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*Effects of Syndicated Courtrooms on Jurors*, 25 AM. J. TRIAL ADVOC. 557 (2002); see also Connie L. McNeely, *Perceptions of the Criminal Justice System*, 3 J. CRIM. JUSTICE & POPULAR CULTURE 1 (1995) (describes criminal justice system).

111. Michael Asimow, *Law and Popular Culture: Bad Lawyers in the Movies*, 24 NOVA L. REV. 552 (2000); see also WILLIAM HALTOM & MICHAEL MCCANN, *DISTORTING THE LAW* 11 (2004) (legal narratives pervade and reshape cultural and political understandings of law). Admittedly, those depictions may be distorted. See e.g., Sarah Eschholz, *The Media and Fear of Crime: A Survey of the Research*, 9 U. FLA. J.L. & PUB. POL'Y 37, 37-39 (1997) (noting that television exaggerates the incidence of violent crime).

112. Sherwin, *supra* note 4, at 18.

113. Paralleling pop culture, pop legal culture encompasses the commercially produced stories of law seen in films and television as well as lay understandings of all things legal. ASIMOW & MADER, *supra* note 65, at 25.

114. Sherwin, *supra* note 4, at 18; Kimberlianne Podlas, *Please Adjust Your Signal: How Television's Syndi-Courtrooms Bias Our Juror Citizenry*, 39 AM. BUS. L.J. 1, 2 (2001) [hereinafter *Please Adjust*]; see also Mezey & Niles, *supra* note 107, at 93 (legal themes saturate pop culture).

115. Syndi-court refers to syndicated reality courtrooms such as *The People's Court*, *Judge Matthis*, and *Judge Judy*.

116. Podlas, *supra* note 114, at 35-39; see also, Kimberlianne Podlas, *As Seen on TV: The Normative Influence of Syndi-Court on Contemporary Litigiousness*, 11 VILLANOVA SPORTS & ENT. L. J. 1 (2004).

117. Kimberlianne Podlas, *Broadcast Litigiousness: The Construction of Legal Consciousness*, 23 CARDOZO ARTS & ENT. L.J. 101-02 (2005).

118. See generally Carrie Menkel-Meadow, *Can They Do That? Legal Ethics In Popular Culture: Of Characters and Acts*, 48 U.C.L.A. L. REV. 1305 (2001); Carrie

### III. *THE SIMPSONS* AS POP LEGAL CULTURE

*The Simpsons* is a prolific source of pop legal culture; issues pertaining to civil litigation, First Amendment speech protections, and intellectual property saturate its episodes. Accordingly, as it includes some of television's most profound depictions of the legal system,<sup>119</sup> it is important to understand what *The Simpsons* communicates about the law and our legal system. Nonetheless, "little attention has been paid to its incisive commentary on the law" and legal process.<sup>120</sup>

#### A. *Legal Ethnography of Springfield*

Considering the way that law is portrayed and functions on *The Simpsons* requires one to contemplate Springfield as any other society. Springfield is merely a place where law, as a regulatory, social, and political system, is expressed. Consequently, law cannot be confined to a few memorable trial episodes, but must be investigated in terms of the day-to-day operation, reliance on, avoidance of, and enforcement of law (in all forms) throughout society. Furthermore, placing together examples throughout seasons provides more coherence than considering them in the context of individual episodes or viewings.<sup>121</sup>

To study cultural and legal systems in this way, anthropologists use ethnography.<sup>122</sup> Ethnography relies on fieldwork where the anthropologist/ethnographer visits the society and systematically observes and records concrete legal

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Menkel-Meadow, *Telling Stories in School: Using Case Studies and Stories to Teach Legal Ethics*, 69 *FORDHAM L. REV.* 787, 815 (2000); Carrie Menkel-Meadow, *The Sense and Sensibilities of Lawyers: Lawyering and Litigation, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft*, 31 *MCGEORGE L. REV.* 1 (1999). Indeed, legal scholars have become increasingly interested in the way that narrative stimulates thinking about the reasons for laws and moral dilemmas associated with law. See Timothy Lenz, *Popular Law and Justice*, 20 *LEGAL STUD. FORUM* 387, 394 (1996).

119. Mezey & Niles, *supra* note 107, at 127; Keslowitz, *supra* note 39, at 97 (exploration of law).

120. Wertheim, *supra* note 100, at 30-31.

121. Gray, *supra* note 13, at 234.

122. ROBERT L. KIDDER, *CONNECTING LAW AND SOCIETY* 15-31 (1983) (describing methodologies used to understand social groups). For a history of the development of ethnography, see Ruth Bunzel, *Introduction* to FRANZ BOAS, *ANTHROPOLOGY IN MODERN LIFE* 5 (1986 ed.).

phenomena.<sup>123</sup> Typically, this highlights issues such as: Who makes the rules? Are they respected and followed? How and by whom are they enforced? When is law used? By whom? How is conflict managed? Under what circumstances do citizens seek the intervention of the law?

Here, the required fieldwork in Springfield was accomplished by viewing every available *Simpsons* episode on DVD (seasons one through eight). Coders recorded each occurrence of, and social reaction to, "law" (described above). Once compiled, these were reviewed for emergent themes and categorized. Finally, the categories were analyzed with an eye toward understanding the purpose, underlying values, and operation of law in Springfield, and, thus, in American society.

Institutional actors within the legal realm, such as police and attorneys, were not considered in this study. Though police enforce some criminal law, their portrayal speaks more to the institution of law enforcement than to law as a cultural institution.<sup>124</sup> Similarly, while attorneys translate law for lay people and are gatekeepers to the system, their portrayals speak to stereotypes of attorneys<sup>125</sup> rather than to the role of law in society.<sup>126</sup>

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123. Bill Maurer, *Introduction to Ethnographic Emergences*, 107 AM. ANTHROPOLOGIST 1, 2 (2005); Timothy Zick, *Cross Burning, Cockfighting, and Symbolic Meaning: Toward a First Amendment Ethnography*, 45 WM. & MARY L. REV. 2261, 2265 (2004); SHARAN B. MERRIAM, *QUALITATIVE RESEARCH AND CASE STUDY APPLICATIONS IN EDUCATION* 13-15 (2001).

124. Television presentations of police are largely positive. Both entertainment and news programming portray law enforcement as heroic, effective, and moral. See Kenneth Dowler, *Media Consumption and Public Attitudes Toward Crime and Justice: The Relationship Between Fear of Crime, Punitive Attitudes, and Perceived Police Effectiveness*, 10 J. CRIM. JUSTICE & POPULAR CULTURE 109, 111 (2003). This is a far cry from *The Simpsons'* depiction of Police Chief Wiggum.

125. Perhaps the most memorable legal character in *The Simpsons* was the Phil Hartman-voiced attorney/ ambulance chaser Lionel Hutz.

126. For a discussion on popular culture's impact on the public's perception of attorneys, see Victoria S. Salzmann & Philip T. Dunwoody, *Prime-Time Lies: Do Portrayals of Lawyers Influence How People Think About the Legal Profession?*, 58 SMU L. REV. 411 (2005); Robert A. Clifford, *The Impact of Popular Culture on the Perception of Lawyers*, LITIG., Fall 2001, at 1; Michael Asimow, *Bad Lawyers in the Movies*, 24 NOVA L. REV. 533 (2000) (claiming that "bad" fictional film lawyers have increased over last two decades).

### *B. Legal Discourse of The Simpsons*

Of the 178 episodes in seasons one through eight, 84 referenced the law or the legal process. This included fourteen trial/court adjudications,<sup>127</sup> several settlements, and legal issues such as consumer protection, false advertising, sexual harassment, labor law, (and particularly in seasons six through eight), contracts, and intellectual property. These are organized into the dominant themes below.<sup>128</sup> The totality of these issues presents a positive view of both the American legal system and the role of law in civil society. Injustices are punished by an efficient legal system, good prevails over evil (but not in a sugar-coated manner), and more commonly, those attempting to abuse the system fail.

