I'M NOT A JUDGE BUT I PLAY ONE ON TV: AMERICAN REALITY-BASED COURTROOM TELEVISION

by

Steven Arthur Kohm
B.A. (Honours) University of Winnipeg, 1997
M.A. University of Toronto, 1998

DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF

DOCTOR OF PHILOSOPHY

In the School of Criminology

© Steven Kohm 2004

SIMON FRASER UNIVERSITY

Fall 2004

All rights reserved. This work may not be reproduced in whole or in part, by photocopy or other means, without permission of the author.
APPROVAL

Name: Steven Arthur Kohm
Degree: Ph.D.
Title of Dissertation: I'm Not a Judge, but I Play One on TV: American Reality-based Courtroom Television

Examining Committee:

Chair: Dr. Dorothy Chunn
Professor of Criminology

Dr. John Lowman
Senior Supervisor
Professor of Criminology

Dr. Robert Menzies
Supervisor
Professor of Criminology

Dr. Margaret Jackson
Supervisor
Professor of Criminology

Dr. Rick Gruneau
Internal Examiner
Professor of Communication

Dr. Aaron Doyle
External Examiner
Assistant Professor of Sociology and Anthropology, Carlton University

Date Defended/Approved: December 3rd, 2004
PARTIAL COPYRIGHT LICENCE

The author, whose copyright is declared on the title page of this work, has granted to Simon Fraser University the right to lend this thesis, project or extended essay to users of the Simon Fraser University Library, and to make partial or single copies only for such users or in response to a request from the library of any other university, or other educational institution, on its own behalf or for one of its users.

The author has further granted permission to Simon Fraser University to keep or make a digital copy for use in its circulating collection.

The author has further agreed that permission for multiple copying of this work for scholarly purposes may be granted by either the author or the Dean of Graduate Studies.

It is understood that copying or publication of this work for financial gain shall not be allowed without the author's written permission.

Permission for public performance, or limited permission for private scholarly use, of any multimedia materials forming part of this work, may have been granted by the author. This information may be found on the separately catalogued multimedia material and in the signed Partial Copyright Licence.

The original Partial Copyright Licence attesting to these terms, and signed by this author, may be found in the original bound copy of this work, retained in the Simon Fraser University Archive.

W. A. C. Bennett Library
Simon Fraser University
Burnaby, BC, Canada
ABSTRACT

This thesis presents an in-depth, exploratory qualitative content analysis of American reality-based courtroom television programming. Based on a detailed examination of over 200 hours of *People's Court* and *Judge Judy*, the thesis theorizes the links between popular entertainment and public attitudes toward law, punishment and the legal system. The potential of these programs to shape popular attitudes toward the place of law in the lives of ordinary people is of particular interest here. In order to tap into the viewer's perspective, a purposive sampling of viewer comments from an Internet-based fan discussion forum was utilized.

The primary method employed in analyzing the programs was a detailed textual analysis of the discourse of judges, litigants and fans. Drawing from the methodological insights of linguistic ethnographers John Conley and William O'Barr (1990, 1998) I closely analyzed the decision-making of the TV judges, the style of testimony presented by litigants and the overall morphological structure of both programs. Based on this analysis, I conclude that the two programs articulate very different models of law and justice corresponding to different socio-political orientations. *People's Court* presents a participatory-democratic vision of law that is grounded in liberal-legal notions of due process, individual rights and free speech, while *Judge Judy* offers an authoritarian vision of judgement and law centred on the moral discourses of personal responsibility, traditional family values, and harsh punishment for those who fail to learn from their past mistakes. However, while the two programs present their messages through different models of judicial process, both contribute to a reconceptualization of judgement as a source of spectacle and entertainment. I assert that reality-based courtroom TV is the
leading edge of a movement toward a new culture of judgement marked by the multiplication of opportunities to judge and be judged; judgement from a distance facilitated by technology; the increasing use of judgement as a form of entertainment; and the incitement to not only 'judge for ourselves,' but to judge ourselves against the normative yardstick of those marginalized litigants who turn to the TV tribunal as a court of last resort.
ACKNOWLEDGEMENTS

I would like to thank the following people for their assistance and support during the writing, editing and analysis that resulted in this dissertation.

First and foremost, I want to acknowledge the hard work, careful editing and insightful ideas of all three members of my supervisory committee. Without their dedication and faith in my ability to pull this off, I would not have been able to achieve the results that I did. I wish to thank John for his willingness to at times work beyond his comfort zone and for his constant critical eye that made me work harder to hone my analysis and defend my theoretical assertions. I particularly wish to extend a special thank you to Bob for inspiring me to pursue this topic with his unending enthusiasm for the research, his intellectual rigor and his theoretical and methodological insight. I can truly say that this work would not have been completed had you not been a part of my doctoral experience at SFU. Margaret also richly deserves mention here. She was a tremendous support through some difficult phases of this work and I could always count on her for honest advice and poignant insight. For this, as well as her great sense of humor, I wish to say thank you.

In addition to the great academic support I received during this endeavor, I am also deeply indebted for the unwavering support of my friends and family. In fact, I can honestly say that without my friends who became like surrogate family to me, I would not have survived this experience. Chantal, Dan (and Claire) and Becky have all helped me in so many ways through all of this and I cannot imagine my time at SFU without them close at hand. I would like to thank each one of them for their dear friendship, emotional support and collegiality through the last several years of my life. You truly made this a more worthwhile and enjoyable experience.

Most significantly, I want to thank my life partner Sandy for her boundless capacity to support and encourage me through the ups and downs of juggling teaching, writing and life in general over the last four years. This work is in many ways as much yours as it is mine. It is hard to put into words the gratitude I feel for your continuing contribution to all areas of my life. May the end of this phase of my life signal the start of a new and exciting phase of our future life together.

Finally, I must acknowledge all the fans of reality-based courtroom television whose Internet conversations I studied; all the litigants who argued their disputes on these programs without knowing they were part of my research; and the two TV judges who inspired me to take this topic seriously. Thank you for always reminding me that there are many realities in the world. I hope that I have been successful in conveying yours here in the pages that follow.
# TABLE OF CONTENTS

**APPROVAL** ...................................................................................................................... ii

**ABSTRACT** ........................................................................................................................ iii

**ACKNOWLEDGEMENTS** ................................................................................................. v

**TABLE OF CONTENTS** .................................................................................................... vi

**PART I: INTRODUCTION** .................................................................................................. 1

- Setting the Scene .................................................................................................................. 1
- Now We’re ‘Talking’ ............................................................................................................... 6
- A Brief Note on Terminology ............................................................................................... 9
- Self-Help, Responsibility and Reality TV ............................................................................ 13
- Judging the Judgers ............................................................................................................. 18
- Sites of Analysis .................................................................................................................. 23
- Defining Reality ................................................................................................................... 26
- Definitions of Reality TV: .................................................................................................... 27
- Reality and Television in Historical Perspective: ............................................................... 33
- Law and Order, Social Control, and Normalization ............................................................ 44
- All Talk and No Action: Daytime ‘Trash TV’ Talk Shows .................................................. 61
- Why Reality? Why Now?: Discussion and Synthesis ......................................................... 67
- Turning to the Court ............................................................................................................ 79
- Putting Reality-Based Courtroom TV in Historical Perspective ...................................... 85
- Don’t Take the Law into Your Own Hands: You Take Them to the People’s Court ............ 90
- Toward the Judgement Society .......................................................................................... 94
- Methodological Lessons from the Frontlines .................................................................... 106
- Toward a Qualitative Approach to Mass Media Research ............................................... 108
- Qualitative Textual Analysis of Data ............................................................................... 118
- Discussion ............................................................................................................................ 122
- The Pilot Phase .................................................................................................................. 123
- Typical Cases and Preliminary Observations .................................................................... 129

**PART II: CONCEPTIONS OF LAW, JUSTICE AND MORALITY IN REALITY-BASED COURTROOM TV** ........................................................................................................... 134

- Introduction: ....................................................................................................................... 134
- Judging Judy: Conceptions of Law and Justice in *Judge Judy* ....................................... 136
- *Judge Judy*: Ideologue *Par Excellence* ........................................................................ 136
- ‘Hyper-Framing’ the Conflict: The Enticement, the Teaser and the Judge ...................... 138
- This is *Her* Court ............................................................................................................. 149
- The Main Event .................................................................................................................. 152
- Formal Ceremony .............................................................................................................. 153
- Framing Captions .............................................................................................................. 155
- The Participant Post Mortem ............................................................................................. 166
### PART III: SPEAKING OF LAW...: ANALYZING TALK IN THE TELEMEDIATED SMALL CLAIMS COURT

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setting the Scene</td>
<td>231</td>
</tr>
<tr>
<td>The Anatomy of a TV Judgment</td>
<td>237</td>
</tr>
<tr>
<td>Judge Judy Judgment</td>
<td>238</td>
</tr>
<tr>
<td>The People's Judgment</td>
<td>244</td>
</tr>
<tr>
<td>The Jurisprudence of TV Judges</td>
<td>249</td>
</tr>
<tr>
<td>Litigant Orientations</td>
<td>272</td>
</tr>
<tr>
<td>Relational Orientations</td>
<td>275</td>
</tr>
<tr>
<td>Rule-Oriented Litigants</td>
<td>281</td>
</tr>
</tbody>
</table>

### PART IV: LEGAL PROBLEMS, MORAL SOLUTIONS: THE MORPHOLOGY OF A DISPUTE IN THE TELEMEDIATED COURTROOM

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Types of Disputes</td>
<td>291</td>
</tr>
<tr>
<td>A Brief Methodological Note:</td>
<td>300</td>
</tr>
<tr>
<td>Neighbourhood and Community Relations</td>
<td>302</td>
</tr>
<tr>
<td>Neighbourhood and Community Relations I: Unruly Neighbours on <em>Judge Judy</em></td>
<td>303</td>
</tr>
<tr>
<td>Clarissa Harris versus Veronica Vincent</td>
<td>305</td>
</tr>
<tr>
<td>Neighbourhood and Community Relations II: Neighbourhood Values in Urban America from the <em>People's Court</em></td>
<td>329</td>
</tr>
<tr>
<td>Charles Randolf III versus Malachi and Matthew Smith</td>
<td>331</td>
</tr>
<tr>
<td>Relationship-Oriented Disputes: Friends, Family and Lovers Relationship-Oriented</td>
<td>358</td>
</tr>
<tr>
<td>Disputes I: Former Friends &amp; Lovers</td>
<td>358</td>
</tr>
<tr>
<td>Lyndseey Arthur versus Broc Gendron</td>
<td>358</td>
</tr>
<tr>
<td>Relationship-Oriented Disputes II: Family Disputes</td>
<td>369</td>
</tr>
<tr>
<td>Robert Levine versus Evan Brody</td>
<td>369</td>
</tr>
<tr>
<td>Business and Stranger Relations</td>
<td>379</td>
</tr>
<tr>
<td>Relationships With Strangers I: Landlord and Tenant Disputes</td>
<td>379</td>
</tr>
<tr>
<td>Diane Dorr versus Richard Dykstra</td>
<td>380</td>
</tr>
<tr>
<td>Relationships With Strangers II: Customer Complaints and Contracts</td>
<td>385</td>
</tr>
<tr>
<td>Anne Fitzsommons and Jason Hippen versus Robert Burns and Ravioli House</td>
<td>386</td>
</tr>
</tbody>
</table>
PART V: DISCUSSION AND CONCLUSIONS ..........................................................393
Case Closed? ........................................................................................................393
Methodological Reflections ..................................................................................404
Legal Discourse and the Transformation of Disputes ...........................................409
Toward the Judgement Society ............................................................................414

REFERENCES ......................................................................................................421
Part I: Introduction

Setting the Scene

My friends think that I watch entirely too much TV, but perhaps it is simply one of the hazards of my occupation. Living the life of a graduate student who spends a great deal of time at home during the daytime hours is perhaps not that different from being a homemaker, shift worker, unemployed person or elderly shut-in—the audiences to which daytime television has traditionally been geared. For the person who finds him or herself homebound during these hours, the daytime television line-up can become an important part of their social world. Of course, having a great deal of work that needs to be done—papers to write, books to read, lectures to prepare—means that the television to a graduate student is not necessarily a replacement for meaningful social interaction, but rather a distraction from what really needs to be done. Thus, the daily ritual of avoiding television becomes a part of day-to-day life for the housebound graduate student. It is this situation that has perhaps led me down the path of the research that I present here.

As I have matured into an adult, the warm glow of the television screen has been my constant companion, providing me with a distraction from my life and the basis for understanding much of the world around me. This is in part why I believe that the present topic—reality-based courtroom television programming—is so important to examine.

Television is a powerful force in our day-to-day lives for a number of reasons. Perhaps the housebound individual is most susceptible to the lure of the television, but for many of us, television can be as much a part of our daily routine as brewing our
morning coffee or punching the clock at our place of work. Observers of popular culture (cf. Altheide and Snow 1979; Postman 1984) argue that while television may be put to various uses around the home – for example, as background noise while studying, or as an antitheft device while stepping out for the evening – it has become a central force in social life. Television has helped to shape our understanding of politics, crime, religion, sports, and, of particular importance here, law and the judicial system. Unlike other media forms like radio, television does not occupy a position in the background of our existence, but rather constitutes a conspicuous part of the foreground.

As Altheide and Snow (1979) point out, we often schedule our lives around the television, making a point to be home at certain times on certain evenings to watch our favorite programs. Series finales of programs such as Survivor, MASH and Cheers turned into cultural and media events, garnering extensive coverage by news programs and spawning costumed theme parties and gatherings to collectively witness ‘the end.’ Television commentators have waxed poetically about a generation of young adults growing up with the fictional characters of the NBC comedy Friends. Undeniably, the sit-com did have a tangible impact on legions of fans, even spawning a hairstyle trend based on the coiffure of the character “Rachael,” played by actress Jennifer Aniston. At a more individual level, some people may not be able to go to sleep without first watching their favorite late night talk show, and the evening news may be an important part of a daily routine. For many, the ‘turn to television’ marks a transition from work to leisure and may be one of the first things a person does upon returning home from work (Lembo 1997). Moreover, Lembo (1997) argues that the ritual of watching television is complex
and can be individual and social. Television viewing can take place simultaneously while we do other things unlike watching a film that demands our attention and takes place amidst strangers in a public setting. Conversely, television viewing can be a means of connecting viewers not only to the images and discourses projected from the small screen, but also to each other as we take part in the mutual experience of watching. According to Lembo, television has brought about a distinct ‘viewing culture’ (1997, p. 205).

In short, television is an important part of the social worlds of many North Americans. This is in part why I have embarked on ‘criminological’ research on the world of television. I argue that television is potentially more meaningful and powerful in the social construction of our perception of law and crime than the more obvious institutions of the criminal justice system. Few Canadians have been inside a real prison, but most have glimpsed the television holding cells of *Law and Order* or *NYPD Blue*. Television is an important “social construction of reality engine” (Surrette 1998, p. xxvi), and many of our impressions about the criminal justice system are shaped by it. Moreover, scholars are beginning to recognize that the ‘logic’ of television can shape the way major institutions in society operate (Altheide and Snow 1979; Doyle 2004). We need only recall the O.J. Simpson debacle of the 1990s to realize that the practice of law and criminal justice can be dramatically affected by television, and that by viewing

---

1 There are actually three manifestations of the program *Law & Order*. All three programs are set in New York City and focus on police and prosecutors. One can surmise from the title that the program presents an uncomplicated narrative of lawyers dealing in ‘law’ while police maintain social ‘order.’

2 *NYPD Blue* continues in the tradition of ‘gritty’ and ‘realistic’ police dramas set in America’s largest city. In addition to following the crime solving activities of police officers, we are also allowed a glimpse of their private lives as the officers deal with all the mundane concerns of ordinary people.
television, our own attitudes are, in turn, transformed. Police and public prosecutors are increasingly learning to use the media for their own purposes, while at the same time managing their mediated public image (Doyle 2004). Therefore, I believe it is important to understand how this magic box interfaces with our lives and shapes our understanding of the law and its place in our social world.

My focus here is the television courtroom. More specifically, I am interested in the TV courtroom that is presented on programs that claim to be 'real.' Since the early 1980s, viewers in the US and around the world have been told that they can look in on a real American courtroom in action, where ‘real’ disputes are brought before a ‘real’ judge and justice is delivered—between commercial breaks—usually in about half an hour. Programs that I term reality-based courtroom television are different from fictional dramas that prominently feature the legal system, like the classic Perry Mason or the Law & Order trilogy. What sets reality-based courtroom television programs apart from others is their emphatic claim that the situations depicted represent some raw reality and their use of ordinary people instead of actors. While Law & Order also claims to present stories that are realistic and “ripped from the headlines,” these stories are nevertheless fictionalized, scripted and reenacted by professional actors with the proviso that what we are about to see, while perhaps based on real events, is still after all fiction (Friedman 2002). In the same way that reality-based programs like COPS (discussed in detail below), Survivor\(^3\) and American Idol\(^4\) claim to present unscripted and ‘raw’ reality, so too

---

\(^3\) Survivor was the hit American reality TV program, based on an earlier Swedish prototype, that first aired in the summer of 2000 on the CBS network. The program featured ‘castaways’ marooned on a tropical island who had to survive by, among other things, eating rats and competing in various feats of strength, agility and teamwork. Key to the program’s drama was the weekly ritual where one contestant was voted out.
do the TV small claims courts of Judge Judy and People's Court. By watching these programs, viewers may believe that they are receiving advice about how to present their personal problems in a real court of law, which in turn may contribute to an increasingly litigious American society (Porsdam 1994). More fundamentally, however, I contend that these programs help to shape viewers’ everyday understandings of the law, justice system, courts and judging more generally because of their depiction as ‘real’ courts of law. American reality-based courtroom television programming has become an important way for a segment of the population to locate law in their everyday lives.

Reality-based courtroom television can be clearly viewed as part of that ‘social construction of reality’ engine that shapes popular sentiments about law and the operation of criminal justice. However, this in and of itself would hardly be a novel observation. While it is well worth stressing here the many ways that Judge Judy and People’s Court distort and shape our attitudes toward the operation of the legal system, this is not the full extent of the present analysis. Instead, in order to understand the power of reality-based courtroom television programming, we must look deeper and more broadly at the way these programs speak in not-so-subtle ways about what it means to be a political, social and legal subject. In forcefully constructing the nature of legal and moral disputes, these programs in turn help to construct the nature of citizenship. Citizenship, as we shall see in what follows, is conceived of as being the conflation of responsibility, traditional

off the island in a dramatic ritual where the television audience was privy to the voting strategies of the castaways. The winner of the program received a prize of one million dollars.

4 American Idol was an American reality television series that put a new spin on the concept of the talent search. Contestants from across the US performed before a panel of three ‘expert judges’ who in turn would mercilessly critique their (in)abilities as singers and performers. Simon Cowell, the nastiest and most sarcastic of the judges, became an audience favorite for his witty one-liner insults and callous way of treating the participants.
values and the ethic of self-help. Thus, reality-based courtroom television may be seen as a new leading edge of reality-based programming that stresses a form of neo-liberal citizenship (Dovey 2000).

Now We’re ‘Talking’

The aim of the present study is to map the contours of the messages and narratives about law, individual rights, morality, relationships, responsibility and the judicial system that are circulating through reality-based courtroom programs like Judge Judy and People’s Court. As such, the study focuses largely on discourse. In employing the term ‘discourse,’ I am taking a page from the work of John Conley and William O’Barr (1998), linguistic anthropologists who argue that discourse can be thought of in two ways, one linguistic and the other social. In the linguistic sense, they argue that discourse can be defined as simply “any chunk of speech or writing larger than a single utterance” (p. 6). In the context of the legal system, this first sense of discourse includes “courtroom testimony, closing arguments, lawyer-client interviews, arguments between disputants, mediation sessions and the like” (p. 7). Put more simply, this is the everyday ‘talk’ that goes on in legal settings. Therefore, one way to analyze how people understand law, individual rights, and morality in relationship to the legal system is to study the way they talk about it on courtroom television programs. Conley and O’Barr refer to this level of analysis as ‘microdiscursive analysis’ (p. 7).

According to Conley and O’Barr (1998), the second way that we can understand the term discourse is loosely in the tradition of Michel Foucault, and what they term
"macrodiscourse" (p. 7). Macrodiscourse consists of more than segments of speech or conversation, but is "the way that something gets talked about. Logically, the way that people talk about an issue is intimately related to the way that they think about it and ultimately act with respect to it. Discourse is thus a locus of power" (p. 7, emphasis added). At this broader, social level of analysis, we can understand discourse in the telemediated courtroom to be part of a larger system of framing legal and social issues in contemporary American society. The way in which personal problems and interpersonal conflicts are framed in this macrodiscursive sense is key to understanding the power of law in both the traditional legal system and the telemediated court of reality TV.

It is important to realize that Conley and O'Barr's (1998) micro and macro level discursive analyses are inextricably linked. The way things are talked about in certain settings (e.g. in legal settings) are impacted upon by, and in turn impact, the way things are thought about and acted upon more broadly within the legal system and society more generally. Thus, as any given dispute moves through the legal system, it is continually reshaped by the way it is talked about by legal actors which, in turn, is shaped by the way those legal actors understand the problem or issue. In a very real way, then, the use of language by legal professionals is a form of power that can alter the lives of ordinary people. 'Talk' is linked to wider understandings of law, legal disputes and the nature of certain classes of people in powerful ways.

The discursive power of law is highlighted in a thought provoking study by Sally Engel Merry (1990a; 1990b) on the use of courts by working class Americans in eastern
Massachusetts. Merry argues that a key power of the legal system is its ability to name and frame disputes, and discursively transform disputes that have been presented by the public in a legal discourse by reframing them in non-legal discourses. A legal dispute can only exist because it has been referred to as a legal problem and talked about as such in legal settings like courtrooms, court clerks’ offices, and mediation sessions. If the agents of the legal system are silent on a dispute, or refuse to discuss it in legal terms, then that particular interpersonal conflict ceases to exist as a problem of law. Merry found that lower class litigants often attempted to resolve conflicts by framing them as battles over broad legal entitlements, such as the right not to be disturbed in their home by unruly neighbors, or the right to be left alone by a former boyfriend. However, actors in the legal system—most often lower court judges—worked to disempower these litigants by reframing their conflicts as moral issues or relational issues discussed in a therapeutic discourse, rather than a legal discourse. Often, judges viewed the concerns and problems of the working classes as ‘garbage cases’ not worthy of the court’s time. Macro-level discursive constructions of certain classes of people, like the poor, helped to direct the way the power of the law was brought to bear on the problems of less powerful segments of society.

So, at the very time that working class Americans are looking to the law to secure their personal rights, they often find that the legal system can render their disputes ‘out of order’ in a court of law through the power of legal officials transmitted through discourse. Thus, Merry identified three broad ‘social’ discourses in which problems tend to be framed by legal professionals: legal, therapeutic and moral discourses. Of these
three discourses, moral discourse was most often employed to transform problems into non-legal issues. In Merry’s view, morality is a powerful discursive tool that can be used to strip working class citizens of what they believe to be their individual rights as legal subjects.

Of course, it would be a mistake to view discourse in the two senses presented above as a rigid dichotomy separating two distinctive sites of analysis. In fact, Conley and O’Barr (1998) insist that in order to understand the power of the law, we need to consider the way that macro level discourses manifest themselves in every day legal talk – the microdiscourse of the courtroom and the lawyer’s office. In essence, “it is only through talk, after all, that dominance can be expressed, reproduced, and challenged” (p. 8). It is therefore my aim to lay bare the exercise of power through an examination of social discourse (macro) and linguistic discourse (micro) as they play out in the television courtroom. Through the continuous working back and forth between what is said by litigants, judges and commentators and the overarching framework that this discourse is situated within, I hope to flesh out an understanding of the late twentieth century phenomenon of the reality-based courtroom television program.

A Brief Note on Terminology

In the pages that follow, I will use two terms that require some clarification upfront. In describing reality-based courtroom television it is useful to think about the way these programs articulate with and draw inspiration from currents within contemporary political ideology. Difficulty arises when we attempt to attach labels to these currents of
political and social thought. However, it is necessary to differentiate between them and draw a clear distinction about what I mean by each term.

Two terms that require immediate clarification are the related, yet sometimes contradictory, concepts of *neo-liberalism* and *neo-conservatism*. Both terms refer to ways of thinking about the economy and society that have risen to prominence since the 1980s, particularly in North America and Britain. Both terms indicate the reassertion of previously held ideas about the organization of economy and society, but the two terms are actually contradictory even though they have managed to gain ascendancy simultaneously. In order to untangle the meaning of these terms, I have found the work of David Garland (2001) to be particularly useful. According to Garland (2001), the political ideologies of Britain and the United States since the Reagan and Thatcher years have been marked by “profound antipathy” toward the economic and social arrangements that characterized the welfare state (p. 98). This antipathy took the form of the rise of neo-liberalism – “the re-assertion of market disciplines” and neo-conservatism – “the reassertion of moral disciplines” (Garland 2001, p. 98). Though these two terms signified different things, they were both a reaction against the welfare state. According to Garland (2001), while the watchwords of the welfare state were “economic control and social liberation,” the new watchwords of the late twentieth century political landscape became “economic freedom and social control” (p. 100).

Neo-liberalism aimed to reintroduce “market fundamentalism and an unquestioning faith in the value of competition, enterprise and incentives” (Garland 2001,
In this way, neo-liberalism was a reaction against Keynesian economics and the intervention of the state in market affairs. Thus, neo-liberal policies sought to privatize as much of the public sector as possible, deregulate the economy, eviscerate unions and assert the principles of free enterprise and consumer choice as a model for social relations more generally (Garland 2001). Thus, neo-liberalism refers to the reassertion of classic liberal economic principles and not the reassertion of liberal social values. We must be careful not to equate neo-liberalism with the ‘liberal’ politics of the welfare state.

According to Garland (2001), “neo-conservatism introduced into political culture a strikingly anti-modern concern for the themes of tradition, order, hierarchy, and authority” (p. 99, original emphasis). Neo-conservatism was a backlash against the social permissiveness of the 1960s and called for a return to traditional values that were associated with those on the religious right in the United States. Neo-conservative philosophy called for greater control of individual freedoms, increased individual responsibility and tighter social controls. Crime became increasing viewed as the actions of a few wicked people (cf. Wilson 1983) and a result of a lack of discipline that characterized the permissive era (Garland 2001, p. 102). Neo-conservatism should have been at odds with the hands off, laissez-faire ideology of neo-liberalism, which called for reduced state controls. However, Garland argues that the increasing calls for greater social control by neo-conservative governments, when translated into actual practice, tended to target the lower classes predominantly and not the middle and upper classes. Thus, the lower classes were differentially repressed by neo-conservative social controls while simultaneously disadvantaged by neo-liberal economic policies that eroded the
social safety net and called for individuals to take responsibility for the economic risks associated with the unfettered free market. In sum, according to Garland (2001) “the combined effect of ‘neo-liberal’ and ‘neo-conservative’ policies – of market discipline and moral discipline – has been to create a situation in which more and more controls are imposed on the poor, while fewer and fewer controls affect the market freedoms of the rest” (p. 197).

The terms ‘neo-conservatism’ and ‘neo-liberalism’ should therefore not be used interchangeably. However, it should be clear at this point that the two ideologies have tended to co-exist as fundamental aspects of the right-of-centre governments in North America and Britain since the 1980s. It is no surprise that reality-based courtroom television programming in this era has tended to reflect these two undercurrents to a large degree. In particular, I argue that Judge Judy adopts both philosophies in her address to litigants on her program and to the wider audience at home. Judy invokes traditional values and modes of behavior in a way that accords with the tenets of neo-conservatism. As well, Judy urges her litigants to adopt the responsibilized position of the neo-liberal citizen who must take responsibility for the watchful prevention of personal risks. Those who fail to take proper precautions deserve little sympathy and receive scant help from her court. Judy makes her decisions quickly and without being encumbered by the procedural rules of law that we are led to believe are the foundation of the real American courts. In this way, the court of Judy functions as a privatized forum for the settlement of disputes that some would argue is more efficient than the public sector model. I will use both terms to characterize the political ideology of Judge Judy just as Garland (2001) sees
both concepts as characterizing the reactionary politics of late modernity. In what follows, I will expand upon the concept of neo-liberalism as it has been used by those looking specifically at television.

**Self-Help, Responsibility and Reality TV**

I assert that in order to understand reality-based courtroom programs and their possible impact on our everyday understandings of law, justice and disputing we must contextualize these programs within broader social forces. In order to do so, it is useful to look at two sub-genres of reality-based television closely related to reality-based court television: reality-based crime programs and daytime tabloid (‘trash TV’) talk shows. Both of these programs emerged at a time in North American society when doubts about the justice system and the ability of the state to protect and care for its citizens were also surfacing (Cavender & Fishman 1998). Many who have written about the rise of reality-based programming – particularly shows that focus on the criminal justice system and those that promote the idea of therapy and self-help – use the term ‘neo-liberalism’ to describe the socio-political context in which the genre has flourished. In employing the term ‘neo-liberalism’ here, I am drawing significantly from the work of Laurie Ouellette (2004), who defines the concept as “a troubling worldview that promotes the “free” market as the best way to organize every dimension of social life” (p. 233). Drawing on Nikolas Rose’s Foucauldian analysis, Ouellette conceptualizes neo-liberalism as “a ‘changing network’ of complex power relations” that relies on various “strategies of government” which manifest “as various forms of ‘cultural training’ that govern indirectly in the name of ‘lifestyle maximization,’ ‘free choice,’ and ‘personal
responsibility” (p. 233). In this way, the regulation of personal behavior and conduct is not perceived to be the top-down exercise of power, but instead a product of the individual’s own free will and personal choice. Reality-based television can thus be seen as a “cultural technology operating outside ‘public powers’ that works to govern the ‘capacities, competencies and wills of subjects’ and in so doing, translate the goals of ‘authorities’ into the choices and commitments of individuals” (Rose 1996, cited in Ouellette 2004, p. 234). Other commentators point to the fact that reality programs focusing on front line emergency workers, like police and firefighters, provide reassurance to a citizenry that is confused and afraid that crime and disaster may be imminent and that government can do little to prevent it. Reality TV assures us of the power of the state in an era of globalization and neo-liberalism: “Within these economic circumstances we feel unprotected … the ability to sell our labour, is under permanent review… In these conditions it makes perfect sense for the focus of Reality TV to be on those agents of the state who are empowered to protect us from the impact of chaos in our lives” (Dovey 2000, p. 102). Thus, wider political, social and economic forces were at play when reality-based crime and emergency programs began to surface in the late 1980s.

However, the reality TV patrol officer on the inner city beat standing steadfastly between this impending chaos and the sanctity of the middle-class, suburban lifestyle serves to obfuscate the true nature of crime as well as to reassure citizens of the power of the state. According to Dovey (2000), “in its insistence upon accident and pathology at the expense of cause or context the Reality TV genre produces a chaotic model of society
in which emergency service workers are assigned key status in signifying the vestigial role of the state under globalisation" (p. 79). Reality crime programming reinforces the neo-liberal ideas of self-responsibility and individuality, and ignores any notion of history, or context or causal analysis (Dovey 2000, p. 95). The effect of presenting raw, close-up images of crime and police work without any discussion of background or structural factors is to cast criminal activity and deviancy as “pathologized, a disease or virus infecting particular individuals removed from any sense of context” (Dovey 2000, p. 95). This lack of any thoughtful discussion of crime and the resulting message that crime is random, inexplicable and out of control further draw the television viewer to reality-based crime TV for comfort and to view evidence that agents of the state are indeed doing something.

At the same time that we are told traditional configurations of communities, neighbourhoods and families are breaking down, reality television has increasingly become a refuge, providing not only entertainment, but also an arena for self-help, education and security through the illusion of empowerment. In addition to the reality crime programs featuring emergency workers in action, programs like America’s Most Wanted urge Americans (and Canadians) to “fight back” against crime by keeping their communities under constant surveillance for the criminals profiled each week on the hour-long TV program (Cavender 1998). However, programs like America’s Most Wanted equate empowerment with information, and “offer an appallingly limited vision of the ‘empowered subject.’ As envisioned here such a subject is the head of a local Neighbourhood watch scheme and is also an amateur paramedic and counselor constantly
alert to the many dangers of urban life" (Dovey 2000, p. 87). Empowerment, then, has been transformed to mean a concern with "personal liberation" and has become a part of the "language of neo-liberalism and therefore 'part of the work of governance'" (Dovey 2000, p. 87). This 'empowerment' turns around the notion of security from crime, disaster, accidents, and other risks while ignoring other types of empowering rights such as education, housing, healthcare, and social justice (Dovey 2000, pp. 87-88). This same illusion of empowerment is apparent in the other close cousin to reality-based courtroom television: Daytime 'trash' television talk shows, such as *Oprah* and *Jerry Springer*.

Trash TV talk shows are also rooted in the ideology of self-help and responsibility found in neo-liberal discourse of the late twentieth century. Some feminist scholars, and champions of the rights of the marginalized, argue that these programs, while not entirely unproblematic, do at least serve to provide a forum for the expression of views and lifestyles not normally accorded a place in the mainstream American media (Glynn 2000). Some feminists argue that the daytime talk show is an alternate public sphere, or a 'counter-public sphere':

> the shows not only promote conversation and debate but do away with the distance between the audience and stage. They do not depend on the power of expertise or bourgeois education. They elicit common sense and everyday experience as the mark of truth. They confound the distinction between public and private. The shows are about average women as citizens talking about and debating issues and experience (Shattuc 1997, cited in Dovey 2000, p. 114).

However, other analysts are more cautious about the 'counter-public sphere' thesis, arguing instead that while a space may be provided for the discussion of alternate viewpoints, lifestyles, sexualities, and so on, it all takes place within the normative and prescriptive discourses of heterosexual, monogamous, male-dominated ideas of family and community: "To the extent that contemporary television therapeutics draw on the
psychoanalytic tradition, and situate confession and therapeutic discourse within the traditional heterosexual relations and the nuclear family, they extend ongoing, familiar versions of gender and power" (White 1992, as cited in Dovey 2000, p. 116). Thus, the television self-help talk show may not empower as much as it is part of the exercise of traditional forms of power over women and other marginal groups.

Much of the discussion of trash TV talk shows draws on the work of Michel Foucault and his ideas around confession. Foucault saw the interplay between the power exerted over sexuality and the pleasure produced by delving into a person’s sexuality – and the pleasure of evading this power – embodied in a perpetual spiral of power and pleasure (Foucault 1990, p. 45). Nowhere is this spiral more in evidence than the confessional. While rooted in the traditions of the Catholic Church and the sacrament of penance, the confession has permeated the helping and ‘psy’ professions through early modern history to become what Foucault argues is “one of the main rituals we rely on for the production of truth” (p. 58). He notes:

The medical examination, the psychiatric investigation, the pedagogical report, and the family controls may have the over-all apparent objective of saying no to all wayward or unproductive sexualities, but the fact is that they function as mechanisms with a double impetus: pleasure and power. The pleasure that comes of exercising a power that questions, monitors, watches, spies, searches out, palpates, brings to light; and on the other hand, the pleasure that kindles at having to evade this power, flee from it, fool it, or travesty it (Foucault 1990, p. 45).

But while Foucault’s notion of the ‘confessional’ transpires in the closed, private space of the doctor’s office, or ‘booth’ free from the “democratizing possibilities of open speech,” now “we have confession as an open discourse, de-ritualised, one in which intimate speaking is validated as part of the quest for psychiatric health, as part of our ‘right’ to selfhood” (Dovey 2000, p. 107). Dovey reformulates the idea of the
confessional into one which takes place openly, in public, dispersed across multiple sites, and across many media and cultural types (p. 108). The confession is no longer heard only by the trained professional (priest, doctor, therapist, etc.), but now the mass TV audience is an interlocutor in the reformulated confessional. Dispersed audience members are now a part of the reformulated “perpetual spiral of power and pleasure.” So just as reality crime programming like America’s Most Wanted has the effect of “facilitating widespread surveillance” and “the deeper penetration of social control” (Cavender 1998, pp. 79-80), the vicarious pleasure-pain spiral of the ‘confessing nation’ now extends across the United States and around the world, anywhere that syndicated television reaches (Dovey 2000). I will return to, and expand upon, these ideas of neo-liberal strategies of governance, self-help and confession, and the widespread dispersal of surveillance in the discussion below. In the next section, however, I begin to problematize the notions of judging and judgement that are so central to reality-based courtroom television.

Judging the Judgers

The main discussion below centres on an in-depth, qualitative content analysis of two reality-based courtroom television programs – Judge Judy and People’s Court. Over 200 hours of programming were examined using the techniques of qualitative content analysis in order to compare these shows and analyze their differing approaches to judging and justice. At the core of this analysis is the concept of “judging.” As I began to examine reality-based courtroom television it became quickly apparent that there has been a shift in recent years not simply to the phenomenon of ‘reality’ as an entertainment
staple on television, but more generally to a focus on ‘judging’ as a spectacle and source of entertainment. I came to conclude that it is not so much reality that is the major source of appeal of reality based programs – and particularly reality-based courtroom TV – but it is the act of judging that is at the core of understanding the popularity of these programs. The fictionalized verbal jousting of lawyers and the action of police investigation are replaced in reality TV by the unmasked process of evaluating not just the evidence in a case, but the litigants themselves. However, the judging of reality TV presents a very individualistic model of justice instead of a more regimented and formulaic application of inflexible legal principles. Contestants in these legal spectacles are judged on the basis of whether or not they deserve a place in civil society. That is to say, each litigant’s claim to citizenship is what is really on the line. At the end of the day, the rules of the social contract are re-emphasized and violators humiliated before a gallery of TV spectators that spans the United States and indeed the globe.

If the phenomenon of judging is central to reality-based courtroom TV, why has it not been a central staple of fictional television that focuses on the criminal justice system? In the traditional police drama, we are seldom witness to the inner life of judges or others who might decide the fate of accused criminals. Even in serials that centre on law and lawyers, we are seldom invited into the judge’s chambers to watch – with bated breath – as judicial decision-makers agonize over a tricky case. One is hard pressed to even name more than a handful of television programs with a judge as a central, reoccurring character. Programs like Night Court⁵ or Judging Amy⁶ might come to mind.

⁵ Night Court (NBC 1984-1992)
yet can we say that judging is central to them? Does judging move the action along, or is it incidental to the personal lives of the judge characters? When a judge is shown in either a central role, or an ancillary role in fictional television, the act of judging is not dramatized or represented as a source of amusement for the home viewer. Judging, it would seem, is not captivating enough to be a source of fictional entertainment. So why is it so central to reality TV?

I argue that reality-based TV more generally – not just programs that take place in a courtroom – relies on judging as a core human process for the production of drama. It is this focus on the very human action of judging that marks a significant shift in popular entertainment. I also contend that the act of judging can only be seen as a form of entertainment when it is presented as reality. After all, the act of a person arriving at a particular judgement in and of itself is about as exciting as watching paint dry. However, when that activity is presented as being real, when there are real relationships on the line, and real consequences to the act of judging others, it becomes entertainment. I argue that transforming the act of judging into entertainment is accomplished in three key ways.

First, programs that feature judging encourage the audience to undertake a form of judgement themselves. In some cases, this is accomplished by actually having the audience judge the proceedings firsthand through phone polls or Internet voting.

---

6 Judging Amy (CBS 1999-present): The program follows a newly appointed young judge in Hartford, Connecticut as she readjusts to life in the small city she grew up in. According to Chris Jackson (1999) Judging Amy "is a show in search of wisdom rather than justice. The biggest burden on Amy's shoulders seems to be balancing professional duties with personal responsibilities" (Para. 8).
procedures. This is common in programs like American Idol\(^7\) or Star Search.\(^8\) This type of direct audience judging has been tried on at least one reality-based courtroom program (People's Court), but was eventually scrapped. More commonly, audiences may be given a more limited voice by, for example, regularly ‘checking in’ with the visitors’ gallery on the People's Court, where the everyday ‘(wo)man on the street’ is given a few seconds to comment on the proceedings. By allowing this small audience a limited voice, the wider audience of home viewers is encouraged to judge the proceedings as well, and compare their own analysis of the facts with that of the TV judge. This incitement to judge provides home audiences with the illusion that the act of judgement may in fact be open to all. According to Karno (2004): “the increasing bodies of spectators polled immediately outside the courtroom/television studio by television reporters in these shows evokes a heightened sense that the entire nation stands as jurists in these cases” (p. 275). Moreover, decisions by the professional or expert judges can be judged wrong and possibly overturned by home audiences, as was the case when ‘America’ voted for portly Ruben Studdard on American Idol, clearly against the wishes of ‘expert’ judge Simon Cowell. In this way, audiences of reality-based courtroom television programs “shift positions between judge, jury and litigants” and in the process “conceive of the American system of justice, and their relationships to it, anew” (Karno 2004, p. 265).

A second device that has transformed judging into an entertainment staple is the voyeurism implicit in the pleasure-pain spiral of Foucault’s vision of confession. Many

\(^7\) *American Idol* (Fox 2002) is a nation-wide talent search that features a panel of expert judges who determine which performer will advance to the final showdown. The audience is ultimately the judge of the winner, however. Telephone voting allows the home viewers to make the final call.

\(^8\) *Star Search* (CBS: 1983-1995, 2002-2004) is an older talent search program that features a combination of expert judges and audience participation.
reality programs purport to offer us a peek at ‘raw reality’ – something we would not ordinarily be privy to. Watching litigants battle over the sordid details of a failed romantic relationship, or engage in a tug of war over child custody gives viewers the sense that the private details of people’s lives are being put on trial for us to judge. In these cases, the judging that audiences are encouraged to engage in is the normative act of comparison; we may look at the actions of others and compare what we see with our own lives. In turn, we can feel confident in our own morality as we judge the morality of others to be lacking. In short, the voyeuristic judging of others is a device that facilitates the judging of ourselves against a backdrop of extreme cases of greed, lust, envy and the other deadly sins that are paraded before us on reality programs like Survivor, Temptation Island\textsuperscript{9} and Divorce Court.

Lastly, in reality-based programs that focus on the legal system, we are often invited to judge the efficacy of law itself. In People’s Court in particular, the viewer is often presented with moral dilemmas that seem to defy law’s ability to deliver ‘true’ or ‘natural’ justice. The audience is encouraged to judge the ability of law to resolve many forms of human conflict. Often, we learn that it is only by leaving the rigid requirements of the law behind that we are able to effect true justice or resolution of the conflicts that plague the litigants of the television courtroom. In such a way, reality-based courtroom

\textsuperscript{9}Temptation Island (Fox 2001): According to the Fox Television website, Temptation Island is “an unscripted dramatic series in which unmarried couples travel to an exotic locale to test and explore the strength of their relationships. Once at the location, the couples are introduced to eligible singles and then separated from their partners until the final day of their stay” (www.fox.com/temptation2). The program has been criticized because its main goal is to tempt married men and women into sexual rendezvous with strangers.
television involves the repeated judging of the legal system itself. In so doing, we are encouraged to conclude that the law does not reach far enough.

Sites of Analysis

In order to explicate the role of judging in reality-based courtroom TV, there are three sites of analysis for the present research. The first involves the primary judgers themselves – namely Judge Judith Sheindlin of *Judge Judy* and Judge Marilyn Milian of *People’s Court*. By examining the decision-making and the overall format of each show, I will demonstrate that these programs offer conflicting ideological messages about the law and of judging more generally. However, both programs rely upon and reaffirm judgement as the most powerful discourse for understanding and bringing order to human relations. *Judge Judy* presents us with a vision of the judge as a great charismatic lawgiver who appeals to extralegal, and perhaps supernatural sources (e.g. intuition) as a foundation for judgement. This particular vision of law is decidedly authoritarian and non-participatory. However, there are still fleeting spaces for resistance and an alternative reading of disputes, and the audience and litigants may take those limited opportunities to ‘judge for themselves.’ In contrast, on the face of things, the *People’s Court* would appear to be just that: a participatory-democratic vision of law and judging where the format seems designed to invite debate and to carry the process of judging well beyond the rigid confines of the courtroom. Law, it would seem, should belong in the hands of the people. In *People’s Court* the judge’s verdict, as I will demonstrate, is not always final. Judgement is often a collaborative process that frequently gives way to mediation and public shaming rituals in an effort to find true justice that eludes the
formal proceedings inside the courtroom. By mapping the contours of these two competing models of law and judging, I will demonstrate the continuum of judging as a tele-mediated spectacle.

The second site of analysis is at the level of discourse in both of the senses discussed above. Following the lead of linguistic anthropologists Conley and O'Barr (1990) and utilizing insights from Merry's (1990a, 1990b) analysis of the transformative power of discourse in American lower courts, I will examine the 'talk' of both litigants and judges. Conley and O'Barr's analysis of American small claims courts generally divides litigants into two types: rule-oriented and relationship-oriented. This dichotomy roughly corresponds to styles of speech we might characterize as 'strong' and 'weak.' Conley and O'Barr argue that it is the rule-oriented litigants (likely to be 'strong' speakers’) who are best able to persuade the court of their position. Relationship-oriented litigants, on the other hand, often come to court with unrealistic expectations of what the courts can do for them. They present their cases in terms of good and bad relationships. They tend to believe that they should be awarded damages because another party has violated the norms of 'good' relationships. They may also come to the court with 'hidden agendas,' such as seeking a settlement that punishes a wrongdoer beyond a simple monetary award, or looking for the court to repair or bring about final closure to a broken relationship. In sharp contrast to the rule-relationship continuum identified by Conley and O'Barr, I will demonstrate that the TV courtroom is much more suited to 'relational' litigants than it is to 'rule-oriented' litigants. While rule-oriented litigants are viewed most favorably by TV judges as well as their 'real world' counterparts, they do not
provide the same spectacle or entertainment value that ‘relationship-oriented’ litigants do. Moreover, when ‘rule-oriented’ litigants leave the courtroom, they may still be judged wrong or undeserving of their monetary award when it comes at the price of a friendship or interpersonal relationship. Thus, in contrast to Conley and O’Barr’s ethnography of “real” American small claims courts, in the TV small claims court the relationship-oriented litigant is judged — if only by the audience — as the true winner. Right relationships trump legal principles.

The third site, or focus of analysis, concerns the way reality-based courtroom TV is received by audiences and how it may provide a springboard for discussion about law, morality and interpersonal problems. In the final part of my analysis audience ‘reception’ of reality-based court TV will be roughly gauged using a purposive sample of Internet-based discussions from fan message boards. As I will demonstrate, this fan discussion illustrates the many different conceptions of reality that exist, and how fans negotiate multiple readings of the ‘realism’ of these programs. Moreover, the nature and efficacy of the law itself is debated in this virtual realm, as are proper modes of citizenship and the pronouncements of the expert reality TV judges. Nevertheless, while these Internet discussion boards can provide spaces to resist the framing of disputes in powerful ways by TV judges and the programs’ producers, they also act as fora for normalizing judgement. Thus, the ideals of neo-liberal citizenship expounded upon by the TV judges are often reaffirmed and rearticulated in the chat rooms populated by loyal fans. While alternative readings are possible, they are few and far between.
In the next section, the discussion will turn to more general definitions of ‘reality-based’ television and specifically, reality-based courtroom television. Reality-based courtroom television will be placed in the context of the wider shift toward reality TV, but I will demonstrate that it actually predates this more recent fascination with real conflicts as a source of entertainment. Moreover, I will demonstrate that the notion of ‘reality TV’ is not an unproblematic concept. Instead, I will argue that current trends in television that are trumpeted as being more ‘real’ than ever before are, ironically, moving further away from reality than earlier forms of TV entertainment. Though the term ‘reality TV’ is used to suggest a program or genre’s link to the everyday ‘real’ world, the term ‘reality TV’ is more accurately viewed as a tactic employed by the industry which masks the constructed nature of the programs incorporated under its rubric. Reality TV is perhaps the most unrealistic of all television genres.

Defining Reality

If you believe the hype on television these days, then it would seem that the American television industry is serving up a large dose of reality. Reality TV has become the hottest trend in primetime television at the dawn of the twenty-first century. In an editorial appearing in the television industry trade journal Broadcast & Cable, P. J. Bednarski (2001) made the bold prediction that the reality trend in television was on the verge of ending when he lamented the new low to which TV had sunk in the wake of the Fox series Temptation Island. However, at the time of writing (summer of 2004, three years since Bednarski’s prediction) the reality TV juggernaut continues forward on primetime television. In fact, in the very same publication almost two years to the date
later, the tone had changed dramatically. According to the journal: “reality TV shows no signs of slowing after four broadcast networks last week premiered six reality shows, all to smash ratings” (Albiniak 2003, p. 64). By the spring of 2004 Bednarski had changed his tune entirely, claiming that the genre of reality TV was poised to replace the sitcom, “a format that seems to be wandering aimlessly” (p. 14). Whether or not the trend toward reality TV is going to reach new heights of absurdity – as it likely will with new offerings on the way such as *Man vs. Beast*, *Married by America*¹¹ and *Bridezilla*¹² (see Albiniak 2003) – is not my primary concern. Rather, I’m interested to define the contours of this genre of television, if in fact distinct contours exist at all.

**Definitions of Reality TV:**

The problem to which I will now turn – elucidating the essence of ‘reality TV’ – is partly definitional and partly speculative. First, I will try to grapple with the idea of ‘reality’ in a telemediated realm. Without lapsing into philosophical debates about the nature of ‘reality,’ I will endeavor to lay bare the nature of the so-called ‘reality’ that resides within the reality TV genre. Specifically, I will be guided by the questions: “How real is reality TV?” and “Is reality TV actually more real than what we’ve seen before on television?” This is the definitional component of the discussion. The speculative component of my discussion will ponder the questions: “What are the possible consequences of blurring the line between reality and representations of reality for the

---

¹⁰ *Man vs. Beast* is a working title for a program that will pit humans against animals in contests of strength, speed and agility (Albiniak 2003)
¹¹ *Married by America* is yet another Fox reality series that plays on the theme of love and marriage. In this program the audience will play a key role in the process, choosing life mates for the participants of the program from among a number of possibilities selected by “relationship experts” (www.fox.com/mba).
¹² *Bridezilla* is a new Fox program that will chronicle real life brides-to-be as they prepare for their big days, and in the process get “totally out of control” (Albiniak 2003).
purposes of entertainment?” and “What are the implications of this new conception of reality for social control and popular understandings of citizenship, democracy and law?” I will turn first to questions of definition.

Identifying a good definition of ‘reality TV’ is problematic because the few definitions that can be culled from recent critical literature are frequently construed in terms of the characteristics of programming at the time when these definitions were produced. Such definitions attempt to define ‘reality TV” by looking to television programming itself, rather than identifying the key foundational qualities that all programs defined as ‘real’ share. Thus definitions from even a few years ago are wanting because they could not have anticipated the volume and variety of subjects that have since been the focus of reality TV programming. Keeping the limitations of such definitions in mind, it is still useful to examine these definitions and build upon them for the purpose of the present analysis.

According to a definition offered in the Museum of Broadcast Communications Encyclopedia of Television (1997), reality TV is a label used by the TV industry for programming that falls into one of four different types. First, this definition points out so-called tabloid television newsmagazine programs such a Hard Copy and Dateline NBC as being a distinct strand of reality television. This particular view of ‘tabloid television,’ it should be noted, is much narrower in scope than what other authors have suggested. Kooistra & Mahoney, Jr. (1999) group daytime talk shows, tabloid news magazines and reality crime programs all within the category ‘tabloid TV.’ However,
the view offered in the *Encyclopedia of Television* is that tabloid newsmagazines programs are distinct from other types of programming. The second type of program considered by this definition is what the *Encyclopedia* terms ‘video verité,’ which is typified by the Fox series *COPS*. Third, they name ‘recreated crime and rescue programs’ such as *America’s Most Wanted* and *Unsolved Mysteries* and fourth, they point out ‘family amateur video shows’ like *America’s Funniest Home Videos*\(^\text{13}\) as rounding out the programming that can be termed ‘reality TV.’ One problem with this typology, of course, is that it could not have anticipated the current turn to the bizarre and outrageous, such as some of the programming already named above. Into which of the four categories would *Joe Millionaire* or *Bridezilla* be placed? Also, this above typology excludes the daytime ‘trash’ talk show genre, as well as the daytime reality-based courtroom genre. Are these formats not based in reality to the same extent as *Hard Copy* and *America’s Funniest Home Videos*?

Despite the obvious limitations of the *Encyclopedia of Television*’s definition, it still offers some valuable insights into the key characteristics of what it defines as ‘reality television.’ First and foremost, the entry notes “one consistent characteristic which underscores each of these genres is a visible reference to, and dramatization of, ‘real’ events and occurrences” (Seaton 1997a, para. 1). Moreover, reality TV tends to utilize the conventions and styles of non-fictional formats like the news and documentary films.

---

\(^{13}\) A forerunner of the reality TV craze, “*America’s Funniest Home Videos*” first aired as a Thanksgiving special in 1989, and then as a regular ABC series in January of 1990. The program draws on earlier programs like “Candid Camera” and “TV Bloopers and Practical Jokes” as well as a Tokyo Broadcasting Company (TBC) program called “Fun with Ken and Kato Chan” which seems to have been the first program to urge viewers to submit funny home video clips (Moran 1997). The TBC original, as well as the ABC version can further be attributed to the proliferation of handheld video camcorders in both Japan and the United States (Friedman 2002).
Furthermore, reality TV programs are quite often scheduled in ‘prime access’ or ‘fringe’ slots immediately following or leading into news broadcasts, which further lends them a sense of reality (Seaton 1997), a fact that has not been lost on other writers examining reality policing programs (cf. Doyle 1998, 2004) and courtroom programs (cf. Porsdam 1994).

Yet another key insight from the Encyclopedia of Television’s entry on reality television is that many of these programs facilitate the delineation of moral and normative boundaries (Seaton 1997). Crime and deviance are portrayed as evil and foreign elements that are introduced into ‘normal’ and non-criminal neighbourhoods, households and families. This evil is then rooted out by the heroic efforts of the crime fighters chronicled on programs like COPS and America’s Most Wanted (Seaton 1997a; 1997b). Moreover, these programs situate the drama of crime and disorder far from more contextualized analyses of the mainstream news or documentary genres and focus instead on exploring the emotional dimensions of these tragedies or traumas (Seaton 1997a). Furthermore, the extraordinary tragedies explored on these programs are depicted in ways that set them in close proximity to the lives of ordinary viewers: “the adulterous affair on Inside Edition, the senseless mugging on COPS, or the hapless pratfall on America’s Funniest Home Videos could all possibly happen to the viewer” (Seaton 1997a, para. 5). A final feature that Seaton points out is that many ‘reality TV’ programs offer interactivity to viewers who are invited to take part in online or telephone polls, to send in a videotape of their own, or to help catch fugitives of justice.
According to Cavender and Fishman (1998), reality television began in the late 1980s, and is typified by ‘trash TV’ talk shows like Geraldo, programs that focus on the supernatural and paranormal like Unsolved Mysteries and programs like America’s Most Wanted that focus on crime (p. 3). According to these authors, reality television programming is difficult to conceive of in terms of traditional TV genres (e.g. news, situation comedies, talk shows, game shows, etc.) because reality TV programs “blur the line between news and entertainment; some even blur the line between fact and fiction” (Cavender & Fishman 1998, p. 3). However, as other commentators have noted, the singular defining feature that all reality programs share is that “they claim to present reality” (Cavender & Fishman 1998, p. 3). The reality crime programs upon which these authors focus their attention tend to resemble news magazine or documentaries more than talk shows or game shows, but they also have some features most commonly associated with fictional television: “they often air in prime time; some even show in reruns” (Cavender & Fishman 1998, p. 3). Ultimately, Cavender and Fishman present a very thorough discussion of television reality crime programs, yet fail to provide a good general definition of reality TV.