#### 1. The Legal System: An Environment for Justice

In modern society, justice is the inherent goal of law.<sup>129</sup> The efficacy of the law rests on the dual axes of authority and legitimacy. While the former is often perceived as promulgating rules and forcing compliance, the latter requires rational rules that lead to fair outcomes and the public's respect on the institution and its rules.<sup>130</sup> Studies demonstrate that people who are treated fairly by legal authorities and see legal procedures as fair are more apt to accept decisions of the legal system, have a positive orientation toward law, and see it as just.<sup>131</sup> Distrust of its

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127. This includes a bench trial, a plea bargain, and two family law disputes (one involving the foster care system).

128. Avid viewers may recall that *The Simpsons* has addressed Fourth Amendment search and seizure, vice crimes, and state regulation of substances (on behalf of the health and safety of its citizens), but the majority of these were not seen during the early years studied here.

129. Kidder, *supra* note 122, at 26-27, but see *id.* at 28. The pre-eminence of justice reflects the ideals of the Berkeley school. *Id.* at 25-26.

130. Bruce M. Selya, *The Confidence Games: Public Perceptions of the Judiciary*, 30 NEW ENG. L. REV. 909-10 (1996) (Opinions about fairness of justice system reflect its legitimacy). As noted by Thurgood Marshall, "a decision contrary to the public sense of justice . . . so far as it is known. . . diminish[es] respect for the courts and for law itself. *Flood v. Kuhn*, 407 U.S. 258, 293 n.4 (1972) (Marshall dissenting); see also *Payne v. Tenn.*, 501 U.S. 808, 834 (1991) (Scalia concurring, citing to Marshall).

131. Tyler Casper, Fisher, *Maintaining Allegiance Toward Political Authorities: The Role of Prior Attitudes and the Use of Fair Procedures*, 33 AM. J. POLITICAL SCIENCE

processes and outcomes can negate its legitimacy and impede justice.<sup>132</sup>

On *The Simpsons*, justice is at the center of the law. Law is not portrayed as some set of irrational rules and procedures that favor the socially powerful at the expense of the average citizen, but as something citizens can rely on to right wrongs, make them whole, and enhance civility. As detailed below, the court docket discloses that the citizens enjoy uncomplicated, effective access to the courts and equal treatment regardless of status.<sup>133</sup>

Similarly, legal procedures reflect a fair process that produces just results. In the multiple criminal trials,<sup>134</sup> we see that each side is given a full opportunity to develop facts, tell its side of the story, present arguments, and be judged by an impartial judge and jury. Thus, *The Simpsons* socializes viewers that the American legal system is a mechanism to achieve justice.

## 2. The Purpose of Litigation

According to moral functionalists, the law's primary function is to reduce conflict and stabilize relations among members of society.<sup>135</sup> Whereas some critics deem litigation a reflection of social decay or legal hypochondria,<sup>136</sup> moral functionalists see it as a mechanism to achieve the legal system's goals.<sup>137</sup> Law serves a similarly beneficial function in Springfield: it appears that citizens support the corrective features of civil law and use litigation not to obtain

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629 (1989).

132. Judith S. Kaye, *Rethinking Traditional Approaches*, 62 ALBANY L. REV. 1491, 1493 (1999).

133. Notwithstanding, Montgomery Burns has insisted that he is above the law. At the beginning of his trial for negligence and the intentional tort of assault, his lawyer stated, "my client has instructed me to remind the court how rich and important he is, that he is *not* like other men." Burns then interjected, "I should be able to run over as many kids as I want!" *The Simpsons: Bart Gets Hit By A Car* (FOX television broadcast Jan. 10, 1991).

134. Of course, the courtroom drama has been a staple of network television for decades. Mezey & Niles, *supra* note 107, at 93.

135. Kidder, *supra* note 122, at 88. Moral functionalists see law as a social invention (*id.*), that is a rational response to social problems, LAW AND ANTHROPOLOGY, A READER 348 (Sally Falk Moore ed., 2005).

136. Haltom & McCann, *supra* note 111, at 10.

137. Feigenson, *supra* note 3, at 87. Litigation realizes its goals primarily by resolving disputes between private parties. *Id.*

unjustified windfalls,<sup>138</sup> but to achieve apologies, acknowledgement, and appropriate remedies. It sometimes appears that compensation for a wrong is secondary to the desire for justice.<sup>139</sup>

Though an injured party may attribute blame or articulate a viable legal claim,<sup>140</sup> these rarely mature into lawsuits. Even when they do, very few lawsuits culminate in a verdict on the show. In fact, over the seasons studied, no tort lawsuit resulted in a verdict.<sup>141</sup> Thus, while *The Simpsons* may satirize situations prompting legal action, it does so in a way that upholds the value of civil litigation.

Yet, while promoting the value of litigation, *The Simpsons* also criticizes its illegitimate use. This is poignantly depicted when Bart is run over by Mr. Burns.<sup>142</sup> Although Homer had been justified in seeking damages (such as payment of Bart's medical bills) from Burns, Homer soon reenvisioned this as an opportunity for a monetary windfall.<sup>143</sup> He attempted to deceive the justice system with manufactured testimony, coaching Bart to lie, and presenting false medical information about the extent of Bart's injuries. Ultimately, during cross-examination, Marge discloses the truth, dashing Homer's dreams of millions. Not only was Homer's attempt to con the system unsuccessful, but he is also punished by receiving nothing – no payment for medical bills to which he was

138. Allegations that Americans have become increasingly litigious appear to be more myth than reality. THOMAS KOENIG & MICHAEL RUSTAD, IN DEFENSE OF TORT LAW (2001) (disputing myths of litigiousness, runaway juries, and need for tort reform); Marc S. Galanter, *Contemporary Legends About the Civil Justice System*, 35 TRIAL 60 (Jul. 1999) (refuting litigiousness); Marc S. Galanter, *Reading the Landscape of Disputes: What We Know and Don't Know (and Think We Know) About Our Allegedly Contentious and Litigious Society*, 31 UCLA L. REV. 4 (1983) (debunking litigation crisis).

139. Julie Pacquin, *Avengers, Avoiders, and Lumpers: The Incidence of Disputing Style on Litigiousness*, 19 WINDSOR Y.B. ACCESS JUST. 3, 32 (2001).

140. Such recognition is a precursor for legal claiming or filing a lawsuit. Julie MacFarlane, *Why Do People Settle?*, 46 MCGILL L.J. 663 (2001); cf. Michael J. Saks, *Do We Really Know Anything About The Behavior of the Tort Litigation System – And Why Not?* 140 U. PENN. L. REV. 1147, 1188-89 (1998) (many victims do not realize they have viable legal claims and therefore do not sue).

141. It does not appear that Bart's personal injury suit against Burns resulted in a verdict, but likely was withdrawn or a judgment notwithstanding the verdict was entered in favor of Burns. *The Simpsons: Bart Gets Hit By A Car* (FOX television broadcast Jan. 10, 1991).

142. In Bart's words, "I was playing in my wholesome childlike way, little realizing that I was about to be struck down by the Luxury Car of Death." *Id.*

143. Homer initially was motivated by anger, but soon was blinded by greed. *Id.*

entitled, no \$500,000 settlement offered mid-trial, and not even the nickel that Burns originally offered Bart.