A more complex characterization of reality TV is offered by Jon Dovey (2000) when he notes that:

Reality TV is the perfect televisual form for the contemporary cultural moment. In its constant restatement of a melodramatic theatre of horror, in its insistence on the importance of private events discussed in public, in its use of fictional techniques applied to factual formats, Reality TV has become a new and, for the purposes of my argument, crucial component of the fabric of popular culture (p. 78).

Drawing on the work of Richard Kilborn (1994), Dovey offers several possible features that set reality apart from other genres:
a) recording 'on the wing' and frequently with the help of lightweight video equipment, of events in the lives of individuals and groups
b) the attempt to simulate such real-life events through various forms of dramatized reconstruction
c) the incorporation of this material in suitably edited form into an attractively packaged television programme which can be promoted on the strength of its reality credentials (p. 79).

Such a characterization of reality television underscores the genre's use of the tactics of documentary filmmaking, the use of reenactments of reality, and the promotional emphasis on the 'reality' of the material. Turning from the production side of reality TV and focusing more on the content, Dovey looks to the work of Hugh Dauncey (1996) who identifies the following features of reality TV: “1) everyday dramas of courage, 2) talking about feelings, 3) civic action” (p. 79) – by which he means helping to find missing persons, solving crimes, and so forth. Such features tend to point more toward the policing programs and the daytime TV talk shows rather than the more current offerings such as Temptation Island, The Osbournes14 or American Idol. While focusing most of his attention on reality television programs that feature ‘police and emergency service work’ or ‘studio talk-based confessional genres,’ Dovey does acknowledge that for some commentators, the genre can also include “the more bizarre and prurient spectrum of ‘human interest’ stories” (p. 80). These ‘human interest’ reality programs are more encompassing of the recent spate of reality programs that delve into the unusual and extraordinary.

It is clear that by focusing on particular types of reality-based programs – in this case crime and rescue-oriented series – the features identified will not necessarily be

___

14 The Osbournes is an MTV reality series that follows the day-to-day life of aging heavy metal icon Ozzy Osbourne and his family as they deal with the mundane aspects of their daily routine, such as taking out the trash, family vacations and occasionally more serious issues like Sharon Osbourne's battle with cancer.
inclusive of all reality TV programming. So while Dovey argues that reality TV frequently makes use of a magazine format, this is clearly not the case for all reality programs. Likewise, the reliance on narrative fictional styles may well characterize *America's Most Wanted*, but it is less clear that this is case for reality-based courtroom TV. In short, Dovey – as well as the others discussed above – define reality TV in narrow terms that may not be entirely helpful for the present study. What is particularly curious about this narrow focus is the fact the reality-based courtroom programs predate even *America's Most Wanted* and *COPS*, which are frequently identified as the root of the reality TV movement. Why this is the case is unclear. However, keeping this in mind I will now turn my attention back to the first two questions posed earlier about the nature of this telemediated reality and just how ‘real’ reality TV actually is.

**Reality and Television in Historical Perspective:**

As we have seen, in much of the literature that engages with the phenomenon of ‘reality TV,’ the focus has been on programs that centre on the criminal justice system. In fact, many authors point to the debut of *America's Most Wanted* in the late 1980s as the true beginning of the American reality TV craze. Others claim that the PBS documentary series *American Family*, which chronicled a year in the life of the Loud family of Santa Barbara, California, was the first true ‘reality’ television series (Kompare 2004). However, media pundits continue to debate the proper generic categorization of that particular program as documentary, reality, or something altogether different (cf. Murray 2004). Nevertheless, my concern here is to specifically tie the emergence of reality-based *courtroom* television into the reality TV trend, in particular, those programs
that focus on the criminal justice system. Bringing the focus back around to courtroom TV programs exposes a flaw in the thesis that reality TV focusing on the criminal justice system had its origins in *America's Most Wanted* in the late 1980s. In fact, reality-based courtroom TV has been around in a consistent format since 1981, the year *People's Court* debuted on ABC. Therefore, I am suggesting that if we are to fully appreciate the nexus between reality and its various representations on TV, and if we are to understand the place of the telemediated small claims court within this universe of hyperreality, we need to look back much further than the late 1980s. In fact, the very birth of the television industry is the most logical starting point for this endeavor.

James Friedman (2002) argues that there is an inextricable link between the notion of ‘reality’ and the medium of television. This link is due in large part to the fact that television is the only medium – with the exception of some high speed Internet applications – that is currently able to *realistically* present sounds and images as they happen (p. 2). Even high speed Internet technology is often unable to transmit crystal clear live images and sound in a way that is seamless and uninterrupted in the way that live television can. Thus, television presents viewers with a sense that they are looking through a window into the ‘real’ world. The sounds and images viewers are exposed to on television have the appearance of actually unfolding as they are watching. So, instead of being obviously out of step with their present time orientations, as is the case with film, and instead of presenting audiences with real time audio only, as is the case with

---

15 Hyperreality is defined as “the postmodern sense of the real that accounts for our loss of certainty in being able to distinguish clearly and hierarchically between reality and its representation and in being able to distinguish clearly and hierarchically between the modes of its representation” (Fiske 1994, p. 62, quoted in Doyle 1998, pp. 112-113). Put another way, reality-based television is ‘more real than real.’
radio, television has the attribute of appearing to be very real in terms of both audio and video. Even though much of what we see on TV is not actually occurring as we watch, as viewers we understand that the potential for real-time broadcasting does exist, and this adds to the reality of the experience. We are continually reminded of this potential to relay images and sounds in real time when our favorite programs are interrupted for breaking news or political speeches. Moreover, the clean, crisp and bright quality of videotaped images adds to this feeling of reality, which stands in contrast to the stylized, darker and softer images that are conveyed through the 35mm film format that is characteristic of mainstream American cinema. The use of a handheld camera produces a vérité or documentary style; a technique that has been exploited by many television programs, including the reality-based police program COPS (cf. Doyle 2003). Clearly the visual representation of images on video – the mainstay of television – has a large impact on what audiences perceive to be ‘real.’

Friedman (2002) provides a sketch of the history of live television, from its beginnings in Great Britain, Germany and the United States to the present. He notes that the early British and German approaches to television used prerecorded images instead of live transmissions. Though some commentators have claimed that Germany was the first country to broadcast live images when it used the new medium to transmit pictures from the 1936 Berlin Olympics, in fact, German television technology relied on images that were developed on conventional film and rushed out to broadcast as soon as possible (Freidman 2002, p. 3). However, live transmissions via the new television medium were preferred in the United States, and this was to become the early industry standard that
shaped the American TV networks that were soon to develop (Freidman 2002, p. 3). In the early days of television, live broadcasts followed the earlier formats established by radio, and had the added benefit of being much cheaper to produce than prerecorded fare (Freidman 2002, p. 3). So, from its earliest days in the US, television adopted a live format, broadcasting images and sounds as they occurred in real time directly into the living rooms of the nation. However, this was not done in an effort to present television as being a reflection of ‘reality’ or some representation of reality that was ‘more real’ than other media forms. Instead, it was largely a matter of economics and the dominance of established media styles and formats pioneered in the radio broadcast industry.

Through the 1950s and 1960s, however, the costs of live broadcasts began to increase, as did audience expectations. Simple variety shows that were well suited to the live television medium were giving way to other types of programs that bore a closer resemblance to the format established on the big screen. These new programs began to mimic the styles of Hollywood filmmaking instead of the old radio programming formats. However, it is important to note that this shift away from the reality of live broadcasts had little to do with any sort of consideration on the part of the industry for audiences’ hunger for shows that engaged with ‘reality’ as an entertainment form. Rather, wider structural conditions were largely the root of this move away from live programming: Friedman sums up this political-economic perspective: “It is clear that once live programming had exhausted its strategic potential, industry economics dictated that more profitable filmed (or taped) material dominate the airways” (2002, p. 4). Thus, television began its evolution away from reality and toward a look and feel that were
more scripted, polished and obviously fictional. After the disappearance of live fictional broadcasting, live television was reserved only for special events, like the academy awards, sports, emerging news broadcasts, presidential addresses, and so on (Friedman 2002, p. 4). In fact, “the news would continue to be the only regularly scheduled program to air near the industry’s most popular prime-time viewing hours” (Friedman 2002, p. 4).

Friedman’s (2002) key point is that the link between TV and reality is not new. The medium has, since its inception, been concerned with representing reality or various ‘realities.’ The capacity of the medium to render realistic looking images in real time is its strongest link to the claim of being ‘real.’ As such, television has been broadcasting realistic TV since its earliest days. If this notion of ‘reality’ is the core essence of reality TV, then it is clearly not a new phenomenon. With this in mind, then, we may ask what are some of the other features that might set ‘reality TV,’ as we now understand the term, apart from other forms of television programming?

One might argue that the participation of ordinary people in television programming is one of the unique features of the present crop of ‘reality-based’ TV programs that sets them apart from other ‘non-real’ genres and from earlier live television broadcasts. However, quiz programs and game shows have featured ordinary people competing for cash prizes since the very early days of American TV. One could, then, logically make the observation that most – though not all – of these game and quiz programs were featured in the daytime slots, and not during the all important primetime
hours (6 pm to 11 pm). One could then argue that the shift to ‘reality TV’ in the late twentieth century has placed ordinary people front and centre in primetime TV programming in a way that is more prominent than the quiz shows of years past. Again, this claim does not hold up to scrutiny. In the realm of primetime TV, there have in fact been numerous examples of programs dating back as far as the late 1940s that brought ordinary people to primetime audiences. *Candid Camera*, debuting on ABC TV in 1948, was perhaps the best early example of television-making that relied on real people and contrived situations for the production of entertainment with a social-psychological twist (McCarthy 2004). Moreover, in the late 1950s, primetime quiz show formats were in vogue on the major US networks16 (Murray and Ouellette 2004, p. 3), while in the early 1980s, ordinary people were called upon to perform extraordinary feats. *Real People* (NBC 1979-84) and *That’s Incredible* (ABC 1980-84) featured ordinary people—not actors—performing real stunts and exhibitions of odd or unusual characteristics and abilities well before programs like *American Idol* and *Fear Factor*. As well, *America’s Funniest Home Videos* utilized real video footage of ordinary people—actually shot by other ordinary people on personal camcorders—beginning in 1990, well before *Survivor* debuted in 2000 (Friedman 2002, p. 5). In short, it seems that ordinary people—knowingly and unknowingly—‘hamming it up’ in front of the television camera, in both daytime and primetime, has long been a part of American TV.

If the participation of ordinary people in primetime television is not a novel feature of the current trend toward ‘reality’ in television, then what sets the current

16 In the late 1990s, the primetime quiz show format was revived to smash ratings with the inauguration of ABC’s *Who Wants to be a Millionaire*, which was of course followed by several primetime clones on the competing networks.
‘reality’ craze apart from earlier television fads? Game shows and ‘freak shows’ like That’s Incredible featured ordinary people doing extraordinary things, like attempting to win $64,000 or twisting their body into strange contortions for the amusement of audiences. Similarly, America’s Funniest Home Videos featured extraordinary moments – usually involving someone being struck in the groin with a projectile – caught by ordinary folks on a camcorder (Seaton 1997b). So then, can we say that there has been a shift away from the unusual and toward the mundane activities of ordinary people? After all, isn’t the aim of ‘reality TV’ to capture a raw slice of reality?

I would argue that, in fact, the focus continues to be on the unusual or, increasingly, outright fabricated scenarios. While COPS claims to portray the day-to-day activities of ordinary patrol officers, hours upon hours of videotape are condensed into a half hour program showing only the most eventful aspects of the job (cf. Seagal 1993). COPS does not depict the more boring elements of police work that actually occupy the majority of the time in a police officer’s day. Likewise, reality-based programs like Survivor feature a completely fabricated scenario that couldn’t be further away from the mundane: being marooned on a tropical island. Even so, the program might have focused on the mundane activities involved in surviving from day to day. However, the program was actually edited into one hour segments that focused primarily on the overtly staged ‘immunity challenges’ and the all-important ‘tribal council’ sessions that culminated with the ejection of one contestant from the island after a vote by all the players. Thus, we were rarely if ever allowed to see the contestants eating their daily ration of rice or

17 I took this example from the ABC special That’s Incredible: The Reunion (June 12, 2003), which featured, among other things, a contortionist, a one armed boxer, and a man who could hammer nails into a block of wood with his bare hands.
sleeping, activities much more important to their survival than voting one another off in a
terse perversion of democracy.

What then sets the new generation of ‘reality TV’ apart from early forms of
television that were in one way or another ‘reality-based?’ According to Friedman
(2002), “what is new and fresh about these programs is not their allegiance to reality but
the marriage of reality conventions with dramatic structure” (Friedman 2002, p. 8). For
example, the program Survivor was not aired until one month after shooting had been
completed. Rather than watching events unfold to some unknown conclusion, through
focused editing, the episodes were built around – and constructed in such a way as to lead
toward – a known conclusion. Also, the contestants were chosen by producers
specifically in an effort to create conflict and tension. Instead of truly representing a
selection of ‘ordinary people,’ the participants on programs like Survivor and Big Brother
were hand-selected for a combination of personality and physical traits that might even
be deemed extraordinary (Friedman 2002). Thus, this newer generation of ‘reality’
programs incorporates aspects of a selective reality, in this case non-actors chosen not
because they are ‘representative’ of the general population, but because a psychological
test revealed that their personality traits would clash with others on the program. This
selective reality is then paired with devices such as editing, mood-setting music, and in
the case of Survivor at least, reenacted scenes utilizing professional stuntmen (see for
eexample Time Magazine, 26 June, 2000). What we are actually witnessing then is the
combination of reality and fiction in a program that is then packaged as being ‘real.’
Might we say then that what we are being sold is a new and improved version of reality?
Perhaps the cumulative effect of watching copious amounts of such a blend of fact and fiction may be to produce a state of confusion about just what ‘reality’ actually looks like.

Another feature of the late 20th century reality TV program may be derived from John Caldwell’s notion of “televisuality” – which he argues emerged in the 1980s and 1990s and marked a shift away from a style of broadcasting primarily based on word-centred rhetoric to a style that is “a more visually based mythology, framework, and aesthetic based on an extreme self-consciousness of style” (Caldwell 1995, cited in Friedman 2002, p. 10). Televisuality is marked by the use of “graphic overlays, replay/re-enactment, and manipulations of the screen” (Friedman 2002, p. 11). The notion of televisuality marks an increasing use of the visual aspects of the medium of television to drive home the point that what you are witnessing is realistic. For example, during the 1997 season premiere of the NBC series ER, the show was performed and broadcast live. Moreover, the live experience was enhanced by the use of handheld cameras that emphasized the ‘reality’ of the broadcast (Friedman 2002, p. 6). Also, dramas like Law and Order may utilize references to other reality programs, such as “mock news coverage” of the fictional events that are depicted in the program (Friedman 2002, p. 6). The self-referential nature of reality TV at the end of the millennium further serves to erase the boundaries between what is real and what is a representation.

Despite all the hype, reality TV is not a particularly new innovation. The irony is that there is very little that is particularly real about reality television, as we now understand the term. According to Friedman (2002), “what separates the spate of
contemporary reality-based television from its predecessors is not the form or content of these programs... but the open and explicit sale of television programming as a representation of reality” (p. 7). It is the idea that we are watching something that is real that is exciting for viewers, or at least that is what the TV industry seems to believe. Whatever the case, large audiences are watching what is termed ‘reality TV’ and it continues to be a “sizzling genre” according to media pundits (Ault 2001a, p. 24). The fact that reality TV is a lucrative endeavor for the TV industry is not terribly surprising, as this was a large motivating factor behind the early days of live TV (Friedman 2002).

Turning our attention back to the initial questions that were guiding this discussion of the idea of ‘reality’ in reality TV, we can at this point offer tentative and partial answers to the first two of these questions. To the first question, “How real is reality TV?” we can see from the foregoing discussion that the short answer would be ‘not very.’ However, reality TV programs are clearly characterized by several identifiable features. First of all, reality TV is possessed of an overriding concern to present itself as being real, even if the reality that is presented is constructed through conventional techniques of drama such as editing, narration, music and other cinematic devices. Second, reality television incorporates non-actors, who may be chosen not because they are in any way ‘ordinary,’ but because they possess certain unusual or highly desirable physical or mental attributes. The third feature of reality TV programs discussed thus far is that they tend to focus on unusual or extraordinary things. Examples of subjects featured on reality programs include such unusual events as being marooned

---

18 Jenna Morasca, the winner of Survivor: Amazon, was a swimsuit model who was chosen in part on the basis of a video that she submitted to the producers. The videotape featured the 21-year-old in a revealing bikini.
on a tropical island, being locked in a house with 11 other strangers, being shackled to strangers and eating all manner of vermin.\textsuperscript{19} Even some of the more conventional reality programs that focus on crime, like \textit{America’s Most Wanted}, tend to feature rare and unusual forms of violence, murder and deviance. Rather than depicting ‘typical’ crimes, they tend to feature atypical ones. Thus, a defining feature of reality TV clearly seems to be a focus on events and behaviors that are out of the ordinary.

The second question, “Is reality TV actually more real than what we’ve seen before on television?”, can also be answered relatively quickly with a simple “no.” In fact the hallmark of reality TV as it is currently conceived is that it is actually becoming less and less real. This is a result of some of the factors discussed above, such as the utilization of techniques of drama to make events more exciting for home viewers, the focus on events that are very unusual, the scripting of scenarios to be played out among the contestants, and the movement completely away from live broadcasts, which were characteristic of earlier American television. Moreover, reality TV at the end of the twentieth century and at the dawn of the twenty-first may be seen as a sort of televisual hybrid, incorporating carefully edited scenes of footage shot ‘live’ paired with fictional elements, reenactments, narration and formats that mimic the news. In short, reality TV is a slick product that seems to be far less real than anything we’ve seen in American television so far.

\textsuperscript{19} \textit{Fear Factor} in particular focuses on the consumption of various items calculated to turn the stomachs of contestants as well as home viewers. Items for consumption have included horse rectum, buffalo testicles, nightcrawlers, beef brains, sheep eyes and cockroaches. By comparison, participants on \textit{Survivor} have gotten off relatively easily only having to eat rats.
In order to answer the third and fourth questions posed above – “What are the possible consequences of blurring the line between reality and representations of reality for the purposes of entertainment?” and “What are the implications of this new conception of reality for social control and popular understandings of citizenship, democracy and law?” – I will now turn my attention to a discussion of theoretical work on reality-based police programming and so-called daytime “trash TV” talk shows.

Discussion of these questions will help set the scene for a theoretical framework within which I can situate reality-based courtroom television. I contend that the police programs and the daytime tabloid talk shows are close cousins to reality-based courtroom TV. Therefore, the insights of previous work in this area are a logical starting point for the present study.

**Law and Order, Social Control, and Normalization**

One of the overriding concerns of writers who have engaged with reality TV, and in particular reality-based crime TV, is with the implications of these programs for public conceptions of law and order, police practice, and the operation of the criminal justice system in the United States and around the world. Popular cultural representations of police, law and criminality are acknowledged by many researchers to be fundamental sources of social control that help legitimate the present political and criminal justice system and the inequalities that exist within them. In particular, reality TV, because it is presented as being ‘real’ in its depiction of police work and crime, can be a powerful force in legitimating prevailing attitudes about justice (Cavender and Fishman 1998, pp. 7-8). This section will explore the way that reality TV – including both crime-based
programs and 'trash TV talk shows' – legitimates and reinforces dominant ideas about crime, deviance, normality and justice. I will turn first to a discussion of the development of reality crime programming.

The idea of showing 'real' crimes on television – at least in a reenacted form – dates back to the Crime Stoppers series of the mid-1970s, which featured a plea to the general public to help local law enforcement officials solve crimes (Cavender and Fishman 1998, p. 8). Of course, Crime Stoppers continues today, still promising cash rewards for tips leading to arrests. However, this program paved the way for the development of the series America's Most Wanted in 1987, as well as European shows such as Crimewatch UK in Britain (Cavender and Fishman 1998, pp. 9-10), Opsporing Verzocht (translated loosely as 'request information on the whereabouts of...') in the Netherlands and Aktenzeichen XY...Ungelöst (Case XY... Unsolved) in Germany (Brants 1998, p. 175). Programs like America's Most Wanted, Crimewatch UK and Unsolved Mysteries follow a similar format to the Crime Stoppers series: crimes are reenacted and the public is asked to call their local law enforcement officials or the show itself with tips. Symbolically, such shows offer the public a chance to 'fight back' against crime (Cavender and Fishman 1998, p. 7).

While there seems to be a great deal of appeal for the general public in watching reenactments of crimes, a very different type of reality-based policing show has been equally popular with the American public. The show I'm referring to is the long-running
Fox television series COPS. Arguably, COPS portrays more mundane aspects of police work and focuses not on reenacting the most violent or disturbing of crimes but, rather, aims to show us a 'day in the life' of an urban cop in America. However, as mentioned above, there are serious questions about just how 'typical' the days we are shown during the half hour broadcast really are. Nevertheless, COPS has been one of the most popular of the genre since it first aired in 1989, and is seen by networks as a natural bridge between the 'reality' of the news and the fiction of primetime (Doyle 1998, p. 109).

There are a number of reasons why programs like COPS have enjoyed such popularity. Cavender and Fishman (1998) argue that these shows are the natural outgrowth of attitudes that have been more firmly turned toward the right in the US with respect to crime and criminals throughout the 1970s and 1980s, and particularly in the era of Ronald Reagan and George Bush Senior. This law and order mentality permeated dramatic representations of police on American television throughout those decades, and police were routinely shown breaking the law in order to produce 'justice' while seeming to be more concerned with enforcing order than with the law (p. 6). Thus, COPS continues to appeal to that same law and order mentality, favorably depicting police work as "the dangerous and heroic enterprise of crook-catching and the watchful prevention of crimes" (Hallet 1995, p. 233).

---

20 COPS has spawned a number of copycat programs in both the United States and in Canada. The Canadian program To Serve and Protect is currently in production in Western Canada. Though not as popular as COPS in overall ratings, To Serve and Protect offers cheap Canadian content to the domestic television industry.
Far from simply reflecting current popular public attitudes and opinions, there is clear evidence that these programs have adopted uncritically the perspective of law enforcement, often functioning as if they were a ‘branch’ or ‘extension’ of police agencies (Derosia 2002, p. 237). This, coupled with the fact that programs like *America’s Most Wanted* are presented in a format that mimics the news can mean that the general public viewing these pro-establishment representations of police work accept such depictions as ‘fact.’ According to Cavender and Fishman (1998), “reality crime programming eschews the watchdog role of the press—the notion that on behalf of civil society the press should keep an eye out for governmental abuse and incompetence. Instead of maintaining an independent and critical posture, reality crime programs invariably take a supportive role vis-à-vis law enforcement” (p. 11). This incestuous relationship between reality TV and the agencies of social control may be due in large part to simple necessity. In order to gain access to videotaped footage of real police work, producers of programs like *COPS* must allow the police full editorial control over the content of the programs that go to air (Doyle 1998). In much the same way that ‘crime beat’ reporters develop a symbiotic relationship with the police departments that they rely on as news sources (cf. Ericson, Baranek and Chan 1989), the producers of reality-based crime TV programming “cannot or will not exercise independent and critical judgement of law enforcement agencies” (Cavender and Fishman 1998, p. 11). In fact, programs like *America’s Most Wanted* see their role as being a part of the crime fighting enterprise. This complete and utter devotion to law enforcement has led *America’s Most Wanted* to be a favorite of American politicians, police departments and even former US President Bill Clinton (Derosia 2002, p.237). Indeed, when the program
was threatened with cancellation in 1996, a protest ensued, resulting in an avalanche of letters begging for the program's reinstatement. Letters were received from over 100,000 fans, 35 American Governors, 40 USCongressmen, and numerous state attorneys (Derosia 2002, p.237). Clearly, when a TV program enjoys such overwhelming support at the highest levels of government, one can safely conclude that its messages are at least congruent with official public policies, if not amounting to thinly-veiled, pro-government propaganda. Furthermore, in supporting the work of America’s Most Wanted legislators are unabashedly candid in admitting their own inability to deliver justice to the American people. In a written statement by Nevada Governor Bob Miller on behalf of the National Governor's Association, he pleaded with FOX not to cancel the series: “Strong legislation and committed law enforcement officials cannot stop crime alone. It takes programming such as America’s Most Wanted to involve the public and lead to arrests and convictions” (Shiflett 1997, as cited in Derosia 2002, p. 237). Reality-based crime programming is indeed a powerful mechanism of social control that facilitates and legitimates the power of the state over behaviors deemed criminal or deviant.

Critics of the powerful narratives that are spun on America’s Most Wanted point to a number of serious concerns. Chief among these is the particular brand of community that the program promotes: a community founded on fear and moral outrage against those deemed to be deviant or criminal. According to Derosia (2002), America’s Most Wanted helps to construct a perverted type of community, whereby middle class white Americans are urged to draw closer together through the watchful prevention of crime. In a process similar to that which Durkheim has identified, it is by singling out and punishing the
telemediated scapegoat – embodied by the fugitive from justice – that moral boundaries are constructed and reaffirmed. The community is therefore brought closer together through the symbolic act of ridding the social body of an outsider who threatens to disrupt the prevailing social order. Ultimately, this surveillance function of *America’s Most Wanted* promotes a climate of fear and legitimizes ‘snitching’ in a way that is reminiscent of cold war era East Germany (Derosia 2002). *America’s Most Wanted* equates the empowerment of the American citizenry with the panoptic function of keeping a close eye out for fugitives who disrupt the lives of innocent, presumably law-abiding viewers. The program acts as a lightening rod for the frustrations of an American public – and an increasingly global one as well – that feels crime is out of control and that governments are not able to stop it. The program may enable what one author regards as a “cathartic process; offering not only legal justice, but psychological resolution to victims of crime” (Seaton 1997b). But is this a misguided form of catharsis at the expense of the ‘truth’ about crime?

*America’s Most Wanted* is potentially dangerous in the way that it constructs the boundary between “criminal” and “non-criminal” and in the way that it provides implicit explanations for criminality. The program utilizes dramatic devices to deliver a powerful message to viewers on an emotional level, one that requires empathy and identification with the experiences of the people profiled on the program (Seaton 1997b). However, audiences are urged only to identify with the victims of crime. To identify with the alleged perpetrators of these acts, or even to raise questions about due process or alternative evidence that may cast the crime in a new light, is unthinkable (Derosia 2002).
The program's host, John Walsh, is himself the victim of a violent crime – the abduction and murder of his son in 1981 – and an advocate for missing and exploited children (Seaton 1997b). Speaking from such a position – often directly into the camera lens – Walsh offers no opportunity to debate the innocence or guilt of the fugitives profiled on his program, or to attempt to understand the context in which the crime may have been committed. Instead, using terms like 'criminal,' 'punk,' 'scumbag' and 'animal' all interchangeably, Walsh constructs the fugitive as an evil outsider who does not belong in our community, and who may not even be human at all (Derosia 2002).

Observers who are critical of *America's Most Wanted* paint a disturbing portrait of the way that program constructs crime and criminals, and the boundaries between good and evil (cf. Cavender 1998; Cavender and Bond-Maupin 1993; Derosia 2002; Donovan 1998). Audiences are encouraged to view the damage wrought by criminals on innocent victims and families. Considerable time is spent describing the backgrounds of victims so as to hammer home the point that those who have been touched by crime had lives with families, relationships, and a future full of promise. Conversely, those who perpetrate the crimes profiled on *America's Most Wanted* are viewed totally divorced from any sense of context, and apparently devoid of most any biographical details, save those of other crimes perpetrated on other innocent victims. On the one hand, in the world of *America's Most Wanted*, crime is seemingly random, and is explained in pathological terms, as something that springs only from the dark recesses of a warped and dangerous mind. On the other hand, the victims whose lives are ruined by crime could be anyone, and thus we should all be very afraid that the very same random acts of violence might be visited upon us at any time. The only way to take control over what seems
uncontrollable is to pick up the phone and provide the police with tips. Thus, *America’s Most Wanted* simultaneously supports the very conservative claim that the cause of crime is either individual pathology or rational choice, while encouraging audiences to adopt a particularly neo-liberal conception of citizenship: the citizen as self-reliant, suspicious of everyone, and willing to take an active part in the work of governance and the machinery of social control. In this way, governments and police forces may retain their legitimacy and claim that they are unable to stem the tide of criminality and deviance without an active and watchful citizenry.

The case of *COPS*, and its imitators, is somewhat different from *America’s Most Wanted*. While not directly appealing to citizens to call local police and take an active role in the business of ‘crook-catching,’ the program nevertheless encourages a similar conception of the crime problem and its potential solution. The images depicted on *COPS* are simultaneously familiar and alien to viewers (Rapping 2004). The streetscapes patrolled by the officers on this program could be pretty much anywhere in (sub)urban America. Endless strip malls, convenience stores, trailer parks and low-income housing complexes are instantaneously recognizable to viewers in this “metaphoric border territory” (Rapping 2004, p. 218). However, these blighted cityscapes are menacing because they could be anywhere. Just as *America’s Most Wanted* depicts violence and random acts visited upon innocent and unsuspecting victims, *COPS* depicts the urban crime problem in a similarly menacing way: ever present, in a neighbourhood near you, and always threatening to spill over its boundaries if left unchecked by police (Rapping 2004). Though the crime depicted on *COPS* may be mostly erratic and threatening primarily to the poor people who inhabit these everywhere-yet-nowhere landscapes of
(sub)urban blight, the danger to the middle class viewer may come more in the form of an assault on the senses. The ugliness of random and seemingly senseless acts of deviance displayed by the inhabitants of these not-so-far-away, yet alien places, seems always to be in danger of touching the lives of ‘innocent’ and unsuspecting suburban, middle class viewers. Fear among viewers stems not from the severity or magnitude of individual acts of violence in this netherworld, but rather from the proximity of so many small chaotic acts of violence so near to the borders of civil society (Rapping 2004, pp. 222-223).

However, viewers can be assured that the police are standing steadfastly in the path of the onslaught of aesthetic offenses seen weekly on COPS. COPS urges viewers to adopt the conservative perspective that there is no reasoning with criminals, or getting to the root causes of crime. Instead, the program encourages its audience to see the main task of law enforcement as management and containment, and the key role of citizens as merely viewers and witnesses to the spectacle of police work. In America’s Most Wanted and COPS, then, we see a similar conception of crime – random and chaotic – yet two contrasting conceptions of the citizen/viewer. On America’s Most Wanted, citizens must get involved in the battle against crime by viewing and acting, while in COPS, the viewer can merely watch, because only the police are empowered to act. Police officers in COPS proceed with routine efficiency and always seem to catch the fleeing criminal that they are after. In America’s Most Wanted, conversely, we see a law enforcement establishment that is unable to solve crimes without resorting to the general public for help. Perhaps in the world of COPS, we are seeing the last vestiges of the welfare state in the actions of the police as custodians of civil society, while in America’s Most Wanted, we are instead seeing the breakdown of the state’s ability to do anything against a
growing tide of ‘perverts,’ ‘animals’ and ‘degenerates.’ In COPS, the state still seems to work *despite* the breakdown of society all around the edges, while in *America’s Most Wanted*, the state can only work *through* the actions of individual citizens.

Just as *America’s Most Wanted* encourages viewers to identify with the victims of crime while simultaneously presenting the perpetrators as virtually non-human, *COPS* also directs the viewer to a preferred reading of the program that is centred on the law enforcement official, and not the alleged offenders or even victims. In fact, Doyle (1998) argues that it is integral to the success of the program that audiences are encouraged to identify with police officers while being distanced from the suspects. Identification with the police officer’s point of view is accomplished through four mechanisms:

First, Doyle (1998) points out that police and suspects are conceptualized quite differently. Audiences are given the police officers’ names, ranks and other information, while civilians are left nameless (p. 100). Moreover, viewers are often shown or told about police officers’ private lives and families, while suspects are “stripped of similar human background” (Doyle 1998, p. 100). The blurring of suspects’ faces, in certain instances, also serves to depersonalize them (Doyle 1998, p. 101). The second way audiences are encouraged to identify with police is through the use of camerawork that simulates a police officer’s point of view (Doyle 1998, p. 101). Thus, the public is encouraged to ‘ride along’ with law enforcement officials. The effect of the ‘police-eye-view’ camera work, according to Doyle, is to represent not some kind of objective ‘reality’, but ‘reality’ from a specific point of view. Third, the program encourages officers to “describe the sensations and satisfactions of their work, encouraging the
viewer to share them” (p. 101). The fourth mechanism used to promote identification on COPS is related to the notion of voyeurism. According to Doyle (1998), COPS can give the viewer the idea that he or she is looking in on another person’s behavior against the wishes of that person. Thus, in this way the “voyeurism of ‘COPS’ is intertwined with its authoritarian pleasures” (p. 101).

The foregoing points to a very narrow view of crime and criminality, coupled with a pro-law enforcement perspective in both COPS and America’s Most Wanted. However, these mixed messages are filtered through the differently coloured lenses of both shows. In both programs, we are very forcefully led to believe that crime is an individual problem. However, in COPS it is very clearly demonstrated that there are governmental specialists who have the ability to detect and apprehend those who are a danger to society. In this way, COPS conforms to and offers support for what Nicole Rafter (2000) identifies as a pervasive ideology in popular American crime films. Rafter points out four key ideological functions of these films: 1) providing assurance that crime can be explained and 2) that there are experts who can detect and solve crime; 3) shaping the nature and extent of the ‘crime problem’ in ways that are distorted and skewed toward individual and pathological explanations of deviance; and 4) guiding our emotional responses to crime (p. 63). COPS cogently persuades us that there are experts in crime control who are at the ready.

However, at first blush it would seem that America’s Most Wanted only provides partial support for this ideology of crime control identified in other popular cultural representations of the American criminal justice system. True, the program lends support
to the notion that crime is individually constituted, spiraling out of control and can be explained by a battery of police and forensic experts as emanating from the disturbed minds of those who commit such offenses against the social order. However, America's Most Wanted is an uneasy fit with the potent ideological message that agents of the criminal justice system can control crime. It would seem in fact that quite the opposite is what many viewers might be tempted to believe after watching a few episodes of the program. How can it be that law enforcement could launch an appeal to the public for help with escaped fugitives week after week without that public becoming uneasy about the ability of authorities to control the crime problem that is simultaneously cast as raging out of control? The answer may lie with Dovey's (2000) notion of the neo-liberal version of citizenship promoted on such programs. The police may not be fully able to realize their potential as watchful guardians over the public. In fact, citizens are drawn into this enterprise as a matter of necessity. However, the public's role is highly circumscribed by the parameters of this new version of citizenship. The American public, constituted as a TV audience, is only able to act in one way: by calling the authorities. In this way, the viewing public is hyper-sensitized to the problem of crime by watching week after week as violence and senseless acts of destruction are paraded on America's Most Wanted while, simultaneously, viewers are made to depend more and more on their local law enforcement to protect them from the dangerous strangers who may be living and working among them. The neo-liberal citizen is thus constructed as ever vigilant, but always reliant upon the intervention of police when a threat is perceived.

The ideological linkages between reality-based crime TV and the state crime control enterprise may be further drawn out by focusing our attention on the way crime
and race become entwined within the neo-conservative ‘law-and-order’ discourses that have circulated within these programs since their inception in the late 1980s. On *America’s Most Wanted* criminality is explained in a tautological fashion by reference to the perpetrators’ own guilt; “crime is ‘explained’ as the irrational violence of dangerous individuals and, therefore, as something which can only be responded to and not anticipated or prevented (Williams 1993, as cited in Deosia 2002, p. 240). Echoing the ‘theories’ of the conservative right, crime is to be understood as simply the work of a few ‘wicked’ people, whose behavior cannot be understood or explained by reference to social, economic or other contextual ‘background’ factors (cf. Wilson 1975). The only possible solution to crime envisaged in this light is to react with tougher punitive measures, and to give law enforcement the tools it needs to bring evildoers to justice (Derosia 2002). The theme of law enforcement officials being ‘hamstrung’ by liberal laws that only benefit criminals is a reoccurring theme on *America’s Most Wanted*, as is the familiar story of criminals out on parole or bail being given the opportunity to flee from a justice system that is too soft (Derosia 2002). According to one author, it may be no coincidence that *America’s Most Wanted* debuted almost a year to the day after George Bush Senior’s election campaign ran the infamous Willie Horton\(^2\) ads to great success (Derosia 2002).

The Willie Horton incident is a convenient segue to a second important way that *America’s Most Wanted* – and indeed the other reality-based crime programs –

\(^2\) Willie Horton was a convicted criminal in Massachusetts who was used by the Bush Sr. campaign to claim that rival presidential candidate Governor Dukakis presided over a ‘revolving door’ prison system that allowed dangerous people out on weekend passes to commit more crimes. This obviously plays on the popular sentiment that the justice system is not tough enough and ought to be tougher. The scenario also plays on popular fears about dangerous African-American men (Derosia 2002).
misrepresent crime and criminality and feed into this law-and-order ideology around victims and criminals. Race has been an important preoccupation for a number of communications researchers investigating television more generally, and the trend continues for reality-based crime programming. Several studies have engaged with the depiction of race on programs like COPS and America's Most Wanted (cf. Kooistra, Mahoney & Westervelt 1998; Oliver & Armstrong 1998; Oliver 1994). Primarily through quantitative content analyses these studies have demonstrated the various ways in which race is misrepresented on reality-based crime programs. There is certainly no need to inventory all of their findings. However, it is useful to go over some of the main features of this misrepresentation in order to build on the discussion above vis-à-vis the construction of popular – or common sense – understandings of crime formed through the consumption of mass media products.

Many of the studies hinge upon comparing the (mis)representation of crime on reality crime programs against some presumed benchmark of ‘real’ criminality, namely FBI statistics or the Uniform Crime Reports (UCR). Obviously, official crime statistics are not an unproblematic source of ‘truth’ about crime, and their deficiencies have been well documented elsewhere (cf. Palys 1997). Keeping in mind that many crimes may not be counted in official statistics for a variety of reasons, they still provide researchers with a reliable record of the actual crime reporting behavior of law enforcement agencies. If this is the case, then the way that American police agencies report crime is not congruent with the way that crime is depicted on television more generally and reality crime programming specifically. For example, according to Oliver’s (1994) research, among the African-American and white criminal suspects portrayed on a selection of five reality
crime programs, 63.9% were white and 36.1% were African-American (p. 185). In contrast, of African-American and white police officers depicted 90.7% were white and 9.3% were African-American (Oliver 1994, p. 185). According to Oliver (1994), however, this is a misrepresentation, as FBI figures show that whites actually make up 70% and African-Americans 30% of all whites and African-Americans arrested, while government figures show that of all African-American and white police officers in the US 83% are white and 17% African-American (p. 186). While the differences between ‘fact’ and ‘fiction’ are not enormous, they do suggest that these programs tend to show crime as being more strongly associated with racial minorities than it actually is. Given the propensity of police officers to concentrate on poor, ethnic and racial minority neighbourhoods, it is likely that the number of arrests of African-Americans shown in the FBI reports is exaggerated as well. At the same time, while police do tend to be overwhelmingly white in the United States, they are depicted as being so more often on these programs. The message these programs are sending about the dividing line between criminals in non-criminals is clear: criminals are likely to be African-Americans and non-criminals white.

In their discussion of the depiction of race on COPS, Kooistra et al (1998) highlight another dimension of the construction of race and crime on reality-based TV programming. Based on a quantitative content analysis of 42 episodes of COPS, their observations echo those of Oliver (1994) when they note that non-whites are overrepresented in the role of criminal suspects and whites are overrepresented in their role as police officers (Kooistra et al. 1998, p. 148-149). As they put it: “'Cops' presents crime as a drama in which white police officers do battle against non-white criminals”
(Kooistra et al. 1998, p. 149). In addition to this, however, the authors note that the role of the ‘victim’ when known is ‘white’ more than half the time (p. 149). Furthermore, in their sample, the authors found that whites were shown victimizing other white people only while African-Americans, on the other hand, were shown committing crimes against whites 25% of the time (p. 151). Thus, when crime was portrayed as being interracial in nature, it was always African-Americans who were the perpetrators and whites were always the victims. Couple this with the fact that African-Americans are overrepresented in both official crime reports and on COPS as being the perpetrators of violent crime (Kooistra et al. 1998, p. 151), and it becomes evident that the seeds of white fear of African-American crime are being sown to the point where the term ‘black criminal’ may seem to some whites to be redundant.

In addition to racial misrepresentation of crime, there are other problems with the way crime is depicted on reality TV that have been revealed through these quantitative content analyses. Reality-based crime programs exaggerate the extent to which police are able to clear crimes by arrest and the frequency of violent crimes more generally (Oliver 1994; Kooistra et al. 1998). Of course, it is difficult to assess the degree to which these misrepresentations of crime and police affect audiences. There has been considerable debate about the extent to which media can affect a person’s fear of crime or attitudes towards criminals. However, according to Oliver and Armstrong (1995), viewers of reality-based crime programs tended to be those who “evidenced higher levels of authoritarianism, reported greater punitiveness about crime and reported higher levels of racial prejudice” (p. 565). According to Seaton (1997a) the audience for reality-based crime programs tends to be predominantly male aged 18 to 49. Whether or not reality
TV is instilling racist attitudes and pro-police sympathies in viewers, whether those tendencies are merely being reinforced or cultivated, or both, is not clear. What is clear, however, is that reality-based crime TV’s claim to the term ‘reality’ is tenuous at best, though viewers do tend to believe that what they are watching is more realistic than conventional police dramas (Oliver 1994). According to Kooistra et al. (1998) non-fictional programs are more likely to cultivate fear in viewers than non-fictional programs, so therefore, the perception of reality-based programs as real by viewers is troublesome.

In addition to the cultivation of a generalized fear of crime in audiences, some commentators worry about the general messages about surveillance and social control that are conveyed through reality crime programming. Building upon Foucault’s ideas of surveillance and power, some researchers fear that these programs extend the panoptic ‘gaze’ deeper and more widely into the social body through the power of television. Pamela Donovan (1998) argues that these shows are characterized by “a wedding of new frontiers both for surveillance and spectacle, which is offered as a means of public address toward crime” (p. 118). Foucauldian analyses of reality-based police programming argue that these shows exploit the technology of surveillance to cast a panoptic gaze over greater numbers of people. With over sixteen million viewers, America’s Most Wanted can definitely assist police officers in being ‘everywhere’ at once (Donovan 1998, p. 120). Criminals are sent the ‘Orwellian’ message that you can run but you can’t hide from the viewers of these shows who act as a “panoptic citizenry” (Cavender 1998, p. 92). Reality TV, then, has the potential to further extend and widely disperse social control in the form of increased opportunities for surveillance and by
presenting audiences with normalizing oppositions such evil criminal vs. innocent victim, insider vs. outsider and African-American violence vs. white vulnerability. Audiences are therefore encouraged to choose the right side of these dualisms by doing the right thing and picking up the phone to call local law enforcement.

In this section, I have highlighted the way that American reality-based crime programs engage with the question of crime and its control. First, I outlined the historical development of these programs both on American television and internationally. Second, I highlighted the differing ways that COPS and America's Most Wanted interact with and support a pervasive ideology found in popular cultural representations of the criminal justice system discussed by Rafter (2000) in her work on American crime films. I also discussed how race is depicted on these programs by looking at some primarily quantitative work in this area. These points were then placed within a general discussion of the potential for reality-based crime TV to effect changes in the way we understand the respond to crime. In particular, the critical analyses highlighted above argued that reality crime TV promotes wider and deeper penetration of surveillance and social control. In the next section, I will discuss the other close cousin to American reality-based courtroom TV: the daytime, tabloid talk show format.

All Talk and No Action: Daytime ‘Trash TV’ Talk Shows

According to Jon Dovey (2000) the United States has become a confessing nation. Daytime TV talk shows present ordinary people with the opportunity to take part in a ritual of self help, therapy and moral education embodied in the televised confessional. There is, however, considerable debate among scholars about the potential for these
programs to act as spaces of resistance or oppression for traditionally marginalized groups like women, gays and lesbians, and those with unconventional sexual practices – the groups most likely to appear on these programs as topics of discussion. To what extent do these programs act as a modern day incarnation of the confessional that Foucault (1990) spoke about in *History of Sexuality*? Are confessors subjected to the exercise of power by priests, doctors, psychiatrists, teachers and so on—who in the process of seeking ‘the truth’ help to define normal conduct for ordinary people? Or, do these talk shows provide a ‘counter-public sphere’ for the powerless or marginal in society? Or is the TV talk show characterized by both the power of normalizing discourse and the potentially emancipatory effects of a counter-public sphere of discourse? This section will explore some of these ideas, and argue that the telemediated ‘confessional’ is a model that can help us to understand reality-based courtroom television.

According to Mimi White (2002) the proliferation of modern technologies of broadcasting and mass communications are “multiplying the opportunities and outlets for confessional and therapeutic relations” (p. 313). Hand in hand with the rapid increase in the number of venues and methods of confession is a new sense of “social subjectivity” for the viewers of the television therapy machine. In the view of White, this transformation of individual subjectivity is accompanied by a transformation in “conventions of social decorum” and “conventional distinctions between public and private spheres” (p. 314). What results is a fragmented social subjectivity that is constructed – and indeed networked – through the multiple apparatuses of modern
communication and broadcast. For example, in typical confessional programs, individuals may appear as guests who confess to some unusual or problematic mode of behavior. In addition, viewers in the studio audience may react to these confessions, empathize or relate a similar story, thus engaging in confession themselves. Furthermore, home viewers can sit at home watching as voyeurs, or interlocutors to the confession, either judging, empathizing, or deriving pleasure from the perpetual pleasure-power spiral of the telemmediated confessional (Foucault 1990, p. 45). But, the role for home viewers may not end there. On many confessional programs, home viewers are invited to call or e-mail and express an opinion or relate a story of their own. Thus, the telephone or home computer becomes an apparatus allowing the wider penetration of confession, and potentially the transformation of viewers from interlocutor to confessor. Add to this the evolving technology of live web chat and, of course, traditional letters and faxes and it becomes apparent that the confession is increasingly a networked phenomenon. This may be further evidence of “the wide dispersion of devices that were invented for speaking about [sex], for listening, recording, transcribing and redistributing what it said about it” (Foucault 1990, p. 34).

A possible optimistic reading of the televisual confessional reveals the possibility for decentering traditional professional discourses. Using the example of the popular 1980s television program Good Sex! With Dr. Ruth Westheimer, White (2002) argues that the professional sex therapist’s power is mitigated by the structural and institutional demands of commercial television. For example, Westheimer’s advice to callers must be of necessity short in order to fit between commercial breaks. As well, the appearance of
celebrity guests on the program who are asked to give their opinion on sexual matters serves to blur the distinction between authority stemming from professional credentials and the authority of the Hollywood celebrity. In these ways, White argues that Westheimer’s position as the ‘expert’ on sexual matters is undermined and displaced in favor of others. In addition, audience members can choose whether or not they wish to take Westheimer’s advice. Instead, viewers may choose the advice of a celebrity or indeed that of another viewer calling from home. Furthermore, Westheimer would often be forced to suggest that callers consult other professionals for their problems, as the time limits of the program did not allow her to do ‘real’ therapy on the air. In this way, the professional discourse of Westheimer the sex therapist is reduced and undermined and, in this way, White (2002) argues that the television confessional may serve to democratize the power of the confession, or at the very least provide alternate viewpoints to those of the expert.

Shattuc (1997) provides the most comprehensive analysis of the tabloid TV talk show format. She argues that trash TV talk shows share an intellectual history with the tabloid or “yellow” press of the late nineteenth and early twentieth centuries. The tabloid press developed in the United States as a cheap medium for the largely uneducated masses – many of whom were immigrants and semi-literate – and the focus was on stories that resonated with the political and social interests of this group. Stories were sensational, and appealed to readers on an emotional level. Topics that were a staple of the tabloid press are found in abundance on the modern day tabloid TV talk show: Sex,
violence, and the struggles of the little 'guy' against the big goliaths of government or corporate American excess.

Shattuc (1997) provides a definition of the “issue oriented daytime talk show” (p. 3) in order to distinguish it from other forms of talk TV. According to Shattuc, there are five elements that make up this genre of television. First, the content of the program “derives from social problems or personal matters that have a social currency such as rape, drug use and sex change” (p. 3). The second characteristic is the presence of a live audience that takes an active participatory role in the program. Additionally, the role of the audience is dual, and can shift throughout the program in a way that is reminiscent of the game show, whereby audience members might begin by watching passively but can be suddenly thrust into the role of participant when they are told by the announcer to “come on down” (p. 6). In much the same way, there is a blurring of the line between audience and performance on tabloid talk shows as spectators directly question guests and relate their own stories for the camera. Third, Shattuc argues that the programs are “structured around the moral authority and educated knowledge of a host and an expert, who mediate between guests and audience” (p. 3). The fourth element of these programs is the fact that they are designed for a primarily female audience. Lastly, daytime, issue oriented talk shows are usually one hour in length and produced by non-network syndicators and then sold to network affiliated stations (p. 8). Much like the tabloid press, daytime talk shows focus less on the news and more on human-interest stories. Moreover, the programs normally explore issues where there is some sort of broad-based cultural conflict with relatively well-defined opposing sides that an audience can relate
to. As well, programs often explore stories where a cultural taboo has been broken, such as infidelity, murder, non-procreative sex, and so on (p. 4).

From the above, it is clear that the daytime, tabloid TV talk show is very much the modern day equivalent to the tabloid press of years past. One striking difference, however, is the focus on women as both consumers and subjects of the program. To what extent does this assumed gendered audience relate to the present discussion of reality-based courtroom television? It would be difficult to disregard the many similarities between tabloid talk shows that air during the daytime hours and courtroom programs that are broadcast at the same time. It is clear that both programs appeal to a predominantly female audience. Tabloid talk show hosts are often female, as are the 'judges' presiding over reality-based TV courtrooms. Both types of programming are syndicated and fill network 'fringe time' between soap operas and the evening news. Trash talk shows and courtroom programming both pulsate with human drama that is sensationalized in ways that evoke the splashy headlines of the tabloid press. Subjects for discussion on both program types are replete with instances of broken social taboos. On daytime TV talk shows, topics of discussion focus on sexuality, infidelity, and crime. On reality-based courtroom programming, cases often involve marital or relationship breakdown, neighbours in conflict and the breaking of laws and contracts. On both program types, conflicts or issues are presented in a morally dichotomized fashion. The TV court casts problems as battles of good versus evil, and sets proper relationships against improper social relations. Examples of the emotionally charged and dichotomized way cases are summed up by court TV programs include: “He’s accused of
being a default daddy” (People’s Court May 3, 2002), “She’s accused of taking advantage” (People’s Court June 13, 2002) and “Can Judy rescue this broken family?” (Judge Judy, July 23, 2002). On the daytime talk show, issues for discussion are placed in those same morally dichotomous terms. For example, topics for discussion include: “When mothers sell babies for drugs,” “Ministers who seduce ladies” and “Broken Engagements” (Shattuc 1997, p. 4). Furthermore, while the hosts of daytime, issue-oriented talk shows generally speak from a position of moral or sometimes professional authority over their audiences – for example the host of Dr. Phil holds a Ph.D. in psychology – and act to reinforce normative modes of behavior and decorum, so too does the television judge claim a moral, professional and legal authority over litigants and home viewers. In this way, the judge – much like the TV talk show relationship or fashion expert – professes a specialized knowledge over ordinary viewers’ lives. This position of power allows for a daily ritual of the reinforcement, reaffirmation and extension of political, social and moral norms to an audience primarily of women, the unemployed, ethnic and racial minorities and the socially marginal who are most likely to be viewers of daytime television. Thus, it is impossible to proceed with an analysis of the content of reality-based courtroom TV without an acute awareness of the way gender and power articulate through these broadcasts. Tabloid talk shows are clearly close cousins of the daytime, reality-based courtroom television program.

**Why Reality? Why Now?: Discussion and Synthesis**

The previous discussion around the discourses of social control and normalization that circulate within reality crime programs and trash TV talk shows begins to hint at an
answer to the question: “Why now?” I want to take just a moment to draw the strands discussed so far a bit more closely together in order to offer a tentative explanation as to why the late 20th century has produced this tide of reality television. To begin, reality crime programs and TV talk shows are but two manifestations of the wider trend toward reality television. These programs, however, have been the subject of much discussion and theorizing while new manifestations have only now begun to be placed in theoretical context. Keeping this point in mind, reality crime shows and the TV talk shows are separated by one very key difference. While TV crime programs based on ‘reality’ offer a singular vision of social control and a starkly drawn, black and white distinction between good and evil, the TV talk show can be read in multiple ways. It is clear that reality-based crime programs do not offer significant spaces of resistance for those labeled criminal. In fact, the view that is presented must be carefully vetted by law enforcement officials. This means that reality television programs like COPS, America’s Most Wanted and the Canadian program To Serve and Protect serve as conduits for the official police version of crime and justice. In fact, the Edmonton Police Service has used To Serve and Protect as a recruitment tool in an era where cities are increasingly vying for new prospective officers. In contrast, the tabloid TV talk show has allowed those with alternative sexualities, women and other minorities a space in which to contest dominant understandings of normalcy. The opportunity to resist, while perhaps limited and fleeting, is still a characteristic of the TV talk show format. This potential to resist the dominant discourses of the helping professions in favor of self-help and woman, queer, black or Latino power is a very real feature of these programs. While normalizing discourses of the helping professions still permeate the spaces of daytime talk shows –
the program Dr. Phil being perhaps the best example of this close alignment with professional therapy – the notions of ‘common sense’ and empowerment are still emphasized. However, we must be very cautious in viewing the trend toward ‘self-help,’ so-called ‘common sense’ and ‘empowerment’ as a step forward for the marginal subjects of tabloid talk TV. In fact, this trend might be more accurately read as a part of a shift toward neo-liberal political rationalizations (Ouellette 2004).

Given their seemingly divergent orientations toward both the state and those who are viewed as marginal to civil society, how can one theorize these two strands of reality-based television? Moreover, what does the above discussion of reality-based crime TV and daytime tabloid TV lend to our present analysis of reality-based courtroom television? These are vexing questions, and after a great deal of thought about the matter several points stand out to me. First of all, in both reality-based crime television and the daytime tabloid talk show format, we see a clear focus on spectacle. Both programs depict deviance in ways that might even be read as carnivalesque. Both types of programming rely on visceral and highly visual imagery that plays on both the physical senses and the emotions. Most clearly in COPS and the tabloid talk show format, we see many views of unruly bodies that are frequently misshapen, shirtless, and always threatening to spill out of the clothing that can barely – and often does not – constrain them. We also see many shades of skin color on these bodies that we do not normally see on mainstream television. In all of these programs, but particularly in America's Most Wanted and the daytime talk shows, emotions run high and taboos are transgressed. In the crime programs, the taboos generally relate to notions of bodily integrity and the
sanctity of life itself, while on the talk shows, the taboos broken generally relate to sex, incest and issues around body image and type. Talk show studio audiences offer frequent verbal cues that they delight in such transgressions – usually by hooting and cheering when fights break out, lies are uncovered or clothes come off – and we can speculate that home viewers do as well. Clearly, spectacle is tied firmly to the daytime talk show confessional and the mediated surveillance and social control of reality crime TV. But how does this focus on spectacle tie in to our concern here with criminological theory and the rise of reality-based courtroom TV? Moreover, what are the implications of this infusion of ‘the spectacular’ into reality TV for popular understandings of law, criminal justice and the bounds of proper social conduct?

In attempting to work theoretically though these questions, the present analysis has benefited greatly from two roughly coherent bodies of earlier critical writing on reality TV. The first is a body of scholarship focusing on daytime television (cf. Dovey 2000; Glynn 2000; Grindstaff 2002; Shattuc 1997; White 2002), and the second is a body of writing which examines reality-based television programs that focus on policing, such as COPS and America’s Most Wanted (cf. Cavender 1998; Cavender and Bond-Maupin 1993; Cavender and Fishman 1998; Derosia 2002; Donovan 1998; Doyle 1998, 2003; Rapping 2004). Both literatures draw on the work of Michel Foucault (1977, 1990), and in particular his ideas around the dispersal of surveillance and the widespread use of ‘confession’ as “one of the main rituals we rely on for the production of truth” (Foucault 1990, p. 58). According to both literatures, we are seeing not only the widespread use of surveillance and confession throughout the whole of the social body,
but both surveillance and confession are becoming wedded to spectacle in reality-based television programming.

According to Jon Dovey (2000), while Foucault’s notion of the ‘confessional’ transpired in the closed, private space of the doctor’s office, or ‘booth’ free from the “democratizing possibilities of open speech,” now with the rise of the daytime ‘tabloid’ talk show format “we have confession as an open discourse, de-ritualised, one in which intimate speaking is validated as part of the quest for psychiatric health, as part of our ‘right’ to selfhood” (Dovey 2000, p. 107). Dovey reformulates the idea of the confessional into one which takes place openly, in public, dispersed across multiple sites, and across many different media (p. 108). The confession is no longer heard only by the trained professional (priest, doctor, therapist, etc.) but now the mass TV audience is an interlocutor in the reformulated confessional. Dispersed audience members become drawn into a reformulated version of Foucault’s “perpetual spiral of power and pleasure” (1990, p. 45). In this way, the daytime television talk show has transformed the ritual of confession into a mediated spectacle for the purposes of entertainment.

Likewise, reality crime programming like America’s Most Wanted has been critiqued from a number of perspectives for having the effect of “facilitating widespread surveillance” and “the deeper penetration of social control” (Cavender 1998, pp. 79-80). However, surveillance on reality TV has become bound up with spectacle (Donovan 1998; Doyle 2003). According to Aaron Doyle (2003), the traditional interpretation of Foucault’s analysis is that there has been a transformation of social control from that which is characterized by ‘spectacle’ – e.g. the spectacular exercise of the sovereign’s power in rituals of public execution and torture – to that of ‘surveillance’– as marked by
the rise of the modern prison (Doyle 2003, p. 149). Thus, according to Foucault: “our society is not one of spectacle, but of surveillance” (1977, 217). However, Doyle (and others) argue against such an interpretation, and instead draw on the work of David Garland (2000, 2001) who claims that there are two competing “strategies for dealing with crime [which correspond roughly with the competing notions of surveillance and spectacle]: on the one hand, a collection of dispassionate, preventative, technical, and managerial strategies... and on the other hand, a set of more expressive, emotionally charged, retributive, vengeance-oriented responses to crime” (Doyle 2003, p. 146).

However, both ways of thinking about crime are present in modern day western democracies. Thus, rather than arguing that spectacle has given way to surveillance, it might instead be argued that the spectacle of punishment has not completely disappeared, but has instead “shifted form and location” (Doyle 2003, p. 150). According to Pamela Donovan (1998):

The relationship between surveillance and spectacle, twenty years after Foucault’s book, seems no longer one of competing images or supersession, but rather might be understood as mutual dependence. Specifically the surveillance and spectacle aspects of reality programming share a technological, ideological, and emotional foundation. “Witnessing” by the viewer, is a central ingredient in the genre’s niche appeal. Spectacle, it seems, is back. (p. 119)

Thus, television provides a venue for the entwining of both surveillance and spectacle, and the two competing strategies of punishment outlined by Garland. Thus, when police work becomes wedded with broadcast television, as in America’s Most Wanted, surveillance too becomes a public spectacle. Some have compared reality TV’s entwining of spectacle and surveillance with the image of the televised pursuit of Montag, the protagonist in Ray Bradbury’s dystopian novel Fahrenheit 451 (1950), who
became the object of both surveillance and spectacle simultaneously (Donovan 1998, p. 135).

These analyses clearly point to the fact that we are seeing in reality-television the conjoining of spectacle with both confession and surveillance. Likewise, I argue that we are also witnessing the fusion of judgement and spectacle in the form of reality-based courtroom television. In the courtroom of Judge Judith Sheindlin (Judge Judy) and Marilyn Milian (People's Court), we not only see how judgements are arrived at, but we also bear “witness” to the full fury of the judge’s scorn directed toward litigants who have erred in their relationships with others. Judgement enters the public eye in a way that has been notably absent in earlier forms of popular entertainment that focus on law and the American courtroom (cf. Rafter 2000). While judges are normally presented on fictional TV and in popular film as neutral – indeed almost invisible – referees, the reality-based courtroom television format centres the judge as an all-powerful force who alone has the ability to not only render judgement upon the litigants, but to mete out a form of spectacular judgement-as-punishment before a (inter)national audience. The spectacle of the lone judge passing quick and decisive judgement in a complex interpersonal dispute is in a sense more realistic than the ubiquitous trial by jury that is the mainstay of the traditional courtroom drama on both film and television. Nevertheless, while bench trials may be more common than jury trials in the American justice system, decision-making in interpersonal disputes, even in American small claims courts, is not usually so quick, decisive, or black and white. However, it is this very lack of moral or ethical ambiguity that may appeal in large part to audiences of the reality-based courtroom format (Porsdam 1994, Leonard 1988).
This fusion of judgement with spectacle means that audiences can witness the consequences of moral, ethical or legal transgression and indeed learn more acceptable modes of conduct by listening to the advice of the TV judge about relationships, good business practices, and above all, suitable moral conduct for all areas of social life. In short, in the TV judge we can see elements of the spectacular, the exercise of normative judgement and the 'power-pleasure' spiral of confession, albeit a modified form of confession that is not always given freely and without coercion (Ouellette 2004, pp. 238-239). Judgement itself may not be new in our society, but I argue that judgement as popular entertainment and spectacle is taking a new and fundamentally different form.

A second theoretical strand that has served to guide the present analysis situates the reality-based television movement at the dawn of the 21st century within larger conceptual shifts in the way citizenship and the role of state are understood. A number of authors (notably Ouellette 2004 and Dovey 2000) have argued that reality-based television programs like Judge Judy and People's Court may be seen as forming part of the work of governance within a shift toward neo-liberal conceptions of citizenship. Citizenship in this context is conceived of as being the conflation of responsibility, traditional values and the ethic of self-help (Dovey 2000). In bearing witness to the spectacle of judgement in the reality TV courtroom, the audience – even more than the litigants themselves – are provided with a moral yardstick against which to measure their own behavior. In fact, the pratfalls and mistaken choices of the litigants themselves are showcased in order to demonstrate the contours of good behavior and citizenship. Thus,
we, as viewers, can prevent conflict in our own lives by learning from the mistakes suffered by the misfortunate people who parade their lives before a television audience.

What are the potential consequences of such a conception of citizenship? In a discussion of reality-based crime programs that focus on police and other frontline emergency workers, Dovey (2000) argues that such programs provide reassurance to a citizenry that is confused and afraid that crime and disaster are imminent and that the government seems unable or unprepared to prevent it. In the wake of the terrorist attacks of September 11th, 2001, the valorization of frontline emergency workers, such as police and firefighters, has been strong in popular culture and in the media. Even though the state is seen as weakened in an era of international terrorism, globalization and neoliberalism, reality TV can provide us with a sense of comfort knowing that those who are positioned as a last line of defense between civilization and chaos are on the job. However, the state is conceived of very narrowly as a mere responder to chaos and emergency. Safety and comfort may be drawn from emergency responders only in times of disaster; any consideration of prevention, education or attacking the root causes of crime and disorder are set aside. The message hammered home by this intense focus on emergency personnel is that disaster is everywhere, it is unavoidable, and frontline responders can handle the situation. However, there is nothing that can be done to foresee or forestall such emergencies. The only remedy for the individual citizen is to be constantly on guard for potential risks and at the ready to aid emergency responders. However, the only way citizens can fulfill their civic duty is to summon the authorities and let the frontline agents of the state take control of the situation. In this way, good
citizenship is constructed as the watchful prevention of disaster and acting as the eyes and ears for police and firefighters who simply cannot be everywhere at once (cf. Dovey 2000).

Reality-based courtroom television has also produced a narrow conception of good citizenship, responsibility and the role of the state in our interpersonal problems. In keeping with a neo-liberal outlook on criminal justice, the TV courtroom is presented as justice the way it ought to be: lightning fast, left to the hands of the private sector and as a consequence, much more efficient than the real criminal justice system (Ouellette 2004). Litigants sign away their rights and agree to allow the judge to act as a private arbitrator. In so doing, they submit to justice in the private space of the televised courtroom (Ouellette 2004, p. 235).

According to Laurie Ouellette (2004), programs like Judge Judy “complement a model of government that disdains state authority and interventions, but demands a heightened form of personal responsibility and self-discipline from individuals. Reality TV as exemplified by the courtroom program is not outside democracy, then, but is an active agent in its neoliberal transformation” (p. 248). As such, Ouellette argues that courtroom programs like Judge Judy constitute a “neoliberal technology of everyday citizenship” that “attempts to shape and guide the conduct and choices of lower-income women in particular” (p. 232). In other words, for Ouellette, Judge Judy is a “cultural apparatus” for “neoliberal forms of governance” (p. 232).
This line of analysis draws on the work of Nikolas Rose who argues that
“Contemporary political rationalities rely upon and utilize a range of technologies that
instill and support the civilizing project by shaping and governing the capacities,
competencies and wills of subjects, yet are outside the formal control of ‘public powers’”
(Rose 1998, p. 58). The mass media – particularly television – forms a key technology
that “can translate the goals of the political, social and economic authorities into the
choices and commitments of individuals” (Rose 1998, p. 58). In this way, governance
can be accomplished at a distance, and without the direct intervention of the state.
Ouellette extends this argument to the category of reality TV, arguing that reality-based
courtroom television is well positioned to aid in an “indirect, diffuse model of cultural
governmentality” (2004 p. 234). This is coupled with an “acceleration of self-help
discourse aimed at women” which has been characteristic in particular of daytime
television (Ouellette 2004 p. 234). Thus, “Judge Judy fuses television, neoliberalism,
and self-help discourse in a governmental address” aimed primarily at marginalized
women (p. 234). The tenor of this address is one of self-discipline and responsibility.
Victims are self-made, and poor choices lay behind most problems encountered by the
TV viewer is the implied beneficiary of this litany of mistakes, for one’s classification of
‘normal’ hinges on both recognizing the pathos of ‘others’ and internalizing the rules of
self-government spelled out on the program” (p. 235).

To sum up briefly, in addition to the focus on spectacle, in both daytime TV talk
show programming and reality-based crime and policing television, we see discourses of
responsibility steeped in a rhetoric of neo-liberal governmental rationality. Citizens on
these programs are thus constituted as responsibilized: in charge of their own protection
or mental health, and most of all, to blame when they don’t take steps to protect
themselves from calculable risks. In this way, we see a strong undercurrent of
governmentality that permeates this type of programming. To use the language of such a
perspective, we can view both of these types of programming as technologies of
governance at a distance. Audiences, through watching and internalizing the discourses
of this type of programming, take part in the governance of themselves by adopting
attitudes and modes of subjectivity that are in conformity with the rationalities of a neo-
liberal political rationality of government. Moreover, by adopting these attitudes as their
own, viewers decentre the state and its apparatuses of control and help in the ideological
shift toward to the gradual dismantling of the welfare state and its agencies in recent
decades. In short, reality TV as it is constituted in daytime talk shows and reality-based
policing programs aids in this wider shift toward neo-liberal conceptions of state and
citizenship by constituting a “cultural apparatus” of governance (Ouellette 2004, p. 232).

But if reality TV – and specifically reality-based courtroom TV – is nothing more
than a neo-liberal address or apparatus of governance aimed at marginal audiences and
steeped in traditional moral values and forms of power, are we then to believe that the
potential for resistance in both audience members and participants does not exist? To put
it another way, are there any potential ‘chinks’ in the neo-liberal armor of reality-based
courtroom TV that may be exploited in ways that both de-centre the power of the law and
the institution of ‘judge’ and allow for alternative readings of disputes that are presented
in the television courtroom? In short, is there a court of appeal higher than Judge Judy or
People's Court? In what follows, I argue that there are many potential points of resistance for both litigants and those who may be witnessing the spectacle of punishment on reality-based court TV. However, as with any attempt to understand the ‘reception’ of TV by audiences, we can only acknowledge that multiple points of view or readings are possible, and even though there is a potential to resist powerful messages articulated through the mass media, it is far from certain that all audience members have the ability or inclination to take advantage of that potential. What I argue, then, is that we must be careful not to fall into the trap of seeing audience members as ‘dupes’ in a passive game of power.

I will now turn my attention fully to the reality-based courtroom program in order to examine its potential as both a source of normalizing discourse and a site of potential resistance against law’s power to discursively shape and define human relations. In order to appreciate the tentative and multiple ideological messages transmitted in reality-court programs, I will first examine some of the ways the courtroom has been depicted on television and in film throughout the twentieth century. However, I must first be clear about what exactly is being referred to when we talk about reality-based courtroom television.

Turning to the Court

This section explores the rise of reality-based courtroom television programming. However, before beginning, it is useful to outline some of the different subtypes that make up this subgenre of reality TV. Even the most casual observer of television will
notice that there is a wide variety of television programming that in some way deals with 'real life' trials or court cases. For example, there are programs – and indeed entire cable networks\(^{22}\) – that focus on real-life court cases, featuring live feed from actual trials.

This is typified by the programming of Court TV, an American specialty cable network devoted to 'crime and justice.' Still other programs adopt the tabloid journalism style of *Hardcopy* with a focus on crime and legal affairs. A program that follows this format is *Celebrity Justice.* According to the program's promotional material contained on the official website:

"Celebrity Justice" has become the premiere national show for profiling celebrities in the legal system. In addition to breaking scores of big stories during its first season, "C.J." reporters have become fixtures on every cable network in America, as well as top-rated network news shows. From Bill O'Reilly to Larry King, from the "Today" show to "Good Morning America," "C.J." is the place to turn for celebrity cases. As a result, the "C.J." brand is now solidly implanted in pop culture.

It is noteworthy that *Celebrity Justice* is created and produced by Harvey Levin, the attorney commentator and long-time consultant to and co-executive producer of *People’s Court.* In addition, Levin has also been involved behind the scenes with the recently cancelled courtroom-based programs *Moral Court* and *Superior Court.* Recycling and reworking popular TV formats is a familiar pattern typified by a number of reality TV programs following what Ouellette and Murray (2004) term the 'gamedoc' format (p. 3). Mark Burnett, the celebrated creator behind the American *Survivor* series, has also been the creative force behind *Eco Challenge, The Apprentice,* and *The Restaurant* among others. As with other subcategories of the entertainment industry, the TV industry is adept at recycling proven formulas and formats. The recent domination of reality TV on

\(^{22}\) CourtTV and CourtTV Canada are two cable networks that are devoted entirely to programming that has to do with the legal system. The bread and butter of both these networks is live broadcast of video from actual trials and commentary on real legal issues and court cases.
primetime American network television is simply the latest manifestation of this propensity to reuse and recycle winning formats (cf. Magder 2004; Raphael 2004).

Other television programs focusing on courtroom proceedings are more closely aligned with mainstream American journalism. A clear example was CNN's *Burden of Proof*, a program that was born in the wake of the O. J. Simpson trial, featuring discussion and analysis of high profile criminal cases by attorney commentators. If we can imagine a continuum of television programming that begins with news and current events on one end, and stretches all the way to fictional dramatic series on the other, programs like *Celebrity Justice* and *Burden of Proof* would lie much closer to the news end than the drama end.

We can identify a second constellation of reality courtroom fare that includes programs that reenact the proceedings of the criminal justice system. In some cases, these shows feature interviews with actual participants, such as police and forensic experts. This variety of reality programming is typified by the now defunct series *Trial and Arrest*, described below in an excerpt from the show's website:

> From the creator of Law & Order, this new half-hour program is a gripping combination of real life and primetime drama... hosted by Brian Dennehy. Each episode follows the storyline of an actual crime... from investigation... to arrest... to its courtroom conclusion. (http://www.studiosusa.com/arrestandtrial)

Similarly, in its earlier incarnations (1957 to 1969, and 1984 to 1991), *Divorce Court* featured actors as litigants and student attorneys as their advocates arguing fictitious divorce cases in front of real (retired) judges (“Divorce Court” 2004; Schlosser 1998). However, the fictitious cases presented by the actors and argued over by the real
attorneys were often loosely based on real divorce cases, and often dealt with hot button issues culled from the day's latest headlines. Longtime *People's Court* bailiff Rusty Burrell appeared alongside Judge Voltaire Perkins during the 1957 to 1967 run of *Divorce Court*.

Still other programs have featured real lawyers arguing ostensibly real cases in a fabricated TV courtroom. The now defunct syndicated series, *Power of Attorney*, featured real lawyers who argued cases on behalf of litigants. According to one of the original lawyers from the program, Detroit-area attorney Geoffrey Fieger:

Imagine Judge Judy, except with real lawyers instead of regular civilians pleading their cases, and you've got *Power of Attorney*... This show has every element of well-known judge shows, but adds the superior element of litigators actually trying the cases — real cases, real litigants, real cross examination. ("Fieger will argue real cases in new TV court show," 2000)

Where these programs would fit on the reality continuum is not entirely clear. Programs featuring reenactments of the legal process would certainly lie closer to the fictional dramatic series end. However, mixing real lawyers with the telemmediated spectacle of the TV courtroom is hardly as 'real' as watching live satellite feed of the O.J. Simpson trial. Clearly, programs featuring elements of real cases, real lawyers and the reenactments of actors would be akin to the recreated crime scenes of *America's Most Wanted*. However, just as *America's Most Wanted* is less 'real' than the video vérité style of *COPS*, courtroom programs that mix actors and real lawyers and judges clearly lay more toward the fictional end of our continuum of reality.

Shows that feature apparently 'real' judges, and ordinary people presenting their cases in a televised small claims courtroom fitted with all the trappings of an American
civil court are yet another variety of ‘reality’ program focusing on the legal process.

*People’s Court* was the first of this type of program, and now many clones now fill the daytime programming schedule including the currently highest rated show *Judge Judy*:

Taking a common sense approach, *JUDGE JUDY* is a show about family court cases, marital dissension and small claims disputes. It’s about relationships in conflict and Judge Judy's unique ability to act as a true moral compass for people seeking guidance, insight and resolution in their often complicated lives. ([http://judgejudy.com](http://judgejudy.com))

Referring again to our reality continuum, shows like *People’s Court* and *Judge Judy* would lie roughly in the middle, between news and drama. My focus will be on this third type exclusively. When I refer to reality-based courtroom TV, I am referring to this type only.

The defining feature that sets this last type of reality-based courtroom program apart from other ‘reality’ courtroom shows is the simple fact that litigants speak for themselves. This is an important distinction because it provides a rare milieu on television for ordinary people to ‘confess’ and be interlocutors of others’ confessions. However, in much the same way that the trash TV talk show conflates participation of ordinary people with the exercise of normalizing professional discourses, the TV reality-based courtroom is simultaneously a site of potential resistance and the exercise of power. Thus, litigants are empowered to tell their own stories in their own words and seek just solutions to the problems of their everyday lives. However, the stories of litigants become mediated spectacles, subject to the same constraints that limit and decentre the power of professional talk show hosts like Dr. Ruth Westheimer. Litigants find their stories are cut short by the judge, or edited and packaged by program producers in ways that distort their original intent. Because these programs are staged to look and
function like ‘real’ courtrooms, TV judges possess extraordinary power to silence litigants who are ruled out of order – power that is backed up literally with the threat of force from a bailiff. Therefore, more so than the TV talk show hosts, the judges of reality-based television can silence dissenting views in ways that are not available on other programs.

While we might view programs like *People's Court* and *Judge Judy* as sites of popular and spectacular confession, they may also be seen as sites of popular ‘accusation.’ Ordinary people can use the television courtroom to accuse others of wrongdoing and seek a type of popular justice not available in the ordinary court system. Spectacular accusation of wrongdoing can be a potential punishment in and of itself. Defendants must stand trial not only before the TV judges and their accusers but also before a mass audience who may judge negatively their alleged wrongdoings and delight in their misfortune. In the reality TV courtroom – as in the real American courtroom – the process itself can be a form of very public – and indeed spectacular – punishment for those accused of wrongdoing.

Before moving to the next section, I must be very cautious about leaving the reader with the impression that the reality-based small claims court is exactly like a real American small claims court, with the exception of the mass television audience. In fact, reality-based TV judges like those on *Judge Judy* and *People's Court* function more like binding arbitrators than actual judges. Litigants appearing on reality-based courtroom programs sign contracts allowing the judge to act in the capacity of a legal arbitrator. As
such, there is no mechanism for appeal as there would be in the real American small
claims court system. According to the disclaimer displayed briefly at the end of one
reality based courtroom program – *Texas Justice* – the particulars of this arrangement are
clear to all parties in the dispute:

> All litigants have agreed to submit their disputes to Larry Joe Doherty, Esq. who serves
> as a neutral 3rd party arbitrator. Consideration has been given to each litigant in
> connection with his or her appearance on the program.

‘Consideration’ in this context means that each litigant was paid for his or her appearance
on the program. On *People’s Court*, the way the payment of consideration works is that
defendants and plaintiffs split a fund that is established based on the dollar size of each
lawsuit. If a litigant is successful in their case, they win the amount of their lawsuit –
which is subtracted from the fund – and the remainder is split equally between the two
adversaries (Porsdam 1994). In this way, no litigant really loses on *People’s Court*. The
only losses suffered by litigants are of face and reputation after airing their dirty laundry
on national syndicated television. In these ways, the experience of litigants appearing on
reality-based courtroom television programming differs significantly from the real small
claims court experience.

**Putting Reality-Based Courtroom TV in Historical Perspective**

Reality-based courtroom TV is merely one manifestation of our popular culture’s
fascination with law, the legal system and the courtroom. The courtroom has been a
setting for drama throughout much of modern history. While a thorough review of the
place of the courtroom in our popular imagination would include newspapers, fiction,
theatre, song and any other conceivable form of popular culture, I will restrict my very
brief discussion here to the portrayal of the courtroom and judges in American cinema
and television, focusing on the evolution of courtroom films and television programming in the twentieth century. I will demonstrate that reality-based courtroom television programs emerged at a time when cinematic portrayals of the courtroom were entering a period of ‘depletion,’ when some film commentators have argued that the genre had run its course (Rafter and Hahn 2000). During this era of ‘depletion of the genre,’ filmmakers began to take the pursuit of justice out of the courtroom and onto the streets or into the backrooms of the American courthouse (Rafter and Hahn 2000). In short, reality-based courtroom television began to emerge when it seemed that the general public – and Hollywood – were losing faith in the American legal system and the criminal justice system’s ability to produce real justice. Yet, while few true American courtroom films have been made since the 1960s, the 1980s saw the emergence of the TV judge as wise decision-maker and conveyer of justice for the people with the premier of People’s Court in 1981 on the ABC television network (Porsdam 1994). This section will look briefly at the changing ways that the courtroom has been intertwined in American film and television throughout the twentieth century, in the hope that this may give us some insight into the ways that we might ‘read’ the current wave of reality-based courtroom television.

Hollywood’s fascination with courtroom movies dates back to the 1930s, and Rafter and Hahn (2000) argue there are three distinct phases of its development. The first experimental phase began in the 1930s and “bore fruit in the 1940s and 1950s with ‘law noirs’” (p. 99). The second period was characterized largely by adulation for the law and the heroics of lawyers and lasted from the mid-1950s until the early 1960s. Finally, there
was what Rafter and Hahn refer to as a “period of depletion” from the 1970s to the present where “trial movies have tried but often failed to meet the challenges posed by a new set of cinematic and political circumstances” (p. 100).

In trying to account for changes to the way courtroom movies were constructed by Hollywood through these different time periods, Rafter and Hahn (2000) deconstruct this genre of film and the meanings imbued within their story lines. In essence, all of these films centre on the idea of justice, often juxtaposing human-made law with some ideal form of immutable natural law, or justice (p. 93). Classic courtroom films demonstrate, through a number of plot twists and devices, that this ideal form of justice is often difficult to obtain. However, there is a distinct split between those movies that ultimately take a positive view of our ability to achieve justice through the legal system, and those where law and the legal system are seen as impeding our ability to achieve this goal. In order to explain the differing views films take of law and justice, the authors look to wider political processes, and the evolution of the movie industry itself.

According to Rafter and Hahn (2000), the earliest time period of American filmmaking was largely characterized by experimentation with the courtroom as a venue for drama. In the 1930s, American directors were looking for ways to “depict legal struggles that were both persuasive and entertaining” (p. 100). This era was to culminate in the 1940s with a development of a particularly cynical and gritty type of legal drama dubbed the ‘law noir’ (p. 101). This era was a time of great cinematic experimentation not only with respect to plot lines, but with the actual art of filmmaking as well.
Renowned directors such as Alfred Hitchcock, Fritz Lang and Orson Wells produced films that were characterized by “strange camera angles and striking black and white patterns” (p. 101). Thus, this era proved that the courtroom could indeed be a place of drama and entertainment.

Rafter and Hahn (2000) argue that courtroom films went in a much different direction starting in the 1950s: a direction that seemed to reflect a fervent belief that justice could be achieved through the legal system. The reason for this ‘turn to the right’ in courtroom films is attributed to the fact that these movies were “reflections of a society that was wealthier, more secure, and less chaotic than the America of the Great Depression and World War II years” (p. 102). Thus, films in this time period depicted lawyers as ‘cultural heroes,’ uniquely suited to find that elusive ideal of ‘justice.’

The most recent time period in American courtroom film history is that which spans the 1970s to the present. According to observers, this period has been characterized by “growing disillusionment about and suspicion toward traditional American institutions” (Leonard 1988, p. 377). There were also great changes in the American movie making industry, as directors had to learn to work in color film and were moving toward the use of action and violence as entertainment staples (Rafter and Hahn 2000, p. 105). There were also changes in the way law was conceptualized in the wake of the civil rights revolution, and newly developed procedural requirements such as Miranda warnings.
During this period, Leonard (1988) notes that in many films and television portrayals of the American legal system, true justice is achieved not within the system, but rather despite the system (p. 379). This skepticism with the American justice system may in fact herald a deeper uneasiness within the hearts and minds of the American public. It may not just be that the public is skeptical about the ability of the American justice system to correctly define and deal with evil, but rather, the public may have doubts about whether or not there is “a clear distinction between good and evil themselves” (Leonard 1988, p. 384). This trend has only been amplified in the 1990s in the wake of the O.J. Simpson and Rodney King trials. According to Rafter and Hahn (2000), the result of these two infamous trials is that now many American courtroom films start from the assumption that “the system is broken beyond repair” (p. 107). This pessimism toward American justice leads those authors to conclude that the courtroom film genre as a whole does not flow from a dominant ideological perspective. Unlike ‘criminological’ or ‘crime-fighter’ movies, where there is the prevalent idea that “crime is explicable and there are experts who know how to control it,” courtroom movies are less certain, sometimes arriving at just conclusion, and other times finding justice far out of reach (Rafter and Hahn 2000, p. 111). This may be part of the reason why reality-based courtroom television has exploded in popularity in recent years. According to Leonard (1988):

The popularity of such ‘reality’ programs as ‘People’s Court’ has been extraordinary. Manifestly, a part of our collective selves still yearns to believe in clear truth, and in the basic wisdom and competence of the system. Though we no longer possess the sense of innocence and trust that underlies the conception of the legal system in these shows, we still want to be able to believe in that image of the system. We want to suspend, even if only temporarily, our disillusionment. Through these characterizations, we find a kind of satisfaction that our sense of reality does not permit (p. 385).
Thus, we now turn our attention to the rise of reality-based television programming dealing with the criminal justice system.

**Don't Take the Law into Your Own Hands: You Take Them to the People’s Court**

The scholarly literature produced on reality-based courtroom TV is far less rich and varied than that produced for the policing programs. This dearth of scholarly analysis is rather surprising given that reality-based courtroom TV has been around in a fairly consistent format since 1981 (Porsdam 1994, p. 4). The rise of *People’s Court*, the first show of its kind, followed closely on the heels of the California Judicial Council’s decision to allow cameras into the state’s courtrooms in the latter part of the 1970s. Thus, the rise of televised small claims court proceedings is tied to a larger American fascination with watching the workings of a courtroom, particularly when celebrities are involved in sensational trials.

The media fascination with celebrity trials in the United States is not a new phenomenon, given that sensational trials involving prominent Americans have been fodder for radio, newsreels and the print media since the time of the Thomas Scopes ‘monkey trial’ in 1925 and the Lindbergh kidnapping ‘circus’ in 1935 (Cohn and Dow 1998, pp. 14-15). This fixation with celebrity justice was to reach new heights in the 1990s with the O.J. Simpson murder trial and the rise of the Court TV network. However, there is a marked difference between sensational trials such as O.J. Simpson’s ‘trial of the century’ and the more mundane kinds of disputes shown on a typical episode
of People’s Court or “Judge Judy.” What, then, is the fascination with watching ordinary people argue over small sums of money in front of a camera?

It is clear that we must draw a distinction between the reality-based small claims court format and the celebrity trials that have dominated American popular culture throughout much of the twentieth century. The fascination of American and worldwide audiences with all the sordid details of celebrities and their legal troubles such as those of O.J. Simpson, Martha Stewart, Winona Ryder and the Lindbergh family is a clear outgrowth of the cult of celebrity that has spawned an entire media industry focused on the day-to-day happenings of celebrities and the well-to-do. It is no wonder that a society that follows ever-so-closely the clothing choices and hairstyles of actors and actresses would be equally interested in parking tickets, shoplifting charges and occasionally homicides involving celebrities who are continually in the media spotlight. Why audiences hunger to know the details of celebrity ‘justice’ is not a mystery. However, why do audiences have any interest at all in the day-to-day legal wrangling of ordinary people on reality TV programs?

There are two tentative explanations that I will offer to the above question as a preface to the study that follows. I do not claim that these two explanations are total, or that they can account for every individual viewer’s motivation to watch reality-based courtroom TV. However, I offer here the most suitable explanations that accord with the data that I have spent countless months scrutinizing in the course of this research. Nevertheless, I feel that the explanations I offer here are supported by the data, and are
First, one cannot escape from the fact that the people we are watching, and the troubles that they bring to the TV courtroom, are eminently mundane. Disputes over several hundred dollars, automobile accidents or damages to personal property are all things that could easily befall each and every one of us. Thus, just as Seaton (1997b) has argued that reality TV in general is popular because it presents situations that we can all easily relate to, I would argue that the legal problems showcased on reality-based courtroom TV are so common and easily understood that they are likely to carry far more currency in the minds of viewers than the complex details involved in the corporate criminal trials of Martha Stewart and the former executives at Enron. We might be interested to know what ultimately happens to Stewart—like will she ever spend time behind bars. However, most ordinary people will not be interested in the detailed legal procedures that must be followed in order to put her in prison. In contrast, the small claims court offers simple disputes that we can all readily understand. In addition, there is seldom any legalese that might confuse viewers and necessitate translation by expert lawyers or commentators. Problems, furthermore, are usually distilled by the TV judges into very simple moral or ethical principles that stand apart from the highly technical and rigid rules of legal procedure that dominate in real American civil and criminal courts. In short, the TV small claims court presents common legal troubles as simple ethical melodramas that facilitate the judgement of audience members over those who appear as litigants. As Ouellette (2004) has argued, simple small claims disputes not only provide a
source of entertainment to home viewers, but also help audience members to negotiate subjectivities in relation to the moral transgressions of those deemed out of order in the TV courtroom.

Second, while it is undoubtedly of great importance that audience members clearly understand what is at stake in each dispute and that they be able to 'judge' their own ethical position against the moral yardstick provided by the bad behavior of the litigants, the moral and legal authority of the judge must not be underestimated in accounting for the appeal of the reality-based TV genre. The TV small claims court judge is a powerful figure on each and every one of the programs currently airing on American daytime TV. In fact, we should not be mistaken in believing that viewers tune in to watch the litigants per se. Rather, it is the judge who is the real star of the TV small claims court. The judge is centred in a way that is unique and utterly absent from other forms of television that deal with the American justice system. Never before have audiences had what appears to be such unbridled access to the inner workings of judgement on a television program. This focus on the judge and the centring of judgement on reality-based courtroom television are part and parcel of what I have begun to hint at already. We are witnessing the rise of a fascination with judgement and a new formulation of judgement as entertainment and open to popular articulation in media and cultural representations. In short, we are seeing reflected in reality-based courtroom television a transformed culture of judgement.
**Toward the Judgement Society**

Judge not, lest ye be judged. Don’t judge a person until you’ve walked a mile in their shoes. Despite the fact that we are often encouraged in one way or another *not* to judge others morally, judging has increasingly become a part of our day-to-day culture. In fact, it could be argued that judging has become a condition of (post) modern society. As should already be clear to the reader, I am using a rather broad conception of judging as I try to grapple with the rise of reality-based courtroom television. I view judging and judgement as a basic part of human interaction rather than in a strict legal or religious sense. I assert here that as the twenty-first century begins to unfold, we are being presented with increasing opportunities to both judge and be judged. I argue that we are witnessing the dawn of a reoriented judgement society.

Judging is an activity that is widely accepted and is found throughout many forms of popular culture. In Canada, the annual *MacLean's* magazine ranking of universities is a source of intense debate both inside and outside of academia. Universities that are favorable ranked readily acknowledge the veracity of the ranking scheme, while those that fare poorly are called upon by the media and students to explain why. Though always controversial, the annual university rankings sell a lot of magazines and contribute to an overall legitimation of the social process of rating, ranking and judging by the mass media.

On the Internet, numerous opportunities exist for ordinary people to take part in judgement of a range of items and people. A well-known example is the Internet auction
website E-bay. The site allows individuals to buy and sell items to a potential worldwide audience of consumers. One of the key features of E-bay is the feedback forum. After an online transaction is complete, both buyer and seller are invited to leave ‘feedback’ about the other party. A 1996 statement by E-bay’s founder Pierre Omidyar outlines the philosophy of this brand of popular judgement:

Most people are honest. And they mean well. Some people go out of their way to make things right. I’ve heard great stories about the honesty of people here. But some people are dishonest. Or deceptive. This is true here, in the newsgroups, in the classifieds, and right next door. It’s a fact of life. But here, those people can’t hide. We’ll drive them away. Protect others from them. This grand hope depends on your active participation. Become a registered user. Use our feedback forum. Give praise where it is due; make complaints where appropriate. (www.ebay.ca)

Omidyar’s words bear a striking resemblance to the Orwellian imagery invoked by John Walsh on America’s Most Wanted. According to Omidyar’s vision of the world, there are dangerous strangers among us who threaten the norms of civil society. However, such evildoers cannot escape the power of the on-line, E-bay community, where members must be willing to take an active and responsible role against acts of dishonesty. Those who contravene the norms of good business relationships on E-bay will be literally driven out of that community through a form of judgement that all E-bayers are called upon to take an active part in carrying out. Such a responsiblized type of citizenship says as much about what is expected from those who play by the rules as it does about those who are deemed to be outlaws. In outlining his vision for a popular forum for judgement, Omidyar sends a clear message about the kind of citizenship that that is expected in the new, self-serve cyber marketplace:

Now, we have an open forum. Use it. Make your complaints in the open. Better yet, give your praise in the open. Let everyone know what a joy it was to deal with someone. Above all, conduct yourself in a professional manner. (www.ebay.ca)
Those who use E-bay on a regular basis might be quick to point out the merits of such an on-line ‘neighbourhood watch’ program where community members police each other. Such a system allows users to know something about the past performances of prospective buyers and sellers before engaging in a costly transaction. However, the way the feedback forum operates in reality may not quite live up to the potential Omidyar had envisioned nearly a decade ago.

In assigning feedback ‘judgement,’ E-bay users can select from three options to rate the satisfaction with the buying or selling process: positive, negative or neutral. In addition to these three nominal categories, users can also write a personalized message describing their feelings about the transaction. In a process that no doubt mirrors grade inflation in many universities, the messages left behind by users are most often highly positive. Anything less than an overwhelmingly positive comment is viewed as suspect to users accustomed to the ‘inflation’ of E-bay feedback. Examples from my own feedback profile illustrate this process:

A++++EXCELLENT TO DEAL WITH, FAST PAYMENT!!!!!!! GREAT eBUYER!!
Absolutely Outstanding in all respects! Lightning fast payment. Five Stars!

Such hyperbolic pronouncements are the norm on E-bay. Based on personal experience with buyers and sellers on E-bay, there appears to be a hypersensitivity about future feedback that is built into the business relationship right from the very start. Users often state up front in their on-line auction descriptions that they will not deal with people who have little or no prior positive feedback. This potentially excludes those who are just joining the community from full participation. Furthermore, many e-mail transactions I have had with buyers and sellers have been peppered with references about leaving
positive or negative feedback. Most often, buyers and sellers bend over backwards to accommodate each other because they don’t want to be judged permanently in their feedback profile as being negative or difficult to deal with. Some users I have personally dealt with expressed a willingness to make concessions during a transaction out of fear that I would judge them negatively if they didn’t. In short, the wonderful community imagined by many Internet pundits is not driven by a desire to simply do good, but in the world of E-bay at least, it appears to be driven by a fear of being judged poorly in a feedback profile that is permanent and unalterable. Like a social insurance number or credit rating, the E-bay feedback profile will not go away. E-bay requires detailed information about each registered user and it is nearly impossible for the average computer user to get around the multiple checks that are built into the registration process. In the end, once a trail of bad transactions is assigned to an E-bay user, that person cannot simply start anew with a fresh Internet pseudonym. The requirement for bank and credit card account numbers along with a host of other personal identifiers ensures that the E-bay feedback profile is a permanent record. When an E-bay subscriber changes their username, all such changes are tracked and made available to other E-bayers. Indeed, it would be wise to heed Omidyar’s advice to always act professionally. This is of particular importance to users who earn a living through on-line buying and selling on E-bay. Such popular judgement by other E-bay community members really does impact their lives.

A variety of other on-line sources of popular judgement can be found on the World Wide Web. For instance, a website “Rate It All: The Opinion Network” offers an
on-line archive of rankings for virtually anything that a person could have an opinion of. For example, people are invited to rate politicians, vegetables, TV programs, and world politics. According to promotional material on the website:

This Web site is the hub of our opinion network. It is a great decision-making resource for consumers, and it showcases the opinion-sharing technology and content we offer our clients. You can use this Web site to find and share opinions on consumer products, celebrities, travel destinations, sports, and much more.
(http://www.rateitall.com/about_us.asp).

The form of popular judgement exercised on Rateitall.com is clearly of a sort that is far removed from the judicial form of judgement that we associate with the civil or criminal courts. Does judging broccoli, for example, really amount to anything at all, except perhaps a resource for marketing professionals? I would argue that websites like Rateitall.com are important not because of the consequences or ramifications of the judgement that they facilitate. Rather, what is so important about such venues for judgement is that they encourage the symbolic use of judgement as a resource that ordinary people mobilize to make sense of their everyday worlds. As such, judgement is akin to a common language. Put yet another way, by providing opportunities to judge – even vegetables – venues like Rateitall.com contribute to the centring of judgement as a natural way to deal with others in everyday social relations. Thus, it is of little importance that many judging venues take a form that only loosely resembles the judgement of the courtroom. What is more important is that judgement becomes an unquestioned mode of behavior and a greater part of all areas of our everyday lives. Indeed, judgement – as it is manifested in these on-line rating clearinghouses – becomes a commodity, a source of entertainment and a medium for communication.
To provide yet another example of popular judgement in action, there are several websites that specialize in rating college and university instructors. Prominent among these is “RateMyProfessors.com” – where the homepage declares it is “where the STUDENTS do the rating.” Students are invited to judge their instructors based on the overall easiness of the course, and the helpfulness and clarity of the instructor. In addition, rankings also contain a “hotness” total, where students can declare whether or not they find the instructor physically attractive. Again, drawing on my own profile it is easy to see that the ranking can vary widely:

Probably the nicest prof I've ever had. Great lectures, he made everything very interesting and clear. Funny as hell, apparently he's a stand up comic in his spare time.

boring teacher, gives review one week before exams, not clear whatz gonna be on the test

The point of all of this is not to debunk or de-legitimate the on-line rating process, but rather to emphasize that judgement, particularly for the young, Internet-savvy generation, is a well-ingrained and normal way of communicating about their social experiences. Judgement, at least in this sense, is something that is theoretically open to all. The notion of empowerment through judgement is clearly in evidence when students are told up front that they are now going to be in a position to grade the performance of their instructor. In this way, we might think that judgement is turned on its head and appropriated by the masses to be turned back on the academic elite. This example highlights the importance of recognizing that judging and judgement do not simply entail the exercise of elite power over the masses, but can also provide a mechanism for resistance and alternate readings of social interactions. Thus, students dissatisfied with their official grade can in turn give a public failing grade to the instructor responsible. The armor of tenure cannot stop the worldwide proliferation of this negative judgement.
However, it is important to keep in mind that this on-line judgement – while potentially hurtful and embarrassing for teaching professionals – has not so far resulted in any harmful effect on the livelihood of university professors. Is such popular and public judgement, then, of any real consequence?

Perhaps the pinnacle of popular judgement via the imagined democracy of the Internet is found on the website iCourthouse.com. The website promises to take the reality-based courtroom TV format to its furthest possible limits. According to the creators' description, iCcourthouse.com is the destination for a privatized version of justice:

iCourthouse is a greatly streamlined version of the court system in the real world. Cases here move at internet speed. The cases are real, the jurors are real, and the verdicts are real... Collect your evidence and present your case...
iCourthouse is always in session. (iCourthouse.com 2004)

The website promises to do what the real legal system appears unable to do: provide swift and efficient justice. In fact, the term internet speed is used to describe the rapidity of the private justice found in cyberspace. However, this description also evokes a vision of the private consumer-as-citizen as the real unit of analysis in this reformulated version of justice. It is entirely up to Internet-savvy individuals to collect the evidence in their dispute and present (upload) their case to prospective jurors. Jurors are composed of registered iCourthouse.com users who sit in judgement as a cyber-jury on any open case that they find interesting. Passing judgement is quick and easy. However, the final decision must not, in contrast to most jury verdicts, be unanimous. Instead, both parties to the dispute simply agree for a set length of time to leave their case open, and the votes for guilty or not guilty are totaled when that time expires. Furthermore, jury members
can also ask questions and cross-examine parties, see questions asked by other jurors and give verdicts with comments (iCourthouse.com 2004). This is truly a democratic – or at least populist – conception of judgement by the masses. This is judgement as it would be provided, no doubt, by the private sector. The website’s own description is replete with such a vocabulary of community and democracy:

iCourthouse is the internet's courthouse. The system of the courthouse, and how cases are presented and verdicts are arrived at, resemble procedures found at traditional courthouses.

Here at iCourthouse, justice moves swiftly and surely. Justice here is more egalitarian, more democratic, and, actually, rather enjoyable.

iCourthouse.com serves the community of internet users in many of the ways that a brick-and-mortar courthouse serves its community. It is an online courthouse where you can present your disputes for trial before a jury of your peers, any time, for any reason. If you have a dispute, and would like to deal with it civilly, legally and quickly, bring it to iCourthouse.com. iCourthouse is always in session. (iCourhouse.com 2004)

Thus, justice is a twenty-four hour a day enterprise that might someday replace the real American legal system.

But there is another side of iCourthouse.com, one that directly serves the traditional legal system and legal professionals. A service provided by the website offers up the 'democratic community' of cyberspace to lawyers who want a cheap 'mock jury' to test pilot a case before going to a real civil court:

JurySmart is an iCourthouse innovation that gives attorneys and other risk-evaluation professionals a powerful new tool for assessing the merits of a case, at any stage. iCourthouse has developed JurySmart to leverage the wisdom and diversity of its tens of thousands of online jurors. After presenting claims to the pool of iCourthouse jurors, JurySmart users receive a written report certifying the official results, including verdicts, comments, juror questions, and a jury profile. JurySmart Report data is invaluable in the hands of experienced legal professionals.
Thus, while the participants of iCourthouse.com may feel that they are exercising power in their individual acts of judgement, it may be equally true that they are being swept up in an artificial exercise to serve the interests of a lawyer working on a ‘real’ case somewhere else. In this way, legal professionals retain power despite attempts to bring judgement to the people.

These few examples cited above are really just the tip of the iceberg when it comes to the widespread dispersal of judgement in our day-to-day social world. I have therefore come to the conclusion that judgement has taken on new significance in our daily lives. Judgement forms a vocabulary with which to make sense of the social world around us. Are you happy with the service you received today at your favorite restaurant? Feel free to fill out a comment card and rate the experience. Are you happy with the level of instruction in your university course? Fill out an evaluation of your instructor and judge his or her ability as a stimulating lecturer. In a sense, I suppose this is only fair since university students are continually judged according to all aspects of their performance as students. The letter grades A, B, C or D represent the judgement of instructors as they attempt to evaluate student presentations, exams, group projects and papers. The whole aim of a student is to be judged favorably by the professor, just as the whole aim of a professor is to be judged favorably by students, peers, editorial review boards, salary review committees and so forth. It would not be a stretch to argue that the fundamental method of interaction between a university professor and student is expressed almost solely in the language of judgement. Judgement is clearly ingrained in many parts of our lives.
But has anything really changed? Has judgement not been a part of our lives since the earliest days of prehistory? Clearly, judgement pervades law, sport, religion, education, and the labour force. But what about entertainment? Can we not argue that judgement has always been tied to entertainment? Take sports for example. There is perhaps no other human activity that has a longer tradition as an entertainment staple.

From the earliest contests of strength and agility that made up the nascent Olympic games in ancient Greece to the modern day National Hockey League playoffs, judgement has been a part of sport in all its forms. Referees judge whether or not a hockey puck was over the goal line, or a stick was wielded too aggressively in play. Panels of experts sit in judgement of figure skaters as they glide up and down the ice in a competitive ballet for the gold medal. Professional boxers are judged according to the quality and quantity of punches thrown and the jabs they inflict. In short, judging is a common link that ties all sports together. It is an undeniable fact that judging has always been tied to sporting contests, and sporting contests are perhaps the oldest form of entertainment. So what has changed? I argue here that judgement has moved from merely being a part of popular endeavors like sporting events to in fact being the object of amusement and entertainment in popular culture.

I am suggesting that the key distinction that marks a shift toward a new culture of judgement is the fact that judgement itself – the actual act of judging the quality, sincerity, or believability of some person, event or activity – has now become a form of entertainment in and of itself. In the Roman Forum of centuries ago, judgement was a
key part of the gladiatorial contests that provided the major entertainment of the day; a mere thumbs up or down signaled a person’s fate. However, it was not the process of the judgement itself that was entertaining; judgement was merely the end of the line, or perhaps a new beginning for contestants. Though audiences may have cheered or booed the ultimate judgement provided in a sporting contest, the actual process by which a judgement was arrived at was not the defining feature of sporting entertainment in classical time. However, I argue that the spectacle of judging – including the process of arriving at a decision – has increasingly become for the late twentieth and early twenty-first century television viewer the end game.

Reality-based courtroom television in particular presents a venue for judging as entertainment. However, I have argued in this section that these shows are part of a larger trend toward popular judging as entertainment and spectacle. Rating, ranking, judging and voting have exploded on reality TV and on the Internet. The recent American Idol grand finale drew more than 65 million telephone votes for the finalists (cf. “Fantasia Barrino wins 'American Idol' contest”). Websites like Rateyourprofessor.com promise students the chance to turn the tables and ‘grade’ their university instructors. The popular reality program Survivor features a ‘jury’ panel of rejected contestants who decide the fate of the program’s finalists in a crude simulation of a trial, complete with cross-examination and statements from the contestants to the ‘jury of their peers.’ In short, the emergence of a culture of judgement may have begun, as Foucault has noted, with the rise of the ‘psy’ professions and their varied methods of identifying and classifying human behavior. However, the rapid ascent of a popular and
spectacular version of judgement in popular culture signals that we are seeing a
transformation and centering of judgement in the popular imagination. This shift and
emphasis on judgement as spectacle marks the rise of a reoriented ‘judgement society.’

Based on a reading of popular judging, as it is manifested in popular culture and
entertainment, I have made a number of preliminary observations about this brand of
judgement that characterizes what I term the ‘judgement society.’ While I am not
claiming that judgement is the single defining feature of our present day society, I am
arguing that judgement has been transformed and articulated through American popular
culture in ways that beg thorough critical and theoretical assessment. I assert that this
culture of judgement has the following characteristics: 1) Opportunities to judge and be
judged are multiplying; 2) Communications technology is facilitating judgement from a
distance; 3) Judging is celebrated in popular culture as a form of entertainment; and 4)
We are encouraged not only to ‘judge for ourselves,’ but also to ‘judge ourselves.’
Moreover, within this culture of increasing judging and judgement we must reconcile
ourselves to the inevitability of recurring judgement by others as we increasingly judge
those around us. Reality-based courtroom television must be seen as merely one form of
popular judgement that heralds this culture of judgement. Television programs like
Judge Judy and People’s Court provide a quintessential case study of this process, and
are characterized by the features noted above. Having made this general introduction to
the judgement society, I will now move to a discussion of the methods by which the
present research has been carried out. Following this brief methodological discussion, I
will move directly into my case study of American reality-based courtroom television.
Methodological Lessons from the Frontlines

Stepping back for a moment and refocusing attention on methodological issues we now turn our attention to more pragmatic concerns related to the study of television, and in particular, reality-based television depicting the workings of the criminal justice system. In the main, based on other scholarly studies of reality-based policing shows, it seems that there are two broad approaches to research on reality-based television programming. The first is traditional ‘quantitative’ content analysis, which has been described by one prominent researcher as “a research technique that is based on measuring the amount of something (violence, negative portrayals of women, or whatever) in a representative sampling of some mass-mediated popular art form” (Berger 1991a, p. 25). The main feature of this approach is that we are dealing with quantifiable data, that is, “some element that can be counted” (Berger 1991a, p. 27). There are methodological problems associated with the traditional content analysis approach, namely the matter of operationalizing slippery concepts like ‘violence’ or ‘oppression of women’; identifying a standardized way of analyzing the material; and ‘coder reliability’ (Berger 1991a, pp. 27-28). There is also the problem of representativeness. How much material is enough to be confident of a reasonably representative sample (Berger 1991a, p. 29)?

The second broad stream of analysis of reality-based television programming follows broadly a ‘cultural studies’ perspective, which applies “semiotic, psychoanalytic, anthropological (ethnographic), and neo-Marxist perspectives to the study of everyday cultural and social practices” (Lindlof 1995, p. 51). Objects of interest for this
perspective include music, fictional television programming, news, and dance to name several (Lindlof 1995, p. 51). Such objects of interest are labeled ‘texts,’ and when analyzed in ‘semiotic terms’ are seen to be a “coherent cluster of signifiers” (Lindlof 1995, p. 51). The cultural studies approach also introduces the concept of ‘intertextuality,’ which is the relationship between texts and the way they are read interdependently (Lindlof 1995, p. 52). For example, Doyle (1998) points out that COPS must be viewed as “a key part in the intertextual media package about crime including other reality programs, advertising, fictional dramas, and news” (pp. 95-96). Thus, each text helps to inform viewers about how they should interpret other texts. Another major feature of the cultural studies perspective is a commitment to political critique in an attempt to generate an ‘emancipatory knowledge’ (Lindlof 1995, p. 53). The concept of ‘cultural hegemony’ has been invoked in critical cultural studies in an attempt to understand the “process of hegemony in popular art and other forms of communication, and sometimes [to encourage] resistant readings of them” (Lindlof 1995, p. 53). In short, Lindlof (1995) argues that there is no singular ‘object of inquiry’ for cultural studies, but rather, it is “up to the theoretical perspective, and often the purpose and style of the individual analyst, to drive work in cultural studies” (p. 55).

Given these two divergent perspectives on media analysis, some questions arise. First of all, how do we decide which is more appropriate, or rather, which will offer the richest insights for the analysis of reality-based courtroom television programming? Or, is there a way that these two perspectives might in some way be blended to offer the best of both approaches? I argue in favor of a qualitative approach that is inductive and
concerned with "prolonged engagement and gradual acquisition of knowledge" which will ultimately lead to understanding, rather than explanation or prediction (Lindlof 1995, p. 56). Therefore, while there may be room for counting or other empirical techniques characteristic of a quantitative content analysis approach, I am also (and perhaps more) interested in mounting a political and cultural critique of the subject matter, and examining the interconnectivity (or intertextuality) of the crime media package in a way that is more characteristic of a cultural studies approach. Therefore, the emphasis will not be on obtaining a representative sample and engaging in a nomothetic analysis, but rather on conducting an ideographic analysis that focuses in an in-depth manner on a smaller number of cases (Lindlof 1995, p. 57).

**Toward a Qualitative Approach to Mass Media Research**

In attempting to adopt a qualitative program of research that is compatible with the 'cultural studies' approach outlined above, I have turned to the work of David Altheide (1996). Altheide highlights a qualitative approach to media studies that he calls 'qualitative document analysis,' which blends traditional 'quantitative' content analysis with participant observation to form a sort of "ethnographic content analysis" (p. 2). This approach would seem to be congruent with my objectives laid out above. In Altheide's terminology, documents have wide ranging meaning and can be broken down into three categories. Primary documents include "newspapers, magazines, TV newscasts, diaries, or archaeological artifacts" (Altheide 1996, p. 3). Secondary documents, according to Altheide, are simply records or other accounts, such as field notes or published reports,
that are one step removed from the primary document. Finally, auxiliary documents are any other items that might shed light on some aspect of the research project.

Altheide's (1996) approach is, broadly speaking, informed by a symbolic-interactionist perspective (p. 9). Moreover, he is concerned with the context in which documents are situated, the process through which they are created or put together, and the emergence of meanings or patterns within documents that appear through constant comparison and investigation (Altheide 1996, pp. 9-10). Moreover, this approach considers the interaction between the reader or consumer of the media product and the actual content of the product itself. In other words, the reader or consumer of the media product engages with and helps to create the cultural product. Altheide's (1996) approach to document analysis is concerned not with the immediate impact of the document on the audience member, but rather on “(a) the document process, context and significance and (b) how the document helps define the situation and clarify meaning for the audience member” (p. 12).