### 3. Legal Action as Institutionalized Apology

Although some pundits claim that plaintiffs litigate in order to extract unjustified and excessively high settlements from wrongdoers, empirical evidence shows that plaintiffs are less motivated by money than they are by the desire for an apology.<sup>144</sup> Tort plaintiffs commonly report that they sue in order to force an apology or that the apology was “the most valuable part of the settlement.”<sup>145</sup> This is particularly true of disputes involving low monetary sums.<sup>146</sup> (In fact, mediators report that plaintiffs who receive apologies are more willing to settle than those who do not).<sup>147</sup> By attributing responsibility for harm<sup>148</sup> or showing regret, apology advances the healing process and thus law.<sup>149</sup> Furthermore, since many torts result from negligence or mistake rather than malevolence, apology is an appropriate salve. Outside of the tort system, apology is one of the most common mechanisms used to address wrongs.<sup>150</sup>

This therapeutic aspect of litigation is also evident in Springfield. The concrete value of an apology to the aggrieved is explicit when Burns sexually harasses Marge.<sup>151</sup> Upon consulting counsel, Lionel Hutz advises Marge that her claim can net a large cash award. Declining, Marge explains “All I really want is an apology.” Once Burns apologizes (and provides a personal concert by Tom Jones), Marge has received acknowledgment of the wrong and is content. The legal issue is extinguished.

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144. William L.F. Felstiner, et al., *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming*, 15 LAW & SOC'Y REV. 631, 635 (1980-81) (third stage of transference of disputes is where aggrieved voices it to wrongdoer and asks for remedy).

145. Daniel W. Shuman, *The Role of Apology in Tort Law*, 83 JUDICATURE 180 (2000).

146. Podlas, *supra* note 117, at 109, 114-16.

147. Cf. Shuman, *supra* note 145, at 183 (important to consider how law can encourage apology).

148. The exchange of shame and power between the wrongdoer and the person wronged is central to apology's restorative benefits.

149. Shuman, *supra* note 145, at 180.

150. *Id.*

151. *The Simpsons: Marge Gets a Job* (FOX television broadcast Nov. 5, 1992).

The currency of apology across cultures was also depicted in the episode “Bart vs. Australia.” Bart telephoned a boy in Australia collect, running up a \$900 phone bill.<sup>152</sup> When Australia was unable to collect the sum from Bart, it indicted him for fraud. Yet, as an alternative to a criminal sanction, the U.S. Undersecretary for International Protocol (Brat and Punk Division) brokered a deal where Bart would apologize to the Australian government. In exchange, Australia would drop the charges.<sup>153</sup>

Apology as a legal remedy is further exalted in “Homer: Badman.” There, Homer is accused of inappropriate sexual behavior toward his babysitter, yet all he wants is vindication. After a day at the Candy Industry Trade Show, Homer drives the babysitter home. As she is getting out of the car, Homer notices that his coveted gummy Venus de Milo is stuck to her butt. Drooling in ecstasy, he pulls it off. The babysitter mistakes this for a sexual advance, and publicly denounces Homer. As a result, the media embarks on round-the-clock coverage, and protestors begin chanting at the Simpson homestead:

Two-four-six-eight, Homer’s crime was very great!

[pause]

‘Great’ meaning large or immense; we used it in the pejorative sense.

Even after a FOX movie-of-the week – “Homer S.: Portrait of an Ass-Grabber” – portrays Homer as an animal-killing beast<sup>154</sup> and a doctored expose’ (parodying the specious investigative reports of then-rampant tabloid programs) is edited to place Homer’s protestations of innocence in a false (if not defamatory) light,<sup>155</sup> he still seeks only an apology.

152. Bart called to confirm the Coriolis Force and to see whether the water in Australian toilets drained clockwise, as opposed to counterclockwise (as it does in the United States). *The Simpsons: Bart vs. Australia* (FOX television broadcast Feb. 19, 1995).

153. Although the Simpson family agrees that an apology is warranted, they object when Australia wants to add a “booting,” a form of corporal punishment administered by an angry-looking man wearing a huge boot. *Id.* This episode echoed the Singapore caning of American teen Michael Fay. Philip Shenon, *Singapore Affirms Teenager’s Caning*, N.Y. TIMES, May 5, 1994, at A26.

154. The film starred Dennis Franz as “Homer S.” *Homer S.: Portrait of an Ass-Grabber* (FOX television broadcast Nov. 27, 1994).

155. Defamation is a false remark communicated to others that significantly injures



Once he receives it,<sup>156</sup> along with a retraction from the news show *Rock Bottom*, he is content. Although the retraction is one of dozens the show disperses<sup>157</sup> and would require slow motion playback to read, the Simpson family is satisfied.

*The Simpsons* also demonstrates the converse, that the failure to apologize or to consider a complaint fairly may transform an addressable accident into legal action. Again, research on the transference of wrongs into civil litigation shows that the aggrieved seeing no remorse from or feeling treated unfairly by the wrong-doer may heighten the dispute. In fact, being treated fairly has been shown to be as important, if not more so, to litigants<sup>158</sup> than the ultimate outcome.<sup>159</sup> Empirical research on legal claims demonstrates that a majority of litigants litigate out of principle or vengeance.<sup>160</sup>

This point is forcefully made in "Bart Gets Hit By A Car."<sup>161</sup> As intoned by the title, Mr. Burns runs over Bart, while driving his "luxury car of death." Initially, Homer wanted only to be reimbursed for his son's medical expenses. Yet, Burns, who ran Bart down, responds to this reasonable request by offering a mere \$100 and insulting Homer. Burns' cavalier attitude so enrages Homer that he decides to sue. Almost immediately, however, Homer's anger is

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an identified individual's reputation in the community. The falsity may diminish "the esteem, respect, good-will, or confidence" that an individual enjoys or exposes one to public hatred and shame. *N.Y. Times v. Sullivan*, 376 U.S. 254, 267 (1964).

156. The babysitter states, "Homer, I thought you were an animal, but your daughter said you were a decent man. I guess she was right." Homer replies, "You're both right." *Homer S.: Portrait of an Ass-Grabber* (FOX television broadcast Nov. 27, 1994).

157. Examples of the retractions include:

The "Peoples' Choice Awards" is not America's greatest honor  
 Styrofoam is not made from kittens  
 The UFO was a paper plate  
 The nerds on the Internet are not geeks  
 Our universities are not "hotbeds" of anything  
 Audrey Hepburn never weighed 400 pounds  
 The "Cheers" gang is not a real gang  
 Salt water does not chase the thirsties away  
 Bullets do not bounce off of fat guys

158. Richard Birke & Craig R. Fox, *Psychological Principles in Negotiating Civil Settlements*, 4 HARV. NEGOT. L. REV. 1, 38 (1999).

159. See MacFarlane, *supra* note 140, at 681.

160. Pacquin, *supra* note 139, at 32.

161. *The Simpsons: Bart Gets Hit By A Car* (FOX television broadcast Jan. 10, 1991). As detailed below, this episode also denounces inappropriate litigation. *Id.*

transmogrified into greed, and hopes of a \$1 million verdict. What began primarily as an emotional injury is transmuted into a legal one.