Altheide (1996) contrasts traditional ‘quantitative’ content analysis (QCA) and his conception of ethnographic content analysis (ECA). In traditional QCA, the analyst attempts to determine the ‘objective’ content of a particular document through the use of predefined categories (p. 15). Many traditional quantitative forms of media research aim to test formal hypotheses about presumed relationships, rather than to “discover new or emergent patterns” (p. 16). Countable data could then be reliably collected by any
number of people (using rigid coding schemes yielding high rates of intercoder reliability) after which statistical analysis might proceed.

According to Altheide (1996), ECA is concerned not solely with hypothesis testing, but also with understanding meaning. According to Altheide:

ECA follows a recursive and reflexive movement between concept development-sampling-data, collection-data, coding-data, and analysis-interpretation. The aim is to be systematic and analytic, but not rigid. Categories and variables initially guide the study, but others are allowed and expected to emerge throughout the study, including an orientation toward constant discovery and constant comparison of relevant situations, settings, styles, images, meanings and nuances” (p. 16, emphasis in original)

Moreover, this approach is seen as being able to not just test theoretical claims, but also supplement and supplant them (Altheide 1996, p. 17). While arguing that this approach is different from grounded theory – though sharing a similar process of constant comparison and contrast, see for example Strauss and Corbin (1998) – Altheide notes that the main feature that sets it apart is that ECA is not concerned with theory development but is rather “more comfortable with clear descriptions and definitions compatible with the materials” (p. 17). Thus, this approach of induction and constant working back and forth between the data and explanation fits nicely with my research objectives laid out above.

Altheide (1996) highlights a process of non-linear, reflexive data gathering in relation to TV news reporting, which acknowledges that texts cannot be viewed in isolation from one another because simple random sampling will not necessarily capture themes that run from one broadcast to the next (p. 21). Using a random sampling technique, important themes might be lost, as the sampling strategy is rigid and linear,
removing each text from its context (ibid.). Moreover, because important “questions, issues and shortcomings” may only become apparent late in the research, an important feature of ECA is that researchers may be able to return to the data to follow up new insights (Altheide 1996, p. 23).

Altheide (1996) lays out a twelve step process of qualitative document analysis consisting, broadly speaking, of five stages: “(a) documents, (b) protocol development and data collection, (c) data coding and organization, (d) data analysis, and (e) report” (cf. Altheide 1996, pp. 23-44). While it would be impractical to outline all of these steps, there are several components to this analytic template that are of particular importance to the present study, and require further explanation here. First of all, Altheide’s conception of qualitative document analysis of media products is meant to be flexible and continually changing as the data are collected. Consequently, the development of a protocol should not be rigid and confining, but rather a continually evolving process as you work through the data collection. Unlike quantitative content analyses where protocols can be very specific and have hundreds of predefined categories, the qualitative protocol tends to be “less precise and fairly short, often having a dozen or fewer categories” (Altheide 1996, p. 27). Generally, the protocol emerges after several drafts, and after some of the data has been examined. In the present study, a number of fairly rigid protocols were used in the initial stage of the data analysis, but subsequently abandoned. This happened after it became clear that the categories and themes thought to be important at the outset of the research ended up being too narrow, and had the unwanted effect of ‘pushing’ the analysis into preordained themes that did not reflect the
data that were being observed. In the end, the protocol that was adopted contained only a handful of limited preset categories, and instead allowed for unrestrained category and thematic development based on intensive observation.

Additionally, the ultimate aim should not only be to ‘count up’ the number of incidences of certain categories of ‘things’ found in television broadcasts, like the number of black or Hispanic litigants in courtroom television shows, but more importantly to discover the ‘meaning and emphasis’ of the broadcasts (Altheide 1996, p. 28). To this end, I have utilized Altheide’s idea of frame, theme, and discourse. A frame is likened to a border around a particular thing or issue that conceptually separates it from other possibilities (Altheide 1996, p. 30). For example, the framing of a dispute in a reality-TV courtroom as either a legal issue, a therapeutic issue, or a moral issue will direct the way that particular issue will be conceptualized and discussed. Themes are described as being ‘general meanings’ or ‘miniframes’ for particular issues, or the “recurring typical theses” that permeate the media item (Altheide 1996, pp. 30-31). For example, if a dispute over child support payments was framed as a moral issue, then themes of personal responsibility or ignorance would be appropriate. At the same time, however, themes of poverty or racial discrimination in employment would be viewed as being grossly out of place within that frame of reference. Discourse, on the other hand, is defined as “the parameters of relevant meaning that one uses to talk about things” (Altheide 1996, p. 31). This can be grasped only through a close examination of the everyday talk of litigants and judges as they negotiate these frames and themes around their disputes. Taken in concert, frame, theme and discourse can shape the way particular
issues or stories are presented to the public through news or reality-based television programming dealing with the justice system. This trilogy of concepts offers rich analytic possibilities for research aimed at examining representations of law, justice and morality in reality-based courtroom television programs.

The issue of sampling also deserves some clarification. Altheide's (1996) preference is clearly for theoretical sampling, although he acknowledges that it would not be impossible to engage in more probabilistic forms of sampling as well. Specifically, he advocates a type of sampling that will allow for comparisons and contrasts between differing categories of things, like sampling news reports from different networks (pp. 32-33). Moreover, Altheide (1996) argues for a 'progressive theoretical sampling strategy' that results from an "emerging understanding of the topic under investigation" (p. 33). After a considerable amount of time spent examining data, it will become possible to identify the full range of situations or categories of things you wish to look at. Once you have identified this range, you can select your sample in such a way that ensures you include several examples of all types. This could be done in a manner similar to a stratified random sample, if a formally random sample was thought to be desirable (Altheide 1996, pp. 34-36). Once the data collection has begun, however, new categories may emerge which will be underrepresented. Therefore, it may be necessary to make changes to your data collection technique as you continue to work. This underscores the importance of stopping to reevaluate the process when you are half to two thirds of the way through the collection phase (Altheide 1996, p. 41).
The final point of emphasis is on the data analysis portion of the project. In accordance with the approach outlined above, the emphasis should not be solely on 'coding and counting,' although this may be part of the process (Altheide 1996, p. 42). Instead, the primary emphasis is on meaning and understanding, which can only be reached by intense interaction with the data (Altheide 1996, p. 43). This interaction means “extensive reading, sorting, and searching through your materials; comparing within categories, coding, and adding key words and concepts; and then writing minisummaries of categories” (ibid.). Once you have become thoroughly familiar with the data from extensive analysis within categories, analysis should be undertaken between categories, and from this, ‘typical’ cases should become evident (ibid.).

Altheide’s (1996) approach offers a good beginning point for research dealing with mass media texts, and clearly aims to draw the analyst away from simple counting, and re-focus efforts on understanding. However, in order to fully appreciate the rich and varied meanings contained within courtroom reality-based television programming, a deeper explanation of textual-based analysis would be helpful. To this end, a very brief overview of textual analysis of media content will follow.

Peter Larsen (1991) highlights the development of textual media analysis, identifying its beginnings with the writings of German sociologist Siegfried Kracauer (p. 121). Kracauer argued that by breaking down media texts into quantifiable chunks, the quantitative analyst loses touch with the text as a meaningful whole (Larsen 1991,
Thus, he argued instead for a holistic analysis in a manner that stresses interpretation:

The text, then, should not be regarded as a closed, segmented object with determinate, composite meanings, but rather as an indeterminate field of meaning in which intentions and possible effects intersect. The task of the analyst is to bring out the whole range of possible meanings, not least the ‘hidden’ message of the text (Larsen 1991, p. 122).

However, there was no systematic methodology for doing this offered in the writings of Kracauer. Thus, it was up to the semiologists to develop more specific tools (Larsen 1991, p. 123).

The semiological approach posits a “key distinction between the manifest uses of language (parole) and its latent, underlying system (langue)” (Larsen 1991, p. 123). This concept is tied up with the notions of denotation and connotation. For example, a Rolls-Royce denotes a particular kind of car. However, it should also trigger a number of connotations as well, such as wealth, prestige, power and so on (Bignell 1997, p. 16). Put another way, denotation and connotation can also be thought of as referring to the ‘natural’ and ‘ideological’ meanings of texts respectively (Larsen 1991, p. 125). Another important point to keep in mind is the fact that the individual signs that make up systems of language (or texts in our case) are not laden with meaning in and of themselves, but rather derive meaning from oppositional relationships with other signs. For example, the meaning of the word ‘rich’ derives from its opposition to the word ‘poor’ (Berger 1991b, p. 7).

When applied specifically to television or film the system of signs is no longer just the words spoken by the actors or newscasters, but includes the visuals employed to
get the message across. According to Berger (1991b), the television medium in fact doesn’t just carry signs, but aspects of this medium actually function as a system of signs (p. 26). Specifically, he argues that different kinds of camera shots or editing work signify different things. For example, a close-up shot signifies intimacy while the editorial device of ‘fading out’ signifies an ending (p. 27). Moreover, color, sound effects and music all help us to understand and ‘read’ television texts (ibid.). Therefore, it is important to focus our textual analyses on the whole package, rather than simply the words.

A specific field of semiological research that has developed is ‘narratology’ or the study of narratives (Larsen 1991, p. 126). This field of inquiry is concerned with the latent, or ideological meanings behind texts, which are conceptualized as ‘narratives’ underlying their manifest meanings (ibid.). However, using Eco’s (1987) study on the narrative structure of James Bond novels, Larsen argues that narratology moves away from earlier conceptions of the ‘ideological’ meanings of texts, and focuses not on the content of texts, but rather on the way they are structured (Larsen 1991, p. 127). Thus, it is not so much the fact that Bond novels tend to identify evil with ethnic minority ‘stock figures,’ but rather that Fleming makes use of ‘stock’ figures per se (ibid.). Put another way, “the structure is the effect” (ibid.).

The notion of ‘myth’ also enters into narratological studies, using a framework developed by anthropologist Claude Lévi-Strauss (Larsen 1991). Essentially, the idea is that myths do not directly transmit ideologies for a particular society, but rather provide
“the means or medium of a specific ritual and symbolic interaction between individuals and society” (Larsen 1991, p. 128). It has been argued that modern mass media serve this same function, and Will Wright’s study of narratives in American western movies attempts to make this link, arguing that viewing such movies “can be understood as a ritual action serving to reinforce rather than to challenge dominant American social beliefs” (Larsen 1991, p. 128). Narrative analysis, then, might provide a useful technique for understanding and drawing connections between the dominant ideologies relating to criminal justice and law and the ‘textual structure’ of reality-based courtroom television programming.

It is also important to understand that even though analysts may ‘decode’ the underlying meanings of texts or ‘genres’ such as American Westerns, the messages carried within mass media products will obviously be read and interpreted in different ways by different people (Larsen 1991, p. 129). Thus, a corpus of work broadly grouped under the rubric ‘reception studies’ has attempted to understand the various ways that audiences receive media messages. One strain of reception research focuses on ‘enunciation,’ or the various ‘modes’ by which texts address their audiences (Larsen 1991, p. 130). Feminist approaches to media studies have argued that most mass media are structured from a male perspective, and assume that they are addressing a male audience (Larsen 1991, p. 131). However, this type of analysis is still focused on the actual text itself, and not the people who make up media audiences. Studies of media audiences from a qualitative perspective have been undertaken – using focus groups, for example – but Larsen (1991) argues that there needs to be an approach that integrates
both texts and audiences (p. 132). Such a middle ground would have the potential to offer rich insights into the messages carried in contemporary mass media forms.

**Qualitative Textual Analysis of Data**

It should be clear by now that the analysis presented here favors qualitative, textual approaches to the collection of data. This thesis will analyze reality-based courtroom television programs in an interpretive, textual-based manner that focuses primarily on frame, theme and discourse contained within a theoretical sample of two programs: *Judge Judy* and *People's Court*. It is useful, however, to elaborate somewhat on the specifics of the data analysis, or more precisely, qualitative and inductive data analysis. While the above discussion of Altheide's (1996) approach to a total program of media research provides a good point of departure, it is necessary here to flesh out some key points. I turn now to a more thorough discussion of category building through coding and analysis of data.

Berg (1989) points out that the categories used in a qualitative content analysis can be determined inductively, by a researcher immersing him or herself in texts in order to "identify the dimensions or themes that seem meaningful to the producers of each message" (p. 112). While noting that deductive approaches may also be used to generate categories, Berg clearly prefers an inductive approach to better appreciate the perceptions of the producers of messages within texts. The approach Berg (1989) advocates follows closely that of Glaser and Strauss (1967) and their formulation of grounded theory. He argues that there is no simple way to describe the processes of achieving a cogent system
of categories for data gleaned from a qualitative content analysis other than to emphasize
the importance of ensuring that the categories are grounded in the data through a process
of inductive inference (Berg 1989, p. 115). Berg also identifies three types of procedures
for developing classes and categories in a content analysis:

*Common Classes:* These classes are "used by virtually anyone in a society to distinguish
between and among various persons, things and events (for example age, gender, mother,
father, teacher, and so on)."

*Special Classes:* Those labels used by members of certain areas (communities) to
distinguish among the things, persons, and events within their limited province.

*Theoretical Classes:* Those that emerge in the course of analyzing the data. In most
content analysis, these theoretical classes provide and overarching pattern (a key linkage)
occuring through the analysis (Berg 1989, p. 116).

With this in mind, we can turn our attention to open coding, which is, broadly speaking,
concerned with opening up inquiry widely (Berg 1989, p. 117). Once we group like
concepts together into categories, we can begin to explore these categories in terms of
their properties and dimensions. This is achieved by further refining our categories into
subcategories by "explaining the when, where, why, how, and so on of a category"
(Strauss and Corbin 1998, p. 114). In order to differentiate subcategories it is necessary
to explore the properties of each category or their "general or specific characteristics or
attributes" and their dimensions, or "the location of a property along a continuum or
range" (Strauss and Corbin 1998, p. 117). Furthermore, "patterns are formed when
groups of properties align themselves along various dimensions" (ibid.). Such a detailed
exploration of these initial categories can only be undertaken by thoroughly getting to
know your data by breaking them down into very small pieces.
In carrying out open coding, Berg (1989) urges the analyst to “ask the data a specific and consistent set of questions” (p. 117). By ‘questions,’ Berg is referring to the idea that we must keep in mind the nature of our study all the way through the data analysis process. Therefore we must always be looking to see how our data might answer our initial questions, yet without losing sight of the fact that other unanticipated questions or insights may also become evident. In this way, we can keep our objectives in mind, but avoid trying to ‘force’ our data into a preconceived set of categories (Berg 1989, p. 117-118). Moreover, Berg argues that we should analyze the data ‘minutely,’ using many categories and classes initially, but as saturation becomes apparent, move toward a funneling of concepts and categories into tighter and more concise concepts (ibid.). Additionally, Berg notes that as coding proceeds, it is important to stop and write down notes about ideas and insights that occur as we move through the data (ibid.). Finally, he points out that traditional categories like age, sex, social class, etc should not be included just because they are traditionally included in most social research. Rather, they should “earn their way into the grounded theory” by proving their relevance (Berg 1989, pp. 118-119).

Once the open coding is complete, we move next to axial coding, or “the process of relating categories to their subcategories... linking categories at the level of properties and dimensions” (Strauss and Corbin 1998, p. 123). In this way, we can begin to get some idea of the way categories are related to one another. However, the linking of concepts together takes place at a conceptual level, and Strauss and Corbin point out that we are really engaging in analysis at two levels. We are examining the words that are
actually contained in the data on one level, but at another level, we are dealing with our conceptualization of those words (pp. 126-127). It is therefore always important to remember our own part in the creation of knowledge, and make sure that we are ‘doing’ our conceptual baggage (Kirby and McKenna 1989, p. 32).

The final step in the grounded theory approach is to attempt selective coding, which is the “process of integrating and refining categories” (Strauss and Corbin 1998, p. 143). Strauss and Corbin point out that in deriving a central theoretical concept or category, we must not lose sight of the fact that such a category is an abstraction of many cases, and not necessarily representative of the minutiae of each one, and what we end up with is a construction by the analyst (p. 145). In choosing a central category, we must try to ensure that is has explanatory power by accounting for variation within the different categories (Strauss and Corbin 1998, p. 146). One analytical technique for elucidating a central category is to develop a storyline that describes ‘what is going on here’ in a few sentences (Strauss and Corbin 1998, p. 148). Once the essence of ‘what is going on here’ has been decided upon, the analyst can continue by naming this central category, and relating other concepts to it (Strauss and Corbin 1998, p. 149). Through this final approach, we can begin to abstract our findings in such a way that might provide insights into wider social processes at work in other similar contexts. Or more specifically in the context of the present program of research, we might be able to arrive at a central explanatory concept – theory if you will – that sheds light on the social processes through which law and justice are represented in reality-based portrays of the legal system. Thus, such a central theoretical concept would then have been ‘grounded’ in the data.
Discussion:

In this section, I have attempted to provide a broad overview of the methods I have used in my analysis of justice, law and the legal system in American reality-based courtroom TV shows. In the research presented, I have pursued a program that is primarily qualitative and interpretive, while still utilizing empirical methods of data collection and analysis where appropriate. In other words, while it will be useful to ‘count’ some of the content of these shows, such a technique is seen to be but a part of a larger process of gaining understanding about the dominant themes and narratives that run through television programming dealing with law and justice. As such, I employ techniques culled from the literature on qualitative document (content) analysis and textual analysis of media content (including selected insights drawn from semiology and narratology). Sampling strategies are theoretical, that is to say, driven by the categories and themes that emerge from the data. Moreover, the analysis of the data is qualitative, and a process of ‘funneling’ and narrowing of theoretical concepts, similar to the approach used in ‘grounded theory,’ is utilized. My conclusions will therefore not be formally representative or predictive, but rather, will be largely descriptive and abstracted to allow extrapolation about the wider social and political processes underpinning this media genre. In keeping with a ‘cultural studies’ approach, I hope to be able to produce an understanding of the phenomenon that is politically engaged, and potentially emancipatory.
The Pilot Phase

The study began with what I termed a period of 'immersion' in reality-based courtroom TV, or a pilot sample and preliminary analysis. During this period I attempted to gain a broad appreciation of the genre (category) of reality-based courtroom television by taking a broad 'snapshot' sample of the full range of programs in an effort to uncover some of the key concepts, categories and themes that would then guide the remainder of the analysis. Moreover, I hoped to use the pilot phase to focus the theoretical sampling strategy I would ultimately use in the research. More specifically, in this early phase of the research I was still undecided about which reality-based programs should be included in my sample and which programs could offer the greatest insights into my topic of interest. While it would have been highly desirable to include a sample of all programs that fit this category of TV, I also knew that there was considerable overlap and borrowing of formats and structures among the stable of reality court TV shows that was airing at the time I began my analysis. However, I needed a period of preliminary analysis in order to make an informed decision about which of the full range of shows would be best included in my study. In this section, I outline this initial process of discovery as a convenient bridge between the theoretical and methodological part of my discussion and the analytic section.

My rationale for proceeding with a pilot phase drew inspiration from Glaser and Strauss' (1967) ideas about the 'funneling' of data during early stages of qualitative data analysis. During the data analysis phase, researchers are urged to analyze the data 'minutely,' using many categories and classes initially, but as saturation becomes
apparent, to move toward a funneling of concepts and categories into tighter and more concise concepts (Berg 1989, p. 118). This more or less ‘open coding’ phase of the data collection necessitates looking at all avenues that open themselves up to the researcher. Examining as much data as possible is of great advantage if we are interested in discovering the maximum amount of variation (Strauss and Corbin 1998 p. 214). However, as our data collection and coding proceed, we can focus more closely on cases that add to our tighter and more concise concepts. I utilized a similar approach in this early phase of my observations.

I began this research by noting the pattern of broadcast of reality-based courtroom television in the viewing area where I resided. Over the course of a typical weekday, the television schedule available to Lower Mainland basic cable subscribers between the hours of 9 am and 6 pm contained approximately 16 hours of reality-based courtroom television programming. However, I noted a great deal of overlap between the television stations in this schedule. In fact, when repeated and simulcast programs are taken into consideration, I realized that there was closer to 7 hours of unique programming encompassing 7 different courtroom shows. These 7 shows were Judge Judy, Texas Justice, Judge Hatchett, Divorce Court, Judge Joe Brown, Judge Mathis and People’s Court. Furthermore, five of these programs aired two half-hour episodes back-to-back each weekday. Thus, if an attempt were made to sample one episode of each reality-based courtroom television program in a given day, this would amount to 4.5 hours of television daily. Over the course of a broadcast week (Monday to Friday), this would translate into 22.5 hours, clearly too much material to cover over multiple weeks.
Therefore, I elected to undertake a weeklong period of immersion in all available shows, recording and viewing one episode of each show per day. No formal coding scheme was utilized during this process, and no attempt was be made to systematically count occurrences of discrete events or characteristics. Rather, this week long time period was meant as a way of surveying the terrain and getting a feel for the breadth of material available. At the end of this exercise, I hoped to have a firm basis upon which to select a sampling of the shows to follow up in subsequent weeks. Furthermore, I hoped this period of ‘immersion’ in the material would help me to identify recurring themes, typical cases and a number of initial categories which I might use to narrow the focus of the subsequent coding and analysis. By the end of viewing all the material gathered in this weeklong period, I hoped to develop an initial coding ‘protocol’ with a number of categories as well as a sampling strategy that would be followed in the coming weeks until theoretical saturation across all categories was achieved.

Given the theoretical nature of this sampling procedure, it was impossible to say exactly how many hours I would end up viewing in total, or how many shows I would end up examining in-depth. At this early stage, I might have even found that among the 22.5 hours of material collected and videotaped in the pilot period there was sufficient material to carry out a rich analysis of the categories and themes that were to emerge. However, it seemed more likely that I would need to collect more material so that I would be able to achieve theoretical saturation among the emergent categories. At the same time, I wanted to remain open to revisiting the data collection phase long after
entering the analysis or writing stages, as ideas and insights emerge throughout the entire research process.

I anticipated that some of the shows reviewed in the early period of exposure to the material would be very similar to one another and thus easily dropped from further analysis. However, other factors guided my selection of programs. Specifically, it made sense from the outset to include Judge Judy in the final sample because it is one of the longest running shows of its type and has enjoyed the highest ratings of all the courtroom shows in recent years. Also, I believed that it was important to include People's Court in my sample because it was the progenitor of the reality-based courtroom television format. However, aside from these two programs, I did not know at that time which of the other shows might also be included in the final sample. The principle that I wanted to use to guide the possible selection of additional programs was that of ‘maximum variety.’ I wanted to make every effort to seek maximum variety in the sample, and thus I used the pilot phase to look for shows that incorporated unique elements not present in either People's Court or Judge Judy.

I completed the pilot sample by recording one episode of each show – including commercials – per day over the week of January 29 to February 2, 2002. When I first conceived of the pilot sample there were seven programs that fit my criteria (Judge Judy, Texas Justice, Judge Hatchett, Divorce Court, Judge Joe Brown, Judge Mathis and The People's Court). However, when I began the data collection, Judge Hatchett had been dropped from the viewing schedule in my area. Therefore, my sample now included 3.5
hours of reality-based courtroom television per day, or a total of 17.5 hours of reality-based courtroom TV for that week.

My strategy for the initial period of observation was simple, and in keeping with the qualitative and grounded theoretical strategies outlined above. I first watched the entire sample of 17.5 hours of television without any idea about what I was supposed to be looking for. In fairness, it was difficult not to be attuned to things such as the racial or class composition of judges and litigants, as well as references to legal principles and moral codes of conduct. These were, in effect, preset categories of observation that led me to initially overlook other things that became apparent later in my analysis. However, I was committed to an open mind and I tried to remain that way throughout the observations. In order to facilitate this, I did not initially use a preset coding sheet, but instead watched intently and simply took down a large volume of notes on whatever struck me as interesting, noteworthy, out of the ordinary, or the features that seemed to distinguish the various programs. After this initial viewing, I tried to use my first impressions as a rough gauge of two things: 1) I tried to delineate the contours of the genre as a whole – including key reoccurring formats, themes, patterns, and dispute types; and 2) I tried to pinpoint what, if anything, made each show unique, or if there were any features that might be found in certain programs that were not in evidence elsewhere.

After my first observation of the pilot sample, I found myself in a dilemma. Of all the shows, *People’s Court* was clearly the most interesting from a number of
First of all, it contained nearly all the elements of the other shows, and then some. For example, all programs had judges and bailiffs, and some had court reporters to interview litigants before or after the show. However, only People’s Court had an attorney commentator who not only interviewed spectators, but offered color commentary on the proceedings and, usually, a short piece of legal advice for the home audience at the conclusion of each case. Second, People’s Court was an hour in length, and often contained one ‘hard’ case that took up nearly half of that time. In contrast, none of the other shows – all of which are a half hour in length – seemed to have this type of depth based on my initial viewing. My first reaction was that my efforts might have been better spent focused on The People’s Court, rather than divided between that and Judge Judy, or any other program. However, I decided to reserve judgement on this matter until I had a chance to revisit the pilot sample in a more systematic way.

Another unexpected finding from this first look at the sample was that Divorce Court emerged very clearly as the only other show with a different approach. Instead of focusing on a variety of mundane issues that one would be likely to find in any small claims court – like dog bites, feuding former roommates, and automobile accidents – the focus of Divorce Court was exclusively on failed relationships. While small sums of money are the direct objects of disputes on Divorce Court, it is the relationship itself that is usually put on trial. The usual format is to adopt a pseudo-therapeutic paradigm that seeks to get to the bottom of why a relationship broke down. Often, litigants are forced to justify or explain why they became involved in the first place, and why the relationship is best ended now. Percolating in the moralizing speeches of Judge Mablean Ephriam are
dominant conservative attitudes toward sex, child rearing and responsibility. Legal rules truly do take a backseat to relationships in this program. Far more than the other programs, Divorce Court tended to degenerate often into Jerry Springer-like rhetoric. Clearly, this program was unique among the courtroom programs in my sample.

After a second examination of the pilot sample it became clear to me that Divorce Court was indeed so different from the other courtroom programs as to fall outside my target genre. In fact, it appeared that Divorce Court was more closely aligned with the daytime tabloid talk show format than it was with my conception of reality-based courtroom television programming. In my opinion, it would have been unrepresentative of the true American reality-TV small claims court format that was the intended object of my inquiry. Thus, I elected to drop that program from consideration for any future analysis. I also decided that there was considerable merit in sticking to my initial plan to include both People's Court and Judge Judy. While Judge Judy did not incorporate any additional structural elements to the format (e.g. a legal commentator), it was nonetheless the highest rated program of the genre. This fact alone warranted including the program in my sample. As my analysis was to proceed, however, I soon came to appreciate just how different Judge Judy and People's Court actually are.

Typical Cases and Preliminary Observations

The other aim of the pilot analysis was to begin to generate some initial themes which might in turn help to refine and generate a coding and data collection strategy that could be applied to a much larger theoretical sample. Bearing in mind the simplicity of
the methodological approach to the pilot analysis discussed above, I would like to turn to a very brief discussion of some themes that began to emerge during this period.

The most important feature of these programs evident in the pilot analysis was the emphasis on the discourse of law as a means for articulating everyday conflicts. Interpersonal conflicts were repeatedly expressed in broad terms of liability, negligence and other legal obligations – perhaps most so by the litigants themselves. However, even though legal discourse was stressed as an appropriate way to express and resolve conflicts, the key theme articulated many times throughout these programs was traditional family values. In particular the bonds of family were continually demonstrated to be very important. This was perhaps most clearly expressed by the words and actions of the judges and other legal figures rather than the discourse of the litigants. For example, the bond between mother and child and the responsibility for nurturing this bond were discussed in several of the sample cases. Hand in hand with family values, another theme permeated the shows I reviewed: morality or ethics as a higher form of law. The TV judges would often become frustrated at the inability of the law to deliver true or ‘natural’ justice – a type of justice that was congruent with some idealized notion of morality. One judge even praised a litigant for his vigilante actions against a neighbourhood drug dealer, even though the law did not permit such actions. This theme resonates with popular attitudes since the late 1960s in the United States about the courts’ perceived inability to deliver true justice in the face of restrictive procedural rules that seem to favor the guilty (Lenz, 2003; Rafter 2000). In sum, the key insights produced by the pilot analysis are as follows: 1) the litigants’ conception of
everyday programs as problems of law, 2) the centring of traditional values of family and relationships, and 3) the law's inability to provide natural justice. Taken in concert, these key themes provide a loosely-fitting analytic template with which to begin a more detailed analysis of American reality-based courtroom television.

In addition to the general themes discussed above, the pilot sample also hinted at the range of cases that are typical of American reality-based courtroom TV. Typically disputes that came before the courts in the pilot sample were of only a handful of types. Generally speaking, nearly all cases seemed to flow from a breakdown in a relationship of some sort. For example, the most common cases involved former lovers or romantic partners locked in a dispute over some monetary issue. These cases were ostensibly about the loss of money or property, but the issues discussed in court were often more personal in nature. In these kinds of cases, law provided a vocabulary for expressing the loss or transformation of a personal relationship. A second type of relationship-oriented case involved friendships that had broken down over money. For example, a common legal dispute involved former friends arguing over unpaid bills after they had lived together as roommates. The third typical type of case involved seemingly random acts of vandalism, property damage or personal injury of some sort. However, many of these cases were tied to the second main theme discussed above: the importance of traditional family values. Mending the damages in these cases usually involved the judge acting as a family counsellor or neighbourhood mediator and dispensing advice on parenting, drugs, citizenship and responsibility.
What seemed to me to be the most evident theme running through all of the cases in this first small sample was the function of the TV court as an avenue for mending broken relationships. This function often seemed unattainable, but in the *People's Court* in particular, litigants were often encouraged to reconcile at the end and let bygones be bygones. While law was often shown to be utterly impotent in the context of interpersonal disputes, the power of the family and ideals of natural justice seemed to be affirmed. Thus, this early analysis seems to point toward the reality TV courtroom as perhaps more able to work in that area of social life where the *real* legal system has been unable to effect change: human relationships. In this way, we might be seeing an inversion of John Conley and William O'Barr's (1990) observations about the primacy of rules over relationships in American small claims courts. Taken in concert, the emphasis on relationships, responsibility to a wider community, and a shift away from a focus on narrow legal principles in favor of adopting a more pragmatic approach seem to hint at a very powerful idea. Legal sociologist Roger Cotterrell (1992) has argued that the courts may not be that well suited to the function of dispute processing. In fact, formal legal proceedings may often make matters worse. Alternative forms of dispute resolution shifts the focus back to dispute processing, and turn attention toward the central value of 'community' as a primary symbolic resource, over traditional liberal legal notions of individual rights. While courtroom television programs are far from being equivalent to mediation, they do appear to take important cues from the rhetoric of alternative dispute processing. For example, many of the courtroom shows in the pilot analysis emphasized the centrality of relationships, while often utilizing a therapeutic approach to problem solving. This was most evident in the *People's Court* and *Divorce Court*. However, at
that early stage of analysis it was simply a germ of an idea that need much more evidence — grounded in the data — before any more might be said about it. However, the value of the pilot analysis was certainly confirmed by this discovery of a future avenue of exploration I had not even considered.
Introduction:

Questions about the form and nature of law have been central in the work of philosophers, historians, criminologists, sociologists and legal scholars. Questions posed by scholars of law are varied and are often of a grand scale, such as “What is law?” and “Upon what problems should the power of law be brought to bear?” Consideration of such broad questions about law is well beyond the scope of the present study. However, it is important to consider in some small way the essence of law as we attempt to analyze the jurisprudence of the television small claims court. Critical legal scholars have occupied themselves with trying to understand the place of law in our day-to-day lives (cf. Yngvesson 1989; Greenhouse, et. al. 1994). Law, from this perspective, is more than the grand statements found in formal legal texts. Instead, law is a living entity that pervades many forms of our day-to-day life. Law, such scholars argue, is constituted through all forms of social life. Law regulates the family, the economy, education, health, reproduction and all other major institutions that make up our social world. However, critical legal scholars also point out that our understanding of the law is not simply formulated in a top-down fashion that draws only upon formal understandings and legal doctrine. Rather, the law is experienced through a host of more routine or mundane transactions.

To some critical legal scholars, the law is to be found everywhere, and our understanding of what it means to be a legal entity is shaped at our every step throughout the day. I am not prepared to debate the full implications of such a position here.
However, I think this is a useful way to conceptualize the manner in which the law of the telemediated small claims court might seep into our common sense understanding of our nature as judicial subjects. The law is symbolic in many ways, and that symbolism permeates the TV courtroom.

In this first part of my qualitative analysis, I begin by considering the way law is presented in the reality-based courtroom programs *Judge Judy* and *People's Court*. I argue that the two programs present radically different models of law and justice to viewers of daytime television. Underlying these two models are divergent ideologies that accord the judge and ordinary people very different positions within their implicit conceptions of law. As well, both models project very different ideas about the efficacy of law in a world that is conceived as being often morally corrupt and where the institutions of family and community are increasingly being undermined by a growing tendency for individuals to assert their rights in the legal realm.

In order to explore the implicit messages about the nature of law contained within *Judge Judy* and *People's Court*, I will rely on detailed descriptions of the structure, or morphology, of each program in order to examine the way that their visual, aural and narrative features combine into coherent messages about the law. I will argue that these programs lie at very different positions on a spectrum of reality-based courtroom programs with respect to their underlying ideology and their conception of the law and the role of judges and ordinary people within the legal system. However, I will keep the primary focus here on the structure of the two programs and save my detailed analysis of
the language, or discourse of the telemediated small claims court for the final part of the thesis. In the present section, I will explore first the features of the highest rated reality-based judging program, *Judge Judy*. Following this, I will present a similar discussion of the morphology of *People’s Court*, the longest running of the reality-courtroom programs, and the progenitor of the daytime courtroom small claims court genre. I will then sum up this section with a discussion of the differing ways these two models of law converge and diverge with respect to their outlook on law, justice, morality and the role of the court in regulating these spheres.

**Judging Judy: Conceptions of Law and Justice in *Judge Judy***

*Judge Judy: Ideologue Par Excellence*

JUDGE JUDY is a show about family court cases, marital dissension and small claims disputes. It's about relationships in conflict and Judge Judy's unique ability to act as a true moral compass for people seeking guidance, insight and resolution in their often complicated lives (www.judgejudy.com).

Judge Judy Sheindlin has long reigned supreme in the ratings game of daytime television. Currently, Judy is the highest rated daytime reality-based courtroom program, and one of the highest rated programs of any daytime television show (www.tvtalkshows.com). Along with her popular television series, Sheindlin has authored a number of self-help books with such illuminating titles as *Don’t Pee on my Leg and Tell Me It’s Raining; Keep it Simple Stupid; Beauty Fades, Dumb is Forever* (a national bestseller); and her recent foray into children’s literature *Win or Lose By How You Choose*. To say that Sheindlin is merely an advocate of right-of-centre ideology is a considerable understatement. More to the point, Judy could be considered an unabashed
ideologue of family values, personal responsibility and judicial reform. And, according to promotional material on Sheindlin’s official website, her reality-based courtroom program is an ideal platform to carry these views to a larger audience: “For 24 years, I tried to change the way families deal with problems on a very small scale, one case at a time. Now I can use the skills I have developed and take my message to more people everyday” (www.judgejudy.com). Given the brisk sales of her books and the high ratings that Sheindlin’s program enjoys – often second only to Oprah in the daytime television talk show category, and recently the ninth highest rated syndicated television program overall (Albiniak 2003) – it is clear that Sheindlin’s message is being received by a sizeable audience. Therefore, it is with Judy that I begin my consideration of the jurisprudence of reality-based courtroom television. In the case of the jurisprudence of Judy, the model of law, justice and morality that we are presented with places Judy herself at the very centre of lawmaking, moralizing judgements, and the delivery of justice.

In order to uncover what the programs calls ‘Judge Judy justice,’ I must first consider the structure of the program itself. Judge Judy, as well as all the other daytime judging programs, follows a consistent and predictable format that forms a large part of the message that is presented to viewers. Viewers can expect an almost formulaic sequence of events on Judge Judy that neatly unfolds in each episode with a high degree of regularity. Each broadcast utilizes the same techniques to construct a dispute from beginning to end. The program makes use of visual elements, editing techniques that can distort the temporal sequence of events, music, narration, sound effects, and highly
evocative symbols of the power of the court to move each episode through from the
collection to resolution of disputes. The present chapter is concerned with the way
these elements construct an overall story, or narrative about disputes on Judge Judy.
Though it is difficult to separate these structural elements from the discursive elements of
Judge Judy that also work to construct disputes, my intention here is to give the reader a
clear impression of the way the program works as a whole by examining its constituent
parts in close detail. It should become evident that these structural pieces of Judge Judy
operate with regularity and in the same fashion on a day-to-day basis. This is not to say
that the discursive elements of the broadcast do not also work in a way that is highly
regularized and structured. In fact, as I will demonstrate in the next section, the elements
that make up the structure of the discourse (or talk) of Judge Judy are in many ways very
similar to the structure of American small claims court judgements more generally, as
presented in the ethnographic work of Conley & O’Barr (1990). However, we must not
got so lost in the analysis of discourse that we lose sight of the fact that this reality-based
television judge program is a highly telemediated spectacle. Thus, the structure of
reality-based courtroom television is a combination of the discourse of the judges and
litigants and the output of a highly visual, commercially driven media format. I begin
below by disentangling the components of this spectacle.

‘Hyper-Framing’ the Conflict: The Enticement, the Teaser and the Judge

At first glance, one can’t help but notice that Judge Judy is shaped by the ever
present need – characteristic of many television programs – to continually promote itself
through repetitious looping of particularly enticing, provocative and scandalous tidbits
from upcoming broadcasts. Television promotes itself constantly by tempting viewers to watch upcoming broadcasts of the show they are currently watching, the program that is about to follow the program they are currently viewing, and other upcoming programs that are to be broadcast at a later date. This spiral of promotion grows unabated as the number of television channels expands, and as large corporations take control of huge segments of the expanding cable universe. Now, it is not uncommon for viewers watching the A&E Network, for example, to endure commercial advertisements for upcoming programming on related networks such as Biography Channel and History Channel. Of course, with media convergence and large corporations such as Canwest Global in Canada taking control of a stable of large daily newspapers, hyper self-promotion crosses the boundaries separating traditional media formats, so that now Global television news broadcasts feature ‘interviews’ with journalists at Global-owned newspapers such as the Vancouver Sun or National Post who urge viewers to ‘read all about it’ in tomorrow’s edition of the newspaper. The logic of the television industry in the late capitalist era has resulted in what has been described as a “self-referential, recombinant production process” (Ouellette and Anderson 1997, p. 151). Endless looping and repetition of entire programs as well as segments of programs have been identified as a key characteristic of this new turn in broadcasting (Ouellette and Anderson 1997).

Without getting too deeply into the debate about media convergence, the above discussion serves to underscore the need to view Judge Judy as but one piece of a much larger ‘intertextual’ media package made up other reality-judging programs, daytime talk
shows, tabloid newsmagazine programs, local news broadcasts, dramatic television series that feature the legal system and of course all the commercials that are interspersed within and between all of these shows. For example, when watching *People's Court* early in the afternoon on the UPN network, a viewer might be urged to watch *Divorce Court* which immediately follows that particular broadcast. During *Judge Judy* — which airs in what networks term early 'fringe time,' that is to say immediately before the suppertime news hour (Albinia 2003) — viewers in the Seattle area are continually reminded to ‘stay tuned’ for ‘complete Northwest News coverage on KIRO 7 News.’ This juxtaposition of *Judge Judy* against the ‘reality’ of the local news helps to cement the veracity of what we are witnessing on the judging program. Furthermore, during the commercial breaks of *Judge Judy*, viewers are alerted to some exciting scenes from a case that will be featured later in ‘today’s broadcast’ as well as a preview of tomorrow’s upcoming program. And lastly, at the very outset of each episode of *Judge Judy* we are treated to a series of rapid fire clips from the upcoming broadcast, tied together by narration which underscores the shocking, scandalous, or otherwise scintillating scenes that we are about to witness. This foreshadowing not only tells the viewer to ‘stay tuned’ for an exciting episode of *Judge Judy*, but such exposition, involving as it does decontextualized dialogue coupled with a seamless narrative, also guides the viewer toward the ‘proper’ way of framing the issues that are about to be explored on the program. This device therefore not only serves to ‘hype’ the program; it also serves as a powerful part of the construction of litigant discourse within legal, moral and therapeutic frames of reference that might not otherwise be apparent to the viewer. I’ll turn now to a specific illustration of this process of the ‘hyper-framing’ of litigant discourse.
The opening sequence begins with a 3-D style Judge Judy logo flying directly toward the viewer, growing larger in size until it surpasses the entire field of view, simulating the very act of the logo ‘flying’ outward from deep within the television, through our television screen and indeed right through the viewer as he or she sits watching. The logo is at once penetrating and surrounding as it symbolically subsumes the home viewer within the program’s social world. It is as if the watcher has been enveloped within Judge Judy’s jurisdiction, and we are now disciples before the judge awaiting her pronouncements. This all takes place very rapidly, in less than a second. Immediately following this rapidfire labelling of the proceedings as belonging within the reach of ‘Judge Judy justice’ we cut directly to an image of Judge Judy herself, in a medium close-up camera shot originating from an oblique angle to Judy’s right, seated at the bench, wearing glasses, fully robed and receiving a stack of important looking documents from a uniformed bailiff. Just as this visual of Judy at the bench is unfolding, we begin to hear the words of a litigant, just slightly before we see her. She begins just as Judy is receiving the important stack of papers. Perhaps, we are led to believe, those documents are important pieces of evidence in the case we are about to witness. The plaintiff begins:

Plaintiff: “She said that my daughter had assaulted her daughter.”

The visual cuts to the plaintiff, as she is speaking, standing very formally before the judge, dressed in black and solemnly stating the facts. Before the plaintiff is able to finish this one short line, the visual cuts to the defendant, dressed in dark pink and rolling her eyes, seemingly in response to the accusation of the plaintiff regarding her daughter’s behavior. Underscoring this rapid-fire collage of visuals and imagery is an instrumental piece of music — at first slow in tempo, but picking up speed and culminating in a cacophony of wild drumbeats and dramatic crescendos. The visual cuts to a medium shot of the two litigants, standing facing forward — toward the judge — as the camera begins to slowly zoom out into a wider shot. It is at this point that the narration begins:

Narrator: [a serious male voice] “One woman’s act of revenge…”

Underscoring this first bit of narration, the visual cuts to a medium close-up of the defendant. Then, all at once and to a ‘swooshing’ sound effect similar to the ‘backward’ drum effects pioneered by the Beatles in their later efforts in the recording studio, a title in large font appears on the screen, pushing the image of the defendant to the right hand side of the screen. The title reads “Act of Revenge” with the first two words placed to the immediate left of the defendant, while the much larger word ‘revenge’ is emblazoned across the bottom of the screen, creating an effect whereby the phrase ‘act of revenge’ quite literally encircles, or frames the image of the defendant. The effect is to relegate the face of the defendant to the upper right hand quadrant of the screen, while her ‘alleged deed’ fills up the other three quarters of the visual field. It seems unequivocal that this woman is to be the villain in this case. Ironically, the television rating “G” appears as a small icon in the upper left hand corner of the screen at this time as well. It is hard to believe that the melodrama that is unfolding, with all its intrigue and suspense,
could be suitable for general audiences. Just then, the visual cuts to a medium close-up shot of Judy seated at the bench, this time directly from the front, as if from the perspective of the litigants standing before her. She asks a question, presumably to the defendant.

**Judge Judy:** “Did you call protective services?”

The visual cuts to a medium shot of the two litigants from Judy’s right.

**Defendant:** “Yes.”

The visual cuts to a slow motion sequence of the plaintiff walking, presumably entering the courtroom. The narration continues:

**Narrator:** “…forces a mother…” [The visual cuts to a slow motion medium close-up of the plaintiff slowing lowering her head, as if in shame] “…to give up her children.”

Cut to a litigants’ eye view of Judy, adorned with reading glasses, reading from some documents.

**Judge Judy:** “Both parents use and sell drugs from the home?”

Judy’s voice rises to emphasize the last two words. The visual cuts quickly to the plaintiff shaking her head ever so slightly. Presumably addressing the defendant, Judy then asks the following:

**Judge Judy:** “Did you tell them that?”

Cut to a long shot, from the back of the courtroom, quickly zooming in toward the litigants from behind and over the heads of spectators who fill the seating area to capacity. Cut to a close up of the defendant from Judy’s perspective.

**Defendant:** “I told them what’s been going on.”

Cut to a medium oblique shot of the litigants, this time from Judy’s left, and at a wide enough angle to reveal a woman standing next to the plaintiff. The plaintiff responds to this accusation in a cracking voice that is on the verge of tears, as she clasps her left hand closely to her chest:

**Plaintiff:** “I am not a drug dealer…” [Cut to a close up of the plaintiff from Judy’s perspective] “I am not a drug addict.”

Cut to a medium close-up of Judy at the bench, presumably reacting to the words of the litigants, now with her glasses removed. Judy glances disdainfully down and to her right, as if rejecting a sour taste in her mouth. The narration continues under this image.

**Narrator:** “Can Judy rescue this broken family?”

As the narrator is asking this rhetorical question, the visual cuts to a close-up of the plaintiff tightly embracing the person who moments ago had been shown standing next to
her. As we can see now, this woman is there for emotional support. As the two embrace, in
the background we glimpse the audience rising to their feet, signaling the end of the
case. Are we to presume that Judy has been successful in putting this 'broken family'
back together again? Cut to a long shot from above, at the back of the courtroom and
tracking over the now seated audience toward the litigants.

Plaintiff: “I’ve never been separated from…” [Cut to a tearful close up of the plaintiff
from Judy’s perspective] “…my kids before.” [The visual cuts quickly to Judy, looking
in the direction of the plaintiff, now with glasses back on and resting low on her nose so
she can look over them. Judy is nodding, perhaps understandingly, at the plaintiff’s
plight. The plaintiff continues:] “My two daughters…” [Cut to a close up of the plaintiff]
 “…want to come home!”

The visual cuts to the Judge Judy logo, which entirely fills the screen, blocking out
anything else from view. In case the importance of this point is lost on the home viewers,
the narrator reads the logo aloud in dramatic fashion:

Narrator: “Judge Judy.”

As the narrator reads, the ‘swooshing’ sound effect is heard once again and the logo
begins to ‘fly’ toward the home viewer, again presumably right through the screen and
into our homes. This transition back to the title logo seems to herald an end to the
uncharacteristic restraint that Judy has shown so far in this case. The visual cuts to a
close up of the defendant as Judy begins to speak. One presumes her words are
directed toward the defendant:

Judge Judy: “Her children are…” [Cut to a medium shot of Judy, glasses off, emphasizing
her point with her left hand raised and moving in time to her words] “…devastated!”

This final word – “devastated” – marks the end of the hyper-framing sequence.

This entire opening sequence, which I have attempted to describe as fully as
possible above, represented approximately 27 seconds of elapsed time from the
appearance of the very first title graphic to Judy’s final word. The rapid-fire collage of
sights, sound effects, music, narration and dialogue seemed to have borrowed from the
production techniques of MTV music videos. There were a total of twenty-four cuts in
this short segment, ensuring that the viewer was visually assaulted with a montage of
images, almost one new image per second. This was remarkable to me, considering that
the actual pace of the program tends to be significantly slower than this tantalizing
opening sequence would suggest. Moreover, the pace of a ‘real life’ courtroom would appear to be glacial at best after watching this segment.

The opening sequence, as I have suggested above, is vital to the program not only because it might seduce the viewer into continuing to watch instead of turning the channel – clearly a requirement of a commercial and highly competitive medium like television – but also because it situates the conflict that is about to unfold. Specifically, this particular sequence gave shape to the nature of the dispute which the litigants had brought to this particular episode – the moral contours and implications of what was ‘at stake’ – and most importantly, the sequence reinforced Judy’s particularly central role in setting the situation ‘right.’ After watching this sequence, it was plain that the narrator, though phrasing it as a question – “Can Judy rescue this broken family” – was really setting the stage for how we were to interpret the final outcome of this situation. Although tears might be shed and lies might be told, in the end, Judy has the ability to set things right. Judy can and would ‘rescue’ these litigants, and regular viewers probably knew this. The rest of us, however, would have to watch and find out.

The opening sequence clearly typified the use of ‘televisuality’ as a general approach to the program. The use of slow motion shots, titles, music, sound effects and dramatic narration all seemed to resemble the approach of tabloid newsmagazine programs in particular, which insist on ‘teasing’ the viewer with the ‘juiciest’ bits from the upcoming broadcast at virtually every opportunity. We were shown the most emotional elements of the program – the tears, the embrace at the end of the case and, of
course, Judy’s angry condemnation of the wrongful behavior that had landed the litigants in her courtroom. In a sense, it was almost redundant to watch the program at all after watching this sequence, as we could easily surmise how the case would turn out. However, for fans, the pleasure is in the details and audiences must watch in order to get all of those details, and most importantly to watch as Judy sorts those details out and makes sense of the situation.

Another example of the ‘televisuality’ of the opening sequence was the way that liberties were taken with the element of time. First of all, the segment disrupted the natural time order by showing clips ‘out of order’ temporally. For instance, in the example discussed above, the clip of the plaintiff embracing her friend took place against a background of the audience rising to their feet, clearly indicating that this clip must have come from the very end of the program. However, this clip was presented as if it occurred at some point in the middle of the action, as if to say that such a high degree of emotion – the heartfelt embrace – was central to the episode thematically, if not temporally. The element of time was further distorted by the fact that the visual action – though temporally out of order and chopped up with much detail edited out – was given a sense of continuity by the fact that music played under throughout, along with the constant narration tying it all together into a seamless storyline. This was much the same as what Doyle (1998) observed in his study of COPS, and in particular that program’s use of sound and narration to bolster the flow of quite obviously edited visual sequences.
The opening sequence also set up the program in a very melodramatic fashion, clearly demarcating right from wrong. A key moral issue in the sequence presented above was revenge. The defendant was literally encircled by the ‘act of revenge’ that she had come to court to atone for. There was no mistaking the message that revenge can only lead to heartache, tears, a disrupted family, and of course, a lawsuit. In other words, nothing good can come of this rogue human emotion. Another key way that this conflict was framed was in terms of ideas about the family. The image of the ‘broken’ family was one that was highly evocative and closely associated with a broken home – another situation that should be avoided at all costs. Drug use too was drawn into the picture in a way that showed it to be utterly destructive of family life. In the end, the result was clear. Revenge, broken families and drugs can only end in disgrace and mass humiliation before a TV audience. And at the centre of it all, of course, was Judy. More than anything, the framing of the conflict within this opening sequence had the effect of placing Judy at the core of the proceedings and as the unique solution to lives that were clearly out of control.

What is most striking about the hyper-framing sequence is that it is so different in style and structure from the other segment. Music is not used to such an effect in any other part of the program. In fact, only the briefest of musical phrases – a very subdued bass guitar line and nothing more – is used to mark the return to the program after commercial breaks. Also, there is a regular instrumental musical theme that is used at the beginning of the program – in the segment that follows the hyper-framing segment – and at the end as the credits role and the plaintiffs get in a final word. However, the theme
music is used only to mark the beginning and end of the program, and not as a device to
set the tone during testimony. It is only in the highly televisual opening ‘hyper-framing’
sequence that music is used to emphasize a mood, and more importantly, to signal
changes of mood. In many of the opening sequences that I observed, the music changed
to signal a shift in the narrative or to mark an unexpected turn of events. For example,
when describing a case concerning two young men who were hired to look after the home
of a middle aged couple (April 24, 2002), the music began in a way that suggested a
formal sort of calm, an almost military marching beat that signaled obedience and order.
Then, as the narration shifted and we were told that the two boys actually threw a large
party with upwards of fifty guests, the music shifted to mark this change of emotion or
narrative from nothing out of the ordinary, to a sense of shock, chaos and betrayal.
Visual effects were also used to reinforce this shift from the ‘normal’ to the unusual. Just
as the change in narration and music introduced the party that was unexpectedly visited
upon the quiet suburban home of the plaintiffs, the visual reinforced this point as well.
The phrase “THREW A PARTY” literally took over the entire field of vision, as
computer-generated confetti rained down all around the words. The music abruptly
turned from chaotic to ominous and foreboding as the story continued to unfold. We
were then told that the plaintiffs suspected someone may have actually slept in their bed
and that a sum of money had gone missing. Judy’s discourse further framed the incident
as she drove home this sense of evil by suggesting that their “home was invaded.”
Furthermore, Judy labeled the behavior of the defendants “irresponsible” and their
attempts to refute this point were dismissed as “baloney.” Such were the evils that result
from “the house sitters’ house party,” to use the words of the narrator. Thus, changes in
music, visual cues and the use of selected pieces of dialogue can all come together within the hyper-framing sequence to suggest how viewers should feel about what is going on, who is right or wrong, and who is to blame for the plaintiffs' misfortune. In other words, the so-called 'reality' of the program is shaped and mediated through the use of devices that are normally reserved for dramatic fictional programming. This is far from the 'raw reality' that reality TV promises to viewers; this is clearly a form of 'hyperreality.'

In sum, Judge Judy is always prefaced by a very short segment that serves to frame the case that is about to proceed on the program. In addition to framing the case, this segment also acts to 'hype' the upcoming program through rapid-fire editing, shifting music that sets the scene and visuals that highlight the features of the drama and demarcate the villains. The conflation of this televisual hype with the frame-defining function has led me to term this portion of the program 'hyper-framing.' This type of sequence is not unique to Judge Judy. Tabloid news magazine programs make use of similar 'televisual' segments repeatedly though their broadcasts, though their primary aim seems to be with the 'hype' rather than the 'framing' aspect. Also, other reality-based judging programs use a similar opening 'teaser,' although each program has its own individual style. For example, Divorce Court uses footage shot exclusively for that purpose in addition to re-edited material from the courtroom testimony. In the opening moments of Divorce Court the litigants address the camera directly, as they are explaining their behavior to us, the audience. Divorce Court makes use of fewer rapid-fire 'cuts,' but it does employ sound effects and use black and white footage mixed with color. As well, the title graphic Divorce Court – which substitutes a wedding band for
the ‘o’ in each word – is repeatedly flashed on the screen, usually between ‘cuts,’ and is accompanied by sound effects. However, the lack of narration results in a less overt ‘framing’ of the conflict.

Turning our attention back to Judge Judy, immediately following the ‘hyper-framing’ segment, the program shifts to the opening title portion. I will now discuss this highly visual sequence below.

This is Her Court...

On each episode of Judge Judy the ‘hyper-framing’ sequence gives way seamlessly to the opening title segment – a portion of the program that establishes what it is that you are watching. Although it might seem to the casual viewer that the ‘hyper-framing’ sequence and the opening title segment are really just part of one discrete portion of Judge Judy, I argue that they should be discussed separately for two reasons. First, and most obviously, the ‘hyper-framing’ segment changes from episode to episode along with the litigants and the disputes. Though each individual hyper-framing segment might use the same types of features to similar effect – such as music, editing, and so forth – the actual substance of the sequence changes every time. Conversely, the title segment is exactly the same for each episode. For this reason, I view both as separate features of the broadcast. Second, I view these two segments separately because they serve two different purposes in the overall morphology of the program. The ‘hyper-framing’ segment works to both tantalize and frame the nature of a specific conflict, and to situate Judge Judy within the centre of that conflict. The opening title portion of the
program instead serves to reinforce the reality of program while simultaneously reinforcing Judy herself as the star attraction more generally. Make no mistake, while it may be entertaining to watch the litigants naked before the camera with all of their emotional troubles, it is the judge who is the real focal point of this program. It may be no accident that the focus always shifts away from the individual cases that are profiled in the ‘hyper-framing’ sequence to the more general title sequence where Judge Judy herself is shown to be presiding over it all. We are thus encouraged to turn away from the ‘people’ who appear before the court and instead pay homage to the judge herself. However, it is clear that it is not the position of judge that we should revere, but the actual person of Judge Judy, that human ‘moral compass’ who is uniquely able to sort through our personal troubles and dispense her own brand of ‘uncommon’ sense.

Judge Judy: Any Program, Any Day

When the title sequence begins, the first thing we see is a computer rendered graphic of a very stately, neo-classically styled public building – a courthouse that bears a strong resemblance to the United States Supreme Court – adorned with six majestic columns that stretch well above the formal entranceway. This is not any specific public building, but perhaps a compendium of all American courthouses, or at least all courthouses as they are imagined to be from watching television and other popular culture representations. Notably, there is no American flag waving in front of the building either, perhaps lending an international flavor to the institution. In the end, though, it doesn’t matter that this courthouse could be anywhere. It is announced that this is a very specific courthouse; this courthouse belongs in fact to Judge Judy. As our field of view tracks closer and closer to the courthouse, and ultimately whisks the viewer between the stately pillars and through the front doors, the announcer makes this fact clear:

Narrator: “You are about to enter the courtroom of Judge Judith Sheindlin...”

The front doors of the stylized courthouse open, accompanied by a flash of light and a ‘swooshing’ sound effect, of course. The image dissolves into a tight close up of a smiling Judy, which in another flash of light gives way to an image of Judy in action. Though we can’t hear what she is saying – we only hear the narrator’s voice and the background theme music – we can see from her expression and gestures that it is a serious moment. At the same time that these images are unfolding, we hear the narrator driving home the reality of the program:
Narrator: “The people are real. The cases are real. The rulings are final.”

As we hear the words of the narrator, we see multiple images of Judy, in close up, swirling around the screen, as our field of vision grows wider. The images of Judy move about this wider field of vision, overlapping with each other in a way that seems to signal chaos, but ultimately ends in the images lining up, turning to the side so that each image forms a pillar – like the stately columns of the stylized neo-classical building at the top of the sequence – and finally, a rooftop swirls into the place above these pillars of Judy forming a small courthouse. This imagery is deeply imbued with symbolism, as we are shown that Judge Judy is not simply contained within the courthouse, but instead she is actually the single constituent of that courthouse. Thus, the courtroom that we are entering is built from Judy, in all of her various forms, as suggested by the six different images that circulate around the screen to ultimately form this institution. Judy is not simply the focus of our attention within the court; she is the court. As if to drive this point home, the narrator sums it all up with the two following points:

Narrator: “This is her courtroom. This is Judge Judy.”

The final visual sequence sees the stylized courtroom – built from images of Judy herself – in a flash of light subsumed within a larger rendering of the title graphic Judge Judy, which slowly fills the screen. The courtroom all at once is swallowed up within the word ‘Judy,’ becoming merely the centre of the letter “d.” This final visual act, which is repeated in exactly the same way at the top of every program, drives home the point that the court is built from Judy and, simultaneously, the court is contained within Judy. Judy and the law, therefore, are inseparable.

The opening ritual described above serves to elucidate a conception of the law with the judge firmly at the centre of the proceedings. Moreover, it is clear that we are led to believe that not just any judge can be at the centre of law and justice, but more specifically, Judge Judy Sheindlin is the person to whom we should look for resolution. This centring of the judge as the ‘star’ of the program is key to understanding what sets reality-based courtroom television apart from other representations of the criminal justice system on TV. However, what separates Judge Judy from other programs within the stable of reality judging programs is its insistence on viewing Judy as the sole location where law and justice reside. The two segments discussed so far are vital to reinforcing this conception of the law as the embodiment of the charismatic lawgiver. Much like Max Weber’s conception of ‘charismatic authority,’ which is derived from the personal
characteristics of a dynamic leader, Judy exhibits qualities that make her uniquely suited
to dispense justice. If we revere Judy, it is because she evidences a unique ability to
solve problems where others are incapable, much like a modern day Solomon. This is
markedly different from ‘rational-legal authority,’ which is derived from a reverence for
the position of judge. Thus, if a judge is to be obeyed and respected it is because they
have been elevated to that position by the formal rules and laws of the land, which are a
reflection of democracy. However well qualified, a judge is merely a conduit for the
official doctrine that makes up the legal system, and not the embodiment of that very
system. The charismatic judge, on the other hand, is the very embodiment of law. As
such, a charismatic judge like Judy does not need to justify her decisions with reference
to universal legal principles. It is enough to simply say ‘because I said so.’

The Main Event

The bulk of any typical Judge Judy episode consists of small claims cases heard
before the judge. There are a number of features that are more generally applicable
across the various judging programs, while others are more specific to Judge Judy alone.
The main features that I will discuss here, I believe, are key to understanding the model
of law that is implied within Judge Judy. I will discuss in turn the use of formal
ceremonial ritual, narration and what I term ‘framing’ captions. In order to illustrate
these features, I will draw upon examples from specific episodes of the program.
Formal Ceremony

Like all ‘real’ court proceedings, Judge Judy is marked by distinct ceremonial rituals that alert the audience to the solemnity of the matter at hand, as well as the power of the law and position of judge – or the person of judge in this case. The courtroom of Judge Judy is appointed to look much like a real American courtroom, with the judge seated behind an elevated dais, flanked by the American flag, as well as the flag of the state of California. A plaque is fixed to the front of Judy’s bench that announces her name: “Judge Judy Sheindlin” as if this were not already apparent from the elaborate opening title sequence. It is interesting to note, however, that although the announcer in the opening title sequence introduces the courtroom as belonging to Judge Judith Sheindlin, an air of informality is lent to the proceedings by the constant reference to the shortened form of Sheindlin’s first name. So while the power and formality of her position are continually reinforced, we are also tacitly urged to believe that Sheindlin is after all, just ‘Judy,’ a wife and mother from Queens, New York.

As the litigants enter the courtroom and walk up the aisle through the spectator-filled seating area, the camera’s view allows us to see that the back wall of the courtroom is lined with bookshelves, filled with thick and serious looking leather bound volumes – perhaps containing the most important works on law and jurisprudential wisdom. Everywhere that the camera’s gaze is cast in the wood-paneled courtroom, there are tangible symbols of the formality of what is about to begin.
In addition to Sheindlin, who enters the courtroom through a door located behind and to the left of the bench wearing the typical American black judge’s robe, there is a uniformed bailiff who commands all in attendance to submit to the rituals befitting a judge. Bailiff Petri Hawkins Byrd served as a ‘real’ court officer in the Brooklyn and Manhattan Family Court systems, working with many judges, but none as lively as Judy Sheindlin, according to material on the official Judge Judy website: “I was never bored in her courtroom… Her get-to-the-point style didn't always sit well with the litigants, and there were times she was definitely glad to have me around” (www.judgejudy.com).

Byrd’s first symbolic act is when he calls the crowd of spectators to their feet:

**Bailiff Byrd:** “Order! All rise!”

As Judge Judy enters, a caption below her reads “Judge Judy Sheindlin, Presiding” in yet another redundant gesture to ensure that we know she is in charge. A very subtle bass guitar musical phrase plays under as Judy strides from the door of her chambers and takes up position behind the bench in a dark plush leather chair. As Bailiff Byrd hands Judy a stack of documents pertaining to the present case he continues his announcement before taking up his ceremonial position, standing at watchful attention just out of range of the camera on Judy’s left flank.

**Bailiff Byrd:** “Your honor, this is case number one-ten on the calendar in the matter of Golden versus Beeson. Parties have been sworn in Judge. You may be seated. Ladies [directed to the witnesses] have seats please” (July 23, 2002).

This is the standard courtroom ritual, the pomp and ceremony first showcased on reality-based courtroom television by Judge Joseph A. Wapner of *People’s Court* along
with his trusted bailiff Rusty Burrell. Whether or not this ritual corresponds to a real small claims court does not seem to be the point here. Rather, the robes, the bailiffs, the spectators, and the stately wood paneled and book-lined courtroom simply add to the sense that this must be real, because it looks so real – and just as we had imagined it would. Of course, this may be due in large part to the fact that many Americans and Canadians have formed their belief about what a courtroom should look like from watching television programs. In this way, Reality-TV courtrooms serve to reflect popular understanding of the court while also actively aiding in the construction of those very same myths and perceptions. Thus, the ceremony and symbol-laden courtroom reinforces audiences’ already distorted sense of reality.

Narration:

Just as the narrator served to create continuity in the ‘hyper-framing’ segment at the top of the program, narration is used throughout Judge Judy. However, the narration remains, on the surface at least, mostly neutral and descriptive, commenting only on the facts of the case without offering any editorial commentary on the proceedings, or judgements about the relative strengths and weaknesses of the opposing arguments. Also, notably absent from the narrative is any discussion or summary at the conclusion of a case. By simply restating the facts, the narration serves only as a supplement to Judy’s words, while the fact that there is no narration to sum up the conclusion of the case ensures that Judy’s verdict is the final word on the matter. What follows are some examples of typical narration as it occurred during specific episodes of Judge Judy.

23 Rusty Burrell passed away at the age of 76 in April of 2002, an event that was acknowledged on the current day incarnation of People’s Court and an event that sparked considerable discussion on the Internet-based message board TVTalkshows.com (cf. April 21, 2002).
Once the opening title sequence is completed and the viewer has been made aware that they are firmly within Judy's courtroom, the action turns to the litigants as they enter and walk up the aisle through the spectators. As the litigants file into the room, the narrator usually provides a rough sketch of the details of the case that is about to be heard. Though the voice is clearly from the same person who speaks during the opening segment of the program, this basic synopsis is generally devoid of any of the melodramatic tonal inflections that characterize the narration during the hyper-framing sequence. Instead, the announcer speaks without emotion as he coldly enumerates what we must assume are the salient facts at hand. In so doing, the disembodied male voice begins the process whereby litigant narratives are transformed into discourse that may be judged more or less suitable for discussion within the legal forum of Judy's courtroom. This neutral rendering of the dispute declares most extra-legal factors of the case 'out of order' by omission. As such, we can begin to understand the transformative power of language in the telemediated courtroom.

Below is a typical example of the opening narration of a case concerning what was clearly a relational dispute involving a mother and her daughter and son-in-law. However, instead of framing the dispute as one of betrayal, jealousy or other emotions that figured more prominently in the testimony of the litigants, the case was portrayed in the opening narrative as simply being about "property damage," "personal belongings" and "unpaid rent and bills."
Example One:

Judge Judy: July 24, 2002

First Narrative:

Narrator: “49 year old student nurse Diane Newman is suing her daughter Nicole Gladd, and her son-in-law Charles Gladd for property damage and for the return of personal belongings. The Gladds are counter-suing for unpaid rent and bills.”

Judy picked up from the narrator and began the process of ‘uncovering’ the real facts of the case: the relational rift that developed between the plaintiff and her daughter and son-in-law. The narration from this point on primarily served to announce commercial breaks with the standard refrain: “Judge Judy continues in a moment.” The narrator also marked the return to the program after commercial breaks by drawing our attention back to the fact that we were witnessing something that was ‘real’: “Real cases, real people, Judge Judy.” This continual reference back to the concept of reality reinforced the veracity of the spectacle we were witnessing, and presumably served to heighten the sense of voyeuristic drama.

Following the announcement that we are returning from the commercial break back into the reality of Judy’s courtroom, the announcer briefly revisited the facts as we then understand them:

Second Narrative:

Narrator: “Diane Newman says her daughter Nicole Gladd and her son-in-law Charles Gladd are responsible for damaging her property. Diane claims whatever they didn’t destroy, they’re holding hostage.”

What was interesting to note about this narrative passage, in contrast to the first factual description of the case, was that the announcer returned for just a moment to the emphatic
verbal inflections that marked his much more dramatic description of the case in the opening sequence. Also, using a term like ‘holding hostage’ – notably a phrase that the plaintiff in this case did not use in her testimony – marked a brief departure from the neutral, or value free description of only the salient facts. Thus, the narration slipped ever so slightly into a form of discourse that moved beyond neutrality—and beyond the exclusive use of legal terminology – into a form of talk that began to emphasize the immorality of the defendants’ actions. It was almost as if the announcer adopted the perspective of the plaintiff in this case. Despite the fact that we heard additional testimony between the first and second commercial breaks – including more from the defendants’ perspective – the announcer only repeated what was said previously, as if reinforcing the plaintiff’s perspective of this case as the authoritative one, to the exclusion of the defendant’s point of view:

**Third Narrative:**

*Narrator:* “Diane Newman says her daughter Nicole Gladd and her son-in-law Charles Gladd are responsible for damaging her property. Diane claims whatever they didn’t destroy, they’re holding hostage.”

When this particular case ended, to no surprise in favor of the plaintiff, the announcer did not provide any additional commentary or summary of the case. It was only with the words “And now the next case…” that we knew there had been a transition from one dispute to the next. With only minutes left in the half hour episode, the narrator turned to a description of the next dispute:
Example Two:

Judge Judy: July 24, 2002

First Narrative:

Narrator: “38 year old homemaker Yolanda Andrews is suing former friend 41 year old daycare provider Michelle Thorn for depositing bad cheques into her account. Michelle says they were both involved in running a scam.”

The narration in this particular case began from a far less neutral position than was evident in the previous case. The narrator defined the nature of the litigants’ relationship as ‘former friends’ and then used non-legal terminology such as ‘bad cheques’ and ‘running a scam’ in place of the neutral language that characterized the opening narrative description of the previous case: ‘damage to property’ and ‘unpaid rent and bills.’ The contrast between the two characterizations of these cases was very striking. In the previous case, the audience began with an assumption that both parties ought to be listened to and that the case was potentially legitimate. However, the power of transformation was in strong evidence in the second case, where viewers were instead led to believe right from the opening narrative that this was a garbage case involving vindictive former friends involved in some sort of a scam; this was a case that should not even be heard in a court of law. It bears mentioning that in the first example above, the litigants were white and likely middle class. However, in the present example, the litigants were African American and appeared to be of a lower socio-economic status. This too might have had a bearing on the way that their case was characterized by the program’s narration.
Upon returning from the first and only commercial break, the narrator made the routine plea to viewers to contact the program if they wanted resolution to their own conflicts:

Second Narrative:

Narrator: “Want justice? Call 1-888-800-JUDY. On the Internet, judgejudy.com.”

However, there was no further framing required by the narrator for this dispute. We simply returned without explanation to Judy’s final pronouncement on this case. People who engaged in an illegal undertaking of some sort have no right to come to court, according to Judge Judy’s “clean hands doctrine” and therefore, this dispute was out of order on the grounds of the immorality of the litigants.

Turning to another episode of the program provides further illustration of the narrative framing of disputes:

Example Three:

Judge Judy: June 19, 2002

First Narrative:

Narrator: “22 year old homemaker Nicole Lewis is suing her half brother 29 year old carpenter Robert Holyoke for stealing her car and causing it to be impounded. Nicole says Robert also owes for a stolen camcorder and a phone bill.”

In this particular example the narrator described the case by referencing the plaintiff’s claims about the dispute without any allusion to the defendant’s story. This was a very effective and subtle way of framing the dispute in such a manner as to render the defendant’s story ‘out of order.’ It was as if the defendant’s story was not deemed important enough to even be mentioned in the opening narrative. Later, as Judy listened to the details of the case, she described Holyoke’s story as “convoluted” and therefore not
believable. However, the case started to shift slightly as Judy began to doubt that the plaintiff was really fully deserving of the large sum of money in damages that she claimed. Moreover, Judy found fault with the plaintiff's claims that her half brother had stolen a camcorder. This shift from identifying fully with the plaintiff to tacit acknowledgment of the defendant's perspective was reflected in the second narrative following the first commercial break:

Second Narrative:

   Narrator: “Nicole Lewis says her half brother Robert Holyoke stole her car causing it to be impounded. Robert says he only borrowed it.”

Thus, the defendant was given voice in the second narrative. This was not to say that the narrator or Judy was taking the defendant's story at face value but, rather, what was really happening was an erosion of the credibility of the plaintiff's story. Also, the plaintiff's claims about the stolen camcorder were completely erased from the narrative after Judy decided that the claim was 'nonsense.' In this way, we could see that the narrative was not a simple rendering of the facts as stated by all parties, but an official retelling of the story of the dispute from Judy's perspective. The case ended with a verdict for the plaintiff, but for far less then she had originally been suing for. As was typical, the narrator simply announced the end of that case by announcing the start of the next one.

   Interestingly, the second case in this episode involved another brother and sister dispute. The opening narrative explained both the brother's complaint and the sister's rationale for her behavior:
Example Four:

Judge Judy: June 19, 2002

First Narrative:

Narrator: "41 year old landscaper Richard Mathews is suing his sister, 42 year old homemaker Deborah Lewis, for selling some of his personal belongings and giving away the rest. Deborah says she got tired of storing them."

After thoroughly questioning the litigants, Judy found that the defendant actually sold the plaintiff's belongings to his ex-wife because she was angry with him. The defendant did this because she believed that her brother was spreading rumors about her behind her back. The narration after the first commercial break reflected this new revelation about the sister’s motivation for disposing of her brother’s belongings:

Second Narrative:

Narrator: "Richard Mathews says his sister Deborah Lewis disposed of his belongings while in storage at her house. Deborah says she got mad when she found out he was talking behind her back."

Despite the strange story, Judy seemed clearly impressed with the woman’s honesty, and even seemed to sympathize with the defendant’s emotional reaction to her brother in part because the woman’s son had apparently died suddenly around the time of the dispute. The women seemed to show some genuine regret for her actions, and Judy seemed quite pleased with her responses throughout the proceedings. At the same time, Judy seemed to grow less and less moved by Mr. Mathews’ property loss. After returning from the second commercial break – the time when the announcer normally asks the home viewer if they “want justice” by encouraging them to call the program about their own disputes – the announcement was changed slightly, perhaps to reflect the two back-to-back family disputes on that day’s program. The announcer asked:
Third Narrative:

Narrator: “Are you in a family dispute? Call 1-888-800-JUDY, on the internet judgejudy.com.”

The theme of family continued to pervade the discussion in the final segment, with Judy telling the litigants that it was time to make things right. This was uncharacteristic Judy, as we will see in the analysis of her discourse in the next section. However, it was clear that the narration in this case was generally reflective of the honesty of the woman’s testimony and hinted gently that family disputes are indeed appropriate problems to bring to the TV courtroom.

Turning from family disputes to disputes between friends, we can see further evidence of the framing function of the narration in *Judge Judy*:

Example Five:

*Judge Judy, May 23, 2002*

First Narrative:

Narrator: “16 year old Tabitha Obligacion and her mother Katrina Johnson are suing Tabitha’s former friend 20 year old food service worker DeSean Rodgers for chipping her tooth.”

Judy felt that the 16-year-old plaintiff’s story was, her words, a bit ‘fishy,’ because it did not seem plausible that DeSean would horse around without Tabitha taking an active role in the horseplay. This was the key line of questioning for Judy. “Something doesn’t ring true here,” Sheindlin said as she attempted to get to the bottom of the story. Again, as we have seen before, the initial narrative did not incorporate any explanation for the defendant’s actions. However, by the time we reached the second narrative segment, the announcer had added DeSean’s rationale for the behavior that had led to the plaintiff damaging her tooth:
Second Narrative:

**Narrator:** 16 year old Tabitha Obligacion says former friend DeSean Rodgers chipped her tooth. DeSean says they were both horsing around.

Once again, the narration had shifted as the dispute was gradually transformed from the initial claims of the plaintiff to a situation where responsibility was more plausibly shared between the young man and the sixteen year old girl, who seemed to have been engaged in mutual games that Judy thought might have be linked to a romantic interest between the two. In the end, Judy’s ruling reflected this theory of shared responsibility by awarding the plaintiff half the costs of her dental work.

The following case continued the theme of friends suing friends and the announcer framed the dispute in the following way:

**Example Six**

**Judge Judy, May 27, 2002**

**First Narrative:**

**Narrator:** “43 year old contractor Hugh Huston is suing his former friend, 36 year old videographer Paul Pierce, for the return of a rifle. Paul says the rifle was a gift. He is countersuing for unpaid bills and damage to his home.”

In this instance, the opening narrative began on a somewhat equal footing for both plaintiff and defendant. The fact that the defendant was countersuing the plaintiff provided an additional sense of equality between the parties. However, as Judy’s questioning of the litigants progressed, this equal footing began to shift in the defendant’s favor. The discussion turned to the circumstances leading to the rifle ending up in the defendant’s possession. It turned out that the plaintiff had been arrested for domestic violence – something that had happened at least twice before – and that he needed the
defendant to pick up his belongings for him while he was in jail. This led to a significant shift in the way the narration characterized the dispute following the first break.

Second Narrative:

   Narrator: “Hugh Huston says after he was arrested for domestic violence, he gave former friend Paul Pierce a rifle as collateral for bail. Hugh says Paul refuses to return it.

   In the second segment of this case, the talk centred around the issue of domestic violence, and included a warning from the Judge that the plaintiff’s daughter should seek counseling. Quite a long portion of the questioning focused on the actions of the plaintiff, and whether or not he had put his child in counseling, and what sort of friend he has been to the defendant. The narrative remains the same after the second break.

Third Narrative:

   Narrator: “Hugh Huston says after he was arrested for domestic violence, he gave former friend Paul Pierce a rifle as collateral for bail. Hugh says Paul refuses to return it.

   Just as the issue of domestic violence tainted the plaintiff in his efforts to recover property that he believed to be his own, so too did it come to completely dominate the talk in the courtroom. Moreover, the narrative itself became dominated by the specter of the plaintiff being arrested for domestic abuse, to the complete exclusion of anything the defendant could say about his counter suit or his reasoning for keeping the rifle. The narrative – just like the judge – could not see past the violent act committed by the plaintiff and his claims were rendered out of order in the court of Judge Judy.

   In sum, these examples demonstrate that the narration component of Judge Judy provides a very subtle opportunity for the discursive framing of disputes. The narrative can change as the focus shifts in the testimony. As we saw in the last example, Huston
versus Pierce, once it was revealed that a plaintiff had been involved in an incident of domestic abuse, the narrative shifted to acknowledge this fact to the exclusion of all else. However, in other disputes, it was not entirely clear why the narrative sometimes acknowledged the motivations of both parties, while at other times recognizing only the claims of the plaintiff in their lawsuit. Even in cases where the plaintiff did not win their case, the rationale of the defendant remains absent from the narrative. The relative subtlety of narration is the most striking feature of the role of the announcer on Judge Judy and a significant point of departure from People’s Court, which will be discussed in detail below. However, it is readily apparent that the use of narration has the effect of keeping the focus on Judy and not the words of the announcer. Only Judy makes value judgments about the claims of the litigants or the believability of their accounts of the events. Just as the opening hyper-framing sequence always leaves the Judge with the final word on the up coming case, and just as the opening title segment provides multiple images of the centrality of Judy to the very essence of the law and legal system, the narration plays only a supporting role to the ultimate star of the show: Judge Judy.

Framing Captions

In addition to the subtle framing of disputes by the narrator, one other framing tactic deserves a brief mention here. Periodically throughout the program, captions will be placed below the litigants with information about the person’s characteristics, the nature of their relationship to the other litigant, and the nature of the dispute itself. Much like the narration component, these captions subtly situate the parties to the dispute, but without making any evaluations or offering any commentary about a particular
individual’s credibility or the morality of their actions – this is the exclusive domain of Judy. However, when taken in concert with the other elements we have discussed so far, as well as with the interaction between Judy and the litigants, the framing captions can further help in the framing of litigants and their disputes in subtle, yet powerful ways. Several examples below will help to illustrate this aspect of the program. I will begin each example with the opening narrative description provided at the outset of each dispute to place each case in context.

Example One:

Judge Judy: July 10, 2002

First Narrative:

Narrator: “49 year old business owner Jeff Beyer is suing his former employee 22 year old retail salesperson Jessica Borowski for stealing company funds. Jessica says she didn’t do it.”

Ostensibly, the captions that periodically appear below the various participants on Judge Judy serve a very functional, informational purpose. Captions are used from the very beginning of the proceedings. The first caption is placed below Judge Judy as she walks into the courtroom to take up her position behind the bench. Her caption simply reads “Judge Judy Sheindlin, Presiding.” Next, as the plaintiff walks into the courtroom and the announcer is describing the nature of the dispute, the simple caption “Plaintiff” is placed below. Likewise, as the defendant enters the caption “Defendant” appears. These captions simply serve to identify the key players in this evolving drama. It is worthwhile noting that similar written labels do not accompany bailiff Byrd when he appears on camera. In fact, in order for a viewer to find out the name of the bailiff, he or she would
need to do some additional research, such as visiting the program’s website or consulting an Internet-based discussion group.

The next time captions appeared in the case of Beyer vs. Burowski was during the plaintiff’s initial testimony about the dispute. The first caption read:

1) “Jeff Beyer: Former Employer”

Obviously, this caption simply stated the relationship that existed between the plaintiff and defendant at the time of the trial. The second caption, which appeared moments later read:

2) “Jeff Beyer: South Bend, IN”

This caption served to provide a locational context as to where the dispute took place. When Judy began to question the defendant, the first caption quickly appeared, reading as follows:

3) “Jessica Borowski: Former Employee”

Again, the purpose seemed to be to simply restate the nature of the current relationship. The next caption appeared below the plaintiff, this time stating his economic position:

4) “Jeff Beyer, Business Owner”

While we were given a great deal of context about the plaintiff in this case, the second time a caption appeared for the defendant, it simply restated her relationship to the plaintiff.

5) “Jessica Borowski: Former Employee”

It was almost as if this litigant only existed in relation to her accuser. It is also important at this point to mention that the plaintiff was presenting a very compelling, fact-based case against the defendant, while she had very little to add except to deny his accusations.
The sixth caption appeared below the plaintiff and again restated his position in relation
to the defendant.

6) “Jeff Beyer: Former Employer”

Following the first commercial break, we returned to yet another caption below the
plaintiff reasserting his position of power over the defendant. With the appearance of this
seventh caption, we had seen a total of five captions about the plaintiff – who appeared to
be winning his case – and only two captions for the defendant.

7) “Jeff Beyer: Former Employer”

This points to a simple tactic that Judge Judy uses to subtly frame disputes. The sheer
volume of captions can provide increased opportunities for the audience to learn more
about the litigants. This selective identification process can take the form of increased
background information on a morally ‘upright’ litigant, or in other cases, more negative
information about the litigant who is more clearly being framed as being ‘in the wrong.’
In the present example, when the third caption appeared below the defendant, it for the
first time provided some context for her in the same way that had already been provided
for the plaintiff.

8) “Jessica Borowski: South Bend, IN”

Captions may also be used for individuals who appear as witnesses for the litigants.
Often the captions below witnesses serve to define the relationship between the litigant
and that particular witness, as was the case in this example.

9) “Jeffrey Borowski: Defendant’s Husband”

In this particular situation, the captions did not appear uniform – in either quantitative or
qualitative terms – between both litigants. Rather, more captions tended to appear below
the plaintiff who was clearly able to present a case that was far more compelling than the
defendant. Also, the captions provided more contextualizing detail for the plaintiff rather than the defendant's, who was most often defined as simply the plaintiff's former employee.

In the next example, we see a situation where the volume of captions was more balanced between the plaintiff and defendant. However, the case itself was not balanced with both sides of the story being more-or-less equal in terms of believability.

Example Two:

Judge Judy: June 1, 2002

First Narrative:

Narrator: "19 year old student Jennifer Williams is suing her ex boyfriend 19 year old student Michael Hume for attorney's fees, money loaned, and for kicking down her door."

The following is a list of the captions that were provided in the case, in the order that they were presented:

1) "Michael Hume: Ex-Boyfriend"
2) "Jennifer Williams: Ex-Girlfriend"
3) "Jennifer Williams: Student: Age 19"
4) "Michael Hume: Arlington, VA"
5) "Jennifer Williams: Ex-Girlfriend"
6) "Mary Williams: Plaintiff's Mother"
7) "Michael Hume: Arlington, VA"

In this particular case, Judy ridiculed the defendant because of a history of trouble with the law and time spent behind bars. Though the case proceeded very favorably for the plaintiff – who ultimately won a $1300 award – we were provided with roughly equal
amounts of information about both parties. Although both litigants were described as being ‘students’ in the opening narrative, the captions only reaffirmed this fact for the plaintiff. However, further contextual information was provided about the defendant when we learned that he hailed from Arlington, Virginia. It is difficult to argue that either the winner or loser was framed very differently from the other party. While captions can be used to great effect in differently framing the litigants in ways that are more or less sympathetic, this example above did not employ this tactic. However, in the example below, we find a very effective use of framing captions that clearly drove home the salient features of the case as it was framed in the court of Judge Judy.

Example Three:

Judge Judy: February 1, 2002

First Narrative:

Narrator: “34 year old mail carrier, Sylvia Lyday is suing the father of her child 30 year old Troy Holt for destroying her property after they broke up. Troy says Sylvia took everything he owned. He is countersuing for the cost of his belongings.

1) “Sylvia Lyday: Ex-Girlfriend”
2) “Sylvia Lyday: Mother of Defendant’s Child”
3) “Troy Holt: Ex-Boyfriend”
4) “Sylvia Lyday: Mail Carrier”
5) “Troy Holt: Father of Plaintiff’s Child”
6) “Troy Holt: Ex-Boyfriend”
7) “Sylvia Lyday: Mother of Defendant’s Child”
8) “Troy Holt: Riverside, CA”
9) “Sylvia Lyday: Mother of Defendant’s Child”
In this case, the plaintiff was largely successful in her lawsuit, winning a significant sum of money for the damage to her property. However, the framing captions focused primarily on her connection to the defendant. Four out of the six captions repeated the point that she was the mother of defendant’s child, almost as if to mock her – as Sheindlin did – for making a poor choice by getting involved with a man who would abuse her physically and destroy her property. Only one of the six captions provided any contextual detail for the plaintiff apart from her connection to the defendant – in this case we learn that the plaintiff was employed as a mail carrier. The defendant, who only received four framing captions, was characterized in three of those by his connection to the plaintiff: as an ex-boyfriend and as the father of the plaintiff’s child. In the other caption, we learn where he was from rather than his occupation. However, this lack of employment status may be due to the fact that he was most likely not working – a fact hinted at in the testimony. In this example above, we see that captions can be used to great effect in framing the moral contours of a dispute. In the next example, we see that captions can also be used to clearly demarcate the innocent from the guilty in ways that suggest a clear victim and a clear aggressor in a heated dispute.

Example Four:

April 25, 2002

First Narrative:

Narrator: “39 year old teamster, Valerie Gaines, is suing 28 year old bartender Donna Roderick for having her falsely arrested. Donna says Valerie attacked her in a fit of road rage.”
1) “Valerie Gaines: Alleged Victim of False Charges”
2) “Valerie Gaines: Las Vegas, NV”
3) “Donna Roderick: Allegedly Filed False Charges”
4) “Donna Roderick: Bartender”
5) “Valerie Gaines: Allegedly Assaulted Defendant”
6) “Donna Roderick: Alleged Assault Victim”

It is worthwhile examining how the aural narrative worked in tandem with the framing captions as the case evolved. By the time of the first commercial break we had heard primarily from the plaintiff in the dispute. The captions accompanying her testimony gradually changed to reflect Judy’s growing doubts about the veracity of Gaines’ story. Following the break, we began to see the narration and captions shifting to reflect the official construction of the events by the judge. The defendant was starting to be cast in the role of victim, while the plaintiff was becoming more and more viewed as the aggressor in this case.

Second Narrative:

Narrator: “Valerie Gaines says she was arrested when Donna Roderick filed a false report with police. Donna says Valerie attacked her in a fit of road rage.”

7) Valerie Gaines: Allegedly Assaulted Defendant
8) Valerie Gaines: Las Vegas, NV
9) Donna Roderick: Alleged Assault Victim

Third Narrative:

Narrator: “Valerie Gaines says she was arrested when Donna Roderick filed a false report with police. Donna says Valerie attacked her in a fit of road rage.”

10) Valerie Gaines: Allegedly Assaulted Defendant
In this case the plaintiff did not convince Judy that she was falsely accused of the alleged assault. In fact, evidence to the contrary was presented and very quickly the plaintiff's status was transformed from ‘victim’ of false arrest to alleged aggressor in a fit of road rage. The first caption framed the plaintiff as a ‘victim’ of false charges while the third caption identified the defendant as the person who allegedly filed those false charges. However, as the narrative in the courtroom shifted, so too did the captions underlying the litigants. In fact, no less than three times was the plaintiff – who began in the role of victim – framed with the caption “allegedly assaulted defendant” while the defendant was simultaneously described as an “alleged assault victim” twice. It was clear that the framing captions in this case were a subtle part of the transformation of the plaintiff from a victim to an offender.

In sum, it is readily apparent that the framing captions are a part of the discursive framing of disputes in Judge Judy. The captions appear in neutral language and have the appearance of impartiality. As viewers, we may simply take them in as rather casual descriptors to the main parties to a dispute. However, framing captions can help to shift the audience’s perspective on a particular litigant by providing one litigant with more contextual information, thus allowing the audience to view that person separately from the dispute that brought them to court – as was the case in the first example. Also, by their sheer number the captions can focus our attention on a particular litigant rather than another as we saw in the third example. In some cases, our attention may be drawn to a particular litigant because he or she is clearly ‘in the right,’ or we might be directed to view a litigant repeatedly in a more negative light because they are clearly ‘in the wrong.’
Finally, as we saw in the last example, the framing captions can be used as part of a larger process of discursively redefining litigants from being the victim to being the aggressor in a dispute. Thus, the framing captions do not act in one simple way to shape our understanding of the litigants and their disputes. Instead, the captions must be read as part of the overall framing of a case that includes the shifting aural narrative of the announcer and the discourse of the judge.

The Participant Post Mortem

At first glance, it might seem unusual in the overall scheme of *Judge Judy* to end each case with the litigants getting the final word. So far, everything about the way the program is structured seems orchestrated either to place Judy at the very centre of things, or at the very least, to not overshadow her by offering alternate perspectives on cases or litigants or by framing the dispute in a way that diverges from Judy’s perspective. So, as we have seen, the opening ‘hyper-framing’ segment, the title sequence and the pomp and pageantry of the courtroom function to draw our attention to Judy. According to the announcer, who is heard at the top of every episode, “this is her courtroom.” Indeed, these elements of the morphology of the program confirm this fact. Furthermore, the narration and the framing captions seem to follow along lockstep with Judy’s opinion of each case, changing only to reflect her understanding of the testimony as it evolves. There is no question that Judy remains the focal point at all times. So then, how can it be that litigants would be provided with the final word? Below I will consider the aftermath of the civil trial on *Judge Judy* and argue that even though litigants are given an opportunity to rebut the judge’s decision, the space allocated for this refutation is
insignificant within the overall structure of the program, and is indeed mediated in such a way as to thwart its potential for subversion.

Once Judge Judy renders her final verdict, there is no more official narration or explanation offered by the Judge or the announcer. At this point the litigants turn about face and walk back up the aisle through the spectators and out through the same door that they entered. Often the bailiff is close at hand during the exit of the litigants to ensure that the parties are separated, particularly when individuals become agitated. Once outside the courtroom, in a space resembling a foyer or corridor, viewers watch as the action cuts back and forth between the plaintiffs and the defendants. Music plays under as we hear the litigants speak, but as an audience we do not know to what extent those comments have been edited. There is no way to know if the comments are being taken out of context, or what proportion of the total comments we are actually hearing. While the litigants directly address the camera as they speak, their comments are edited to alternate back and forth between the parties to give the impression that they might actually be addressing each other in a conversation. Often, one party’s angry, emotional outburst is juxtaposed with the other party’s calm praise for the decision of Judge Judy. There is no evidence to suggest that the litigants are being interviewed by a reporter, as is the case in some of the other judging shows – notably the People’s Court – and they are not addressing specific questions, like “What do you think about the judge’s decision in this case?” Instead, their comments are highly edited, inter-cut with the other party’s comments and allowed only a very short period of time, either in the few seconds separating one case from the next, or at the very end of the program as the credits roll.
This part of the program often has a rushed or frantic feel to it as we watch the credits scroll quickly across the screen knowing that there are just seconds left for the litigants to try to redeem themselves before the court of public opinion. As we will see in the examples below, redemption seems never to be at hand, as the closing segment serves only as confirmation that Judy made the right decision, and as a decision it is absolutely final.

**Example One:**

**Judge Judy: May 23, 2002**

**First Narrative:**

_Narrator:_ "40 year old truck driver Aldo Menendez is suing his next door neighbours 38 year old school bus driver Felipe Zelaya and his wife Dominga. Aldo says the Zelayas had him falsely arrested for killing their cat.

The case involved a man whose pit bull terrier was alleged to have killed a neighbour’s cat. The plaintiff felt that his neighbours maliciously had him prosecuted for this. Previous criminal and civil cases were settled in his favor and Mr. Menendez came to _Judge Judy_ seeking damages amounting to his attorney’s fees. The case ultimately turned on whether or not Sheindlin felt that the defendants were malicious in pressing charges against the defendant. In the end, Judy ruled that they were perfectly justified in doing so and dismissed the plaintiff’s lawsuit. However, the larger problem underlying this dispute seemed to stem from the fact that the plaintiff was having ongoing difficulties with the Zelaya family - who had recently moved into the neighbourhood. As I will argue later, narratives of belonging and non-belonging are fairly common in disputes taken to the reality-based TV courtroom. In this case, although both the plaintiff and the defendant had Hispanic surnames, the plaintiff spoke unaccented English and was a long
term resident in the neighbourhood. In contrast, Mr. and Mrs. Zelaya spoke English with a pronounced Spanish accent and had very dark complexions. The subtle subtext of this dispute seemed to be clearly anchored around the notion of unwanted aliens in established neighbourhoods. Judy seemed to detect this ongoing tension between the neighbours and pursued a number of questions relating to the overall frictions that exist between the litigants.

Without getting into all the details of the discourse of either the judge or the litigants, it is enough to say that the plaintiff was not very pleased with the decision of Judy to dismiss his lawsuit. However, he bit his tongue for the most part while in the courtroom and waited until he was in the corridor to vent his anger. The following is the angry exchange that took place in the hallway. The general format of the aftermath is to have the camera trained on one of the litigants or in this case one set of litigants, while the other litigant or group can be seen in the background, often reacting to what the other party is saying. In the exchange I describe below, the plaintiff actively mocked the defendant, whose poor command of the English language made his comments largely incomprehensible. As well, the bailiff could be seen in the background keeping a close eye on what was going on in case the exchange became physical.

1. Mr. Menendez: “This is total…” [to his wife] “Will you please be quiet? This is total injustice.” [The credits begin to appear, one at a time in the lower left hand corner of the screen]

2. Mr. Zelaya: “I take the dead kitty to the vet…”

3. Mr. Menendez: “Basically, she’s very prejudiced in her judgment. She didn’t look at all my evidence… I have a police report that says my dog did it.” [At this point, our view of the aftermath shrinks to about one third the size of the total screen and is shifted to the upper right hand side of the screen against a blue background while the credits begin to roll on the left hand side of the screen]
4. Mr. Zelaya: “Never ever as a pit bull is... it should rip, turn the little kitten and never have any puncture on the skin.” [Mr. Menendez is standing in the background as Mr. Zelaya speaks, making motions like a cat scratching].

5. Mr. Menendez: “She’ll face her judgment just like these individuals will too.”

6. Mr. Zelaya: “Everything was concussions and bruises...” [Mr. Menendez reacts to this by pointing to some papers he is holding up for the camera to see]

7. Mr. Menendez: “I find if you’re a criminal such as these people you get rewarded.”

8. Mr. Zelaya: “We respect the right to anyone, to animals...”

9. Mr. Menendez: “Unfortunately, American justice system is going to pot because of this kind of liberalism.”

10. Mr. Zelaya: “This kind of people just kill a three month old kitten and make emotional trauma to my kid, my family...”

11. Mr. Menendez: “I find if you’re a criminal such as these people you get rewarded.”

12. Mr. Zelaya: “No education on this part, you know, this family.”

13. Mr. Menendez: “Stand up for the law, and stand up for the truth and that’s what counts.”

When transcribing the above exchange, I had to go back and very carefully examine footage at numbers 7 and 11 where Mr. Menendez declared that criminals were being rewarded in the justice system. Based on the diction of the plaintiff and his physical gestures and actions, as well as those of the others who were visible, I can confidently conclude that this was the very same piece of videotape, edited and inserted twice into the ‘conversation’ so as to appear a natural part of the dialogue. In much the same way that the ‘hyper-framing’ sequence distorted time, we must make the same assumption about the aftermath, where litigant discourse is not only taken out of context but may also at times be looped and repeated in order to form a more forceful narrative. In this case, the narrative was one of outrage at an unjust judicial system where criminals not only go free, but are rewarded for their misdeeds. This, according to the plaintiff’s narrative, is a
product of ‘liberalism’ in the American justice system. This assertion was set in contrast to the defendant’s narrative, which was difficult to follow because of the language barrier, but did highlight his respect for the individual rights and freedoms of people and of animals. The tension thus seemed to be between liberal notions of due process and individual rights in the courtroom and the more conservative perspective that criminals ought to be punished and not rewarded. Also, there was a marked distinction between the defendant’s employment of a therapeutic discourse at 10 where he complained that his family has suffered emotional trauma, and the plaintiff’s use of the language of free will and individual responsibility. There was no solution offered to this fundamental disagreement. However, the plaintiff’s finals words about standing up for the law and for the truth firmly planted the quest for justice back within the legal system. The irony with all of this, of course, is the fact that Judy would probably agree with Mr. Menendez’s feelings about liberalism and the punishment of criminals.

Example Two:

Judge Judy: April 25, 2002

First Narrative:

Narrator: “39 year old teamster, Valerie Gaines, is suing 28 year old bartender Donna Roderick for having her falsely arrested. Donna says Valerie attacked her in a fit of road rage.”

This particular case was already discussed in part above, in the section that examined framing captions. The aftermath of this case was also marked by strong animosity toward the defendant from the unsuccessful plaintiff, who demonstrated in the courtroom that she had a violent temper. The exchange that ensued in the hallway was brief, as it took place between cases rather than at the end of the program when the credits roll. The
plaintiff’s outrage at the injustice she believed had just taken place was inter-cut with the
defendant’s calm and rational remarks, further adding to the characterization of the
plaintiff as the true aggressor in this conflict.

1. Roderick: “I’m glad that Judge Judy was able to see through her.”
2. Gaines: “I’ve lost a lot of money!”
3. Roderick: “I did the right thing by calling the cops.”
4. Gaines: “This is BS!”
5. Roderick: “If she needs to say that to make people think that’s what it was, that’s fine.”
6. Gaines: “I did not touch her.”
7. Roderick: “All I know is she did put her hands on me.”
8. Gaines: “I got a lawyer to fight my case, and this is all BS!”
9. Roderick: “I don’t know why it escalated. Maybe she was having a bad day?”
10. Gaines: “I’m telling you, I didn’t touch her.”
11. Roderick: “She’s irate right now, screaming and yelling” [indicating off-camera].
12. Gaines: “I’m telling you this whole thing is BS, I should have just went on my own.”
13. Roderick: “That’s on her, I don’t really… that just shows how ignorant she is.”
14. Gaines: “This whole thing is BS!”
15. Roderick: “Look at her attitude now” [indicating off camera]. “She didn’t touch me though” [sarcastic smile].

While there was no apparent looping or repeating of the litigants’ comments, it was quite
clear that the defendant was speaking to the camera after the plaintiff had stormed away,
because she referred more than once to the plaintiff as if she were off somewhere in the
distance. The anger exhibited by the plaintiff contrasted sharply with the calm, reasoned
and generally polite demeanor of the defendant. As if to add to this contrast the plaintiff,
Ms. Gaines, was a large, imposing figure of a woman – a teamster – with dark hair and
skin, wearing a dark blazer while the defendant was a petite woman, with fair skin and blond hair, wearing a light pink blazer. The contrast between these two women could not have been more striking. The plaintiff was the very antithesis of the idealized women, while the defendant conformed in every way with conventional norms of female beauty and behavior. While this juxtaposition may have been only accidental, the aftermath segment only cemented the transformation of the plaintiff into the clear cut aggressor in this dispute, while the defendant was confirmed as the innocent bystander who got in the way of the aggressor’s rage.

Example Three:

Judge Judy: June 10, 2002

First Narrative:

Narrator: “25 year old computer consultant Evan Davis is suing the mother of his child, 24 year old Mary Booth for having him falsely arrested for assault. Mary is countersuing for lost wages and property damage.”

The litigants in this case had a two-year-old child together and a shared custody agreement. The plaintiff was arrested for assault and was suing for bail money and attorney’s fees because he claimed he had not really assaulted her. The District Attorney eventually dropped the assault charge so the plaintiff was in court seeking the money he was out. Judy became very upset when she found out that the litigants had been arguing in front of their child. In addition, the defendant claimed that the plaintiff had abused her over the three-year period that they were together, and she even claimed that he had threatened to kill her at one time. The litigants were also recovering drug addicts. In the end, Judy did not believe that the incident which had led to the plaintiff’s arrest for assault was very serious. She maintained that a real assault would have meant that the
plaintiff had punched or pushed the defendant to the ground. Judy therefore claimed that what actually happened was more likely that the plaintiff pulled the defendant away from their child firmly, resulting in her accidentally falling down. Judy decided in the end that they both should share some of the blame for this incident and the plaintiff ended up getting an award of $750, which was half of the amount of his bail. The defendant received an award of $100 for some damaged property and so the case was more or less a draw with the litigants getting a stern lecture about being good young parents. The exchange at the end lacked the same emotional outrage characterized by the previous examples, where the plaintiffs lost their case completely and felt a keen sense of injustice.

1. Davis: “I think we could have handled it a little bit better than what we did.”

2. Booth: “He lied. He did throw me on the ground, and yes, you know, I may have been upset but that is no reason to physically harm somebody.”

3. Davis: “My son was not in good hands with her ’cause she did not know how to take care of him in a distraught family…”

4. Booth: “He is using my son as a tool to hurt me, right, and that’s not fair to me or my son.”

Both litigants remained calm during the aftermath, and the comments were directed only toward each other, and not the judge. There was no disagreement about what the judge had to say about good parenting, drug use or what should constitute a ‘real’ assault. Instead, the litigants continued to heap blame upon each other for the dispute even after Judy had made her final ruling. While the case may have been brought to a close, the actual problem underlying the dispute remained an open wound for the litigants.
Example Four:

Judge Judy: June 11, 2002

First Narrative:

Narrator: "28 year old laborer Sean McMurray is suing his ex-fiancée 23 year old housekeeper Melissa Cieslak for unpaid bills and for the return of engagement jewelry. Melissa says she worked for Sean without pay and she owes him nothing."

The defendants did not appear to hold a great deal of animosity toward each other in this case. The former couple bickered back and forth about jewelry and furniture that had been bought and bills that were not paid, and Judy ultimately ordered some of it returned and some of the bills to be paid. Both defendants had a hard time expressing themselves, and tended to mumble and use poor grammar. Judy actually made a point of correcting the man’s grammar. The litigants also possessed very noticeable upper Midwestern Minnesota accents, making them even more difficult to understand. In the end, both parties did not seem angry, just hurt and possibly still in search of closure for their broken relationship. It also seemed clear that the lawsuit did not bring that needed closure and the aftermath reflected the sense that the bad feelings remained.

1. Cieslak: "[inaudible] what a very angry man he is."

2. McMurray: "I’m not an angry person. We both have our problems, you know what I mean, we uh, we’re not angry people we just don’t get along together."

3. Cieslak: "I never ever once wanted to hurt him or harm him."

4. McMurray: "Biggest kick to my face I’ve ever had."
Example Five:

Judge Judy: July 11, 2002

First Narrative:

Narrator: “18 year old student Danielle Dernago is suing her ex-boyfriend 18 year old retail sales person Thomas Enos for totaling her car. Thomas says Danielle gave him permission to drive the vehicle.”

This former boyfriend and girlfriend were disputing the circumstances that had led up to the destruction of the plaintiff’s car. It was a classic ‘he said, she said’ situation. The plaintiff argued that her ex-boyfriend had taken the car without her permission, while he claimed that she had given him permission to take the car. Moreover, the plaintiff admitted to being under the influence of marijuana at the time, even ending up in jail after the accident. He claimed because he was under the influence of drugs, he was not in a ‘right state of mind’ and therefore not responsible for the damages. He further claimed that the plaintiff should have been more forceful in preventing him from taking the car. The defendant’s mother testified on her son’s behalf, also arguing that the plaintiff was partly to blame because she should not have let him take the car in that mental state. The arguing continued into the hallway even after Judy ordered Enos to pay $3120 for the value of the car and towing fees.

1. Mrs. Enos: “I think it’s ridiculous that you can allow children underage to drink at your house and party at your house and do it with them and not be held accountable for it.”

2. Danielle Dernago: “She needs to clean her habit up. She needs to stop her drugs.”

Judy’s ruling did little to end the disagreement and the litigants each got a parting shot off before the action moved to the next case on the docket.
Example Six:

Judge Judy: May 9, 2002

First Narrative:

Narrator: “45 year old outreach coordinator Monesa Fong is suing her ex-boyfriend 33 year old counselor Albert Cheong for injuries she received during a sexual assault.”

In this case both litigants were of Asian descent and spoke in heavily accented English. The plaintiff claimed that she had been sexually assaulted by the defendant, but she did not press charges at the time of the incident. In fact, the plaintiff described a night where the defendant attacked her and abused and threatened her to a point where she was too scared to press charges. The defendant admitted he was angry and went to the plaintiff’s house that night, but he also claimed that he did not put his hands on her. Also, he claimed that she did not ask him to leave that night, but instead let him sleep on the floor of her living room. Nevertheless, Judy did not believe the defendant’s story and scolded him for his actions, lecturing him about laying his hands on someone in anger. Judy awarded the plaintiff the full five thousand dollars, the maximum amount. The ‘post mortem’ was curiously low-key, in contrast to the awful sordid details of the alleged assault that were recounted in the testimony.

1. Fong: “I was terrified, uh, the defendant was threatening me, if I uh, I pressed him, and put him in jail he would kill me and my family.”

2. Cheong: “I didn’t do it, uh if I did it… after the police did a full investigation… I already be in the jail.”

Due in large part to the litigants’ difficulties with English, this segment did very little to alter the narrative established by Judy in the courtroom. Both parties seemed very calm and did not express much emotion as they made their final statements. In most instances, the post mortem tends to be short, often affording time only for one or two comments per
Watching an episode of Judge Judy unfold is like watching a sort of morality play. From the moment the 'hyper-framing' sequence begins, viewers become keenly aware that they are about to confront some serious issues that will have much to tell us about the difference between right and wrong, good and bad behavior and the nature of litigant. It is only in rare circumstance, like the first two examples described above, that the segment continues for any period of time. As a space to contest the power of Judy, the post mortem seldom functions as an effective site of resistance for unhappy plaintiffs. Viewers at home are often left with the impression – as was likely the case in this last example – that the litigants are confused and incoherent in their stories and it is only through Judy’s narrative that we are able to really understand what took place.

Discussion and Conclusion: Judy as the Charismatic Lawgiver

So what is the jurisprudence of Judge Judy? Having broken the program down into its many constituent parts, one thing becomes very clear. Examining each component of the program can give us insight into the way each operates to frame conflicts, centre the judge at the core of each dispute and build suspense and drama through the use of multimedia effects and time-distorting editing techniques. However, it is a mistake to view these components of the program in isolation from each other. Without a doubt, each component forms but a piece of the tapestry that is the jurisprudence of Judge Judy. In order to fully appreciate how the whole telemediated package operates to convey its message about the nature of law and its relationship to our everyday lives, we must put the pieces back together and consider what they amount to.

Watching an episode of Judge Judy unfold is like watching a sort of morality play. From the moment the ‘hyper-framing’ sequence begins, viewers become keenly aware that they are about to confront some serious issues that will have much to tell us about the difference between right and wrong, good and bad behavior and the nature of
truth and punishment. Judy Sheindlin is immediately placed at the centre of this moral crucible as the final arbiter of human conflict, who is prepared to divide any human dispute into neatly dichotomous categories with a minimum of input from the litigants, instead choosing to rely at times almost solely on her internal thought processes, hunches and intuition. This is ‘Judge Judy justice’ – or perhaps justice as it ought to be: quick, decisive and without compassion for those deemed to be wrongdoers. Sheindlin’s form of justice and judgement is neatly described in her New York Times bestseller You’re Smarter Than You Look:

When people come to me with their relationship problems, they know three things right off the bat: One, I’m not their mother, and my job isn’t to fix all their problems. Two, I have a built-in truth detector, so they shouldn’t feed me a load of baloney. Three, they’d better keep it simple. (Sheindlin 2000, p. xii)

By quickly judging human conduct to be right or wrong, irresponsible or responsible, Judy helps to articulate the moral contours of her neo-liberal vision of society. Personal responsibility is paramount in this vision, and those who fail to take responsibility for their actions are deemed undeserving of the protection of the law. According the Sheindlin (2000): “Some things just can’t be undone. Too often, people jump into situations without taking a measure of the consequences in advance. They usually get burned. Think – then do!” (Sheindlin 2000, p. 22). Thus, individuals who choose to cohabit or have children out of wedlock must lie in the bed they have figuratively made. Moreover, bad choices are equated to bad people and those who chose unwisely are justly punished and shamed in the court of Judge Judy.

What is perhaps most striking about Judy is the distinctly moral character of her approach to law making, justice and dispute resolution. Unlike judges who might be
labeled ‘proceduralists’ or ‘strict-adherents to the law,’ in the terminology of Conley and O’Barr (1990), Judy uses the law as a tool or tactic to buttress her own moral convictions about proper human behavior. The law might be used in cases where it supports a deserving litigant’s claim, but at times where is does not, there will be no justification for Judy’s decision to award damages at all and no explanation for the amount of damages awarded. Law should not stand in the way of delivering justice. In this way, the justice of Judge Judy is similar to the street justice dealt out by Dirty Harry in the films of the 1970s that formed part of a backlash against the popular view that the justice system was too soft and police were far too often hamstrung by civil rights that only seemed to favor the criminals and not the innocent (Rafter 2000). Likewise, Judy is the antithesis of an American court system that is slow, soft and too quick to protect the rights of wrongdoers at the expense of deserving victims. But of course, the key is deserving victims. Where responsibility is deemed to be shared, particularly by virtue of immoral behavior or bad choices, justice must be served against both victim and offender.

It is difficult to fully explicate the jurisprudence of Judy without discussion of the actual discursive tactics employed in her interactions with litigants. Simply breaking apart the program, considering the pieces individually and then attempting to put it all back together in the way I have done above is incomplete without a thorough analysis of the Judge in interaction with the litigants. Accordingly, these issues will be explored fully in a subsequent section, but before we get there, it is necessary to turn our attention to a similar morphological analysis of Judy’s rival: People’s Court.
Order in the People’s Court: Law, Democracy and Mediation in the Original TV Courtroom

Remember, if you’re involved in a dispute with another party and you can’t work it out, don’t take the law into your own hands. You take them to the People’s Court.