#### 4. Settlement

##### *a. The Value of Early Settlement*

In the United States, most civil suits filed in state courts settle.<sup>162</sup> Almost 90% are settled or abandoned without trial, whereas only 1.2% of lawsuits reach verdict.<sup>163</sup> The Springfield legal system mirrors these statistics. Most tort claims in Springfield were settled prior to or soon after the plaintiff obtained counsel, and any remaining claims were settled prior to verdict.<sup>164</sup>

Furthermore, settlement on *The Simpsons* is typically proposed by the putative defendant or wrong-doer. This, too, reflects the reality of civil, particularly business-oriented, litigation. The business world<sup>165</sup> has learned that the quick settlement of a dispute can preempt litigation<sup>166</sup> and prevent a dissatisfied consumer from switching brands or service providers.<sup>167</sup> Businesses in Springfield also adhere to these teachings. When Mr. Burns discovered that health and safety violations at his Springfield Nuclear Powerplant had rendered Homer impotent, Burns's legal team does not await a lawsuit, but preemptively offers Homer a \$2,000 settlement. Homer happily accepts, and the potential dispute is eliminated even before a claim is filed.<sup>168</sup> When Apu,

162. Robert Gordon, *Reducing Trial and ADR Risks Through Empirical Research*, 24 TRIAL LAW. 240, 241 (2001).

163. *Id.* Another study considering a different set of filings, showed jury verdicts in 2.7% of tort cases. Valerie P. Hans, BUS. ON TRIAL 10 (2000).

164. The only civil trial that has ended in a verdict was Satan's breach of contract suit against Homer, which, because of the deprivation of life and liberty at stake, better resembled a criminal trial. *The Simpsons: Treehouse of Horror IV: The Devil and Homer Simpson* (FOX television broadcast Oct. 28, 1993). Two separate family law determinations have also been made.

165. Approximately 50% of civil suits are filed against business defendants. HANS, *supra* note 163, at 10.

166. Gordon, *supra* note 162, at 240.

167. Nada Nasr Bechwati & Maureen Morrin, *Outraged Consumers: Getting Even at the Expense of Getting a Good Deal*, 13 J. CONSUMER PSYCHOL. 440, 440 (2003). This is sometimes called "exiting" the firm. *Id.*

168. *The Simpsons: Brother Can You Spare Two Dimes* (FOX television broadcast

proprietor of the Kwik-E-Mart, lowered the price on expired meat instead of disposing of it,<sup>169</sup> causing Homer to get food poisoning, Apu offered Homer several pounds of frozen shrimp.<sup>170</sup> After minimal negotiation, Homer accepts the food as settlement.<sup>171</sup> When Bart and other consumers were poisoned by Krusty-O's cereal, the company sent consumers a \$100,000 settlement, in a de facto manner.<sup>172</sup>

Krusty the Clown's settlement in "Kamp Krusty" exemplifies the value of settlement in both ending a dispute and correcting the underlying wrong. This episode begins by disclosing that Krusty has lost a great deal of money due to lawsuits over his unsafe and underperforming consumer products, such as: calculators that have no '7' or '8'; alarm "clocks that get incredibly hot if left plugged in"; toys that ignite easily and emit toxic fumes; electric toothbrushes that short-circuit; and vitamins that cause a rapid heartbeat.<sup>173</sup> When Krusty discovers that the children's camp to which he has lent his name and trademarked visage has defrauded consumers, failed to live up to its contractual and advertised claims, and injured children as a result, Krusty leaps to action. He appears at the camp, sincerely apologizes to the campers, and offers a functional settlement, i.e., an accord and satisfaction. Krusty then provides the memorable summer vacation experience that the children had sought, by substituting a vacation to "the greatest place on earth" – Tijuana! Indeed, Krusty's response in the face of liability shows that resolving disputes at lower levels is usually more cost-effective and less disruptive to business practices than litigation.<sup>174</sup>

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Aug. 27, 1992).

169. The Kwik-E-Mart is also selling a can of botulism-infected soup, at a reduced price. This is consistent with the policies of its parent company, Nordyne Defense Dynamics. *The Simpsons: Homer and Apu* (FOX television broadcast Feb. 10, 1994).

170. Apu initially offered 5 pounds. When Homer complained that the shrimp is not frozen and smells funny, Apu counter offered 10 pounds, which Homer accepted. *Id.*

171. Homer again becomes ill. *Id.*

172. *The Simpsons: Round Springfield* (FOX television broadcast Apr. 30, 1995). By the time that legal fees are subtracted, Bart receives \$500, with which he is pleased. *Id.*

173. Other episodes feature Krusty's Home Pregnancy Test which is labeled "may cause birth defects" and a cereal "Krusty-O's" labeled to include "flesh-eating bacteria in every box." MATT GROENING, *THE SIMPSONS FOREVER: A COMPLETE GUIDE TO OUR FAVORITE FAMILY* 208-09 (1998).

174. Ann L. MacNaughton & Gary A. Munneke, *Practicing Law Across Geographic and Professional Borders: What Does the Future Hold?*, 47 LOY. L. REV. 665, 707 (2001);

### *b. Crafting Meaningful Remedies*

Though critics lament that American litigation provides a “limited vision of relief” for the wronged,<sup>175</sup> this is not true of civil litigation on *The Simpsons*. The Springfield legal system typically combines the correct legal result with a meaningful remedy. Settlements are neither a defendant’s capitulation to an extortionist filing nor a method by which the defendant can avoid liability. Instead, such negotiated remedies are attuned to the wrong or serve to make the victim whole,<sup>176</sup> provide a moral acknowledgement of the harm, and reiterate that people respect the interests of others.<sup>177</sup>

The primacy of negotiated settlement over verdict is apparent in the episode “New Kid on the Block.” There, enticed by their advertisement of an “all you can eat buffet,” Homer patronizes the “The Frying Dutchman” restaurant. After eating all of their food and a few of their pots, but not yet eating all that he can, the restaurant ejects Homer. In response, Homer sues for breach of contract<sup>178</sup> based on consumer fraud. As the civil trial progresses, restaurateur Captain McCallister settles with Homer. McCallister provides Homer with a table at the front window of the restaurant and the unlimited amount of food Homer had expected, while featuring him as the “Bottomless Pete – Nature’s Cruellest Mistake.” Whereas a trial verdict might award Homer only the price of his unfulfilled meal, the settlement gives Homer exactly what he wanted – all that he can eat.

Although most settlements provide the parties with a best case scenario avoiding the negatives of litigation, while bringing to fruition the parties’ original intentions and making the aggrieved whole, settlements periodically seem unfairly low. These tend to be confined to private citizens

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Craig A. McEwen, *Managing Corporate Disputing: Overcoming Barriers to the Effective Use of Mediation for Reducing the Cost and Time of Litigation*, 14 OHIO ST. J. ON DISP. RESOL. 1, 17 (1998).

175. THANE ROSENBAUM, *THE MYTH OF MORAL JUSTICE* 32 (2004).

176. Settlements attempt to reflect an adequate measure of compensatory damages, which seek to bring the plaintiff back to the status quo or her pre-injury state. Cass R. Sunstein, Daniel Kahneman, David Schkade, *Assessing Punitive Damages (with Notes On Cognition & Valuation in Law)*, 107 YALE L.J. 2071 (1998).

177. Mark P. Gergen, *The Jury’s Role in Deciding Normative Issues in the American Common Law*, 68 FORDHAM L. REV. 407, 414, 424-25 (1999).

178. Fundamentally, all contracts rest on a promise and agreement.

asserting claims against big business or millionaires (and Republicans).<sup>179</sup> For example, in "Itchy & Scratchy Land," though the entire Simpson family was put in peril, the theme park giant offered as settlement only two free admission tickets. When Homer's dissatisfaction with the offer was met with a stern "no," the Simpsons, evidently realizing that they had little power against this Disney-esque oligopoly, accepted the offer.<sup>180</sup> This underscores the reality that, in negotiations, as opposed to a trial process, the relative power of the parties may impact the result.