The People vs…

*People’s Court* is the benchmark program that has set the standard for all the reality-based courtroom shows that have followed in its wake. Although the program has been struggling in the Neilson Ratings in recent years – often languishing at the bottom of the reality-based TV courtroom genre – the influence of the *People’s Court* on the reality TV phenomenon and on popular understandings of law and civil justice in the United States has been undeniable. In fact, the *People’s Court* is internationally recognized as the reality-based courtroom television program and a symbol of the American court system (cf. Porsdam 1994). Around the world, the name Judge Wapner evokes nearly instant recognition and the classic bongo-infused theme music of the program elicits a similar reaction, calling all those within earshot to their feet to watch and listen as the litigants enter the courtroom. It is to this icon of American legal television culture that I now turn.

As I have already mentioned in the previous chapter on the morphology of *Judge Judy*, in order to piece together the jurisprudence of a reality-based TV courtroom program like the *People’s Court* a logical starting point is with its very structure. Accordingly, in this section I will examine in detail the way that law, justice, morality and dispute resolution are represented in the *People’s Court* by breaking the program down into its aural, visual and narrative components. As such, we can gain a better
understanding of the place accorded to ordinary people in relation to the model of law promulgated on this program. I will argue below that the model of law depicted in the *People's Court* stands in contrast to that of *Judge Judy* with ordinary people, non-judicial experts and commentators taking a central role in the dispute resolution process. The role of the judge is far less central in the proceedings of this program than is suggested by *Judge Judy* and, in fact, the role of judicial decision-making in and of itself is less central to the resolution of interpersonal disputes. In the end, the *People's Court* presents a very different rendering of law that is sometimes confusing, often contradictory and ultimately at odds with the view of a judge as a charismatic lawgiver. True justice, as we will see, often lies outside of the law in the *People's Court*.

**We the People: Toward a Litigant-Centred Model of Judging**

The law is the creature of the people, its servant for the purpose of putting order and peace and justice into their lives. The law is, or should be, a neighbor itself, and a judge is no more than a particularly active part of the law. (Judge Joseph A. Wapner 1987, p. 248)

The first segment in any episode of the *People's Court* is a promotional sequence designed, no doubt, to 'tease' with entertaining scenes of the upcoming dispute the prospective viewer who is not yet committed to watching the program. However, unlike the 'hyper-framing' sequence discussed in the previous section on *Judge Judy* the pace, intensity and framing quality of the opening 'teaser' on the *People's Court* has a distinctly different tenor. Following the format established above, I will begin this section with a detailed examination of one such sequence in order to allow readers the opportunity to examine this segment in-depth.
Example One:

People’s Court: Monday, January 28, 2002

As the program opens the first thing the viewer at home is aware of is the distinctive bongo drum roll that signifies the start of the program’s iconic theme music. Visually, several diagonally oriented bars of various colors sweep across the field of view from right to left, accompanied by a ’swooshing’ sound effect, and sweeping into place in the lower left hand corner of the screen is the program’s logo graphic, which appears one word at time. Of particular interest is the fact that the very first word that is ’swept’ into place is “People’s.” It seems fitting that the very first direct communication from the program to the audience is the idea of ‘the people.’ This may be no accident, as the rest of the opening segment follows a similar pattern. This is very different from what takes place on Judge Judy where the very first words the viewer sees are Judge Judy, followed closely by an image of the judge herself. In the present case, the first ‘people’ we see are the litigants themselves, and what we hear first is not a narrator, but those very same people as they attempt to make their case before the as yet unseen Judge. The theme music plays under, and the People’s Court logo remains visible in the lower left corner as the litigants speak:

Plaintiff: “He tried standing in front of the car, where we couldn’t go, then and as we pulled off he punched the car window…”

Before we see the defendant we hear him utter a cry of surprise, then the camera cuts to a medium close up of the man, turned toward the plaintiff and addressing him directly.

Defendant: Ah! In my underwear? Still wearing my underwears [sic], right? Still with my underwears [sic], coming out of the house in my underwears [sic]...

It is not until both the plaintiff and litigant have this exchange that we hear the judge for the first time, interrupting as the man carries on about his underwear:

Judge Milian: As fascinating as your underwear sounds...

Defendant: Oh yeah, I understand, but I was in my underwear [sic]...

Only at this point does the camera cut to a medium close up of Judge Milian, as she cracks up the spectators with her scolding of the defendant’s comments about his underwear. This is not a Judge who is stern, or angry or even very serious. In fact, this is a Judge with the very human quality of a sense of humor.

Judge Milian: “… and I do mean fascinating. Can you hold on a second?”

This marks the end of the opening segment of the People’s Court on this particular day, which is typical of pretty much any day on this program. What was quite striking about this segment of the People’s Court was just how tame and subdued it appears to be when
contrasted with *Judge Judy*. Missing was the dramatic narration, the music that accented and shaped our mood as we watched, the rapid-fired cuts, the computer rendered visual effects and the sound effects. Instead, the *People’s Court* opened with the ‘people’ themselves attempting to express their conflicts in their own words. Sometimes, as in this case example, we see the litigants first and the judge appears later. Sometimes the judge is depicted as being angry, yelling at or lecturing to the litigants at the top of the program. But, equally as often the judge is pictured, as in this opening sequence, as having a good sense of humor, or genuine concern or empathy for the litigants. It would be difficult to claim that there isn’t any ‘framing’ of the conflict during the prologue to the case. True, the clips that are shown are selected because they are thought to depict particularly interesting sequences of dialogue, or because they capture a central element from the dispute, or because they provides a bit of comic entertainment—as in the above example. What is perhaps most of interest—and in contrast to *Judge Judy*—is that the segment never appears to be ‘chopped up’ or edited without regard for the actual time order of events as was evident in *Judge Judy*’s opening sequence. What exactly is going on here? Is this program actually providing a forum where the people are allowed to express themselves without the same degree of ‘televisual’ interference found on other reality TV programs? Can it be that this program truly provides a space for ‘the people’? Before we draw any hasty conclusions, we must turn our attention to the next segment of the *People’s Court*, a segment that does indeed engage in overt framing of the conflict, and employs aural narratives in very powerful ways.
Da, Da, Da... This is the Plaintiff...

Three distinct notes pounded on a piano herald perhaps the most famous sequence on the *People's Court*. Immediately following the opening ‘teaser’ we cut to a medium shot of a set of double doors at the back of the courtroom where the litigants enter and take up their places before the judge. In a process that combines elements from *Judge Judy’s* hyper-framing sequence and the narration component of that program, this sequence provides us with the background to each dispute as well the opportunity for some humor from the announcer, often in the form of a pun or alliteration. In order to illustrate this aspect of the *People's Court* I will continue with my detailed description of the case that was first introduced above in my discussion of the opening ‘teaser’ segment.

**Example One:**

*People's Court: Monday, January 28, 2002*

*Cut to a medium close-up of the courtroom doors.*

**Announcer:** “This is the plaintiff, Laura Feldman. She claims the defendant’s a psychopath and she finally got away from the mentally and physically abusive guy after 10 years. He taunts their 7-year-old daughter, however. The poor kid’s always in tears after talking to him. He calls her names, yells at her. She’s suing for $3,000 for back child support, a phone, summer camp, and medical bills.”

As the announcer described these details the defendant and a man accompanying her walked up the aisle through the audience and through a small swinging door that separated the spectators from the court proceedings. The pair took up their place behind a podium marked ‘plaintiff.’ This was all accomplished in one camera shot that zoomed out into a larger view of the entire courtroom as the pair walked toward the bench, and then back into a medium shot as they took up their places before the judge. The announcer spoke as if from the perspective of the plaintiff, rather than adopting a neutral
or omniscient point of view. Loaded terms like ‘psychopath’ were in sharp contrast to the usually more neutral terms the narrator on *Judge Judy* uses. Once the plaintiff had taken up her place before the judge we then hear an electric typewriter sound effect as the particulars of the plaintiff’s lawsuit were rendered graphically on the screen just below her:

Laura Feldman  
Plaintiff  
Suing For: $3000.00

Immediately following this sequence the camera cuts again to the double doors at the back of the courtroom and the process was repeated for the defendant. The same musical piece played under as he entered the courtroom and likewise the announcer seemed to switch to the defendant’s perspective on the dispute:

*Announcer:* “This is the defendant, Shane Cotrone. He says he loves his daughter more than anything in the world and was devastated when his cheating wife, the plaintiff, sneak out with her while he was at work one day leaving him a cruel note on the bed. He begged the plaintiff on his hands and knees to come back but she refused and now won’t even let him see his little girl. He’s accused of behaving badly.”

The sheer amount of detail contained within the two different narratives, combined with the two opposite perspectives each provided marked this aspect of the *People’s Court* distinct from what we had seen previously with *Judge Judy*. Instead of a brief two-sentence description of the dispute from a more or less neutral standpoint, we actually glimpsed the voice of the litigants in the opening dual narratives. One could not help but get the feeling that these may even be the actually words chosen by the litigants when they filed their cases with the court. Whether or not this was indeed the case was less important than the effect that was produced. The viewer was presented with two perspectives on the case and either one could potentially be judged correct. Even at this
very early stage of the program, the viewer was in a sense invited to watch, listen and judge one party or the other guilty or innocent.

One interesting feature of this segment is that when it comes time to see the mock typewritten particulars for the defendant displayed graphically on the screen, what typically happens is that the act that the defendant is ‘accused of’ in the aural narrative is expressed in quite different terms than what we see written on the screen. In the present case example, the particulars were displayed as follows:

Shane Cotrone
Defendant
Accused of:
Being Abusive

In this case, the defendant was accused aurally by the announcer of ‘behaving badly’ while in the more official looking written accusation, he’s instead accused in less morally charged language of ‘being abusive.’ Often, the aural accusation is the opportunity for some form or humor, usually a pun or quirky turn of phrase. Below are a few other examples of the aural and written accusations:

Example Two:

People’s Court: Tuesday, January 29, 2002

In this case, the plaintiff was suing a woman who he claimed only married him because he had won several hundred thousand dollars in a state lottery – he claimed that they separated after the money was all used up. Accordingly, the announcer accused the woman of being greedy in terms that were hardly neutral, while the written accusation used even more highly morally charged language:
Announcer: “She’s accused of taking it all.”

Written:
Sandra Rowland
Defendant
Accused of:
Being a Big Time Loser

This particular example was the opposite of what we saw in the previous case where the aural announcement contained a morally charged accusation (behaving badly), while the written particulars remained largely neutral (being abusive). Most often, the written submission takes the more neutral stance, as was the case below.

Example Three:

People’s Court: Tuesday, May 28, 2002

This case involved a man who was suing his stepdaughter for half of the funeral costs of his late wife. The aural submission detailed alleged violations of a close familial relationship, while the written accusation was phrased as a simple monetary dispute:

Announcer: “She’s accused of stiffing her stepfather.”

Written:
Erica Bright-Mills
Defendant
Accused of:
Withholding Funeral Funds

Example Four:

People’s Court: Tuesday, July 16, 2002

This case involved a woman suing her ex-boyfriend for unpaid rent and the destruction of some of her personal belongings after they broke up over the phone. The plaintiff
claimed that she later regretted breaking up with the defendant, but he was not interested in getting back together with her.

Announcer: “He’s accused of becoming a hateful lover.”

Written:
Michael Stankowitz
Defendant
Accused of:
Moving On

In the written submission for this case, the man’s only crime appeared to be the fact that he had moved on with his life after this failed relationship. This accusation hinted strongly that this case was more about the failure of a relationship and the circumstances of the break up – in particular her long distance break-up by telephone – than it was about issues of civil liability.

The dual-narratives offered at the outset of each case before the People’s Court provide viewers with an opportunity to hear both sides of the dispute in more or less the same words and terms which the litigants themselves might be inclined to use to describe the conflict. However, the announcer intrudes on this process by summing up each conflict in terms that are often framed morally or relationally. Plaintiffs are accused of being ‘a ghastly grandma’ (March 23, 2001) or ‘a hateful lover’ (July 16, 2002) when in fact they may be in court because of a simple dispute over the destruction of property or unpaid rent. To say that the narrative aspect of the People’s Court merely reflects the terms and language with which litigants understand their dispute would be to overlook the powerful way that these conflicts are framed by the narration as uniquely moral battles involving relationships instead of legal battles involving the methodic application
of legal principles. This narrative aspect of the *People's Court* continues throughout the program and will be discussed at length below. However, in the next section we turn to a discussion of the opening title sequence that follows the dual-narrative segment.

**There's a New Judge In Town...**

One notable feature of the *People's Court* that sets it aside from *Judge Judy* and the others is that several judges have presided over the years. The series began with the most famous of the bunch, Judge Joseph A. Wapner, retired from the California Superior Court. Following Wapner was former Mayor of New York City Edward Koch; then Judge Judy's husband, former New York Judge Jerry Sheindlin; and now currently Judge Marilyn Milian, a former Florida prosecutor and Miami circuit court judge who at one time worked under Janet Reno. Because of the rotating nature of the judges on *People's Court* the program tends to centre more on the litigants than the individual who currently occupies a seat at the bench. Initially in my analysis of the program the title segment did not present a view of a judge-centred system of justice. In early 2001, when I began investigating the *People's Court* the opening segment drew little attention to Judge Milian and focused instead on the litigants and the veracity of the proceedings. However, by the spring of 2002 that version of the title sequence had given way to one where Milian was shifted into the foreground. The new title segment claimed that there was 'a new judge in town.' I will discuss both versions of the title segment below to demonstrate how the judge moved from a less central location in the narrative to a more central one.
In the earlier version of the title sequence the aim was clearly to drive home the point that the program was a very realistic spectacle. While the aural narrative seemed to place some attention on the Judge, albeit later in the narrative, the words flashed across the screen during the opening sequence did not even make mention of the fact that there was a judge on the program. The fact that it was the people’s court was mentioned twice, at the very beginning and at the very end of the segment. In between were numerous references to litigants, participants, non-actors, civil court, disputes, etc. all of which spoke to the idea that this was a place for ordinary people to find justice. Below is a transcription of the opening aural and visual narratives from an episode that aired in March of 2001:

**Example One:**

**Audio:** “What you are witnessing is real. The participants are not actors. They’re actual litigants with real cases. They will settle their dispute here in Judge Marilyn Milian’s forum: The People’s Court.”

**Visual:**
1. People’s Court
2. Witnessing – Real
3. Participants – Not – Actors
4. Actual – Litigants
5. Case – Civil – Court
6. Settle – Dispute
7. The People’s Court

The seven written phrases faded in and out on the screen – in the order transcribed above – as the announcer made the aural announcement transcribed above. The cumulative effect was to place the litigants more toward the centre of the proceedings than the judge. However, less than a year after the above was transcribed, the opening sequence changed, one must assume, to reflect the increasing popularity of Judge Milian. Both the aural and
visual narratives began to place a much larger emphasis on the Judge, and numerous references to the litigants and 'the people' were supplanted accordingly:

Audio: “There’s a new judge in town – the honorable Marilyn Milian. She’ll be hearing real cases, presented by real litigants who have agreed to have their disputes settled here in our forum: The People’s Court.”

Visual:
1. There’s a new Judge in town
2. The honorable Marilyn Milian
3. Real Litigants
4. Disputes Settled Here
5. The People’s Court

Clearly, then, the trend on People’s Court was toward an opening title segment that glorified the judge rather than the litigants, although references were still made to the veracity of the proceedings. There is no doubt that within the daytime reality-based courtroom genre judges are clearly the stars, and People’s Court is no different in this regard. However, this increasing focus on the judge must be taken in concert with the other aspects of the program that draw our attention toward ‘the people’ and give us reason to believe that the court belongs to those very same people in a way that the court of Judge Judy does not.

The Main Event

Like Judge Judy, the bulk of any given episode of the People’s Court is taken up with testimony given by the litigants before the Judge. Typically, in a one hour episode of the People’s Court there will be three cases, usually about 20 minutes each. Other times, however, there may be a longer, half hour ‘marquee’ case that requires a considerable amount of detailed testimony and some very lengthy advice from Judge Milian. As with all the judging programs, People’s Court is staged with a great deal of
formal pomp and ceremony to make the proceedings look more official or real, and lend
the spectacle the feel of an actual courtroom. It is to a discussion of this aspect of the
program that we now turn.

Formal Ceremony?

From the very moment that the litigants first enter, viewers are bombarded with
imagery and symbols of the American courtroom, just as litigants would be in a real
American courtroom. Virtually everywhere the view of the camera is trained, one can
see very formal looking wood paneling and the other signs of the courtroom noted in the
discussion above on Judge Judy. Once the parties have taken up their places before the
judge, the Bailiff asks all parties to raise their right hand and be sworn in — yet another
solemn ritual of the court that the general public has come to expect from American
justice. One striking difference between People’s Court and Judge Judy that becomes
quite apparent from this very early phase of the program is that many times the litigants
are smiling broadly as they take up their positions at the front of the courtroom. Some
actually laugh openly as they listen to the announcer describe their cases with tongue in
cheek. One gets the feeling that participants are struck by the campiness of it all, as
though they are taking part in a kitschy piece of Americana and clearly know it. This was
also the feeling I had as I listened to the announcer describing the cases with faux
conviction, all the while taking care to drop a pun on the viewers that was sure to elicit a
deep groan. In other words, one has the distinct feeling that the litigants and the
announcer are figuratively ‘winking’ as they go through the motions of formal legal
ritual, as if to say that we shouldn’t perhaps take any of this too seriously.
Narration

The aural narrative continues through the program but is carried on in different ways from what we have seen above in *Judge Judy*. In keeping with the theme of 'the people,' the narrative sometimes involves ordinary people as well as the authoritative court announcer and the attorney commentator, Harvey Levin, who narrates before and after commercials, interviews spectators outside the courtroom in the Times Square visitors' gallery and offers legal advice at the end of each case. I'll explore first the 'official' narrative employed by Levin between segments by drawing on an case example from the program.

Example One:

The People's Court: July 23, 2002

This dispute involved a plaintiff suing his former son-in-law for debts he claimed were owed for various loans and cash advances given by the plaintiff to the defendant while married to his daughter. After the first round of testimony, the theme music picked up and the narrative by Levin signaled the transition to the first commercial break:

Levin: “Is the plaintiff entitled to the money, or is this a case of bitter party of one? The testimony continues.”

This first bit of narrative continued the tongue-in-cheek tradition established by the opening dual narrative at the top of the program. Terms like ‘bitter party of one’ seemed again to signal that this dispute was not to be taken too seriously. When the first
commercial break was over, Levin continued by summing up what was known so far about the dispute based on the testimony heard during the first segment:

Levin: “The defendant thinks his ex-father-in-law is bitter over the divorce and this is a revenge suit. Let’s listen.”

In similar fashion, after the second round of testimony Levin made a popular culture reference to the classic American game show *Family Feud* when he signaled the final commercial break before Milian would make her decision on the case. Such a reference to another mass media form is typical of the self-referential, televisual turn in television noted by medial pundits (cf. Ouellette and Anderson 1997). Moreover, it is demonstrative of the tongue-in-cheek approach of the *People’s Court* when Levin compares the civil court process to a game show. However, he would not be the first observer to link reality-based courtroom television to the game show genre (Porsdam 1994).

Levin: “Let’s play the feud! Should the plaintiff get three grand from his ex-son-in-law? Judge Milian rules next.”

Upon returning from the commercial break, the narrative shifted to the people themselves. Levin – whom we then saw for the first time – was standing outside the studio and holding a microphone among a crowd of people on the street. He permitted a couple of spectators to speak about the present case:

Levin: “Welcome back to the *People’s Court*, Harvey Levin outside the Times Square visitors’ centre. Should this guy get his money from his ex-son-in-law?”

Spectator 1: “No I do not think so at all.”

Levin: “Why?”
Spectator 1: “It’s just revenge I think, you know because the grandfather loved the granddaughter, or whatever the business is, they don’t need to get the kids involved, it’s just revenge.”

Levin: “What about getting the kids involved?”

Spectator 2: “Marriage is difficult and divorce is messy… hands off!”

Levin: “You know it does seem really sad that these nine-year-old kids are in the middle but right now the judge is in the middle and here’s her ruling.”

Through the tongue and cheek quips before commercials and the spectators’ opinions before the judge’s ruling, we got a very different take on these proceedings than we did in Judge Judy’s courtroom. Space seemed to exist for levity and laypersons’ opinions of the case at hand. What was perhaps most significant here was that it was a chorus of voices that seemed to come to an agreement about the moral contours of the dispute, clearly marking out what was right from what was wrong. It was noteworthy that the first spectator expressed concern about the kids getting drawn into the dispute, and pointed out that revenge might have motivated the lawsuit. Relationships clearly dominated the narrative here – from ‘bitter party of one’ to ‘family feud’ to the second spectator imploring the litigants to keep their ‘hand off’ the kids in a messy divorce case – the people spoke and their verdict was that this case was out of order because it was more of a moral issue than a legal one. Judge Milian’s final ruling ultimately confirmed this view. The texture and tenor of Milian’s verdicts will be discussed at length below. However, we will for the moment confine the present analysis to the structure of the program before analyzing the structure of the judges’ decision making.
Hallway Reconciliation

Once the verdict is rendered in the courtroom and the audience has made its determination in the Times Square visitors' centre, the case does not come to an abrupt end as it does on *Judge Judy*. As we saw above, the litigants were allowed to vent momentarily after their cases have been disposed of on *Judge Judy*, but this was far from a space for resisting the judge's verdict, nor was it a space to resolve the underlying conflicts motivating the dispute at hand. The aftermath on *Judge Judy* was brief, fleeting, and often edited in such a way that the messages conveyed by litigants were ultimately distorted in ways that undermined the veracity of their discourse. On *People's Court* the situation couldn't be more opposite. In what I have come to term 'hallway reconciliation,' the litigants are put on the stand one last time to explain their actions to the audience at home, to answer tough questions that go beyond the legal issues and into moral or ethical terrain, and sometimes to face each other, bury the hatchet and bring about a mediated end to their dispute. That a program all about the courts and judging would ultimately take disputes out of the courtroom for their final resolution was quite remarkable to me. Even more remarkable, particularly after what we had seen with *Judge Judy*, was the fact that the last word could be left to someone other than the judge. Indeed, on the *People's Court* it seems that often the only way disputes are really brought to a close is in the hallway and through the actions of the litigants themselves. This adds up to a message about dispute resolution and the American court system that ostensibly places true justice beyond the reach of the judge and directly into the hands of 'the people.'
It would be misleading, however, to claim that resolution was always at hand in the hallway. In fact, there were a number of scenarios that played themselves out in this venue. Often, the court reporter simply asked for the reactions of both parties and questioned the litigants as to whether or not they felt it was worth it to bring their dispute into the court, particularly if it involved a family member or friend. Such exchanges often centred on the idea that the preservation of relationships was more important than asserting one’s individual rights in a court of law. Also, the court reporter – Curt Chaplin – might continue the shaming rituals that had already begun inside the courtroom, by sternly lecturing litigants who have engaged in morally questionable behavior, or who have brought lawsuits before the court that were seen as ethically repugnant. At the same time, the court reporter might also praise the losing party in the dispute for coming to court motivated not by simple greed, but by the moral righteousness of their actions. In this scenario, the hallway segment serves to drive the point home that being legally correct and winning a lawsuit is not morally equivalent to being ‘right.’ In fact, quite the opposite, this segment often functions to expose the civil court system as being nothing more than a tool for the greedy to cash in at the expense of good relationships, or worse, as a tool to get revenge when the problems stem from interpersonal relationships. Thus, the hallway segment is a complex ritual that can ultimately serve as an indictment of the legal process. In what follows, I will provide several examples of the way the hallway sequence played itself out on the People’s Court, and in so doing can actively undermine the authority of the judge as the final arbitrator of proper human conduct.
Example One:

People's Court: April 24, 2002

Opening Dual Narrative

This is the plaintiff Christopher Dunbar. He contends his 16-year relationship with the defendant was doomed from the start. She was Latino and he African American. They had two kids and eventually broke up. One day when he was bringing the kids back to her place, they got into a huge fight. Her new boyfriend then shot him in the head and he's lucky to be alive. He's suing for $3,000 for pain and suffering and unpaid phone bills.

Christopher Dunbar
Plaintiff
Suing for:
$3000.00

This is the defendant Maylin. She says after 8 years she finally had it with the physically abusive plaintiff and left. He began stalking her, so she got a restraining order. He violated it and got into an altercation with her new boyfriend. She and the kids were inside fearing for their lives. She heard a gun shot, ran out and saw the plaintiff laying in the hallway bleeding. Her boyfriend had disappeared. She's accused of shooting down a long time lover.

Maylin
Defendant
Accused of:
A Shot in the Dark
Countersuit Filed

The plaintiff has filed a countersuit for three thousand dollars.

During the testimony for this dispute, there was considerable discussion about a long history of domestic violence in the relationship, multiple court appearances and various court orders. It seemed that this was merely one more attempt to find a solution to an ongoing relational problem. Moreover, because the litigants had children together, it seemed unlikely that there would be an easy solution to their dispute. A bigger problem was the fact that the plaintiff was allegedly shot not by the defendant, but by her

24 The defendant requested that her last name not be used. Normally, litigants are identified by first and last names.
boyfriend. It was unclear at the outset how the defendant could be liable for the actions of a third party. Furthermore, the defendant was clearly angry for being dragged into court and described a situation where she had been living in such a state of fear that the district attorney’s office had actually provided her with a personal alarm to be worn at all times around her neck in case the plaintiff attacked her. Thus, if the defendant was attacked in the vicinity of her apartment, she could simply push a button and the police would be dispatched. Despite the quite obviously serious nature of this case, the defendant’s description of her personal alarm prompted Harvey Levin to quip before the commercial break:

Levin: “Amazing story. That may have pushed the judge’s button. The testimony continues.”

Upon returning from the commercial break, the narrative continued in the same vein. The following piece of narration neatly turned the tables in the conflict, and recast the plaintiff as the guilty party and the defendant as victim:

Levin: “Incredible story! The defendant’s boyfriend shot the plaintiff in the head. But is the shooting victim the real villain? Let’s listen.”

According to the defendant, the plaintiff was shot by his own gun and she felt that she should not have been dragged to court for a stupid case like this. As a result, the defendant was countersuing the plaintiff for the years of harassment she had allegedly been put through at his hands. Before the final break Levin continued to make light of the situation with yet another off-color pun:

Levin: “The plaintiff got shot in the head, now he’s gunning for justice. Is the defendant responsible? Judge Milian rules next.”
Returning from the break, and to the spectator's comments, we began to get a feeling for the way ordinary people understood the complex and tragic dispute in this case:

Levin: "Welcome back to the People's Court, Harvey Levin outside at the Times Square visitors centre. Should this guy get his money? What do you think?"

Spectator 1: "No, I think he's guilty, uh, he said he came into town and he loved the girl and he still had feelings for her but I think he came into town looking for trouble."

Levin: "Do you buy that sir?"

Spectator 2: "No, I don't think he should get no money."

Levin: "Why?"

Spectator 2: "Because I think he started the trouble."

Levin: "Okay, and you're going to get the final word."

Spectator 3: "Yeah, I think he did uh come to the defendant's house looking for trouble."

Levin: "Looking for a confrontation."

Spectator 3: "Yeah, looking for a confrontation."

Levin: "We're going inside the courtroom, here's the judge."

When Milian ruled in this case, she explained that she could not give the defendant any damages for the years of harassment because she felt that the statute of limitations had long passed for any crimes he may have committed over the years they were involved. However, Milian clearly expressed sympathy for the defendant, whom she described as a tough, strong-willed woman who had the good sense to get out of a bad situation for the sake of herself and her children. At the same time, Milian chastised the plaintiff for filing a 'preposterous' case and was outraged that he would sue for injuries sustained as a result of his own violation of a restraining order. Clearly this was an example of a plaintiff who was using the civil court as a way to seek revenge from an ex-lover. To the plaintiff,
Milian awarded “a big fat zero” and a stern lecture about being the source of the problem in this dispute. Once in the hallway, the tone of the interview turned to the possibility of closure for the litigants in this traumatic case. For both the defendant and Curt, there were very serious doubts that this would be the end of the conflicts between the plaintiff and his ex-wife:

Curt: “This case gets thrown out of court after all that testimony – right over here. Your reaction to the decision by the judge and her words directed at you?”

Plaintiff: “Well I totally disagree with it, I never harassed her at all. She was making these claims, these false accusations against me…”

Curt: “So can you put her totally out of your mind now, once and for all and move on?”

Plaintiff: “Most definitely, most definitely, I can do that and always have done that.”

Curt: “Alright, documents are waiting for you right down the hallway there. Douglas will join you in a moment. Alright, come out here, congratulations on fighting this case and winning it – step in – what is your reaction now?”

Defendant: “I’m just glad that justice was finally served and I hope that he stops harassing me with these ridiculous accusations.”

Curt: “Is that possible? Is that going to happen?”

Defendant: “Well, in the mind of a sick person like him I can only hope and pray.”

Curt: “Alright, well good luck to you. Right down that way. We can only hope for the best for those kids too, Harvey.”

Through this exchange, it seemed that the power of the law to intervene in a tough case of failed relationships was limited. Although the defendant felt that justice was finally served, she could only “hope and pray” that the harassment would finally end. Luck, hope and faith appeared to be the watchwords in this segment as the power of the court – and indeed the power of the judge in this case – were called into question. The outcome of this case demonstrated that the law was often unable to bring about clear resolution to this type of complex relationship dispute. Taken in concert with the judge’s final words
to the litigants it seemed doubtful that the court was even the appropriate place to bring this dispute when the problem may have in fact stemmed from the plaintiff's "sick" mind. There was no resolution to be had in the court or the hallway in this first case example, but the possibility for closure did exist for other disputes, like the next example discussed below.

**Example Two:**

**People's Court: Tuesday January 29, 2002**

**Opening Dual Narrative:**

This is the plaintiff Love Priestly. She claims it took a while, but she finally realized the defendants were just using her—they weren't really her friends like they pretended. She paid for them all to move into a house in Indianapolis. Then they went behind her back, told the landlady lies about her, and had her evicted. She's suing for $666, the amount she's owed.

Love Priestly  
Plaintiff:  
Suing For:  
$666.00

These are the defendants Tracy and Patrick Wilburn. They say they paid for all the groceries and took care of the plaintiff's kid, so she has a lot of nerve suing them. Besides, she offered to pay for the moving truck and the first month's rent if they moved to the city with her. They're accused of using a friend.

Tracy & Patrick Wilburn  
Defendants  
Accused of:  
Taking Advantage

This case was typical of the sort of relational disputes that frequently came before the *People's Court* and the other courtroom programs. The litigants were at one time close friends and roommates who decided to share the cost of moving to and living in the big city. Over the time that they had spent living together, however, various frictions developed and the plaintiff in particular began to feel resentful toward her friends. She
began to feel as if she was being taken advantage of. Ultimately her roommates had her removed from the house they were sharing. According to Milian, all the litigants involved seemed like very nice honest people whose dispute really did not have much legal merit. In fact, more than once Milian wondered aloud why the litigants were even in court at all. It was clear that the plaintiff’s feelings were hurt by the actions of her friends, as were theirs. In the end the judge dismissed the legal case, but the relational dispute moved from the courtroom to the hallway where a mediated settlement seemed much closer at hand.

Ordinarily, the plaintiffs are interviewed one by one in the hallway segment with the bailiff keeping close watch over all parties in case a fight should break out. However, in some cases, such as this one where tempers were clearly not raging, the litigants were brought out together in order for Curt to attempt a mediated end to the relational aspect of the dispute. The litigants in the present case were positioned in the hallway, standing directly before the camera, facing one another with Curt standing in the middle acting as a go-between. Curt began the reconciliation ceremony by attempting to bring some perspective to the dispute:

Curt: “What a crazy fight this is, it seems ridiculous.”

Tracy Wilburn: “It is.”

Curt: “I mean you two … How long were you friends?”

Tracy Wilburn: “Three years. I don’t know … I was … I was a little upset about it though.”

Curt: “How about you? Isn’t this…”

213
Love: “Yeah I still feel they owe me the money. Um, as far as the babysitting – I babysat their kids too.”

Curt: “I know, but the testimony’s over, it’s time to reconcile, if that’s going to happen. Is that going to happen?”

At this point, Curt directed the microphone toward the plaintiff and she began to choke up, clearly on the verge of tears and unable to get the words out. As if to break the tension Patrick Wilburn – one of the defendants – inaudible and invisible to home viewers and out of range of Curt’s microphone said something at this point that brought a slight smile to Love’s face and nervous laughter to all the litigants.

Curt: “You have a deep voice. [laughter] I asked you and he answered. Is it going to happen?”

Love: “Um, I would like it to, they’re my best friends in the whole world. So…”

Curt: “Well there they are…” [indicating the defendants] “There she is…” [indicating the plaintiff]

Tracy Wilburn: “I know, but I don’t want to do it right now…”


This particular episode of hallway reconciliation could be read as a tacit indictment of the legal system and its (in)ability to function as a dispute resolution mechanism. Inside the courtroom, the best the judge could do was to explain the requirements of the law in cases of monetary disputes. Judge Milian explained that some sort of a contract was needed, and that it was not the court’s function to sort out who paid for what and whether or not one party’s babysitting duties were equivalent to the payment of their portion of the moving expenses or rent. However, both parties remained strong in their convictions that they were in the right, a notion of rights that was expressed in
broadly ethical terms such as entitlement and fairness. The defendants were certain that babysitting for an entire summer was worth at least the $666 that the plaintiff paid to move them all out. However, the plaintiff remained adamant that the defendants should pay their share of the initial moving expenses because it would be the right thing to do, even though she admitted there was no contract, verbal or otherwise in place. In fact, the plaintiff felt that her friends should have simply known this was the right thing to do, and it was not up to her to speak with them about it or make arrangements in advance. With no legal grounds for the settlement of their dispute, the litigants might simply have gone home upset and disappointed if their case had been heard on Judge Judy. However, the People's Court provided a space to open up a dialogue between the parties, clearly a dialogue that was welcomed by the plaintiff. This dialogue was facilitated by the involvement of the court reporter as a third party to the dispute. Without this third party acting as a go-between for the litigants, it is unlikely that such a dialogue would have been possible. Thus while exposing the court as a place that can be inappropriate and inhospitable to the resolution of interpersonal disputes such as this, the hallway segment simultaneously asserted the possibility that true reconciliation might lie just outside the doors of the formal legal system.

Another common function of the hallway segment is to extend the shaming rituals of the courtroom beyond its walls. In some cases, the actions of the litigants elicit moral outrage on the part of the judge. Occasionally, these morally outrageous litigants are legally in the right. In such cases, the winning party may have to endure a lecture by the judge about the moral bankruptcy of their claim despite its legal merits. In such cases,
the hallway segment can serve as an opportunity to further morally condemn the winning party while at the same time elevating the legal losers in such cases to the rank of ethical winners. In so doing, the ritual in the hallway reaffirms the moral righteousness of institutions like the traditional family and community, which are seen to be strong ethical antidotes to the narrow and atomistic form of individual legal rights asserted by the winning litigants. While Judge Judy engages in a direct neo-liberal address to litigants and her audience extolling the virtues of individual responsibility and the citizen as consumer of legal rights, People's Court seems to affirm a more traditional, anti-modern outlook on society closer to a neo-conservative view. This conservative focus on morality and the core values of family, community and country characterize People's Court in a way that is distinct from Judge Judy with its emphasis on individual responsibility. A key function of the hallway segment serves to question the ability of the courts to produce justice – when that notion of justice is derived from a form of morality based on traditional values separate from legal conceptions of right and wrong.

Without a doubt, the hallway segment of the People's Court is one of the most powerful portions of the program and key to discursively framing disputes as moral or relational issues rather than legal ones. The hallway serves as an opportunity to refute the judge's verdict and assail the other party, as is the case in the 'post mortem' of Judge Judy. However, the hallway segment also seems to take the litigants seriously and allows them a voice that is not mediated by the televisual editing techniques of Judge Judy, and is instead mediated by a third party in the form of Curt, the court reporter. Litigants are often asked to put aside the legal issues that brought them to court in the first place and to
consider in their place the moral and relational dimensions of the current situation. Particularly in cases involving ex-spouses there is usually an ongoing need for the parties to maintain some sort of relationship with each other because of shared children. The People’s Court acknowledges this fact and questions litigants after the trial about their ability to put things behind and get on with the business of being good parents, friends, neighbours and citizens.

In addition to the reconciliation aspect, the hallway segment on the People’s Court serves as a milieu for the reassertion of moral and ethical boundaries in civil society. Those who transgress this line between right and wrong – though they may be legally right in court – are often deemed morally out of order in this segment. Those who are unwilling to show remorse for the destruction of families and communities through their immoral actions are vilified, but simultaneously, they may be rewarded because of the narrow and technical nature of the law and its inability to see the full context in which a dispute resides. It is this very ability – to see beyond the letter of the law and instead consider ethics, morality and family – that is the true strength of this segment. This ability to view disputes in their full context is in keeping with the conception of the law articulated by Judge Wapner of the original People’s Court. He believed that the legal system must always make room for humanity and compassion. For Wapner “law is not supposed to be run like a machine, with inanimate facts being put in one end and an inanimate verdict coming out the other end” (1987, p. 34). Instead, judges ought to do their best to understand each dispute from the perspective of those in it. In fact, “if [judges] cannot feel for the people in front of them, they should be in
another job” (Wapner 1987, p. 20). The People’s Court perhaps more than most reality judging programs takes this sentiment to heart and even goes one step further by providing a unique place for non-legal forms of justice and reconciliation. The legal compassion of the judge on People’s Court is supplemented and reinforced by the ‘non-law’ of the hallway segment. In this way, the People’s Court truly moves closer to bringing a form of justice closer to the people.

Free Legal Advice

According to Porsdam (1994) one of the appealing features of the People’s Court is that many viewers feel they are getting free legal advice by watching the judge and litigants in action. In the most current incarnation of People’s Court it seems that the producers have recognized this fact and have actively incorporated this element into the broadcast with a regular segment that provides a brief legal analogy or advice to viewers who may find themselves in the same type of dispute. Once the hallway segment has finished and the boundaries of proper moral conduct have been explored and reaffirmed, the viewer must then consider not only the moral and ethical implications of the dispute that has just played out before their eyes but also the legal implications. This consideration of the legal implications is accomplished by the authoritative figure of Harvey Levin, identified with the caption ‘Attorney,’ when he gives legal advice after each case has moved through both the courtroom battle and the aftermath in the corridors of justice.
These “dollops of legal advice” (Asimow 1999, p. 8) that Levin dispenses provide the viewer with guidelines that may be helpful in the event that they are considering filing a similar lawsuit, or if they are considering a different but related type of lawsuit. Other times, the advice is not directly applicable to civil cases but instead is a type of analogy between the small claims case we have just seen and a more serious criminal case. In any event, the viewer may feel that they are learning something about the nature of the law and how it applies in their everyday lives. Sometimes, Levin explains that a particular litigant was unsuccessful because their dispute did not possess the proper attributes required by the law. In such cases, the segment serves as a warning to those who might file a lawsuit that is beyond the reach of the law. The example below was one such warning:

Example One:

People’s Court: Monday, January 28, 2002

In this case, the plaintiff was suing an ex-roommate for numerous damages alleged to have taken place during the time she lived with the male defendant. Among the activities the plaintiff claims took place was that the defendant’s girlfriend stole her banking card and used it to withdraw large sums of money. This particular aspect of the case was disregarded by the judge because the woman who was alleged to have committed this act was not on trial, nor was there any evidence to support this claim. However, once the case was wrapped up inside and outside the courtroom, Harvey Levin picked up on this aspect of the dispute and offered a bit of advice to those home viewers who might be caught in the same predicament.
Levin: “There was an interesting allegation here that the defendant’s girlfriend took the plaintiff’s ATM card and withdrew money. If you’re in a situation like that and you go to small claims court, many small claims courts allow you to actually subpoena records from a third party. You should check to see if you can do that in your area but that would have been good evidence for her if she wanted to go after the girlfriend.”

Thus, the above advice served to guide the home viewer – who would be presumably a novice litigator as well – to better present their case in small claims court. Levin provided instruction to the viewer about what constitutes ‘good’ evidence as opposed to the poor evidence that was actually presented in court – the plaintiff’s word against that of the defendant. In addition to providing advice about being a good litigator, it provided a contrast to the earlier hallway segment. In the hallway, we were shown that the law was unable to bring about true justice. However, in Levin’s advice segment we are often told that it may in fact not be that the law was unable to provide justice, but the real problem was that litigants were simply using the law incorrectly.
Thus, the ordinary person might require the help of a proper legal professional to point out what is good evidence from what is bad.

Example Two:

People’s Court: Tuesday, March 27, 2001

Levin has sometimes used discussion around a specific civil case to drive a point home about the danger of improper conduct. In this case example, Levin provided an analogy between the assault of an alleged crack dealer and more serious forms of vigilante justice where people have seriously injured or even killed would-be-burglars:

Levin: “This case is very much like those burglar trap cases where people rig a gun, the burglar either gets injured or dies and there’s a lawsuit and the homeowner actually loses.
And when the burglar dies in some cases they’ve actually been prosecuted for manslaughter. This is a good lesson on vigilantism.”

Levin skillfully used this analogy to discourage those who may be motivated to undertake a similar form of street justice when they or their family are wronged by a drug dealer or other morally offensive person like the plaintiff in this case. So while the courtroom condemnation of the plaintiff’s behavior and the hallway shaming ritual might have given the viewer the impression that there is a higher form of law that can legitimate the use of force against ‘bad’ people, Levin argued against vigilante action by issuing a warning of severe legal penalties when attempting to take the law into your own hands. In this way, messages circulating on People’s Court about the primacy of morality and relationships over law become tempered by the reality of the legal rules. The result is a somewhat ambiguous picture of the nature of justice. Inside the courtroom – and indeed in the hallway segment following the testimony – we might see law fail to produce true justice in cases such as the above. In such cases, the judge and court reporter may tacitly condone mob justice when the law fails to punish those who sell drugs and cause untold damages to families and communities. However, Levin’s advice seems to contradict this message and reinforce the old adage “don’t talk the law into your own hands – take them to the People’s Court.” In this way, through its legal advice segment People’s Court advocates a justice system that favors due process and the rights of the accused over swift and certain punishment for those who are factually guilty but legally in the right.
Example Three:

People’s Court: April 2, 2002

Another common way that the advice segment is employed on the People’s Court is to clearly demarcate a proper legal case from what is not, and who is legally entitled to the force of the law and who is not. In the segment transcribed below, Levin made what might appear to be a fairly obvious point about responsibility and liability from a legal perspective, but nonetheless a point which might not always be considered by the legions of Americans, both on the program or off, who feel compelled to take every injury to the court regardless of whether or not someone is actually at fault for their injury. In so doing, Levin provided a subtle critique of the litigious nature of the American public – a state of affairs that the program he produces actively encourages and certainly profits from.

Levin: “There’s a really important principle here and that is that every time you suffer damage doesn’t mean you can get money from somebody else. In this case the defendant wasn’t negligent, it was an accident not his fault, and the bottom line is even if you directly cause the damage you only pay if you do something wrong.”

So what then is the role of the legal advice segment of People’s Court in terms of aiding in the construction of the overall message about the law in ordinary people’s lives? There is certainly no simple or singular consequence of this segment, but there are at least three clear messages that come through. First of all, though ‘the people’ is a common theme throughout the program, and the show very much encourages a view of the law as something that ought to be more accessible to the public, there nevertheless remains an acute need for legal professionals and experts – like lawyers and judges – to help ordinary citizens navigate the confusing quagmire of the law. Cases may be brought
before the courts by laypeople, but it may not always be apparent what is ‘good evidence’ and what is the best way to present a case. For this, it remains a good idea to consult a lawyer. Second, while the program promotes the resolution of problems outside of the formal procedure of the court, there is a clear and present danger in taking the law into your own hands. Defending your family or property without regard to the law can result in the innocent going to jail and the guilty going free, or worse yet, profiting from your misery. Thus, Levin’s analogy serves as a mini-morality tale in this regard. Finally, this segment can serve as a warning to those who are bringing cases unnecessarily to court. Not every problem can be resolved in court, so viewers are encouraged to be more discrete in seeking the power of the law for their personal troubles.

Discussion:

In contrast to Judge Judy, the People’s Court presents a less judge-centred conception of the law and the role of the judge within that conception. In the world of Judy, ‘the people’ are seen only in relation to the judge. All questions are asked by and directed toward the all-powerful judicial figure. Conversely, in the People’s Court, the people are asked questions by not only the judge, but also Curt Chaplin – the court reporter – and even indirectly through Harvey Levin, the people themselves can pass judgment on the litigants. The sheer number of voices that are expressed on the People’s Court make it stand apart from Judge Judy. While Milian’s verdict is legally final, the ethical or moral dimensions of the case are often not decided solely inside the courtroom. Instead a litany of professionals and laypeople are allowed the chance to weigh in and pass judgement on the right or wrong of each situation. The incorporation of multiple voices and opportunities for discussion of cases and all their implications conveys an
image of the law that is porous, contested and perhaps open to everyone. In the end, however, this vision of 'the people's law' can be confusing and contradictory to the point where it is not clear that justice can ever be found. In this way, the People's Court perhaps presents a view of the judicial system that is not far from the truth.

Judge Joseph Wapner, of the original People's Court, articulated his own vision of law, justice and American society in A View From the Bench (1987) – an autobiographical account published at the height of his television career. Taking important cues from the legal turmoil around civil rights in the 1960s, Wapner put forward a view of justice that, in addition to being realist, is distinctly human and indeed humane. In his words, “in law, the human touch is everything. That ability to feel other people’s pain, to put myself in their shoes and try to ease their suffering, is crucial to the satisfactory working out of legal conflicts” (Wapner 1987, p. 236). This conception of law stands in sharp contrast to that voiced by the other reality TV judges, perhaps none so much as Judy Sheindlin. For Wapner and for the present incarnation of People's Court as well, justice is something that is sacred, to be treated with reverence and, above all, to be meted out fairly according to the rules of formal legal procedure and due process.

Unlike Judy Sheindlin and her ilk, People's Court was born out of a liberal-legal tradition of post-war America. In this view, the court is nothing without the participation of the people it serves. According to Wapner, the biggest threats to justice in fact emanate from those on the right – with their disdain for legal rules and procedure – and not from those on the left. Summing up his ‘view from the bench,’ Wapner singled out several troubling groups, including police who violate procedural rules of evidence and even “those in very
high places in the society, who also apparently see basic protections of the Bill of Rights as an unnecessary inconvenience in the fight against crime” (1987, p. 223). Wapner laid out this foundational liberal-legal principle for the People’s Court as follows:

We are a free people largely because we have a great many legal rights surrounding each and every man and woman in the society. If we start picking away at those rights because we fear muggers and robbers, we will be endangering our society a great deal more than any number of robbers and muggers could. No self-respecting people ever lost their freedom because of street crime, as horrible as that crime is. Nations lose their freedom when they lose the protection of the law. (Wapner 1987, p. 224)

It is not difficult to see how this rhetoric of judgment as compassion and the reverence for legal procedural protection have laid the foundation for a very different ideological course for the People’s Court, which remains largely intact on the program today. Though Judge Milian may take a more animated approach to justice, there is still a keen concern for the law and for reaching fair, compassionate solutions to disputes. Moreover, solutions to disputes on People’s Court can take place either in the courtroom, or even outside in a form of mediation. For Wapner, too, the negotiated solution is the preferred answer to most disputes:

A settlement is almost always preferable to a trial, and that is the most basic of legal truths... I have always believed, for as long as I have been a judge, that if litigants could put their problems simply and clearly before a person they trusted and ask that person for a judgment, they could save most of the rigmarole of the formal, drawn-out process (Wapner 1987, p. 162)

Clearly, this is just what People’s Court – then and now – aims to do: To provide ordinary people with a chance to work out their problems under the watchful gaze of the judge, and to a lesser extent, the other legal actors on the program.
Coexisting with this reverence for the sanctity of law on the present *People's Court* is a distinct style and tone that in some ways contradict the principles established by Wapner in the original series. Compared with the somber and serious atmosphere in Judy’s court, the court of ‘the people’ at times takes itself far less seriously. In fact, at times when the *People’s Court* perhaps ought not to make light of a situation, the puns and one-liners – supplied by attorney commentator Harvey Levin – continue unabated between segments. Are we to walk away from our initial analysis of the *People’s Court* with the impression that such a democratic vision of law should not be taken seriously? Has the *People’s Court* in its current form made a mockery of law and the courtroom? It is without doubt that viewers receive mixed messages about the law in many ways on the *People’s Court*. But, perhaps this is not so different from the ‘real’ American judicial system. The contradictions and disjunctions between law and justice that play out regularly on *People’s Court* may be just about as real as it gets.

The next section will begin to explore in depth the way that both programs frame interpersonal conflict discursively around ideas of morality, law, justice and therapy. For now, my concern is with a morphological analysis of the two programs. To this end, it is worthwhile summarizing the features of both.

**The People’s Law versus Judge Judy Justice**

Judge Judy is a highly ‘televisual’ spectacle. From the very first images we see to the very last exchange between the litigants in the aftermath, Judge Judy employs devices typical of fictional programming, such as rapid fire editing techniques reminiscent of
music videos or action programs to captivate the viewer. Moreover, the time sequences in which events actually unfold on the program are sometimes altered in the opening 'hyper-framing' sequence and in the aftermath. Sometimes the editors of Judy loop a particular sequence of dialogue to reemphasize a point or perhaps to aid in the creation of a pseudo dialogue between parties at the end. After all, the so-called dialogue between litigants in the aftermath is an illusion. Just as litigants are discouraged from directly addressing one another in the courtroom, they are also interviewed apart at the end, although the magic of editing gives the viewer the impression that there is interaction and dialogue.

The conflicts on *Judge Judy* are framed not only within the opening sequence, but also through the use of narrative and framing captions that describe the nature of the conflict, emphasize one party or the other, and help to distinguish the victim from the aggressor in the conflict. The narrative is subtle and does not overtly express opinions about the litigants or the guilt or innocence of parties. However, by stressing that one party 'allegedly attacked' the other, the cumulative effect is to give an impression of guilt. The narrative can also give us some clues as to the personal details of the litigants' lives, such as their occupation and age. However, the narration is seldom expressive emotionally and the perspective is neutral and omniscient.

Taken in concert, these aspects of Judge Judy add up to a Judge-centred vision of law where litigants must throw themselves at the mercy of the judge in the hope that they will get a favorable decision. As we will see in the next section, Judy may sometimes
waver back and forth between the use of the law to justify her decisions in some instances where it is suitable, while at other times resorting to 'intuition' or other similar hunches to discern the truth and to detect who is lying and whose story does not make sense. In fact, Judy wears this self-proclaimed capability like a badge of honor, openly flouting her use of 'special powers' of wisdom or 'secret' methods of truth divining. In the end, the law of Judy is precisely that: a method of decision-making and a form of justice personified in Judy and expressed exclusively through Judy. Just as the opening title sequence presents the law as being composed of the four pillars of Judy, while simultaneously being subsumed within Judy, the vision of law presented here is as the program promises: 'Judge Judy justice.' There is no 'we the people' in Judy.

By contrast the People's Court is a flexible space for conflict resolution and justice. The judge is important and sees herself as being the primary gatekeeper of the official doctrine of law, but not the only path to conflict resolution. Judge Milian is sometimes hamstrung by the law and laments not being free of its constraints. However, in the end, it is clear that she sees her role as limited, but also as a part of a larger system of judgment, resolution and justice – perhaps not that much differently than other 'real' judges. The elements and narratives that co-exist in the space of the People's Court come together to proffer a vision of conflict resolution and justice that will not be constrained by the formal practice of law. Instead, the law is but one part of a more complex journey down a path toward justice. Justice is often not to be found in the courtroom. However, it is clear that Milian does not see fit to make up new rules to
remedy this fact when a situation exceeds the boundaries of the law and eludes justice inside the courtroom.

The long history of the *People's Court* has seen several changes in judges over the years, but the essence of the program has remained the same. The law belongs to the people, is made from the people, and ultimately finds expression through ordinary people coming to the court and asserting what they believe to be their fundamental rights. In popular American mythology the United States was founded on the notion of the primacy of individual legal rights and this program is perhaps a microcosm of this very notion. Whatever the case, we are left with the inescapable conclusion that *Judge Judy* and *People's Court* offer two fundamentally different conceptions of law. One is a judge centred vision of law and justice, where the judge relies on a charismatic claim to authority, while the other is a populist vision of justice, where the judge is merely a position that is allocated by the democratic will of the people. In other words, to revere Judge Judy is to revere the individual. To revere the Judge presiding over the People's Court is to reaffirm the primacy of the people and the law that underpins the American ideal of democracy.

In the next section we will move to the core of the present analysis, the examination of the discourses of Judge Judy justice and the people's law. Through an analysis of the two models of law combined with two distinctive styles of judging in interaction with various litigant orientations, I will attempt to map the contours of
judgment in the reality-based TV courtroom and demonstrate the power of discourse to locate conflict within or outside the law.
Part III: Speaking of Law...: Analyzing Talk in the Telemediated Small Claims Court

Setting the Scene

This section will present an analysis of the discourse of reality-based courtroom television disputes. Picking up important cues from the work of Conley & O'Bar (1990) and Merry (1990a; 1990b) I will focus on the power of language (discourse) to frame disputes in terms that are either amenable to the legal system or in ways that render them 'out of bounds' of the law. As Merry (1990b) puts it “one aspect of the power of the law is its ability to establish a dominant way of construing events and to silence others” (p. 2). Thus a key power of the law is its ability to ‘name’ and ‘frame’ conflicts. I will argue below that this very same power is evident in the legal discourse of both Judge Judy and People’s Court. In this way, I will be continuing the work of critical legal scholars who believe that law – in all of its various forms – helps to constitute our social reality through its “categories, principles and assumptions” (Merry 1990b, p. 2). In what follows, I hope to reveal not only the way that the law of the reality TV courtroom transforms the conflicts of those who appear before it, but also how this TV legal forum helps to create the social worlds of its regular viewers. To this end, considerable time will also be devoted to an analysis of audience member reactions to the disputes they see on reality-based courtroom TV.

In the present section I will reiterate several key theoretical aspects of the above-mentioned authors’ analyses. First of all, I find it useful to explore the differences in the way that reality-based litigants approach their disputes. In the analysis of Conley and O'Barr (1990) such differences are broadly conceived in terms of two divergent
orientations to the law – one that is focused around human relationships and the other around a strong concern for individual and universal legal principles. Put in the terminology of these authors, we can therefore broadly classify litigants as being either rule-oriented or relationship-oriented. However, in the following analysis it becomes clear that Conley & O’Barr’s findings do not readily transfer from the American small claims court to the reality-TV courtroom. I submit that the situation in the telemediated small claims court is often quite the opposite of what was found in the American small claims courts studied by Conley & O’Barr. I argue that in the reality TV courtroom, discourses of morality and good relationships often trump those that are confined narrowly to legal principles and technical rules that normally resonate in the ‘real’ American courtroom. Even in People’s Court where Judge Milian tends to follow the legal rules strictly, litigants who violate moral and ethical principles are shamed both in the courtroom and outside the courtroom by the judge, the court reporter, the audience and the attorney commentator. The ritualistic shaming of morally bankrupt litigants who disregard the principles of good relationships is a feature on both People’s Court and Judge Judy that sets it apart from the ‘real’ legal system. Thus, even Milian – who has demonstrated that she always feels compelled to follow the letter of the law – tends to praise those litigants who demonstrate a commitment to honest personal conduct, good family and personal relationships, and community-minded neighbourly associations. In this way, audiences can see that even when the letter of the law fails to punish the guilty the moral court of national public opinion can be brought to bear on litigants who are morally or ethically out of order. As such, the rules-versus-relationships model proposed
by Conley & O'Barr must be turned on its head in order to make sense of the discourse of
the American reality-based TV small-claims court.