## 5. The Jury

The jury is a cornerstone of the American legal system.<sup>181</sup> The Sixth<sup>182</sup> and Seventh<sup>183</sup> Amendments of the Constitution provide for a jury in all criminal and most federal civil cases, respectively. Though some commentators and politicians

179. Burns's political affiliation may purposely reflect the Republican Party's decade-long attempt to limit tort damages. Indeed, in 1994, the Republican Party proclaimed that "[a]lmost everyone agrees America has become a litigious society. . ." and began pushing a tort reform agenda. The primary "reform" would be to limit damages in tort lawsuits, without regard to the extent of harm caused and malice of the defendant. Lisa L. Posey, *The Impact Of Fee-Shifting Tort Reform on Out-of-Court Settlements*, 23 J. INS. ISSUES 124, 125 (2000).

180. Similarly negative commentary on Disney and its business practices, such as reimagining the intellectual property of others as its own, is found in several other episodes. In "The Boy Who Knew Too Much," a doctor refers to "the evil gene" which Walt Disney had. *The Simpsons: The Boy Who Knew Too Much* (FOX television broadcast May 5, 1994). In "Another Simpsons Clip Show," Lisa states, "Romance is dead. It was acquired in a hostile takeover by Hallmark and Disney." *The Simpsons: Another Simpsons Clip Show* (FOX television broadcast Sept. 25, 1994). In a reference to *Disney's America* theme park in Virginia, the students attend "Dizz-nee Historical Park...Sorry but there's profit to be had." *The Simpsons: The PTA Disbands* (FOX television broadcast Apr. 16, 1995). On their spring break trip, Bart, Milhouse, Martin, and Nelson overwhelmingly choose Knoxville, Tennessee over Disney World. *The Simpsons: Bart on the Road* (FOX television broadcast Mar. 21, 1996).

181. Robert T. Roper, *A Typology of Jury Research and Discussion of the Structural Correlates of Jury Decisionmaking*, 11 JUST. SYST. J. 5 (1986); see also ROBERT A. KAGAN, *ADVERSARIAL LEGALISM: THE AMERICAN WAY OF LAW* 12 (2001) (jury plays important role in American system).

182. U.S. CONST. amend. VI. The Sixth Amendment states in relevant part:

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 . . .

183. U.S. CONST. amend. VII. The Seventh Amendment states in relevant part:

[I]n suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.

have criticized it as a cumbersome,<sup>184</sup> or worse incompetent,<sup>185</sup> process, most believe the jury is a healthy institution.<sup>186</sup> It reflects the conscience of the community, and through its judgments, enforces society's norms.<sup>187</sup>

*The Simpsons* acknowledges the jury's centrality to the administration of justice. Consistent with the Fourteenth Amendment and *Batson*,<sup>188</sup> we see a true cross-section of the community, i.e., a jury diverse in age, ethnicity, and gender. Further, venire members accept jury service as part of their civic responsibility (as there are no episodes in which prospective jurors attempt to avoid service) and take their job seriously.

"The Boy Who Knew Too Much" exemplifies this. Throughout the trial, jurors abided by the rules and even alerted the court that Homer was sleeping,<sup>189</sup> rather than listening to testimony. Deliberations did not commence with the jurors professing a desire to leave as soon as possible, but jurors considered the factual evidence placed before them, did not deviate to rumor or innuendo, and took their jobs seriously. When Homer attempted to cause a false deadlock, in order to receive "a free room [in the Springfield Palace Hotel], free food, free swimming pool, free HBO – ooh! Free

184. Albert N. Alschuler, *Mediation with a Mugger: The Shortage of Adjudicative Services And The Need For A Two-Tier System in Civil Cases*, 99 HARV. L. REV. 1808, 1825 (1986) ("American jury trial . . . has become one of the most cumbersome and expensive fact-finding mechanisms that humankind has devised").

185. Neil Vidmar, et al. *Should We Rush To Reform The Criminal Jury? Consider Conviction Rate Data*, 80 JUDICATURE 286, 286-88 (1997) (mid-90s critics charged that criminal juries were incompetent but have not produced data to back up claims).

186. Graham C. Lilly, *The Decline of the American Jury*, 72 U. COLO. L. REV. 53, 77 (2001) (health of jury system is sound).

187. Gergen, *supra* note 177, at 411. Furthermore, like the other courtroom dramas of popular culture, Springfield's trials employ the standard tropes in which "good and evil, truth and falsehood, and right and wrong" battle toward justice. See Christine Alice Corcos, *Legal Fictions: Irony, Storytelling, Truth, And Justice In The Modern Courtroom Drama*, 25 U. ARK. LITTLE ROCK L. REV. 503, 511 (2003).

188. *Batson v. Kentucky*, 476 U.S. 79, 85 (1985). In *Batson*, the Supreme Court held that a prosecutor's using peremptory strikes against prospective jurors on the basis of their race violates the defendant's rights under the 14th Amendment. *Id.* at 97. In noting that the 14th Amendment ensures that a defendant is tried by a jury whose members are selected pursuant to nondiscriminatory criteria," *id.* at 85-86, the Court also stated that "denying a person participation in jury service on account of his race, the State unconstitutionally discriminates against the excluded juror." *Id.* at 87.

189. *The Simpsons: Treehouse of Horror IV* (FOX television broadcast Oct. 28, 1993). Homer wears glasses simulating "eyes wide open" while napping during the trial, but a fellow juror discloses this to the judge. *Id.*

Willy!" the other jurors refused to join his ruse. Instead, articulating the solemnity of the other jurors, Seymour Skinner intoned, "Justice is not a frivolous thing, Simpson. It has little if anything to do with a disobedient whale."

A fair, rational jury was also depicted in "Treehouse of Horror IV: "The Devil and Homer Simpson." There, Homer sold his soul to Satan (in the form of neighbor Ned Flanders) for a donut. When Homer finished the donut, Satan sent Homer to the Ironic Punishments Division of Hell. Unfortunately, the irony was not in the punishment, i.e., force-feeding Homer an infinite number of donuts, but in its impact – it was a treat to Homer, who kept requesting more donuts! Thus, Satan attempted to enforce an alternative remedy for Homer's breach: eternal damnation. When Satan attempted to take Homer and his soul, thus depriving Homer of his life and liberty, Lisa and Marge insisted that Homer deserved due process<sup>190</sup> and a fair trial. Notably, Satan agreed. While acknowledging the reasonableness of the request, he juxtaposed the American legal system with that of other countries: "Oh, you Americans with your due process and fair trials. This is always much easier in Mexico."<sup>191</sup> Thus, the constitutional ideals of due process and testing of competing claims through the process of trial warranted even Satan's respect.

Moreover, Satan's stacked "Jury of the Damned," composed of Lizzie Borden, Richard Nixon,<sup>192</sup> John Wilkes Booth, John Dillinger, Benedict Arnold, Blackbeard, and the starting line of the 1976 Philadelphia Flyers, adhered to its constitutional obligations. The jurors listened to arguments from both sides, neutrally reviewed and weighed the evidence, and fairly applied the law. The jury correctly found that Homer did not own his soul (Marge did, under the terms of a written "contract" on the back of a photo from the 1970s),<sup>193</sup> and, therefore, could not use his soul in his bargain with

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190. *Id.* Homer's due process rights were implicated due to the severity of the taking, i.e., the potential taking of his life and liberty. *Id.*

191. For a description of the American adversary system as contrasted with the inquisitorial system common in Latin American countries, see ASIMOW & MADER, *supra* note 65, at 26-28.

192. Richard Nixon had not yet died at this point. Additionally, in dialogue cut from the episode, Nixon asked not to be seated in front of Booth. *The Simpsons: Treehouse of Horror* (FOX television broadcast Oct. 28, 1993) (commentary, Season Four DVD).

193. The jury is charged with making findings of fact. Lilly, *supra* note 186, at 55.

Satan.