A key theoretical aspect of Merry's (1990b) work also provides me with a second
set of analytical tools for the present analysis. Merry argues that law is "a set of symbols
which are subject to various kinds of interpretation and manipulation" (p. 6). Nowhere is
this symbolism more in evidence than the reality-TV small claims court. As was
discussed at length in the last section, the TV courtroom – like the 'real' courtroom – is
deeply imbued with symbolic meaning about the power of the law and the power of the
judge. But it is within the very language of disputing and the 'talk' of the judge where
the core of that power resides, a power that is at bottom ideological rather than rational or
logical. It is worthwhile quoting at length from Merry as she attempts to explicate this
point in relationship to her ethnographic study of the lower courts of eastern
Massachusetts:

From this perspective, disputing is a process of meaning making or, more precisely, a
contest over meanings in which the law provides one possible set of meanings. The
process of disputing is one of quarrelling over interpretations of social relationships and
events. Parties raise competing pictures of the way things are as each strives to establish
his or her own portrayal of the situation as authoritative and binding. Third parties also
struggle to control the meaning – and hence the consequences – of events through their
distinctive forms of authority. Law represents an important set of symbolic meanings for
this contest. (Merry 1990a, p. 6)

The third parties referred to above – judges and mediators in Merry's study – obviously
have a stronger position than litigants from which to make meaning of events and
conflicts. However, the law offers but one possible way of making meaning of these
contests over the redefinition of relationships. According to Merry (1990a; 1990b) there
are two other 'frames of meaning' – which she terms discourses – that are analytically
distinguishable: 1) the categories and remedies of *morality*; and 2) those of the helping professions, which she broadly terms *therapy* (p. 10). When litigants come to the court with a problem, the conflict is usually one that is broadly conceived of in terms of individual rights, such as the right not to be harassed or bothered and the right to fair treatment by others. Therefore, litigants believe that the law is empowered to enforce these general rights and expect that judges will act accordingly. However, many litigants are disappointed when their dispute is transformed through the use of these other two discourses in ways that they may not have anticipated: “Usually plaintiffs bring problems articulated in a discourse of rights and evidence, but court officials and mediators reframe them in a discourse of morality or treatment. Refusing to provide the kind of help plaintiffs seek, they offer instead a different, less welcome form of aid” (Merry 1990b, pp. 10-11). It is the transformative power of these three frames of meaning, or discourses – law, morality and therapy – that I will consider below in my analysis of *Judge Judy* and *People’s Court*.

In the struggle to make meaning of interpersonal relationships in the courtroom – both televised and ‘real’ – it is clear that the litigants are actively taking part in constructing a narrative of the events that they hope will be accepted as the official ‘truth,’ or in the terms used above, the version of events that is *authoritative* and *binding*. Borrowing from the theoretical and methodological tools of media studies (cf. Berger 1997, Lacey 2000, Larsen 1991), we can regard narratives as analogous to the ‘way’ that a particular story is told. A narrative might begin in the aftermath of a tragic incident and work its way backward in time to reveal the events that led up to the tragedy. Therefore,
it is important to view the narrative as being separate and distinct from the story. In the courtroom, it is through competing narratives that each party to the dispute is attempting to reconstruct a story about the conflict that has brought them to court. The litigants appear in court only at the end of ‘the story’ – that is to say after the damages have been done, the money lost and the various harms suffered. The task for the parties is to reconstruct the story leading up to the events that brought on the lawsuit. The judge of course ultimately has the power to decide on the final, official story and does so by employing legal, moral and therapeutic frames of reference in order to construct the authoritative version of the situation. Ideology may also come to play in these narratives. For example, Judge Judy might adopt an ideology of individual responsibility while Judge Milian may be more likely to adopt a therapeutic, deterministic model that attributes human behavior to causes apart from individual freewill. These ideological ‘frames,’ ‘themes’ and ‘discourses’ – to employ Altheide’s (1996) model – have a powerful effect in shaping the ways issues are talked about and ultimately decided and acted upon in the TV courtroom. In turn, these frames, themes, and discourse filter through the televisual world of the reality-based courtroom TV program into the discourse of fans who faithfully watch these programs and share their thoughts on Internet-based discussion boards. In the end, the task of the present analysis is to untangle this discursive and ideological tug-of-war that plays out through the narrative tactics of the plaintiffs, defendants, judges and fans.

In analyzing the discourse of the judges and litigants in the reality-based courtroom I will make use of concepts borrowed from narrative analysis as well as
Conley and O’Barr’s (1990) conception of litigant and judicial orientations and Merry’s (1990a; 1990b) discourses of law, morality and therapy. The conflation of these various theoretical and methodological strands provides a novel and powerful lens through which to view the discussion, talk or language that plays out within the reality-based TV courtroom. But more than that, it allows a way to consider the power of language in the construction of legal meanings and categories. Reality-TV programs about the law such as Judge Judy and People’s Court are powerful discursive sites for the articulation of meaning about the nature of human conflict and the role that the law might potentially play in resolving that conflict. However, my analysis of the TV courtroom is in many ways the inverse of what linguistic-legal scholars have found in so-called ‘real’ American courtrooms. Moral, therapeutic and relational ‘talk’ tends to dominate while legal discourse often takes a backseat. The very nature of the way that the viewing public understands the law is thus potentially transformed and distorted as well.

Unlike the last section where the two programs were considered individually in separate parts, this section will follow a different organization. The discourse of judges and litigants in both programs will be analyzed thematically, starting first with a discussion of judging styles, then moving to a consideration of litigant orientations and concluding with a look at the interaction of the two sites of discourse and the impact upon viewers’ understandings of law, justice, morality and dispute resolution. Having charted our course in very broad brushstrokes I will move now to the first part of the discussion: the discourse of judging and judgment on reality-based courtroom TV.
The Anatomy of a TV Judgment

In every disagreement, there are at least two sides. Each party is absolutely convinced of the rightness of his or her position. There's rarely an absolutely right answer. Usually, the answer lies someplace in the middle. That's why there are judges. Someone has to decide, and it's best if it's a third party who is not emotionally involved. (Sheindlin 2000, p. xii)

In the TV courtroom, as in the 'real' American small claims courtroom, we can make sense of the language of the judges by carefully considering the way they go about articulating their judgments. Specifically, it is possible to discern several distinct components in the talk of judges during a typical court case, both on television and in the real American small claims courtroom. In this first section I will present a discussion of the language of judging in both Judge Judy and People's Court through a careful examination of the various parts of a typical judgment. Before doing so, I will begin with a discussion of the nature of courtroom judgments more generally.

According to Conley & O'Barr's (1990) ethnographic research, typical judgments in American small claims courts contained four distinct components: 1) Notice, 2) Decision, 3) Explanation and 4) Advice (p. 83). The notice of an impending judgment is often a subtle verbal cue that the judge has heard enough and is prepared to make her or his decision. The decision itself, of course, is marked by the assigning of responsibility to one party or the other, or in some cases, responsibility may deemed to be shared between the litigants. Explanation is accomplished when a judge justifies his or her ruling, usually with reference to the law of a particular jurisdiction, or sometimes by explaining the reasoning used to determine guilt. Lastly, Conley & O'Barr found that the advice of 'real' American small-claims court judges tended to be most often legal in orientation and was usually related to how a successful plaintiff might go about collecting
from the defendant, or how a losing defendant might go about clearing their name. Quite the opposite of the findings presented here, the judges examined by Conley and O’Barr (1990) only rarely made personal comments about the litigants or the disputes (p. 84). Through the careful analysis of the language of many judgments Conley and O’Barr found that these four components are present in nearly all cases, to a greater or lesser extent. They note that, for example, judges may tend to give more detailed advice to litigants who share similar social or cultural backgrounds (p. 84). However, in the reality-based TV courtroom, the situation appears to be quite the reverse. Advice from the TV judges is very rarely legal, and instead often takes the form of comments about the behavior and personal worth of litigants. Below, I will provide an illustration of the judgment as it unfolds in both TV programs by drawing on several examples from both shows.

**Judge Judy Judgment**

Ask yourself: Do you want to spend your life on a couch telling a therapist how damaged you are, or do you want to get out there and try to function? (Sheindlin 2000, p. 147)

**Example One:**

*Judge Judy, Wednesday, May 29, 2002*

**Opening Narrative:**

“23 year old student Sarah Rosales is suing her ex-boyfriend 30 year old retail manager Sean McKean for his share of a month long Mexico vacation.”

In a case that involved a former couple in a dispute over the costs of a vacation, we could see very clearly a typical judgment segment as it normally played out on *Judge Judy*. After Sheindlin questioned both parties about the nature of the agreement that they
had with respect to the money that was spent on their trip, Judy signaled the start of her judgment by announcing that she in fact believed the defendant owed the plaintiff money:

Judy: “He owes you money.” [notice]
Rosales: “Yeah.”

While the determination of the guilt of the defendant seemed to herald the beginning of Judy’s judgment she immediately jumped to advice – to continue using the terminology of Conley & O’Barr (1990). However, the advice offered by Judy was anything but legal and focused exclusively on the personal actions of the plaintiff in this case.

Judy: “However, you don’t escape without a tongue-lashing. If you’re being stupid, don’t expect me to be sympathetic. You don’t give a boyfriend a credit card – ever, no way, nothing! You don’t give anybody a credit card, especially somebody that you are not related to by blood or marriage or committed to by virtue of an engagement – even then it’s dumb and stupid – so you don’t get any awards for brains.” [advice 1]

Note that the advice began well before the final decision was rendered. Also, the advice offered to the defendant – if we can be so generous as to describe Judy’s tongue-lashing as ‘advice’ – was distinctly moral and personal in its tone. The fact that the litigants were not married or at the very least engaged seemed to be at the heart of Judy’s objections to the situation that this couple found themselves in. Judy offered blood relations or marriage as the preconditions for a man and woman taking a month-long vacation together. This was advice that went well beyond the present dispute and could presumably be carried forward into future relationships by the plaintiff or anyone within earshot – such as the home audience. Moreover, this advice was congruent with Sheindlin’s conservative values expressed in one of her best selling books You’re Smarter Than You Look (previously published as Keep it Simple Stupid). In this

239
prescriptive guide to proper relationships – subtitled “Uncomplicating Relationships in Complicated Times” – Judy lamented the state of the modern family and seemed to yearn for simpler, old-fashioned values. According to Sheindlin:

Life used to be so simple. You got married when you were twenty, stayed married for fifty years, and raised children who got married when they were twenty and gave you grandchildren. Mother’s Day and Father’s Day didn’t look like the revolving door at Macy’s. Everyone had the same religion and lived in the same neighbourhood. It’s not so simple anymore. (Sheindlin 2000, p. viii)

Drawing from her years of experience and purported ‘expertise’ as a family court judge, Sheindlin forcefully argued that problems are the making of individuals, and personal responsibility and action are the only prescriptions for healthier social relations. Structuring her book around ten ‘simple’ rules – resembling Ten Commandments – Sheindlin spun a narrative of freewill and individual responsibility and of self-help through the application of simple truisms. Furthermore, by situating the responsibility for the failings of American society within the poor choices of individuals, Sheindlin not-so-tacitly argues for a privatized model of citizenship. In her first best selling book Don’t Pee on My Leg and Tell Me It’s Raining (1996), Sheindlin forcefully makes this point: “By shifting the emphasis from individual responsibility to government responsibility, we have infantalized an entire population” (p. 6). Her answer? “Self-discipline, individual accountability and responsible conduct is the answer. It has always been the answer, but America got lost. It is time to get back on course” (p. 233). The effect of this sustained attack on the government social regulation is to situate the blame for a host of social problems – and the solution to those problems – within the individual. As Judy put it: “the bottom line is, it’s up to you” (2000, p. xiii). This conservative ideology saturated the judgments of Judy and was expressed most clearly in the ‘advice’ component of her decisions.
What was very notable about the judgment in the case of Rosales versus McKean was that Judy did not offer any explanation for her ruling. In fact, in the exchange below, Judy openly admitted that she could not determine the amount of money that the defendant owed. However, Judy did eventually make a decision in this regard by simply accepting the amount of money that the plaintiff claimed was lost, and then offered more commentary on the personal worth of the litigants, this time directed toward the defendant.

Rosales: “I understand that but I have loaned him money before and he’s paid me back so I had no reason not to trust him.”
Judy: “But I don’t know how much he owes you.”
Rosales: “It’s $3,305 dollars…”
McKean: [interrupting] “I don’t owe her anything”
Rosales: “…and two cents.”
Judy: “Oh yes you do, oh yes you do. I guarantee you, as good as you think you were on this trip, you weren’t. [advice 2] Judgment for the plaintiff in the amount of $3,300 dollars. That’s all.” [decision]

That the decision came almost as an afterthought and that ‘advice’ tended to dominate in the anatomy of Judge Judy’s decision should come as no surprise to anyone who has watched the program. The judgment is merely a platform for Judy to express her own ideological viewpoints about good relationships and appropriate interpersonal behavior. In this case, the advice centred on the proper conditions around which a man and woman should be together in an intimate situation like a month long tropical vacation. Being married or being brother and sister appear to be the only appropriate conditions under which the opposite sex should share a credit card – and perhaps by
extension a hotel room in Mexico. The ‘advice’ for the defendant was less clearly prescriptive in that it did not set out a proper course for future behavior as much as it simply berated the man for having too high an opinion of himself. In the end, it was clear that ‘advice’ was somewhat of a misnomer for this part of Judy’s judgment. Instead, we might better characterize this central portion of the judgment as ‘sermon’ or even ‘punishment.’ In fact, ‘tongue-lashing’ conjures up a graphic image of corporal punishment combined with a sermonizing lecture. Thus, I think it appropriate to use Judy’s own terminology – ‘tongue-lashing’ – to best describe this part of her judgment. Therefore, based on a careful examination of Judy’s style I can conclude that the structure of a typical Judge Judy decision takes the form of 1) notice, 2) tongue-lashing and 3) decision. Keep in mind that the tongue-lashing portion of the judgment may be split into multiple parts and directed at both parties. Also, the tongue-lashing may begin earlier in the proceedings, well before the judgment begins. What makes Judy’s tongue-lashing so different from the advice component explicated by Conley & O’Barr (1990) is that it is not typically confined to the present or future behavior of the litigants. Instead, the tongue-lashing usually concentrates on the past behaviors of the parties and what they should have done to prevent the dispute from arising. Viewed in this light, the tongue-lashing serves a symbolic purpose for the home viewer, demonstrating all that can go wrong with personal relations. Thus, the audience member is encouraged to change their behavior in order to prevent such a disaster from occurring in their own lives. Rather than regarding Judy’s diatribes as nothing more than slamming the barn door after the horse has already bolted, we should instead recognize that they serve as lessons to wider
audiences. Furthermore, the tongue-lashings may also help to cement the idea that personal change and responsibility are the key to happier social relations.

To summarize, the structure of a typical decision in the court of Judge Judy was found to be most often a modified three-step process that eliminated the step of explanation, as was demonstrated by the above case example. Occasionally however, I found that the judgment was even briefer than this, eliminating even the tongue-lashing step and simply delivering a quick judgment based solely on Judy’s intuition, as is the case in the excerpt below:

Example Two:

Judge Judy, May 29, 2002

Opening Narrative

“17 year old student Vanessa Crowell is suing her friend’s father 44 year old truck driver Donnell Buie for the money she paid him for a car. Vanessa says Donnell never gave her the vehicle.”

Judy: “Ms. Cromwell... I believe you.” [notice]

Crowell: “Thank you.”

Judy: “I believe that you gave him 500 dollars. I believe you, and I believe your witness.”

Crowell: “Thank you.”

Judy: “And I don’t believe you sir. Judgment for the plaintiff in the amount of 500 dollars. That’s all.” [decision]

Many regular viewers of the program will recognize this abrupt delivery of justice as the trademarked 'Judge Judy justice' that is so vigorously promoted in advertising for the program. Despite the fact that the plaintiff in this case could offer no proof that she had
paid any money at all to the defendant – the plaintiff was specifically asked by Judy to produce a receipt or a bank statement to support her claim – Judy was unequivocal in her decision. Judy felt no need to explain her decision other than to say that she just didn’t believe the defendant, but she did believe the plaintiff and her friend. This decision highlights two key characteristics of the style of Judge Judy’s judgments: 1) brevity, which is usually accomplished by 2) a lack of explanation for the judgment. When judgments are prolonged, this is usually a result of an extended 3) tongue-lashing component that is the moral equivalent to the legal advice component of the judgment model proposed by Conley and O’Barr.

Turning our attention now to People’s Court, we can see how the judgments of Marilyn Milian are both similar to and different from the lone, authoritative approach typical of Judge Judy. In fact, one of the key differences between Milian and Judy is the fact that Milian’s judgment can at times take on the appearance of a collaborative process involving multiple actors.

The People’s Judgment

...in law, the human touch is everything. That ability to feel other people’s pain, to put myself in their shoes and try to ease their suffering, is crucial to the satisfactory working out of legal conflict. (Wapner 1987, 236)

Example One:

People’s Court, June 13, 2002

Opening Dual Narrative
This is the plaintiff Jeff Torcello. He claims he never had a physical relationship with the defendant but always hoped she’s go out with him. She abused his feelings to get money from him and he foolishly kept lending it to her believing her promises that they’d go out on a real date one day. He’s suing for $3,000 to recoup some of his loss.
Jeff Torcello
Plaintiff
Suing For:
$3,000

This is the defendant Nina Quartiano. She says the plaintiff's obsessed with her and has been stalking her for a while - he even left 12 dozen roses on her car. She's known him since high school and wouldn't have taken a dime from him if she'd known he'd start acting so freaky. Besides, the 500 bucks he gave her was a gift not a loan. She's accused of taking advantage.

Nina Quartiano
Defendant
Accused of:
Shameful Behavior

When examining the structure of Judge Milian's judgments on the People's Court we find a modified version of Conley and O'Barr's (1990) model of judicial decision-making. One significant difference however, is that the program's narrator and legal commentator, Harvey Levin, takes an active part in the process, first by announcing to the audience that a ruling is impending, as was the case in the following:

Levin: "He had no reason to feel lucky with the defendant but should he feel lucky with Judge Milian? Will he get the three grand he's out? The decision is next." [notice]

Levin's announcement of the impending ruling is an invariable part of the structure of each case on the People's Court. In this way, Levin's role should be viewed as more than simply to add humor before and after commercial breaks. Instead, Levin's commentary functions – at least in part – as a key structuring element of the program and of the decision-making process. Just as his commentary can help to 'frame' the conflict and the litigants, Levin also calls the audience to attention and prepares them for the decision that is about to be announced. However, the judge herself articulates the bulk of the judgment. Below is an extract of the judgment from the present case example:

245
Milian: “You know what? (defendant) I’m going to shut you up. Okay? This is ridiculous. It is very obvious the way this kid is, he’s obsessed and he’s stalking you. And you know why? ’Cause you led him on, you milked him dry and let me tell you something (plaintiff). If I were you I’d be supremely embarrassed right now and not smiling or happy. Because I think it’s absurd that at your age you would let somebody milk you dry like this – it’s not like you’re 14 years old for God sakes and hormonal. [advice 1]

But you... You! (defendant) What bothers me the most is I’d have more respect for you if you just came in here and said hey, you know I found a guy who was giving me gifts, what do you want from me judge? You know? If you at least did that I’d understand. But you come in here and you bold face lie to me under oath. You did, because these are all your e-mails, these are all your screen names. Alright? You tell me that all he loaned you was the money he can document. Funny how you only admit, you know, the stuff he’s got the documents for. But then we get to the last e-mail – which I guess you didn’t think he saved – where you tell him there’s no proof that you gave me all that money and in the e-mail before that you admit that in fact you owe him $2,000.” [advice 2]

Quartiano: “I did not say that.”

Milian: “Yeah, yeah... You know what? I wouldn’t believe you if a tongue came notarized. Verdict for the plaintiff $2,000.” [decision]

What was striking in this judgement and similar to the earlier example from Judge Judy was that there was a lack of any explanation for the decision, at least not in legal terms. Milian focused instead on the credibility of the defendant, which was called into question by e-mails exchanged between her and the plaintiff. Milian’s judgment was, however, dominated by advice – or perhaps a tongue-lashing sermon – that she directed at both parties. If there was any explanation to be found in the judgment it took the form of an assessment of the litigants’ behavior. Both parties were clearly acting badly, but there was a difference in Milian’s mind between stupidity and maliciousness. According to Milian, stupidity is something to feel embarrassed about, but maliciousness is something that must be punished by her in court. This was exactly what she did to the defendant in that particular case example.
In keeping with the collaborative effort that is *People's Court*, Harvey Levin’s legal advice segment continued the process of judgment by further vilifying the defendant and mildly chastising the plaintiff for his actions too. Levin’s commentary on the litigants’ behavior was only thinly disguised as legal advice:

Levin: “Okay Curt, you know this woman was clearly despicable and the reason she lost this case is, what it amounted to really is fraud, [s]he defrauded his guy, she did. [explanation] But, realize that a judge will not protect you from your own stupidity, and if you’re just giving somebody money hoping that they’ll date you and that’s it, you’re going to lose. [advice]

In a further complication of the simple four part model of judgment proposed by Conley and O’Barr (1990), the structure of judgment on the *People’s Court* is still dominated by advice/tongue-lashing of the litigants, but it also includes a legal explanation of the decision and advice from the expert commentator Harvey Levin. The typical segment with Levin is much more clearly prescriptive in its legal advice than what the judges offer on either *Judge Judy* or *People’s Court*. However, it isn’t really very clear if this advice is for the litigants in the case at hand, or for viewers at home who might be caught up in a similar set of circumstances. To summarize, in the case above the model of judgment took the following form: 1) notice, 2) moral advice/commentary, 3) decision, 4) legal explanation and 5) legal advice.

There were times, however, when Judge Milian would incorporate explanation into her judgments in ways that were quite different from Judge Judy. In such cases when explanation was incorporated into Milian’s judgment structure, it was most likely to be an explanation for a lack of decision, or for a decision that failed to produce moral justice. In cases where Milian was forced to award a monetary settlement to a morally
undeserving litigant, an explanation was usually required. In cases such as this, the explanation would usually fall back on the law as the reason for the miscarriage of ethical justice. In what has been described on an Internet fan discussion board as a ‘classic’ case on the People’s Court, Judge Milian faced a difficult decision when an accused crack dealer came to court suing the brothers of a young teenage boy that he allegedly sold crack to. What is most interesting about this case was that even though the brothers were accused of assaulting the alleged drug dealer, most of the discussion in the courtroom focused on the plaintiff’s behavior. Without going into all the details of this case, which is discussed at length below, it was noteworthy that when Milian made her decision she incorporated a lengthy explanation that relied heavily on the law as the source of her unjust verdict. As one of Milian’s most memorable speeches in my sample, I have quoted an excerpt at length below:

Milian: “You know, here’s where my problem lies – and I’m going to say this and then I’m going to take a short recess – my hands are tied by the law, and I’m going to go over all this testimony and see where my conscience can lead me, alright, but my hands are always tied by the law. And uh, you know, part of the problem is that it’s not necessarily okay for you to take the law into your own hands. Now would I be proud of you were you my son? Probably.”

[after returning from commercial break]

Milian: “I’m sickened that I’m in this position, because what am I going to have to do, my friends? You can’t take the law into your own hands, you can’t do that, alright? I know that there was a certain amount of satisfaction that you must of gotten, and there ain’t a person within the sound of my voice that doesn’t know and feel good about the satisfaction that you got by doing that. But where did it leave us?”

Judge Milian’s long soliloquy about being hamstrung by the law was quite different from the structure that was found to be typical of Judge Judy’s judgments. More than just an explanation, however, Milian’s speech above was also advice – in the form of a warning – to all those who might be tempted to take the law into their own hands so as to protect a
family member. Although such vigilante actions were to be morally praised, they were still legally out of order, and Milian's long speech highlighted a clear disjuncture between natural justice — which exists on a higher moral plane — and the legal (in)justice that is a product of fallible man-made law. So, unlike the explanation component of the judgment explicated in Conley and O'Barr's study, which most often focused on the legal remedies available to litigants who were ready to move to the next step of the dispute, the explanation here was more about why a proper resolution was not produced through recourse to the law. In other words, explanation in the People's Court — when there was any explanation at all — was often an explanation of the failings of the law.

**The Jurisprudence of TV Judges**

In order to appreciate the language of legal interaction in the TV small claims court, it is necessary to address the judging styles of the key players. In addition, it is also necessary that we consider how these judging styles interact with the three frames of reference or discourses referred to above. The judging style of a particular individual can be inferred largely through an examination of their decision-making. Therefore, I'll begin by first outlining the styles of judging identified in Conley & O'Barr and then, second, I will consider to what extent these 'ideal' types of judging fit the styles of Judge Milian and Judge Judy.

Conley and O'Barr (1990) identified what they regard as five distinct approaches to law in their sample of fourteen American small claims court judges. What these five orientations to the law amount to are ideal typical judging styles that may not always
exist in a pure or discrete form. Rather, some judges may exhibit elements from more than one orientation. Bearing this point in mind, it is useful to outline each ideal type in some detail before considering to what extent these characteristics are reflected in the two TV judges examined in this analysis.

The first judging style discussed by Conley and O'Barr (1990) is the strict adherent to the law. According to their description of this type, “the strict adherent views the law as set of inflexible neutral principles. The judge’s role is to ascertain what principles are relevant to a given situation and then apply them straightforwardly” (p. 85).

Thus, a judge who approaches the law in this manner will be reluctant to exercise any discretion in their decision-making. Instead, what may happen is that they become “an unwitting conduit” (p. 85) for these so-called neutral principles of the law in situations that do not neatly fit the textbook scenarios that they are familiar with. In such situations, the judge may qualify their decision by saying ‘I have no choice but to find in favor of the plaintiff’ or some equivalent that demonstrates to the litigants their lack of choice in the matter. The law is the law, and the strict adherent does not feel empowered to challenge this fact. Ideologically such a stance reinforces the myth of the “power and neutrality” of the law by underscoring the fact all individuals should to be treated alike regardless of unique circumstances. Moreover, the effect is to convey the message that “the legal process is dispassionate and value neutral, relatively immune from manipulation by either astute litigants or strong judges” (p. 86). A judge with such an orientation would clearly see his or her role as merely a part of a larger process, rather than being central to this process.
In sharp contrast to the strict adherent to the law is the *law maker* style of judging, which “views the law not as a constraint, but as a resource” (Conley and O’Barr 1990, p. 87). According to the authors’ description, the law maker is concerned to bring about some broader notion of justice or fairness, even if the law itself does not allow for such a decision. Unlike strict adherents, who will preface their decisions by alerting the litigants that they are compelled to rule in a particular way because of legal constraints, the law maker is unlikely to qualify their decision. Also, the law maker may even fabricate ‘legal-sounding principles’ that resonate with their own sense of justice (p. 87). Conley and O’Barr offer an example where a judge ‘split’ the responsibility between the litigants in her decision because she felt that both had reasonable sounding stories, and not because there was any compelling evidence one way or the other. However, “the result is Solomonic, and undoubtedly would strike many lay people as eminently fair, but it is extralegal, because a damage award that is totally unsupported by evidence could be reversed by an appellate court” (p. 88). Like the strict adherent, a law making approach to judging is of course ideological, and presents a conception of the law as “a malleable raw material to be employed in the pursuit of objectives defined without reference to legal rules” (p. 89). However, through the use of legal sounding jargon, this creative use of the law is masked so as to suggest that it is instead a straightforward application of rational legal principles. In other words, litigants are not told that this is an unusual judgement or a creative solution to their case. Instead, they are left to believe that this is simply the way the law is.
The third approach to judging described by Conley and O'Barr (1990) is the mediator, who as the name implies, sees the objective in all cases as being a mediated solution to the dispute. In fact, the mediated settlement is usually accomplished in place of a formal judgment in the case. Formal judgments are seen as undesirable by mediators because they are often difficult to enforce and may result in an even worse situation between the litigants who must continue to go on with their lives long after the judge has ruled. While judges with this type of orientation may be motivated by good intentions, the diversion of disputes away from the reach of the law and into the realm of alternative dispute resolution techniques may send a powerful ideological message to litigants who have come to the court, presumably after exhausting all other avenues of dispute resolution, seeking the power of the law:

A consistent issue arises in the judicial behavior of mediationally oriented judges: by diverting a case from the formal process of adjudication in order to diffuse conflict, the judge may actually override the litigant's determination that courtroom confrontation is the more appropriate way to deal with the problem at hand. A judge acting in this way may substitute his or her own culturally based definition of "seriousness" for that of the litigants, at once denigrating their opinions and denying them access to the potential of the law (Conley and O'Barr 1990, p. 96).

This dilemma clearly speaks to the power of the court to render certain types of conflicts — and by extension certain types of litigants — legally out of order. While mediation may seem appropriate on the face of things, it may have the effect of leaving litigants feeling left out of the legal process and unable to access the law as a resource in conflicts that may be very important to them. Litigants are not told that they have the option to enter mediation or that in fact mediation is what is taking place. Instead, the judge may try to leverage a mediated type of agreement under threat of entering a future judgement if the terms are not met. Thus, litigants can be left to feel that the court did not do anything at all except to more-or-less ask the offending party to stop their offensive behavior or make
restitution. Moreover, Conley and O’Barr (1990) argue that using the tactics of mediation instead of entering a judgement may contribute to the litigants’ perception that the court does not take their disputes seriously – which it may very well not. Disputes over small sums of money or property may seem inconsequential to the judges who would rather mediate a settlement, but to many of the socially marginal people who utilized the small claims courts profiled by Conley and O’Barr – and this is also evident in the reality-based TV small claims court I have examined – such small amounts can have a great deal of significance. When a judge tells a litigant that their conflict is silly or petty, that judge is exercising considerable power over that person and may contribute to the belief among the public that the legal system is out of reach for ordinary people and out of touch with their problems.

A fourth approach to the law is typified by the authoritative decision maker. According to Conley and O’Barr (1990), the authoritative approach is characterized by both a desire to follow the law and the judge’s willingness to take personal responsibility for the decision that is rendered. However, “in communicating their judgments to the litigants, they give no indication that there is any source of legal authority beyond their personal opinions. In addition, such judges often express critical opinions about the in- and out-of-court behavior of the parties, making their approach frequently authoritarian as well as authoritative” (p. 96). One judge in Conley and O’Barr’s sample who followed this authoritative style frequently offered advice to the litigants about how they ought to reform their lives. Such commentary might also include the personal worth of the litigants (p. 101). Thus, litigants who experience the law through the authoritative
decision maker are likely to conclude that the legal system is a powerful, arbitrary and threatening institution (p. 101).

Lastly, Conley and O’Barr (1990) identify the proceduralist as a judicial orientation that “places a high priority on maintaining procedural regularity” (p. 101). Such small claims court judges are preoccupied with the rules and regulations and accordingly spend significant time explaining the procedures of the court to litigants and pointing out any transgressions that might take place. What is somewhat ironic and also very frustrating for litigants is that many proceduralists emphasize the informality of the proceedings in their explanations, yet spend most of their time on procedural details rather than substantive legal issues. In fact, proceduralists convey to the litigants an impression of law and legal process significantly different from that conveyed by the other types of judges. They present the substance of the law as flexible and outcomes as dependent on their discretion. But the source of this discretionary authority is remote and inaccessible – an impersonal “court” insulated by a wall of procedure and unwilling to interact directly with the parties (p. 106).

The result of this interaction between the procedurally oriented judge and litigants who seldom understand the basic procedures and limitations of the court is to produce a conception of the law that is frustrating and impotent in the face of pressing substantive problems.

Having briefly described these five ideal types of judging, the next logical step is to see how well these types fit the approach to law embodied in the styles of decision-making of Judge Milian and Judge Judy. As I have already stated, it is important to realize that as ideal types these five orientations to the law are not necessarily mutually exclusive of one another. Rather, it may be more useful to see to what extent many or all
of these characteristics are embodied in the two TV-based judges. I'll begin first with Judge Marilyn Milian and then move to a discussion of Judge Judy Sheindlin.

Based on the earlier discussion of the structure of judicial decision-making in the reality-based courtroom, the reader should be starting to form a picture of the jurisprudence in the court of Judge Milian. The approach to law in People's Court, as we have seen, was partly a function of the program's particular structure, which involved a number of figures in addition to the judge who all helped to frame the problems of litigants as disputes moved through the judgement process on the program. At the same time, these supporting justice figures also worked in concert with the judge to help shepherd conflicts toward resolution. Of course, many problems were not brought to a firm resolution inside or outside the courtroom, but it is important to remember that an effort was exerted by people other than just the judge in this regard. Also, we have seen that the tone and presentation of cases in People's Court were somewhat less rigid and formal than they were in Judge Judy. For instance, the narration was often infused with a considerable amount of off-color humor—often at the personal expense of the litigants. All of this added up to a program that was structured to convey a conception of the law that was far less formal than we might normally expect. Structurally, then, People's Court—despite its rigid adherence to the law—had a far less rigid and authoritarian tone in its approach to law than Judge Judy.

When we consider the actual approach of Milian to the law, we can see that she possesses a number of the qualities discussed above in relation to the five ideal types of
judging. Without a doubt, Milian exhibits moments where she approaches her decision-making from the perspective of a strict adherent to the law. Reiterating Milian’s judgment in the ‘classic’ case of the assault of the alleged crack dealer discussed above, we saw that she sometimes views the results of certain cases as being out of her hands, or predetermined by the inflexible prescriptions of the official doctrine of the law. To reiterate Milian’s succinct phrasing:

Milian: “You know, here’s where my problem lies—and I’m going to say this and then I’m going to take a short recess—my hands are tied by the law, and I’m going to go over all this testimony and see where my conscience can lead me, alright, but my hands are always tied by the law” (my emphasis).

This was probably the most graphic instance of Milian adopting the approach of the strict adherent to the law. The image of the judge’s hands being physically bound by restrictive legal doctrine is a powerful one, and as evocative as the oft-invoked image of ‘blind’ justice. However, while the metaphor of blind justice is meant to convey the idea of a legal system that applies fairly to all, the image of the hamstrung judge conveys a vision of justice denied, foiled and frustrated by the unreasonable regulations imposed on the powerless judge by official legal doctrine.

While the example above lies at the very extreme end of Milian’s tendency to adopt a strict adherent approach to the law, there were numerous other instances where she seemed to fall back on the law in a way that was very different from Judge Judy. For example, in a case where the plaintiffs were suing over medical bills incurred as a result of dog bites allegedly inflicted by the defendant’s dog, Milian took the highly unusual step of actually reading from the text of a law regulating dogs in the litigants’ home state (People’s Court April 30, 2002). In another case in which a plaintiff was suing for
unpaid overtime he believed that a former employer owed him, Milian made an explicit reference to the “Unfair Labor Act,” which she identified as a federal statute governing labor practices in the United States (People’s Court April 30, 2002). While these actions might not seem all that unusual in the so-called real-world courtroom, in the courtroom of the reality-TV judge they were quite remarkable. By specifically referencing particular laws, statutes, acts and so on, Judge Milian was clearly conveying an image of the judge as merely a conduit for official legal doctrine, who was unable to apply the law in creative ways. Sometimes, as we’ve seen with the case of crack dealer, these constraints had the effect of producing judicial decisions that were morally unjust, at least from the Judge’s point of view. As Milian summed things up in a case concerning a grandfather suing his former son-in-law over funeral expenses paid for his granddaughter:

Milian: “Listen, morally I’m with you a hundred percent, but I’ve got to do things as the law requires” (People’s Court May 3, 2002).

Such is the plight of the strict adherent to the law. For viewers and litigants who take all of this in, however, the message might be that the judge is not as powerful a figure as is the monolithic institution of ‘the law.’ In other words, the judge is at all times subordinate to the law, and not the reverse. This is the powerful ideological message conveyed by People’s Court.

While there was clear evidence to suggest that Milian often tended toward the characteristics of the strict adherent, there were also indications that Milian – and by extension Curt in the hallway segment – also favored a mediational approach to the litigants’ disputes. However, Milian’s method was slightly different from that of the ‘mediator’ judges discussed by Conley and O’Barr (1990). While those authors found
that mediators were usually inclined not to enter a decision at all, instead using the threat of a future judgment to produce a mediated settlement, Milian always entered a final judgement. However, in arriving at a decision Milian often made a point of exploring the relational issues separately from the monetary ones in the hope of mediating an end to the problems that seemed to lie at the root of the dispute. Below is an example of a case that was on the surface about a monetary dispute between a mother and daughter. The mother was suing her 19-year-old daughter for a credit card debt and unpaid car payments. Very early on in the case, however, the mother acknowledged that it was not really about the money. Rather, she claimed that all she wanted was for her daughter to take responsibility for her actions.

Plaintiff (Mother): “I don’t really want the money, I’ve already paid for the money, it’s just the principle. I want her to grow up and be responsible, that’s all I want her to do, nothing else” (People’s Court May 1, 2002).

Milian picked up on this point and focused the majority of her questions on the nature of the litigants’ relationship. Despite the fact that the judgment would ultimately be – of necessity – solely about money, very little of the testimony in this case actually had to do with the money, verbal contracts or loans. Before we were even aware that a judgment was pending, Milian announced the fact in the following exchange with the defendant:

Defendant (Daughter): “We’re here about money, so I’m showing you…”

Milian: “I’m not. You know what, I’m done with the money part, I’m trying to figure out if there’s any hope for you two.”

Defendant Daughter: “No, I don’t want any hope.”

Milian: “I know you don’t now.”

Defendant Daughter: “She’s been playing games with my life for, since… I can’t remember.”

Milian: “Let me tell you a few things, let me tell you a few things, alright? You’re in court over $1,871.16. My verdict is for the plaintiff in the amount of $1,871.16. The fact
that you ... and let me tell you why. The fact that you started making payments to me shows that you did not think you were in a gift situation and that in fact you were responsible for paying back for whatever clothes it was. You've got no ... there's nothing to debate on the car, the car is a slam-dunk. The problem is that you feel ... your defense really is like this global defense where, you know well really I shouldn't have to pay her anything because she was supposed to give me $10,000 at one point and she never did and I'm so bitter and angry that I didn't get my dough from her that you know, that's my defense here that she was supposed to give me money and all good mothers do, and this mother didn't so I shouldn't have to pay her back. That's not a legal defense. You owe her the money and my verdict is for the plaintiff in the amount of $1,871.16.

But I've got a few words to say to you as a mother and a daughter, okay? And I know you don't want to hear a word of what I'm saying and I know you're going to walk out and that your boyfriend's going to say the judge is a jerk because I can see the way he's rolling his eyes at me now okay, but I've just got to tell you something. Men come and go, but you've got one mom. (...) 

While clearly not mediation in the sense implied by Conley and O'Barr (1990), the above exchange was typical of the way Milian often attempted to get 'beneath' the overt monetary dispute and to the heart of the issue. In this case, all parties, with the exception of the defendant, openly admitted that the real problem was a damaged relationship, not an unpaid loan or credit card debt. It was also noteworthy to see the powerful use of discourses in the transformation of this case from a monetary dispute involving legal discourse to a relational one involving a moral discourse. Even as the defendant tried to confine the testimony to monetary issues, the judge ruled those comments out of order and completed the transformation of the dispute into a moral one. Milian spent considerable time lecturing the defendant about the difficulties of being a mother and how someday she hoped that the defendant would have the good fortune to be a mother herself, and that maybe she would then understand the pain her mother was feeling. However, the defendant remained unmoved, and a mediated resolution for the broken relationship between the mother and daughter took place neither within the courtroom or outside in the hallway aftermath. Furthermore, Harvey Levin's closing commentary strayed far away from his normal legal analogies into territory that was unusual, even for
him. He congratulated the judge for moving ‘beyond’ the law and into relational territory – a move that he hoped might have a long-term effect on the wayward defendant:

Harvey: “You know this is so sad. The bottom line is that a judge’s job is to basically decide who is legally right and wrong and what you saw judge Milian do there was two things. Number one, she ruled and she can’t look at the relationship, she has to look at law. Beyond that I think it’s a really good thing when a judge can get beyond the law and talk to people about a relationship – maybe this will take in a week or a month or a year, but maybe.”

As far as our analysis is concerned, Milian and the People’s Court more generally may try to move ‘beyond the law’ in an effort to mediate a solution to a difficult relationship. However, it is clear that mediated solutions to the monetary portion of lawsuits are rarely if ever sought. In fact, even as Levin pointed out above that it’s a good thing when a judge moves beyond the law, he also underscored the fact that such a move places the judge on shaky ground where their influence may eventually ‘take,’ but only maybe.

Thus, it seems safe to conclude that Milian is not a mediator in the true sense of the term implied by Conley and O’Barr. In fact, such stern moral lectures to litigants would be more congruent with the authoritative decision-making style. So, even though Milian clearly takes a more gentle approach to her ‘advice’ for litigants, her moral sermons about the personal actions of plaintiffs and defendants in and outside the courtroom place her squarely within the realm of the authoritative approach to law.

On the face of it, Judge Judy is an authoritative decision-maker par excellence. No TV judge is as abrupt or abrasive when it comes to dealing with litigants as Judy Sheindlin. However, another very striking feature of Judy’s approach to law is the fact they she seldom provides a concrete reference to the legal principles that underpin her judgments. Certainly, we would never hear Judy read from the written text of a law or
statute and we never hear Judy decry the law as an impediment to justice. In fact, the law is seldom mentioned at all, even as an abstract symbolic resource. Just as the very structure of *Judge Judy* works to centre the judge as the key figure in dispensing justice, the very style of Judy’s decision-making conveys an image of the law in which the judge alone symbolizes the law rather than being merely a conduit for it. Watching Judy in action, there is at no time the feeling that law exists separately from the judge as a set of inflexible principles that must be methodically applied in the courtroom. Rather, Judy is the direct embodiment of not just the courtroom – as we saw in the opening title sequence of the program – but of the very law itself. The program often makes reference to ‘Judge Judy justice,’ but perhaps the more appropriate description of what we are seeing is ‘the law of Judge Judy.’ Therefore, in addition to Judy’s authoritative approach to judging, there are distinct law-making tendencies as well.

The law-making judge, as we saw above, does not see the law as an impediment to justice. In fact, the lawmaker stretches the law to suit his or her own vision of justice in the case at hand “to the point of ignoring apparently applicable principles of law or inventing legal sounding principles to fit the needs of particular cases” (Conley and O’Barr 1990, p. 87). In attempting to arrive at a decision that was congruent with her own assessment of the gravity of the wrong that had been inflicted, Judy might cite legal principles when they applied in a particular circumstance. Conversely, she might also use those same principles to deny an undeserving litigant a monetary reward. However, in other cases where legal principles or abstract concepts did not apply, but there was still a need for ‘Judge Judy justice,’ she would often ignore the law and render a decision to
suit her assessment of the situation. I provide several examples below to illustrate the often creative way that law is employed by Judy in her decision making. We find that Judy is seldom bound by the law, but instead, law is most often employed as a resource to achieve desired results.

**Example One:**

**Judge Judy: Monday, May 6, 2002**

*Opening Narrative:*

21 year old student Sary Anderson is suing her ex-boyfriend 24 year old musician Bruce Devino Jr. for defaming her character by creating a slanderous flyer.

This case involved a young woman who was suing her ex-boyfriend claiming that he used her image on a poster to promote his punk rock band. The poster contained a picture of the plaintiff’s face superimposed on the body of a nude hermaphrodite with disparaging comments accompanying the offensive image. The defendant, who was abrasive and unrepentant, was questioned methodically by Judy, who allowed the man just enough rope to hang himself rhetorically as he claimed his constitutional right to freedom of speech as the centrepiece of his defense. The excerpt reproduced below is a point in the testimony where Judy declared her inborn ability to divine the truth through what we must assume is a supernatural ability – what she has described elsewhere as her “built-in truth detector” (Sheindlin 2000, p. xii). Though presented in humorous terms, this exchange between the judge and defendant had the effect of confirming that Judy’s decision making was not a result of careful application of neutral legal principles in conjunction with a consideration of the evidence. Instead, we must assume that Judy acts
exclusively based on a sort of sixth sense that springs from within. Thus, there is no legal procedure in place apart from Judy’s own opinion of who is truthful and who is not.

Judy: “I want you to be very careful about your answer to me sir, and I want you to believe me that some people are tall – I am not. Some people have flowing hair – I do not. Some people are very statuesque – I am not. I was blessed with a crystal ball – made up for my lack of height.”

(...)  

Judy: “Why did you distribute them [the flyers] with her picture on a body which is a woman’s body that also contains, looks as if it contains, a penis with words that says ‘will have sex for beer’?”

Devino: “For two reasons.”

Judy: “That’s good, now let’s get to the two reasons.”

Devino: “Couple of reasons actually. The first reason is I thought it was funny because her character can’t possibly get any more defamed than it already is in our city.”

Judy: “Okay.”

Devino: “The second reason is because in the “People Versus Larry Flynt” decision he basically earned the right to do that to people by a Supreme Court decision, and the third reason is because she really is the narcoleptic beer slut.”

Judy: “Okay, did you go to law school Mr. Devino?”

Devino: “No I didn’t.”

Judy: “Well, you don’t warrant my giving you a short course in First Amendment because I believe that you are an insignificant, low-life piece of crap.”

Devino: “Thank you.”

Judy: “And I’m going to tell you why sir. You have yet to go to court to determine whether this baby is your biological child or not, but I assume that that matter will be determined in a court. And one must assume that someone who is not a low life, amoral piece of crap despite the fact that they may not have wanted fatherhood would not want to do anything, if in fact this is your child, to taint the child’s mother…”

Devino: “She is tainted…”

Judy: “[…] to taint – I’m speaking!”

Devino: “Right.”
Judy: “To taint the child, to do anything to embarrass the person who could be the mother of your child, so that the following is clear. You are not a journalist; you are not in the business of publication – totally different from Larry Flynt, which gives him some license. Your purpose, other than battery, is to perform in a band. Part of that function does not include First Amendment rights to exploit other people in order to promote your individual, entrepreneurial, entertainment venture.”

In this lengthy exchange, Judy referred quite directly to the American First Amendment, although this was probably only because the defendant tried to use it in his own defense. However, when Judy finally did come to make a decision about the monetary award for the plaintiff, she decided very abruptly on $4,000 without any explanation. One can only presume that this award was decided upon in order to punish the man whom she had repeatedly labeled ‘low life,’ ‘amoral’ and ‘a piece of crap.’ Normally, Judy would go over in detail the amount of damages, and account for the amount that was awarded. Judy works under the rules of the home state of the litigants in each case, and $4,000 is the maximum amount allowed in a small claims court in Idaho. Therefore, this would have been the most money she could give the plaintiff in this case and the harshest possible punishment for the defendant. However, this inference is pure speculation as the decision was presented without any further elaboration and as if it had sprung solely from within Judy and her crystal ball.

Example Two:

Judge Judy: Tuesday, May 7, 2002

Opening Narrative:
71 year old Bervin McCall is suing his former friend 32 year old student Sandra Wilham for unpaid loans and the cost of a car. Sandra says Bervin’s lawsuit is an attempt to keep her in his life.
The elderly male plaintiff in this case was suing a young woman – with whom he claimed he had been romantically involved – for numerous loans and the ownership of a car on which he held a lien. Judy curtly explained to the plaintiff that the law was not on his side, and without a legally binding contract, she could do nothing for him, even if she were to believe that the woman had accepted a large amount of money from him. However, this decision was not Judy taking the approach of a strict adherent to the law. Instead, Judy believed that the old man acted foolishly with this woman and, by denying the man the full amount of his lawsuit, she was thereby teaching him a lesson:

Judy: “In any event, you knew each other for a total of maybe 8 weeks. In the 8 weeks the plaintiff was out a substantial amount of money. I can’t get you back all the money that you were out sir because I really feel as if you didn’t have a contract with her with regard to these cash loans that you made to her, cash gifts that you made to her, but clearly it was your intention to have a hold on the car, which was the largest amount of money that you turned over to the plaintiff, by having your name placed as a lien holder on the car. That is some evidence of a debt. That is why you got your car back. Do you understand?”

McCall: “Yes.”

Judy: “The rest of your claim is dismissed.”

As we can see, the law can be used to both punish and reward litigants. However, even as the law awarded money to the plaintiff in the second case, it was also used to punish the old man for his foolishness. By allowing the man part of his claim Judy was able to spread the responsibility more equally between the two parties in a fashion more congruent with the law making style. Splitting responsibility between the litigants was a common tactic used by Judy and one that evoked a Solomonic fairness that typifies the law making approach to judgement. A clear example of this approach is evident in the following case that involved two teenagers, one of whom was accused of chipping the plaintiff’s tooth during ‘friendly’ horseplay.
Example Three:

Thursday, May 23, 2002

Opening Narrative:

"16 year old Tabitha Obligacion and her mother Katrina Johnson are suing Tabitha’s former friend 20 year old food service worker DeSean Rodgers for chipping her tooth."

Despite two conflicting stories from the litigants and two sets of witnesses supporting each side, Judy decided that the responsibility should be split between the parties and announced her ruling in typical authoritative fashion:

Judy: “Your daughter is partially responsible for what happened; they were fooling around. Immediately after the incident that’s exactly what she told her friend. Do you understand?”

Johnson: “I don’t believe that, though, because…”

Judy: “I don’t care what you believe, that not what’s important what you believe, the only thing that’s important is what I believe. And what I heard initially from her…”

Johnson: “That’s not what happened though…”

Judy: “Yes it is. They were fooling around. I think that he has to pay something towards what happened. He gave her a hundred dollars. Half of the, your bills are five hundred and ninety dollars. He gave her a hundred dollars, is that right?”

Rodgers: “Yes your honor.”

Judy: “Means he owes you four hundred and ninety dollars. That’s the judgment of the court. That’s all.”

Most viewers would likely have found this judgment to be a fair one given the ambiguity of the testimony overall. However, even as Judy worked to provide a creative, law making style of settlement she did so in a way that was in keeping with the authoritative judging style. Note her comment to the plaintiff’s mother when she declared “the only thing that’s important is what I believe” and dismissed any other
version of events, despite what the witness had to say. However, in closing Judy used the phrase “the judgment of the court” as if to imply a strong connection to law and legal process even though, on the face of it, the decision came down to the fact that Judy thought the plaintiff’s story was a little fishy. Thus, litigants and viewers are left with the impression that what they witnessed was the law in action when it was more akin to the opinion of an arbitrator.

The next case provided a very unambiguous example of the creative nature of justice that characterized Judy’s style. The biblical notion of ‘an eye for an eye’ was applied with zeal here in a way that was both authoritarian and creative. Again, no real evidence other than the testimony of the two litigants was presented, yet Judy arrived at her decision because the defendant’s story — as well as that of the defendant’s witness — did not sound logical to Judy.

Example Four:

Friday, May 10, 2002

First Narrative:

35 year old administrator Gina Johnson is suing 30 year old nurse Chrystal Blocker-Thomas for the cost of a wedding veil.

The litigants in this case were casual acquaintances. The plaintiff was suing her former basketball teammate for the cost of a wedding veil that she claimed was only loaned to the defendant. Judy clearly did not believe the defendant’s version of the events where she claimed that the veil was a gift to her from the plaintiff. Moreover, Judy seemed appalled to hear that the defendant had also altered the veil and had only reluctantly returned it to the plaintiff in a garbage bag with some other waste left over
from the wedding. In an odd turn of events the garbage bag given to the plaintiff also contained by mistake the defendant’s wedding bouquet. In a creative attempt to punish the defendant, Judy adopted an ‘eye for an eye’ philosophy in rendering her decision, instructing the plaintiff to keep the defendant’s wedding bouquet:

Johnson: “Your honor, that is her, that is her bouquet that she returned and did not know it was in the bag, and that’s the only way I could get her to return my calls – that she wanted her bouquet back.”

Judy: “Really? Why did you want your bouquet back? No, no, no, just answer my, don’t think about it, just tell me why did you want your bouquet back?”

Blocker-Thomas: “Because it was my bouquet…”

Judy: “Oh! So it’s your bouquet?”

Blocker-Thomas: “Right.”

Judy: “And you want it back? Sue for it! Sue for it!”

This was a form of decision-making that clearly took a creative approach to exact extra-legal justice in the face of what Judy believed to be a terrible injustice that could not be remedied through a simple monetary award. Judy made it clear much earlier in the testimony that the plaintiff was going to be getting her money back for the value of the veil, but as an object of great sentimental value to the plaintiff, money would not be enough to produce real justice. In this way, Judy incorporated Conley and O’Barr’s law-making approach and authoritative judging style.

My final example was a case that invoked yet more creative justice from Judge Judy. Judy dismissed the case when there appeared to be some shared responsibility for the injury. However, in so doing Judy was sending a message to litigants about the nature of disputes that ought or ought not be brought before the court. What seemed
most important for Judy in this case was that both parties acknowledged that they were at least partly to blame for the injury suffered by the plaintiff.

Example Five:

Wednesday, May 15, 2002

Opening Narrative:

Administrative Assistant Irene Thomas and her daughter 14 year old Georgianne Hillaire are suing cashier Charlene Smith and her son 14 year old Thomas Gray. Georgianne says while horsing around at school Thomas severely injured her back.

Judy believed that the two teens were simply playing around and that therefore even though the defendant may have caused serious injuries to the plaintiff, he shouldn’t bear all the responsibility for the incident. Moreover, Judy berated the plaintiff for not having an accurate total of her out-of-pocket medical expenses as a result of her daughter’s injuries.

Judy: “So you don’t know? So I can’t tell what the, what your medicals will be if any. It may be that the insurance is going to cover everything. You have to know that you were partially responsible.”

Hillaire: “I know.”

Judy: “Good. I’m glad you know that [to plaintiff]. What responsibility do you believe, if any, that you have to compensate the plaintiff for the injuries she sustained [to defendant]?”

Gray: “Well I think it’s, it was all an accident and that it could have been prevented but I wasn’t thinking at the time. Like I apologized to her and I really regret for what I did but if I could all take it back, I would.”

Judy: “You didn’t mean to hurt her, did you?”

Gray: “No ma’am.”

When determining the punishment, Judy utilized a creative approach when she determined that the young man accused of the injury had already been punished by the
school and by the embarrassment of being expelled when he was brand-new to the high school:

Judy: “How long had your son been in that school?”

Smith: “The beginning of September.”

Judy: “Did you just start that school?”

Gray: “Yes.”

Smith: “Yes.”

Thomas: “Your honor, they were in school six days when this happened.”

Judy: “Okay, this is the first year that you were in this school?”

Gray: “Yes ma’am.”

Judy: “You were just starting high school?”

Gray: “Yes ma’am.”

Judy: “Okay. And as a result of that you were expelled for two semesters?”

Gray: “Yes ma’am.”