Although a Springfield jury once convicted the wrong person, it was not due to incompetence or bias, but because the defendant had been expertly framed.<sup>194</sup> Surveillance footage from the Kwik-E-Mart showed Krusty the Clown committing armed robbery, thus leading to Krusty's conviction. Yet, the real culprit was actually Sideshow Bob flawlessly masquerading as Krusty.<sup>195</sup> The jury's guilty verdict was not symptomatic of a malfunctioning adversarial system, but reflective of facts indicating guilt beyond a reasonable doubt. Even under these circumstances, however, the true culprit was exposed, and the legal system righted any wrong, as Sideshow Bob replaced Krusty in prison. In fact, publicly demonstrating and correcting such potential mistakes through the court process can strengthen the moral foundation of the institution.<sup>196</sup>

In other instances, Springfield courts avoided wrongful conviction<sup>197</sup> and demonstrated that, to achieve justice, legal procedures must sometimes be flexible. "The Boy Who Knew Too Much" details this axiom. There, after the close of evidence, and during jury deliberations, Bart confessed that he was a critical eyewitness: while skipping school, he witnessed the event in question. The court permitted the taking of testimony outside of the typical order, averting any miscarriage of justice. Notably, Bart chose to come forward, despite knowing that he would be punished for truancy, and possibly sent to a Christian military school. Thus, Bart's self-interest succumbed to the search for truth and protection of the innocent.

Although a student author has asserted that this episode "reveals a public distrust of the deliberative process" and holds that "legal rules may be bent for arbitrary reasons,"<sup>198</sup> his conclusion is unfounded. "The Boy Who Knew Too Much" does not exemplify the arbitrariness of legal process or the

194. *The Simpsons: Krusty Gets Busted* (FOX television broadcast Apr. 29, 1990).

195. The expert disguise was only caught by Krusty uber-fan Bart (with the help of Lisa), who noticed slight deviations between the man on the surveillance tape and the true Krusty. *Id.*

196. ROSENBAUM, *supra* note 175, at 4 (acknowledging that exposing lies publicly via the courtroom strengthens moral foundations of civil society).

197. *The Simpsons: Bart the Murderer* (FOX television broadcast Oct. 10, 1991); *The Simpsons: The Boy Who Knew Too Much* (FOX television broadcast May 5, 1994).

198. Ho, *supra* note 8, at 283.



incompetence of the jury, but that the law has as its foremost goal the pursuit of truth and justice. It is not a set of unbending, procedural rules that operate independent of substantive justice – the underlying premise of the student author – but strives for truth, fairness, and justice. Thus, when an eyewitness (Bart) comes forward with proof of innocence, the court ensures that testimony is heard and substantive due process is achieved. In fact, states provide by statute or caselaw for admitting “newly discovered evidence” or evidence outside of the normal order of trial, if necessary to uncover truth and avoid an unjust result.<sup>199</sup> This is exactly what we want from our justice system: we want the courts to follow rules, so that there is equality and clarity of process, but we do not want them to do so slavishly as to impede justice. Rather, it must be responsive to specific instances of injustice.<sup>200</sup> “The Boy Who Knew Too Much” achieves precisely that – the correct result.

## 6. Addressing Violations of Law

For the most part, Springfield is a law-abiding society. Parroting the message of both society and television crime programs that “crime does not pay,”<sup>201</sup> citizens of Springfield generally fail or find themselves worse off when they attempt to subvert the law. Furthermore, the few who do not comply are portrayed as evil, misguided, or just plain dumb.

Exemplifying “dumb” and “misguided,” we periodically see Homer – who has a crayon stuck in his brain – break the law. Yet most of his transgressions result from dim wit, rather than any intent. He appears to be so dumb that he does not

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199. See, e.g., CAL. PENAL CODE § 1181, subd. 8 (witnesses’ affidavits on motion for new trial on ground of newly discovered evidence); D.C. CODE § 16-2234(3) (2001) (trial court’s order “shall be set aside if ... newly discovered evidence so requires”); CONN. GEN. STAT. § 52-270 (newly discovered evidence may be substantiate petition for new trial); N.J. R. 3:20-2 (motion for new trial can be based on newly discovered evidence); N.Y. C.P.L.R. 440.10(1)(g)(providing for vacture on newly discovered evidence); *People v. Cress*, 468 Mich. 678 (2003) (court’s authority to reverse conviction on newly discovered evidence); *Watson v. State*, 204 S.W.3d 404 (Tex. Crim. App. 2006) (court’s jurisdictional and constitutional authority to reverse judgment on newly discovered evidence); *Hines v. Kuplinski*, 591 S.E.2d 692 (2004) (granting writ of habeus corpus on ground of newly discovered evidence).

200. KIDDER, *supra* note 122, at 26 (justice requires law to be flexible).

201. McNeely, *supra* note 110, at 10. The overwhelming majority of crime programs show most criminals being apprehended. *Id.*

understand that he is breaking the law<sup>202</sup> or, like a child, deviates to a misguided self-interest. Nonetheless, while Homer's actions rarely harm or exploit others, he often physically or financially harms himself.

More commonly, those who violate or condemn the law in Springfield are depicted as morally corrupt. Montgomery Burns, the personification of greed and evil, commonly grouches about statutes pertaining to labor relations, gender equity, environmental protections, O.S.H.A., and business regulation.<sup>203</sup> When he is about to be fined for stuffing drums of toxic waste into tree trunks, Burns refuses to respect the system or show remorse. Instead, he offers to purchase the court's statue of Justitia. His disregard of the justice system ultimately leads to a three million dollar fine, part of which appears to include a punitive damage award.<sup>204</sup> He even runs for office so that he can change regulatory laws to his liking.<sup>205</sup> In a similar vein, multiple felon and all around bad guy Sideshow Bob commits election fraud to win the Springfield mayoral election, and then abuses the government's legal power of eminent domain to raze the

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202. The impact of lack of understanding on criminality is also depicted when it is discovered that Maggie shot Mr. Burns. As (it is presumed that) she lacked the requisite mens rea, Maggie is not deemed responsible for her actions. *The Simpsons: Who Shot Mr. Burns, Part II* (FOX television broadcast Sept. 17, 1995).

203. Examples are found in *The Simpsons: Marge Gets a Job* (FOX television broadcast Nov. 5, 1992), *The Simpsons: Burns Verkaufen der Kraftwerk* (FOX television broadcast Dec. 5, 1991), *The Simpsons: The Last Temptation of Homer* (FOX television broadcast Dec. 9, 1993), *The Simpsons: Simpson and Delilah* (FOX television broadcast Oct. 18, 1990), *The Simpsons: Two Cars in Every Garage and Three Eyes on Every Fish* (FOX television broadcast Nov. 1, 1990), *The Simpsons: Marge vs. The Monorail* (FOX television broadcast Jan. 14, 1993), and *The Simpsons: Last Exit to Springfield* (FOX television broadcast Mar. 11, 1993). Similarly, when Apu or Moe violate the law, it is generally within the context of their businesses. This common denominator of business or capitalism as a root of legal non-compliance suggests that law is necessary to keep business in line.

204. *The Simpsons: Marge vs. The Monorail* (FOX television broadcast Jan. 14, 1993). Punitive damages reflect a normative judgment about the outrageousness of the defendant's conduct as well as a judgment about the amount necessary to deter such behavior in the future. Michael Rustad & Thomas Koenig, *The Historical Continuity of Punitive Damages Awards: Reforming the Tort Reformers*, 42 AM. U. L. REV. 1269, 1309 (1993) (consistent historic function of punitive damages has been extended to punish and deter); Douglas G. Harkin, *BMW of North America v. Gore: A Trial Judge's Guide To Jury Instructions and Judicial Review of Punitive Damages Awards*, 60 MONT. L. REV. 367, 371 (1999) (twin goals of punishment and deterrence).

205. *The Simpsons: Two Cars in Every Garage and Three Eyes on Every Fish* (FOX television broadcast Nov. 1, 1990).

Simpson homestead.<sup>206</sup> These portrayals mirror television's crime programs which assign criminals negative character traits and suggest that they are motivated by wickedness, cruelty, or greed,<sup>207</sup> while portraying law-abiding citizens as superior.<sup>208</sup> By aligning obvious evil<sup>209</sup> and obvious idiocy with violation of or lack of respect for the law, *The Simpsons* underscores respect and virtue of law in society.

In most instances, violations are punished swiftly and appropriately. For example, in "Mr. Lisa Goes to Washington," an elected official accepts bribes to permit the drilling for oil in Teddy Roosevelt's head at Mount Rushmore.<sup>210</sup> When Lisa exposes his illegal and immoral behavior, he is punished with lightning speed. In fact, as shown by a counter at the bottom of the screen, he is arrested and expelled by the House in less than two hours. Although the clock is satirical, commenting on the glacier like pace of federal legal reform, justice is nonetheless achieved. Importantly, politicians are spurred to action, because a young citizen (Lisa) has lost faith in her country. Their swift, appropriate action restores Lisa's faith in democracy.

Moreover, legally-countenanced penalties tend to fit the crime and show mercy where appropriate. "Marge on The Lam" embodies this philosophy. In sentencing, the court puts Marge's *Thelma-and-Louise* joy ride in context. Realizing that she caused no personal harm, the court simply fines her for property damage, and requires \$50 restitution.<sup>211</sup> With regard to her co-conspirator Ruth, the court again considers

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206. *The Simpsons: Sideshow Bob Roberts* (FOX television broadcast Oct. 9, 1994).

207. *Id.* These character depictions convey messages about the different types of people who make up different segments of society. *Id.*

208. McNeely, *supra* note 110, at 10.

209. Characteristic of this evil, Burns made shells for the Germans during World War II (which he boasted *worked*) (*The Simpsons: Verkaufen der Kraftwer* (FOX television broadcast Dec. 5, 1991), made a vest from a gorilla, a hat from his cat, attempted to make a suit from two dozen puppies (*The Simpsons: Two Dozen And One Greyhounds* (FOX television broadcast Apr. 9, 1995)), and took candy from a baby. *The Simpsons: Who Shot Mr. Burns, Part II* (FOX television broadcast Sep. 17, 1995).

210. Congressman Bob Arnold accepts this bribe to the detriment of the environment. *The Simpsons: Mr. Lisa Goes to Washington* (FOX television broadcast Sept. 26, 1991).

211. The sentence for destroying the cans also requires that Marge pay \$2,000 in punitive damages. This is one of the few instances where law on *The Simpsons* diverges from reality. Not only are punitive damages improper in a criminal case, but also, they are inappropriate and ill-proportioned in this civil context. *The Simpsons: Marge on the Lam* (FOX television broadcast Nov. 4, 1993).

the circumstances that led to her taking her ex-husband's 1966 T-Bird convertible. It relieves Ruth of liability for theft, and, we learn through a Dragnet-style voice-over, that her ex-husband was required to pay back child support. Personal circumstances are also considered when Marge is driven to the verge of a nervous breakdown, and stops her car on a bridge, blocking traffic on both directions. Mayor Quimby wields his political clout to ensure that Marge will not face criminal charges. Although he fears losing "the chick vote," Quimby also understands that women and overworked housewives will empathize with Marge's plight, and she deserves sympathy rather than a penalty.

The treatment of Marge can be juxtaposed against the overly severe sanction of thirty days in jail imposed when Marge is convicted of shoplifting. After an unusually stressful day, Marge goes to the Kwik-E-Mart to purchase a few items. While shopping, she puts a bottle of Colonel Kwik-E-Mart Kentucky Bourbon in her coat pocket. Though it is unclear whether she did so to avoid the embarrassment related to purchasing liquor or to lighten the load she carried in her arms (and forgot to pay), she leaves the store without paying for it. She is convicted of shoplifting and sentenced to 30 days in jail.<sup>212</sup> In the end, the community recognizes that while theft should be punished and deterred, a criminal sentence must also take into account the personal circumstances and redemptive qualities of the defendant. Thus, the community comes to see that the sentence was too severe, and, ultimately, Quimby declares "Marge Simpson Day."

Springfield also employs several alternatives to incarceration, such as community service, garnishment/fines, and military school (for juvenile delinquents).<sup>213</sup> For example, embedded within the Marge shoplifting episode is an allusion to lesser sentences, such as community service, sometimes being an appropriate first response. This is disclosed by Troy McClure's voice over on the video Marge is forced to watch after her arrest:

Hi, I'm Troy McClure. You might remember me from such public service videos as "Designated Drivers: The Life-Saving Nerds" and

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212. She is also ostracized by her community, as noted below. *Id.*

213. *The Simpsons: Secret War of Lisa Simpson* (FOX television broadcast May 18, 1997). Military school is also proffered as an alternative to incarceration.

"Phony Tornado Alarms Reduce Readiness." I'm here today to give you the skinny on shoplifting, thereby completing my plea bargain with the good people at Foot Locker of Beverly Hills.<sup>214</sup>

*The Simpsons* thus communicates that an appropriate and just response to a violation of the law should be more than punitive, and should consider lesser and ameliorative sanctions, as well as the rehabilitative potential and character of the violator.

### 7. The Social and Moral Authority of Law: The Miracle of Shame

The authority of law rests not only on its obvious rules and institutions, but also on its social aspects. Regardless of the proliferation of courts or statutes, law cannot maintain legitimacy unless members of society abide by it and enforce it. . .<sup>215</sup> Simply, law is of little importance if it is ignored.<sup>216</sup>

As legal anthropologist Bromislav Malinowski explained, law is more than formal rules. It is also a culture's mutually acknowledged binding obligations that these are the rules that we live by.<sup>217</sup> These are reinforced by the actions and responses of citizens.<sup>218</sup> These social norms and the constraints that they impose lie at the heart of law in everyday life.<sup>219</sup>

Although there are many definitions,<sup>220</sup> norms are societal expectations of how one is to act. By telling us what others

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214. *The Simpsons: Marge Be Not Proud* (FOX television broadcast Dec. 17, 1995).

215. Empirical research shows that, for the most part, people believe that legal authorities are legitimate. This belief in the legitimacy of the law promotes compliance with it. TOM R. TYLER, *WHY PEOPLE OBEY THE LAW* 170, 161 (1996).

216. *Id.* at 161.

217. *See id.* at 21-22.

218. *Id.*

219. Anna-Maria Marshall & Scott Barclay, *In Their Own Words: How Ordinary People Construct the Legal World*, 28 *LAW & SOC. INQUIRY* 617, 617-18 (2003). There are two theories of legal compliance, normative and instrumental. TYLER, *supra* note 215, at 161. This article endorses the normative model, indeed, the model which has obtained the greater contemporary support from the broadest range of disciplines. For an explanation of the alternate model of instrumental compliance, see *id.* at 165-66.

220. Richard H. McAdams, *The Origin, Development, and Regulation of Norms*, 96 *MICH. L. REV.* 338, 350 (1997) ("considerable effort has gone into defining exactly what constitutes a norm" and "[t]he economics literature continues to struggle over the issue") (internal citations omitted); Cass R. Sunstein, *Social Norms and Social Roles*, 96 *COLUM. L. REV.* 903, 914 (1996) (social norms understood in many different ways).

deem right or wrong,<sup>221</sup> we learn to conform.<sup>222</sup> Individuals may comply with norms out of an internal sense of duty, fear of negative reputation consequences,<sup>223</sup> or a desire for esteem.<sup>224</sup> Thus, norms become informal mechanisms of social control.<sup>225</sup> These social factors combine with deterrence (or fear of punishment)<sup>226</sup> to enhance law abiding behavior.<sup>227</sup> Notably, some television researchers believe that the true message of law-oriented television programming is that people, not the law itself, ensure compliance.<sup>228</sup> This is validated by *The Simpsons*.

The citizens of Springfield contribute to the authority of the law by situating compliance with the law as a norm.<sup>229</sup> As noted in the previous section, the overwhelming majority of citizens abide by the law, and the ones who do not are portrayed negatively. Furthermore, we often see community members express disapproval when someone does not uphold this social contract.<sup>230</sup> For example, when Marge shoplifts,<sup>231</sup>

221. JOEL CHARON, *THE MEANINGS OF SOCIOLOGY* 61-62, 107 (4th ed., 1993) (norms signal society's rules or expectations). To illustrate, the litigious actions of Americans in response to torts have been contrasted with the very opposite reactions of Japanese. KIDDER, *supra* note 122, at 46.

222. Sunstein, *supra* note 220, at 939.

223. Public disapproval enforces and define norms. *Id.* at 915. "Indeed, obedience of law is built in large part on the perceived reputational consequences of law violation." *Id.* at 916-17.

224. This is referred to as the Esteem Theory of normative origin, i.e., where people act as they believe others do to invite approval or to avoid disapproval. McAdams, *supra* note 220, at 355-56.

225. *Id.* at 340, 345; Robert Ellickson, *Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County*, 38 STAN. L. REV. 623 (describing system of informal enforcement of rules in trespass and property-related disputes among Californian cattle ranchers).

226. Of course, norms also influence behavior by deterring actions of potential tortfeasors. See Daniel W. Shuman, *The Psychology of Deterrence in Tort Law*, 42 KAN. L. REV. 115, 115-20, 165-67 (1993) (discussing linkage between social psychology and behavior).

227. "When lawmakers make law, they do not just aim to directly control behavior. . . they also hope to express certain social or cultural values they attach to that behavior." Robert Weisberg, *Norms and Criminal Law, and the Norms of Criminal Law Scholarship*, 93 J. CRIM. L. & CRIMINOLOGY 467, 476 (2003); see also Michael Wenzel, *The Social Side of Sanctions: Personal and Social Norms as Moderators of Deterrence*, 28 L. & HUM. BEHAVIOR 547, 548-52 (2004) (tax compliance and evasion is impacted by moral considerations and social factors).

228. McNeely, *supra* note 110, at 11.

229. Conversely (in most instances), Springfield society expresses a norm disfavoring noncompliance or violation of law.

230. Shunning is often used as a cultural mechanism to avenge a rule violation. KIDDER, *supra* note 122, at 25.

she is not merely sentenced to thirty days in jail, but the community makes their disgust known by not speaking to her and avoiding her in public. Marge's theft has broken not only a legal rule but also a social one.<sup>232</sup> The community is similarly uniform in denouncing crime when someone (Bart) cuts off the head of the statue of Jebediah Springfield.<sup>233</sup> Scofflaw-petty thieves Jimbo, Dolph, and Kearny decry the action, and Krusty tells his young viewers that the vandalism was wrong and encourages them to turn in anyone involved.<sup>234</sup> It is this socio-moral response of the community that causes Bart's conscience to kick in. Soon, as in Poe's "Telltale Heart," he cannot live with his deed and confesses. Likewise, it is not the illegality of his act that persuades Homer to relinquish stolen cable, but his family's disapproval of him (through actual, physical shunning).<sup>235</sup> When Bart steals a video game, he is more affected by Marge's disappointment and consequent emotional withdrawal – effectively excluding Bart from the family – than by any concrete punishment.<sup>236</sup> Indeed, the power of social (and moral) disapproval is evident in the pastor's episode-opening sermon entitled, "The Miracle of Shame."<sup>237</sup>

Though norms typically encourage compliance with the law, in some instances, they influence propensities toward illegal behavior.<sup>238</sup> Just as people comply to both align themselves with and avoid the disapproval of the majority, so might they commit a crime when they believe that such activity is widespread. They may conclude that crime is status-enhancing, that no stigma attaches to it, or that notwithstanding a statutory proscription, society does not

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231. *The Simpsons: Marge in Chains* (FOX television broadcast May 6, 1993).

232. Of course, the community comes to recognize its overly harsh response, and ultimately apologizes and provides a statue in Marge's honor. The head of the maligned Jimmy Carter statue is replaced with Marge's. *Id.*

233. *The Simpsons: The Telltale Head* (FOX television broadcast Feb. 25, 1990).

234. Krusty promises a slide whistle as a reward. *Id.*

235. *The Simpsons: Homer vs. Lisa and the 8th Commandment* (FOX television broadcast Feb. 7, 1991). Perhaps realizing that more subtle actions will be lost on Homer's diminished mental capacities, Marge, Lisa, and Maggie make their point quite obvious by actually exiting the house. *Id.*

236. *The Simpsons: Marge Be Not Proud* (FOX television broadcast Dec. 17, 1995).

237. *Id.*

238. Just as criminal law can designate behaviors as unacceptable (and criminal), it can also alter the social meaning of criminal behaviors from "acceptable" to "unacceptable." Toni M. Massaro, *Show (Some) Emotions*, in *PASSIONS OF LAW* 80, 81 (Susan A. Bardes ed., 1999).

agree that the action is criminal.<sup>239</sup>

Homer's theft of cable television typifies the power of the social group in influencing illegality.<sup>240</sup> His social group does not rebuke his action as immoral or corrupt, but endorses it (as did many Americans at the time). In fact, the cable guy gives Homer a pamphlet titled "Now You've Decided to Steal Cable" that denounces cable companies as "big faceless corporations, which makes it okay."<sup>241</sup> Homer's illegal behavior, therefore, continues (and he is apt to openly acknowledge it). Homer curries similar approval from his social group when he transports liquor during the re-establishment of prohibition, earning public favor and the empowering nickname, "The Beer Baron."<sup>242</sup> Yet, even where there is societal non-compliance, Homer either chooses to obey the law or citizens repeal or reinterpret the law, as when they repeal the ancient punishment for making alcohol.<sup>243</sup>

### CONCLUSION

*The Simpsons* is not merely the most successful cartoon in history, but a pop culture chronicle that uses satire to explore a variety of social issues. No subject is immune from its scrutiny, and the law is no different. Nonetheless, while *The Simpsons* satirizes the American legal system along with the situations that result in litigation, it upholds the value of law in maintaining a civil society. As disclosed by the eight season ethnography, law in Springfield is a tool by which citizens obtain justice and are made whole, and the legal system is the institutional mechanism that ensures these objectives are met. *The Simpsons* shows us that the law is fair, sensible, and works. Settlements are equitable and multifaceted, taking into account not only economic injuries but also personal ones; individuals tend to comply with the law, and those who do not are either portrayed negatively or

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239. Dan M. Kahan, *Social Influence, Social Meaning, and Deterrence*, 83 VA. L. REV. 349, 350 (1997).

240. *The Simpsons: Homer vs. Lisa and the 8th Commandment* (FOX television broadcast Feb. 7, 1991).

241. *Id.* When stealing the video game, Bart employs a similar logic that shoplifting is a "victimless crime," because the department store is so rich. *The Simpsons: Marge Be Not Proud* (FOX television broadcast Dec. 17, 1995).

242. *The Simpsons: Homer vs. the 18th Amendment* (FOX television broadcast Mar. 16, 1997).

243. *Id.*



denounced; legal procedures secure equality in treatment and access to the system, but are not so rigid as to impede justice. Indeed, a world in which even Satan acknowledges the importance of legal process (and in which that process can prevail) is a world that values the law.