Judy: “That’s his punishment. And you’re back in the school now?”

Gray: “Yes ma’am.”

Judy: “Sometimes when you fool around one person gets injured more than another. That doesn’t mean a lawsuit. Your case is dismissed. That’s all.”

Based on observation of many Judge Judy decisions, I conclude that there appear to be two overriding themes informing Judy’s decision-making process. First of all, Judy often utilizes an authoritative – or perhaps authoritarian – style that emphasizes personal responsibility and the morality of choices made by litigants. To Judy, it is not important that she explain her decision to the litigants. Rather, her energies are spent delivering commentary on the personal worth of the litigants and the morality or amorality of their
choices. Second, Judy frequently uses creative means to arrive at a resolution or punishment. In the cases described above we saw Judy use the ‘eye for an eye’ approach to punishing a litigant, as well as several different instances where the punishments and awards distributed to litigants seemed aimed at teaching all parties about the importance of responsibility. An elderly litigant who was foolish enough to believe that that a woman 40 years his junior would be interested in him romantically ought to be punished. Teens who horse around risk getting injured, and just because you are injured more than your partner in crime, there is no reason to take that person to court. These are the lessons implicit in the decision making of Judge Judy.

None of these lessons seemed to point to the law as the true measure by which conflicts ought to be assessed. Rather, Judy is positioned to resemble a ‘unique moral compass’ that must sort out these complex cases and arrive at a just settlement. Also, decision-making is a solo effort on Judy’s part; there is no attorney to provide color commentary or legal explanations and interpretations of her decisions. Judy is the embodiment of justice and her decision making style is a clear reflection of this. Without adopting the strict adherent to the law approach that is more characteristic of judge Milian’s decision making, Judy embodies a brash, self-confident vision of the judge as a decisive ‘Solomon’ of small claims, unafraid to arrive at unique solutions to complex legal, moral and ethical dilemmas. In sharp contrast to the image of blind lady justice with hands bound by the unreasonable demands of formal legal doctrine, Judy is a vision of a legal system that is free of the constraints of liberal laws that only protect the guilty at the expense of true justice. So it seems that not only in their formats, but also in their
approach to decision making, these two programs present very different ideological views of law and justice. In the next section I’ll briefly examine differences in litigant orientations and dispute types before moving into a substantial discussion of conflict resolution in these two models of justice, and the power of discourse to frame and transform disputes.

Litigant Orientations

While the judges in reality-based TV programs are the undisputed stars and main attraction for many regular viewers, the litigants themselves provide the all-important raw material for the action that unfolds each day on *Judge Judy* and the *People’s Court*. The litigants themselves, therefore, constitute a major component of the present analysis. Continuing to draw on the work of Conley & O’Barr (1990), I will present some of their powerful insights formed after examining litigants in their ethnographic account of American small claims courts, and I will assess the explanatory power of their findings in the present context. Of primary analytic importance here is their rules-versus-relationships dichotomy of small claims court litigants. I’ll begin first by summarizing a few of their general observations about the litigants in their sample.

A number of researchers have argued that for many disputants, the experience of going to court and telling their stories to a judge empowered to act upon the facts of the case was an almost therapeutic experience, irrespective of the outcome of the case (Conley and O’Barr 1990; Wexler 1990; Wexler and Winick 1996). This ability to tell the small claims court judge a more-or-less uninterrupted narrative of their interpersonal
disputes sets it apart from other judicial hearings where litigants are typically unable to speak as they normally would in an ordinary conversation. Instead, litigants can tell their story to the small claims court judge, complete with their opinions, feelings, and all kinds of contextual information about the circumstances surrounding or leading up to the dispute. According to Conley and O’Barr (1990), “every litigant we observed responded to the judge’s invitation to speak by giving a narrative description of the situation” or a “sequential account of the dispute as they perceived it” (pp. 36-37, original emphasis). This ethnographic work on American small claims courts demonstrates that, for most litigants, there is a belief that being able to convey the full story of the conflict to the judge is a good strategy to win their case, not just by providing evidence, but by providing context. However, in the small claims courts examined by Conley & O’Barr (1990), as well as in the reality-based TV courts examined here, the strategy of employing a sequential narrative can sometimes frustrate the judge when long stories are given in response to specific questions (p. 41).

The most powerful insight provided by Conley & O’Barr about litigant orientations is without a doubt their rules-relationships continuum. For these authors, rule-oriented and relationship-oriented outlooks are the extreme ends of a continuum of litigant orientations, although litigants are naturally complex and may exhibit varying degrees of both. Both ends contain “distinct sets of expectations about the rights and responsibilities that they [litigants] have toward others and that others have toward them” (p. 58). For litigants who lean toward the relational orientation, the focus is on “status and social relationships. They believe that the law is empowered to assign rewards and
punishments according to broad notions of social need and entitlement" (p. 58). This belief, according to the authors, may stem from a more general worldview in which the individual is seen to be largely powerless and subject to forces that they are unable to resist (p. 58). Therefore, a relational orientation may be found more often in litigants who belong to groups that have been traditionally socially marginalized, such as women, racialized or ethnic minorities and those of lower socio-economic status. Similarly, the court usually does not treat relational accounts or litigants very well, often perceiving them to be “filled with irrelevancies and inappropriate information” as well as “imprecise, rambling, and straying from the central issues” (p. 58). When such litigants are rebuffed by the court, their rejection no doubt contributes to their overall view that they are powerless in the social world and that in order to bring about truly just solutions to their dilemmas a wider contextual point of view is necessary to comprehend the extent of their problems.

At the opposite end of the continuum are rule-oriented litigants who “interpret disputes in terms of rules and principles that apply irrespective of social status. They see the law as a system of precise rules for assessing responsibility, and reject as irrelevant everything not circumscribed within these rules” (pp. 58-59). This point of view is linked to a more socially empowered view of the world where the liberal-legal notion of individual rights and responsibilities dominates. Moreover, such an orientation is logically linked to individuals who are less socially marginal, such as whites, males, those of higher socio-economic and educational status. To rule-oriented litigants, relationships have their root not in social etiquette, but rather in contractual
responsibilities that can and must be enforced by the power of law. Thus, while the relational litigant is oriented to social rules, the rule-oriented litigant identifies with specific legal rules (p. 59). Rule-oriented litigants are usually perceived in the court as being organized, articulate and to the point when it comes to presenting their cases. Judges generally receive rule-oriented litigants well.

A litigant’s positioning on the rules-relationship continuum will invariably shape the way that they construct the narratives that are used in court to present their cases. To illustrate the difference between these two orientations I will provide an example of each type, drawn from both programs.

Relational Orientations

Judge Judy: Wednesday, May 15, 2002

Second Narrative: Ryan McBride says his friend’s uncle Shawn Roach punched him in the mouth and knocked out a tooth.

The defendant in this case, Shawn Roach, openly acknowledged that he punched the plaintiff, Ryan McBride, after an altercation on the street in front of Roach’s sister’s house. The defendant claimed that the plaintiff had insulted his sister and he was therefore justified in striking the plaintiff. The following exchange highlights the way that the defendant made use of a long narrative to justify his behavior, while at the same time freely admitting that he had assaulted the plaintiff first. The defendant seemed to find honor in taking responsibility for his actions and for standing up for his sister in the
face of a rude and insulting stranger. The defendant, however, was quite surprised to learn that the judge did not seem to share his sense of relational honor:

**Judy:** [reading from defendant's statement] Because he was going after my sister with profanities I felt compelled to protect her. I told him never to talk to my sister that way. That’s what you wrote."

**Roach:** “Absolutely, no question about it ma’am.”

**Judy:** So you assaulted him first? Anything that comes after…”

**Roach:** “Absolutely, yes.”

**Judy:** “Anything that comes out after that sir – if he resisted you, if he elbowed you and broke your glasses – doesn’t make any difference. When did you punch him? When did you punch him?”

**Roach:** “After this. After all this.”

**Judy:** Ah so, let me see your medical bills. Very easy, easy case.”

**Roach:** “No, no, your honor there’s a lot that went into this before this stuff. I was just trying to go over there to help out, I didn’t know what I was getting myself into, I walked over there…”

**McBride:** “Just so you know…”

**Roach:** “I see this guy over here by, by the van yelling to my family – Cory and Christy were over at the other car, like by their car – I, I don’t know what’s going on – I just walked up, I walked to the drive – to the sidewalk and I say – calmly – this is a family matter let’s leave this, let it go, let’s let this go. He comes towards me – he’s right in front of me now – my sister walks up to right behind me and she says get off my property, he says – I don’t know if I can say it…”

**Judy:** “Say anything, I’ve heard it all.”

**Roach:** “Okay he says ---- [censored] you! Okay at this point when he says this he’s in front of me and he goes over – not, I’m not saying he’s assaulting me – but he’s, he goes like this [motioning to his shoulder to demonstrate that the plaintiff was leaning over him] and he’s making contact with me and he says ---- you! Okay at that point…”

**Judy:** “You assaulted him!”

**Roach:** “At that point I grabbed him and threw him on, on the truck.”

**Judy:** “You assaulted him. That’s an assault.”

276
This case clearly highlighted the reasoning of a fairly typical relational litigant. What was most important for the defendant was to impress upon the judge the fact that he was being nice to the plaintiff. Yet McBride still insisted on insulting him and his sister by using bad language. The plaintiff continued to argue with the judge right up until the end of the case, insisting that his actions were justified. Vague notions of property rights were also drawn into this narrative as the defendant related how his sister had told McBride to get off her private property. In the end, the Judge refused to hear anything more from the defendant and his sister, who had accompanied him as a witness, and awarded the plaintiff the full amount of his lawsuit. For Judy, this was an easy case, because the sequence of events was clear. However, the evidence that seemed to be most important to the defendant – the bad language and insults of the plaintiff – was ruled out of order by the judge. The bad behavior of the plaintiff did not even spark a lecture by the judge. However, the defendant’s actions did require a ‘tongue-lashing’ by Judy.

The dispute outlined above highlights a fairly typical relational defendant appearing before Judge Judy. The importance of being able to express oneself and to provide the judge with a largely uninterrupted narrative is one of the key appeals of the small claims court particularly to relational defendants. In this way, we can see that litigants are using the court to achieve more than a simple award for damage. Instead, they are seeking a form of satisfaction, of being either able to tell the judge how a person’s conduct has harmed them, or in the case of a defendant, of being able to explain why they chose to do what they did. We miss the point of the above exchange if we view the defendant’s testimony as merely the ramblings of an ill-prepared litigant without any
sort of legal defense. Rather, what we saw was a man who viewed the court as his last opportunity to explain his actions and to be vindicated for assaulting the plaintiff. After all, it seemed clear that the defendant believed that he was simply defending his sister from the bad language and rude behavior of the plaintiff. Thus, the defendant tried to make Judy see that his actions were the outcome of a long and complex set of circumstances that involved family relationships and the intrusion of a stranger into their family’s affairs.

The next case example was of a relational plaintiff who appeared before Judge Milian in the People’s Court. This case provided a good example of what Conley & O’Barr refer to as the “hidden agenda” that often underlies many litigants’ ostensibly monetary cases (p. 131). While plaintiffs must state the nature of the damages they seek in terms of a sum of money, sometimes what the litigants really want is something else, often a form of revenge upon a person who has hurt them. The hidden agenda in the following case was not hard for Judge Milian to grasp. In fact, Milian made a point of clearly outlining what must have been an awkward situation for the plaintiff’s husband, who had been drawn into the dispute by his current wife. The man’s present wife was suing a friend and neighbor of his ex-wife for what would seem to be a paltry amount: $89 for medical bills associated with a dog bite suffered by her stepson. The following exchange brings this underlying agenda into full view.

People’s Court: Tuesday, April 30, 2002

Milian: “I’m going to ask Mr. Roberts a slew of questions now because I just can’t help but notice a few things about this. It’s the stepmother who is suing the neighbor – the owner of the dog for what happened – and not dad. Why?”
Levin: [returning from commercial] “The plaintiff’s husband is in the middle of a wife sandwich. Wife number three is by his side; wife number two is at the defendant’s table defending the dog’s owner. Let’s listen.”

Mr. Roberts: “She filed the paperwork…”

Milian: “Why?”

Mr. Roberts: “…just because of my work schedule, I don’t really have the time to go down to…”

Milian: “Never ever, ever, ever? You never had the time to go down there and, and, and file yourself?”

Mrs. Roberts 2: “He had the time to be on TV.”

Mr. Roberts: “Hold on.”

Milian: “He had the time what?”

Mrs. Roberts 2: “To be on TV.”

Milian: “To be on TV today?”

Mrs. Roberts 2: “Yes he did.”

Milian: “I mean you’re here for the trial … you, you never made the time to … first of all you could, you could sign the documents and she could be the one who does the ministerial act of filing them in court, but that’s not what happened, she’s the one who, who did it. Why? I got a guess; tell me if my guess is right. My guess is that 89 dollars didn’t bother you, okay, 89 dollars bothered wife number three. Wife number three has a big problem with wife number two and over 89 dollars it was wife number three who was, you know, the one who was going to push this into the court system and now that wife number three has pushed it into the court system you have an obligation to stand by your lady and that’s why you’re here today. Have I sort of summed it up for you?”

Mr. Roberts: “Well absolutely. When I talked to my ex-wife and asked her if uh…”

Milian: “Look at him! He would rather be in [sic] Mars than where he is at this moment!”

It seems clear from the above testimony, and that which both preceded and followed, that the current Mrs. Roberts — who had been dubbed wife number three on the program — was out to make the life of the former Mrs. Roberts — wife number two — difficult. That Mr. Roberts was forced into the middle of the conflict — into a ‘wife
sandwich’ – was quite obvious. What was also very obvious was that the court case was about more than just the eighty-nine dollars that the current Mrs. Roberts was out of pocket. Mrs. Roberts number two insisted on calling Mrs. Roberts number three “mental” and expressed anger at her for this and other court battles, restraining orders and the ongoing issue of child custody. The present case was merely the latest part of a larger and ongoing conflict between the two Mrs. Roberts. To say that it was not about a small sum of money, but rather about the ‘principle’ of the matter, I believe, is to understate the issue. In fact, I don’t believe that the principle of the eighty-nine dollars was even of issue to either party in this case. What was really the core of the conflict was the friction between the ex-wife and current wife, which likely stemmed from the fact that Mr. Roberts had begun ‘seeing’ his current wife while still married to his former wife. The battle in the People’s Court over eighty-nine dollars became a platform upon which the two women could seek revenge or punishment for past wrongdoings stemming from a complicated series of relationships and a messy divorce. The eventual award of the eighty-nine dollars to Mrs. Roberts number three by no means solved the underlying conflict, but likely provided all parties with a chance to momentarily vent their frustrations about the situation.

These two examples begin to provide a clear picture of the way that relational litigants present their conflicts in the TV courtrooms of Judge Judy and the People’s Court. Relational-oriented litigants approach their cases by laying out the larger context in which the current dispute is situated. Long narratives that include information about prior conflicts – the nature of the breakdown of relationships or other details that would
not normally be relevant to a lawsuit – are presented by relational litigants as integral parts of the case at hand. It is important to realize that this is not done simply because the litigants lack legal training or because they are confused or lack intelligence. Rather, this is done because they see the conflict as stemming from interpersonal relationships and they believe that evidence of their relationships is just as important as contracts, medical bills or receipts would be to a rule-oriented litigant. What's more, relational litigants seem to view the judge as empowered to base their decisions solely on litigant narratives even when factual evidence would render them guilty or liable for damages. The tendency for relational litigants to rely on lengthy narratives and provide a large amount of contextual information gives them the appearance of having an utter lack of any sort of defense. The judges, and sometimes Curt or Harvey in the aftermath, often chastise such litigants for not having provided a rule-oriented defense against the allegations. However, to relational litigants, honesty is held in much higher regard than a legal defense that might not capture the full relational context in which their actions are situated. The picture is quite the opposite when we consider rule-oriented litigants in the next section.

**Rule-Oriented Litigants**

According to Conley and O'Barr's (1990) account, the legal system and the actors who work within it, such as judges and lawyers, are most often rule-oriented in their approach to problem solving or dispute resolution. Lawyers representing litigants generally frown upon long-winded, sequential narratives and detailed explanations of relational contexts as legal strategies. Rather, lawyers are adept at framing the conflicts
of their clients in ways that are purely factual and supported by evidence that they know will be well received by the judge, such as contracts, receipts and letters. Simply stated, lawyers are rule-oriented litigators who, as a result of their formal training and professional obligations, seek to avoid any discussion of relationships except in terms that are contractual. For this reason I present as an example of rule-oriented litigants in the TV courtroom two lawyers, one appearing as a plaintiff in the People's Court and the other as a defendant on Judge Judy. Knowing full well the legal strategies that are likely to be successful in a court of law, these two plaintiffs present cases that rely on the facts rather than broadly conceived notions of good relationships and family obligations. I begin with a rule-oriented plaintiff in People's Court.

People's Court: Tuesday, January 29, 2002

Opening Dual Narrative:

This is the plaintiff Harvey Siegel. He claims he waited tables during law school in a restaurant where the defendant was a sous chef. They ran into each other years later in court. The defendant had been arrested for beating up his lover and coincidentally needed a lawyer. He got him off but hasn't gotten a red cent for his services from his old pal. He's suing for five hundred dollars for legal fees.

Harvey Siegel
Plaintiff
Suing For:
$500.00

This is the defendant Marcel Aiken. He says he always took care of the plaintiff when he was in law school and joked about hoping he'd remember him when he became a hotshot lawyer. That day arrived four years later when the plaintiff walked in as a judge was about to throw him in jail for not having an attorney. He was innocent and the case was dismissed within minutes - there was never any talk of legal fees. He's accused of abuse of an attorney.

Marcel Aiken
Defendant
Accused of:
Conning His Lawyer
What was striking about the way that the opening narrative was constructed is that while the plaintiff was clearly interested only in recouping his fee for services rendered, the narration played up the long standing relationship between the two men. By using phrases like “his old pal” and claiming that the defendant “always took care of the plaintiff,” the narrative implied that this was really a case about the betrayal of one friend by another. In the dialogue that followed, we see very clearly that Siegel presented his case in a decidedly rule-oriented fashion, while Aiken persisted in highlighting the favors that he had done for the plaintiff in the past when they worked together in the same restaurant. This dispute graphically showcased a rule-oriented litigant coming up against the relational litigant. In the end, the judge was easily convinced of the plaintiff’s case and appeared to take considerable pleasure as Siegel methodically set out the evidence to support his lawsuit:

Siegel: “Your honor if I may. I took Mr. Aiken to small claims court last year and he showed up and we discussed it...”

Milian: “For this bill?”

Siegel: “For this bill.”

Milian: “Okay.”

Siegel: “And we discussed it and at that time he entered into an agreement. I told him that with, with my expenses in terms of serving him, because it wasn’t that easy, I had to find out where he worked and the court wouldn’t, was unable to do it and the filing fee and interest, that he owed me four hundred and sixty-three dollars. At that time he signed that he acknowledged that. I told him that as an additional courtesy to him, I would, I would allow him to pay me twenty payments of twenty dollars totaling four hundred upon his acknowledgment that he owes me four sixty-three plus future interest. He agreed to sign a confession of judgment, a promissory note, as well as documents to have the pay deducted right from his pay cheque because he explained to me that he wouldn’t miss it if it came right out of his cheque at his employer. So I drafted all these documents...”

Milian: “You’re joking.”
Siegel: “He signed off on it, it was a handwritten agreement.”

Milian: “Hand it to Douglas please.”

Siegel: “He signed off on it. I cut him some break, I cut him some more slack…”

Milian: “Can I ask you a question? The next time you walk into a courtroom…”

Siegel: “I get paid up front now.”

Milian: “…and you see somebody you know, are you going to do like this [covers her eyes] and walk, walk away?”

Siegel: “You know I, I can’t do that, but you know I certainly am more careful about getting paid in advance.”

The key evidence for the plaintiff in this case was the written agreement that the defendant had signed when the case was taken to small claims court a year earlier. Siegel confined his comments almost exclusively to the facts of the various agreements that were in place between him and the defendant. By contrast, the defendant argued that while he did agree to pay Mr. Siegel three hundred dollars at some point, it really was unfair because Siegel only spent a few minutes representing him in court and because of the fact that he had taken good care of him and fed the plaintiff well when they were working together years ago. However, while the rule-oriented approach won the case decisively in the courtroom, the relational aspect of the dispute was the key topic of discussion in the hallway:

Curt: “Well, it just did not go your way.”

Aiken: “It just didn’t go my way.”

Curt: “This is not your day. What’s your reaction to this verdict?”

Aiken: “Well, you know, I’ll still feed him chateaubriand, you know.”

Curt: “You will?”
Aiken: “Hey, he can pay for it now. I won’t even charge him.”

Curt: “Where is the love?”

Aiken: “Where is the love! I just wanted some love back, that’s all!”

Curt: “You guys still friends?”

Aiken: “Oh yeah! I’ll still love him, you know, Rodney Dangerfield look-alike, that’s my boy right there!”

Curt: “Alright, we’ll see you later. Come on out here. So you win this case. I mean, was it worth suing your friend for this money?”

Siegel: “Well, typically, what I do is annually any bills that are in arrears I sue them all at once, um…”

Curt: “Even your buddies? Why didn’t you just…”

Siegel: “Well it’s worse when a buddy doesn’t pay you than when a stranger, don’t you think?”

Curt: “Where is the love?”

What was most interesting about this case was that Siegel, the lawyer, clearly viewed the action of suing his friend as a neutral gesture, one that applied equally to all of his outstanding creditors regardless of any personal relationships that might have existed. In contrast, both Curt and the defendant viewed the action of suing someone – particularly a friend – as a deeply personal act that is not worth it when a relationship is on the line. Though the tone might have been less than serious, the above exchange underscored an important and contradictory feature of the People’s Court. While the rule-oriented litigant may be successful in winning his or her legal case, there is a higher and extralegal standard against which disputes are judged. Just like relational litigants who emphasize the important contextual features of a dispute, the People’s Court – through the narrative component and the aftermath – highlights relationships above atomistic legal notions of individual rights. Therefore, the rule-oriented litigant, much like the undeserving and
immoral litigant whose lawsuit might technically win inside the courtroom is, perhaps
softly, vilified outside the courtroom. Simply asserting legal rights without regard for the
human relationships that tie the litigants together is viewed unfavorably on the People’s
Court. In other words, substantive justice is conceived here as being more than technical
justice and the mechanical application of legal rules.

The next example is of a lawyer who appeared as a defendant in Judge Judy’s
courtroom. Once again, the lawyer presented his case by relying primarily on the facts
rather than examining the relationship that existed between himself and the plaintiff.
However, neither Judy nor the narrator lamented the lost relationship that may have
existed between the litigants. The focus here was on the facts and only the facts.

Judge Judy, Thursday, January 31, 2002

Opening Narrative:

42 year old homemaker Terry Zicari is suing 38 year old deputy district attorney Michael
Abacherli for punching her in the eye. Michael says he only pushed her.

The first portion of the testimony was taken up with the plaintiff, Ms. Zicari, describing
an altercation between herself and the defendant, Mr. Abacherli. The defendant had been
a tenant in Zicari’s mother’s home and was in the process of moving out more than a
week after his lease had expired. According to Zicari, the defendant and his wife pushed
and shoved her, as well as her mother and her sister during the moments before the police
arrived on the scene. Zicari also claimed that the defendant punched her in the eye, and
she showed Judy a number of graphic photos of her injury. The plaintiff’s testimony was
animated and emotional as she described the scene. The defendant, by contrast, was
unemotional as he began to tell his version of events.

286
Judy: “I’ll hear you sir.”

Abacherli: “Well, essentially, as she stated at the beginning, it’s true I was inside the house, I heard somebody yell ‘hello’ and the next thing that I knew, uh, the plaintiff’s sister and her mother walked into the bedroom where I was boxing stuff up and cleaning up and, uh, they were yelling profanities at me. I was pushed by her sister who then told me not to push her. I started moving out of the residence at that time because I knew there was a problem, and I was telling them this is something that really needs to be handled in court, you need to file an unlawful detainer, you know, I’ve sent you letters about this – I have the letters that I sent over the whole course of the tenancy, uh, about the problems that we were having on the property.”

It is interesting that the defendant claimed that he had advised the plaintiff that the matter should be handled in a court. He even claimed that he had advised her to file an “unlawful detainer” which, according to California state law, is a lawsuit that a landlord must file in order to legally evict a tenant and collect any money that is owed in back rent. Curiously, the defendant brought up a series of letters he had written over the course of his tenancy that he then tried to use in order to show that his non-payment of rent at the end was justified. This strategy is out of character for a rule-oriented litigant, and more typical of a relational litigant who attempts to justify their wrongful behavior by demonstrating that there is a larger context that must be considered. This tactic would be better described as a relational one were it not for the fact that the defendant presents a meticulous running record of the dispute with the landlord, more in keeping with a rule orientation.

Curiously, when the case was finally settled – in favor of the plaintiff to the tune of $5,000 – Judy was reserved in her lecture for the plaintiff, one might even say kind in her choice of words. Judy calmly suggested to the defendant that bad things sometimes happen to good people, and she assumed the defendant was a good person, although
things clearly did get out of hand in this situation. Also, because he was a deputy district attorney Judy felt that he had an obligation to adhere to a higher standard than normal 'civilians.' One can't help but get the feeling that Judy was being more than gracious to the defendant because of their common background – in fact, Judy made a point of saying that she too had been a prosecutor for many years. Nevertheless it was not completely clear whether the man's cool, rule-oriented approach to the case spared him the 'normal' tongue-lashing or if it was simply due to his position as a fellow member of the bar. I suspect it was the latter. Whatever the case, his defense was treated in a markedly different manner from the other male defendants who have appeared before Judy accused of assaulting a woman.

In sum, the litigants who appear before TV judges are very similar to those who come before 'real' small claims court judges. The notion of a continuum of litigant orientations, with some lying closer to the endpoints than others, is a useful way of thinking about the rule-relationship concept. Instead of viewing litigants as being either rule-oriented or relationship-oriented, we might be better off conceptualizing litigants as having tendencies toward relationships or toward rules. The extent to which an individual litigants adheres to either in their courtroom testimony will naturally vary according to the individual and the situation that brings them before the judge. It is also worth considering the way litigant orientations interact with judging styles. According to Conley & O'Barr (1990), depending on a particular judge's approach to the law, rule- and relationship-oriented litigants will be more or less favorably received. For example, a strict adherent to the law will interact well with a rule-oriented litigant who sticks to the
facts and presents legally relevant evidence to support their case, while a mediator is more interested in hearing about the overall context of a dispute in order to work toward a settlement that can preserve a relationship. Thus, the People’s Court, as it leans toward the holistic view of dispute resolution and mediation of conflicts both inside and outside the courtroom, tends to receive relational litigants well, while sometime chastising rule-oriented litigants who ignore relationships in pursuit of their individual rights.

Conversely, Judge Judy, with its more authoritarian view of law and judging, holds the law in high esteem, and those who come ill prepared to offer a legal defense for their actions will be punished, while those who present a sound, rational and rule-oriented account of their bad behavior may be given the benefit of the doubt, because after all, bad things sometime happen to good, rule-oriented people. However, even in the court of Judge Judy, the notion of moral and ethical responsibility can trump the strictly rule-oriented approach of some litigants. Acting responsibly and making the proper moral choices can be of more interest to Judy sometimes than the strict legal facts of the case.

As such, both programs, albeit in slightly different ways, affirm a view of law that is less bound by formal rules and more focused on relationships and morality than would be normally found in the ‘real’ American legal system.

In sum, the interaction of litigants and judges in both programs presents a fundamental inversion of the overall findings of Conley & O’Barr (1990). In general, those authors argued that rule-oriented litigants are most favorably received by the courts in general, while relational accounts by litigants were often seen to be incoherent and filled with irrelevant details that have no direct bearing on the case. However, in the TV
small claims court, deeper explorations of wider relational and moral issues are more the norm than the exception. Often, in fact, it is the judge or court reporter who instigates such exploration of relational and contextual issues. While Judy is clearly more sympathetic to rule-oriented litigants, she still demands sufficient background information on the relationships of litigants in order to provide moral commentary on their behavior. I therefore contend that relationships are far more central in the televised small claims court than has been found to be the case in previous ethnographic work in the ‘real’ American small claims courts. In this way, it may be that the legal world of the televisual small claims court is colliding with the confessional world of the daytime trash TV talk show.

In the next section, I move into a discussion of dispute types in the TV small claims court, and correspondingly, resolutions of typical disputes in both forums. In so doing I will demonstrate the interaction of all the elements we have considered so far: the structure of the programs, judging styles and the orientations of the litigants. Moreover, in examining disputes and their resolution within the TV courtroom it will become apparent that one of law’s great unacknowledged powers is its ability to transform disputes by framing them in moral or therapeutic discourses, rather than legal ones. In this way, audiences may learn something of the nature of so-called ‘real law’ and its subtle power to transform disputes.
Part IV: Legal Problems, Moral Solutions: The Morphology of a Dispute in the Telemediated Courtroom

Types of Disputes

With the exception of serious criminal matters, it seems that there are few problems that are off limits in the TV small claims court. Litigants appear before the telemediated judge to discuss such disparate problems as unpaid loans, bad business deals, personal injuries, domestic assaults, damaged property and many others. In all of these cases disputes are articulated by necessity in terms of some discrete amount of money owed for the losses or injuries believed to have been suffered at the hands of the other party. However, as we have seen above, sometimes relational litigants have a ‘hidden agenda’ when they sue another party. At other times, however, rule-oriented litigants may simply be seeking payment for an outstanding bill or debt of some kind. Whatever the specifics of a particular problem, there appear to be only a few general core classes of disputes that are brought regularly before the court. In fact, there is such a regularity to the types of cases that are presented in the TV court that fans on the Internet-based discussion boards regularly identify a particular day’s case as being another one of ‘those’ types of cases (e.g. a typical gift-versus-loan case). In this section, I will present a typology of disputes that are found regularly in the reality-based TV courtroom.

Cases heard in the People’s Court and Judge Judy can generally be broken down into three different types involving relations with others: 1) neighborhood and community relations, 2) relationships with friends and family members and
3) relationships with strangers. In all types of cases there is a key transformation of a relationship that lies at the centre of the dispute. I argue that the transformation of relationships is at the heart of understanding both the nature of the problems that litigants bring before the TV judge and the way those problems are treated within the reality-based TV courtroom. Thus, litigants appearing in the reality TV courtroom are locked in a battle with each other over the meaning of their relationships. That battle has spilled beyond the private sphere and has entered the quasi-public legal realm. Once these contests over the form and nature of relationships enter this televisual legal forum, the judge becomes an active agent in their transformation through the transformative power of language. In other words, by reframing disputes in the three key frames of reference or discourses discussed above – law, morality and therapy – the judge has the ultimate power to define and determine the truth.

It is important to make perfectly clear what I mean when I argue that a fundamental transformation of relationships lies at the centre of all disputes. For example, in disputes falling into the first type – those involving the neighbourhood and community relations – what generally precipitates the conflict is a change in the relationship between two parties living in the same general area as a result of an activity or incident that has caused one or sometimes both of the parties harm. In one typical case, another driver hit a young man’s car and his vehicle was sent careening into the front yard of a neighbour, causing significant damage to the man’s grass and shrubs. Though living in the same neighbourhood for many years, the pair had been strangers to each other prior to the accident. However, they soon became well known to each other
when they became involved in the battle over who should take responsibility for fixing
the man’s front lawn. In this way, their relationship had changed, as has the general
nature of the neighbourhood. Tensions existed where before there had been none. Their
relationship was now very different and both looked to the court to put it back to the way
it was before, or at least transform it in such a way that both parties would be able to
continue with their lives and coexist peacefully in the same neighbourhood. This is not to
say that such transformations are always possible. In fact, transformation may not be
accomplished to the satisfaction of both parties, or even at all in the TV court. However,
People’s Court sometimes attempts to effect a transformation by separating the legal
issues from the relational ones, and by carrying the transformative process out of the
courtroom and into the corridors of TV justice.

Perhaps nowhere is the transformation of relationships as evident as in the second
typical case type: those involving relationships between friends and families. First of all,
there are three general types of relationship breakdowns that fall under this category: 1)
romantic relationships, 2) friendships and 3) family relations. In the first type, problems
usually stem from the very fact that romantic relationships have changed – that is to say
those relationships have usually ended. During the time when litigants were romantically
linked, the legal problems brought to the TV court were non-issues. Any money or
property that changed hands between a couple would not be in dispute as long as the
relationship remained intact. However, upon the dissolution of relationships, disputes
arise as couples try to make sense of monetary or property issues in the wake of the
breakup. Most often court cases involving failed romantic relationships centre on the
loan-versus-gift dilemma. That is to say, a sum or sums of money changed hands 
between the couple at some point during the relationship, but now that it has ended, the 
party who gave the other person the money wants that money returned, while the other 
party usually claims it was a gift and that there was no formal agreement to repay the 
money. In this type of case, the dispute arises indirectly out of the fact that the 
relationship had been transformed. Or put another way, the transformation facilitated the 
dispute by bringing to the surface frictions about money or property that may have been 
non-existent or minor before. In the second type of relationship case, where a friendship 
or platonic relationship breaks down, that breakdown usually happens as a direct result of 
some earlier transformation of the friendship that resulted in one party suffering a loss or 
losing some money to the other party. For example, a common scenario involves friends 
who decide to move into residence together, thereby transforming their relationship from 
a simple friendship to the more businesslike arrangement of roommates. A dispute may 
then arise because of unpaid rent or damages to the property and the (former) friends 
must then go to court to sort out the mess. This is a dispute that arises as a direct result of 
a transformation of the primary relationship into a new, secondary type of relationship. It 
is this new relationship that causes the friction and threatens to destroy the initial 
relationship.

Family problems form the final distinctive dispute type within this general 
category of relationship breakdowns. Obviously, families involve primary relationships 
between siblings, parents and children. Family disputes are often centred around 
children. A common variety of this dispute type involves divorced or separated parents
fighting over child custody issues or child support payments. Again, the transformation of a relationship is central to understanding the root of such cases. Parents who do not live together may feel that their role as providers and nurturers of their offspring is threatened. Parents fight about not having enough access to their children, or not having enough financial support from their estranged partner. Thus, the fight is about the new relationship that is being formed in the wake of a separation or divorce. Since children bind the parents together in a permanent way, the relationship will never be completely over, as it is in the breakdown of a romantic relationship that does not involve children. Rather, the relationship has been transformed into something new, the terms of which are often still in dispute. A second common variety of family disputes also involves children, but not young dependent children who have become the source of a dispute, but instead grown children who are locked in a battle with their parents or in-laws. Oftentimes, disputes centre around the loan versus gift scenario that is common with other types of relationships. However, like other disputes with hidden agendas, family disputes over sums of money often mask deeper problems within the family such as abuse or neglect. Litigants often use the monetary dispute as a battleground upon which to seek revenge, closure or advice for a complex family breakdown. The answers that are often sought and sometimes offered require an extra-legal approach that strays well away from the normal protocol of the small claims court, and adopts a style and approach that evoke the daytime TV talk show approach to family problems. In disputes such as these that involve grown children and parents, the transformation that has precipitated the dispute is often the very act of growing from young children into adulthood. As the children grow older, demands from both sides change the nature of the relationship in ways that may
bring parents and children into conflict. Sometimes, children demand what they believe
to be their fair share from parents who they believe ‘owe them’ something for the years
that they suffered a lack of love or proper attention. Other times, parents sue their
children who have grown into what they believe to be selfish adults in the hopes that they
will learn to take responsibility and ‘do the right thing.’ These types of cases are often
approached with extra-legal methods and discourses that provide moral and therapeutic
advice and remedies sometimes in concert with legal ones.

The last broad category of disputes involves people who are not bound by ties of
community, romance or family. Instead, strangers who are involved in business
transactions or unexpected incidents form this last group of social relations. While there
are often overlapping types of relations present in disputes – such as friends who decide
to go into business together – I will focus here on disputes that involve relations between
strangers or business acquaintances only. The reason I separate out this category from
others is because the judges will often provide advice or cues about how do deal with
strangers that differ significantly from advice about friends, family and community. In
order to place a dispute in one category or the other, then, it is imperative to examine the
key issue that is teased out and constructed discursively by the judge. For example, a
case in the People’s Court involving a neighbourhood teen who had vandalized a man’s
property became transformed into a dialogue about community values and neighborliness
rather than a discussion about dangerous strangers. I would not include this dispute in the
category of business or stranger relations because discourses of neighbourhood and
community became central to the way the dispute was constructed in the court. Thus, I
include in the category of stranger relations discussions that do not exhibit any features of the other types, like consideration of family or community values.

Two of the most common variants of cases that fall under this type include business transactions gone wrong and accidents, usually involving automobiles. Under business transactions, I do not include cases where the parties were friends or relatives prior to the business deal. Instead, I focus strictly on strangers who have become embroiled in a dispute over a business deal or transaction of some kind. These cases often involve rule-oriented litigants who are simply trying to recoup their costs, or clear their name of any wrongdoing, but at times they may also involve relationship-oriented litigants. Of course even business associates have a relationship that is on the line. The transformation of strangers into partners in a business deal brings with it contractual obligations that may or may not be met to either side’s satisfaction. What is on trial here are the terms that govern the relationships that exist between the two parties joined by common or competing interests. The testimony in these cases usually centres on trying to uncover what act occurred to transform the relationship from a satisfactory one to one that may have violated the terms of the contract. Typical disputants in these kinds of cases are landlords and tenants, partners in a venture, and business owners and customers. What is interesting about these sorts of disputes is the way that the judges – Milian in particular – approach them in much the same way as relational disputes by looking for some underlying or hidden agenda that may have brought on the dispute. Other stranger disputes typically involve accidents and, in particular, automobile accidents and other
disputes that arose from driving a car. For example, a number of cases in my sample dealt with assaults that occurred between total strangers in the heat of road rage.

The reason I set these cases involving strangers apart from all the others is that they defy a more general categorization, because the parties to these incidents generally do not know each other and the only mutual contact they are likely to ever have after the incident will be in a court of law. In this way, a relational transformation takes place between strangers who prior to the conflict may have merely occupied the same stretch of road. Some incident brings the strangers together – often violently – which results in a dispute over responsibility. In other words, strangers are transformed into legal adversaries as questions of liability, damages, or injuries are settled in a court. The final transformation they are seeking in court is an annulment of this adversarial relationship by settling the question of responsibility and arriving at a legal settlement.

Constructing a typology of common case types in the TV small claims court is of limited value unless we move toward a deeper analysis of these case types and the way they move through both models of judgment and justice. In order to carry out this part of the analysis, it is useful to consider the various ways that disputes are brought to an end in both courts. I deliberately avoid using the term 'resolution' at this point because it is clear that many disputes are not brought to any real resolution in the TV courtroom, but rather are merely brought to some kind of judgment. In arriving at a judgment – and potentially a resolution to the dispute – judges and supporting characters employ the three differing frames of reference, or discourses, discussed above in ways that continue the
transformation of disputes and, by extension, the relationships that have been affected or changed in the wake of the problem that brings the litigants to court.

I argue that the dominance of a particular discourse – or frame – in the course of adjudicating a given case will determine the type of ‘resolution’ or endpoint that is possible. By discussing a problem in terms that are predominantly legal, moral or therapeutic, the court process authoritatively suggests the proper way of understanding the essence of the dispute and the remedies that can be brought to bear on it. If a problem is seen as stemming largely from personal, emotional or psychiatric conditions, then no legal remedy can possibly bring about a final solution to that issue. However, the judge’s advice and the post-trial hallway session may still provide the possibility of resolution if the parties can agree to set the lawsuit aside and examine the relational dimensions of their conflict. Conversely, if a problem is presented in rule-oriented terms that are defined only in legal or contractual language, then an immediate solution is potentially at hand in the small claims court, and further discussion might not be required in the aftermath.

If there is disagreement about the nature of the problem – that is to say, whether the problem should be framed as legal, moral or therapeutic – then multiple discourses will be employed in and out of the courtroom. The results of such a disagreement may in turn suggest multiple possible resolutions to the case, thereby undermining the role of the court as a final arbiter of complex interpersonal disputes. Though the power of the court to frame disputes is considerable, litigants can and sometimes do challenge this power by
countering the discourses foisted upon them by the judge or supporting characters. Sometimes the effect can be unsettling for both viewers and the justice figures on the programs. However, such spaces for resistance are not equally distributed between the two programs and, in what follows, we will see that with the liberal democratic vision of law in the People's Court in particular, the possibility of resolution in the court is often undermined.

**A Brief Methodological Note:**

In this section I profile specific examples from each 'class' of dispute – community, friends and family and strangers – to demonstrate how conflicts play out in both the People's Court and Judge Judy. In so doing, I will be attentive to all of the various components discussed so far, reconstituting each case from these various parts in order to comprehend just how the entire mediated package constructs and transforms disputes. In a written presentation such as this, it is impossible to fully convey every possible nuance in either speech or in the visual aspect of the programs. However, whenever possible, and when it seems important to the analysis to do so, I will endeavor to highlight those aspects of speech and conversation that convey just as much meaning as the words that are spoken. While it would be impractical here to adopt a strict conversation analysis approach that notes the length of pauses, tonal fluctuations and the like, it still may be important to make note of significant pauses, deep sighs or groans and other verbal cues that are a part of our everyday mode of communication that we all understand and take for granted. Similarly, it may also be necessary to note similar important or significant visual cues, such as the wringing of hands, rolling of eyes, smiles or other gestures that might convey meaning to participants in a conversation. Therefore,
in addition to the visual and aural components highlighted so far such as narration, title captions, litigant testimony and the like, other more subtle sensory clues will be added at times to fill out the most complete picture possible.

I must also make a brief comment in regard to the choice of cases to ‘represent’ each of the typical classes of dispute. In order to maintain a serious commitment to the qualitative and inductive approach to this research, I have chosen cases in a purposive or ‘theoretical’ manner, rather than a random one that might produce some type of formal ‘representativeness.’ While there are certainly strengths to a nomothetic approach to understanding in broad terms the nature of a mediated phenomenon like reality-based courtroom television, I believe that a rich, detailed qualitative approach to the same material will go much further toward gaining an understanding of the potential meaning of such a phenomenon. In keeping with an ethnographic and qualitative content analysis (cf. Altheide 1996), I believe that the goal of gaining a situated, ideographic understanding is superior to a probabilistic or nomothetic one. In order to do so, I have selected cases on the basis of their potential to contribute rich data to my task at hand. In other words, I have selected cases that span the full range of conflicts, litigant types and judgements in an effort to provide ‘maximum variety’ (cf. Palys 1997). As well, I have reviewed my sample to ensure that any cases that might challenge my emerging ideas about the nature of these classes of disputes would also be included. Having viewed more than 200 hours of courtroom television programming between early 2001 and mid 2002, and having immersed myself in months of internet-based conversation about Judge Judy and People’s Court, I have every confidence that the cases that I have selected for
presentation here are theoretically representative of each type of dispute. This is not to say that all cases falling into each class of dispute will have all the same parameters or that the judgments will always unfold in the same manner. However, my point is not to make those sorts of assertions. Rather, my aim is to grapple with the ways that conflicts are articulated and transformed by litigants and judges. Additionally, I am seeking to understand what these transformations and articulations might suggest to those viewers who watch regularly. Therefore, a part of my selection process here was to choose cases that provoked a great deal of discussion and debate among devoted fans on the Internet. By doing so, I may get a step closer to understanding which cases resonate with this group of people and what the specific issues are that capture the audience’s attention.

With this brief methodological caveat in mind, I now turn to a detailed discussion of the cases I have chosen to illustrate each type of dispute. During each case, my own analysis will be supplemented as much as possible by the comments of those fans who have contributed to discussions on Internet-based chat boards.

Neighbourhood and Community Relations

I saw neighbors who had not spoken in ten years, families who did not even know where their children were from year to year, business associates who thought that stealing from one another was routine. I saw a steady erosion of almost all of the best values that the word “community” calls to mind. (Wapner 1987, p. 225)

Cases involving neighbourhood and community disputes are often characterized by moral frames of reference in addition to legal ones. Depending on the source of the problem, these kinds of cases can hit a nerve, particularly in the People’s Court when the conflict results from a breakdown in old fashioned, neighbourly values. Cases that
involve neighbours bringing issues into the court that might otherwise be settled though open communication and alternative means that might have characterized earlier forms of community in the United States, or perhaps the idyllic small town of the American mythic past, provide a canvas on which the judge may paint a portrait of good behavior among community members. However, in a Durkheimian fashion, cases involving neighbourly disputes also single out the ‘bad’ neighbour who violates the presumed social solidarity of the community, and the TV court acts as an electronic town hall meeting of the imagined community during which the judge may articulate the collective anger and moral outrage at such scapegoats who provide morally upright community members with a bad example to avoid in their own personal conduct. In this way, morality invariably creeps into the judgements of neighbourhood and community disputes in a way that can help reinforce standards of good neighbourly conduct.

Neighbourhood and Community Relations I: Unruly Neighbours on Judge Judy

The first case that I have chosen for this class of disputes was one that provoked considerable fan debate on the Internet-based discussion forum TVTalkshows.com. The website is a clearinghouse for all things related to this category of television. In addition to programs like Oprah, Jerry Springer and Late Night with Conan O’Brian, the site also contains fan message boards for most of the daytime reality-based courtroom shows, including Judge Judy and People’s Court. TVTalkshows.com is a one-man creation with virtually no advertising and without any sponsorship deals from the television programs that are featured as subjects for discussion. The webmaster of the site, Trevor Rieger, describes himself as a talk show ‘superfan.’ Rieger, a Gulf War veteran and present day
airport baggage screener from Oakland, California, runs the site as a simple, text-based discussion forum that is driven entirely by material contributed by fans. According to a CnetNews.com article from August 27, 2000, “the site has impressive numbers, including 2.8 million hits in July [2000], 245,000 unique visitors and an average stay of nearly 11 minutes” (Cnet News.com, August 27, 2000). In January 2002, 1,100 messages per day were being posted on Rieger’s site (www.associateprograms.com/search/newsletter161.shtml). An extremely useful feature of the website is that all messages are retained in an archive for future fans – and researchers – to peruse. TVTalkshows.com has proven to be an invaluable source of fan discussion and reaction to Judge Judy and People’s Court. In the present case, discussion by regular contributors to TVTalkshows.com provided me with the impetus to analyze this dispute in-depth and in concert with the reactions of dedicated fans.

At one point in the long debate that ensued on TVTalkshows.com around this case, a man claiming to be the defendant’s uncle entered the cyber-conversation, as did a woman claiming to be the defendant herself. This case provided a great deal of insight into the way ardent fans of the program view the reality of the events presented in each case, as well as the fairness of the judgments rendered. The case was heard on Judge Judy and I begin at the very earliest televisual representation of the dispute: the “hyper-framing sequence.” In this segment, the narration, visuals and editing all work to heighten the drama and specifically frame the conflict as one of neighbour against neighbour.
Clarissa Harris versus Veronica Vincent

Wednesday, May 22, 2002

Hyper-Framing Segment:

Narrator: “She was [cut to the plaintiff] defending her family” [cut to the plaintiff’s young sister, smiling]

Harris: [cut to plaintiff] “I asked the kids to please stop harassing my sister” [cut to defendant’s two young children]

Narrator: “She [cut to defendant] was protecting her children” [screen splits into three vertical panels, kids on both sides of the defendant]

Vincent: [cut to Judy] “I heard screaming: [cut to defendant] Mom help! Mom help!” [cut to plaintiff]

Harris: [cut to defendant] “The defendant came running out of the house toward me.”

Narrator: Two neighbours. [cut to a medium shot of both litigants, a graphic with the caption “2 neighbors” is superimposed across the screen] Two stories [cut to a vertically split screen, defendant on the left, plaintiff on the right and the caption “2 stories” superimposed across the pair].

Vincent: [cut to defendant pointing toward the plaintiff] “She raised her fist at my head!” [cut to Judy reacting]

Harris: [cut to plaintiff] “She pushed into me with her chest and said ‘come on, hit me!’”

At this point the editing takes on the look of a music video with cuts that are so rapid that they cannot be accurately counted with a VCR that is playing back at regular speed. The multiple, rapid fire cuts eventually give way to a medium close up of the plaintiff’s daughter as she takes a seat in the ‘witness box’ beside the judge.

Narrator: “And the whole case depends on one little girl.”

Judy: “Can you tell me what happened?”

Narrator: [dissolve to the main title logo] “Judge Judy.”

Judy: “You’re guilty [to the defendant], you’re guilty [to the plaintiff] and you’re guilty” [to the defendant’s children].

The final image we are left with is that of Judge Judy herself, finger raised after pointing to all the ‘guilty’ parties in the courtroom. As is typical of the hyper-framing segment, we are given powerful clues about the way that we as an audience should be looking at
this case. It is noteworthy that the sequence made explicit – and graphic – reference to
the fact that the two litigants are neighbours. What is also evident from the segment is
the fact that both parties are depicted in more or less equal terms. That is to say, no
litigant was framed as the ‘bad person’ or the ‘good person’ in the conflict. Quite the
contrary, both parties – and the children of the defendant – were all labeled guilty. Guilty
of what, we are not yet certain.

What is noteworthy about this segment is the fact that the narrative set up the little
girl – the young sister of the plaintiff – as the linchpin in the whole case, with her
testimony being the key evidence that will lead to the resolution of the dispute. This,
coupled with the fact that all parties are framed in a way that suggests all may be in the
wrong here sets up a drama that is reminiscent of the ‘whodunit,’ where the audience is
left in the dark until the end. The drama of the ‘hyper-framing’ sequence quickly gives
way to the opening title sequence and it unfolds in the manner described earlier. As we
eventually cut to the litigants entering the courtroom, the next vital piece of information
is relayed as the narrator lays out the story of the case in the usual fashion during the first
narrative:

First Narrative:

Twenty-five-year-old care provider Clarissa Harris is suing her parents’ neighbours –
homemaker Veronica Vincent and her twelve year old son Richard – for having her
falsely arrested. Veronica says Clarissa tried to run down her kids with a minivan.

The dispute between Harris and Vincent in all likelihood had been ongoing for some
time. Both litigants and their family members seem to harbor a great deal of hatred
toward one another. While there was considerable contextual information that might
have been explored in this case, in usual Judge Judy fashion, those relational pieces of
information were not brought into the foreground of the testimony. There was, however, some discussion about the defendant’s children and the education they were receiving from their mother, who was home schooling them because she did not believe the public school system was providing an adequate education. At the same time, we also learned that the plaintiff’s sister was attending a ‘special education’ school for reasons that were not made entirely clear. What was clear, however, was that, soon after calling up the older sibling for questioning, Judy very quickly began to focus the brunt of her anger on the defendant and her children. The first framing caption that appeared below the plaintiff cast her immediately in the role of victim in this dispute:

Caption 1: Clarissa Harris: Alleged Victim of False Charges

The next three captions identify the children who were directly involved in the dispute:

Caption 2: The plaintiff’s sister Samantha McCarty

Caption 3: The defendant’s son Richard Vincent.

Caption 3: The defendant’s daughter Alexandra Vincent.

It is notable that these three captions did not provide any information about the role that the children might have played in the dispute in the same way that the captions for the adults did. For example, the plaintiff’s daughter might have been identified as being allegedly bullied by the other children and so forth.

A key part of the testimony concerned the altercation between the defendant’s children and the plaintiff, during which the plaintiff asserted that Alexandra was rude and swore at her. The alleged use of bad language by the children – and the fact that the language was directed at an adult – seemed to strike a chord with Judy who picked up on this allegation throughout the remainder of the program. In addition to the alleged ‘bad
language' of the defendant's children, the plaintiff also made a point of describing in
great detail the bad language used by the defendant herself. More than just focusing on
the defendant's alleged use of expletives, the plaintiff also impugned the character of the
woman as a mother:

Harris: "I said you know what, you're an embarrassing woman. How could you carry on
like this in front of your children and how could you let your children carry like this, on
like this in front of an adult?"

The next framing caption simply identified Veronica Vincent as the plaintiff's neighbour,
without making any reference to her allegations that the plaintiff had tried to run down
her children with her vehicle. This seemed to indicate that the narrative was being
 constructed in relationship to the plaintiff's allegations rather than adopting more than
one point of view of the events in the dispute.

Once the plaintiff related the events of the conflict, as she understood them, Judy
called the defendant's older daughter Alexandra up to be questioned in close quarters on
the witness stand. A fifth framing caption announced in advance of Judy's questioning
that the little girl was twelve years old and a "home school student." This particular fact
about the defendant and her children for some reason turned out to be a key focus of
Judy's questioning. As community members, the defendant and her children were
depicted as being reclusive and rather unusual for not attending ordinary school with the
other neighbourhood children. Such neighbours perhaps ought to be viewed with
suspicion, particularly those who act badly and use bad language. The following is an
excerpt from the exchange between Judy and Alexandra, the defendant's older child.

Judy: "Do you know Samantha?"
Alexandra: “Yes.”

Judy: “How do you know her?”

Alexandra: “We used to be friends.”

Judy: “Why aren’t you friends anymore?”

Alexandra: “Because her mother doesn’t want us to be friends anymore.”

Judy: “Why?”

Alexandra: “I have no idea.”

Judy: “If you used to be friends did something happen between the two of you?”

Alexandra: “No they didn’t.”

Judy: “Are you in any classes together?”

Alexandra: “No, I’m home schooled.”

Judy: “Why?”

Alexandra: “Because, um…”

Judy: “Look at me, why are you home schooled?”

Alexandra: “Because my mother did not like how the school was being run and everything, ’cause the teachers did not teach us anything at all.”

Judy: “What about your brother? Is he home schooled also?”

Alexandra: “Yes.”

Judy: “Who comes in to home school you?”

Alexandra: “My mother.”

The issue of home schooling was deliberately emphasized throughout this case.

Although Alexandra’s second framing caption alerted the audience to the fact that she was a ‘home schooled student,’ by contrast, when Samantha – the plaintiff’s young sister – took the stand, her second framing caption merely repeated the information contained in her first caption, simply the fact that she was the plaintiff’s sister. There was no
equivalent mention of her educational status. Moreover, home schooling continued to
come up even after Samantha left the stand and Judy began questioning the mother.

Judy: “Why do you home school your children?”

Vincent: “Um, because I think they receive a better education with the material that I get
from Aspire Schools.”

Judy: “Did you graduate from college?”

Vincent: “No, I have one year.”

Judy: “You had one year of college?”

Vincent: “Yes.”

Judy: “Are you employed?”

Vincent: “No, I’m at home.”

Judy: “Who supports your family?”

Vincent: “My husband.”

This was a somewhat puzzling line of questioning. Judy seemed to be seeking more
background information on the defendant and, in particular, her ability to provide a good
education to her children and to support her family monetarily. What relevance Judy’s
cross examination had to the case at hand was not clear – an issue later brought up in
discussions on the Judge Judy Internet discussion board. However, what the focus on
home schooling seemed to indicate was the beginning of a subtle shift away from
exclusive attention to the legal facts and a legal frame of reference. Instead, Judy began
to subtly reframe the dispute in non-legal terms – specifically in family and community
values wrapped up in a moral discourse. The idea of home schooling, or learning at
home from a woman who is unable to finish college and does not hold a job is
inappropriate. In fact, such a situation is dangerous in that the wrong values and skills
might be transmitted from one generation to the next. This point was fleshed out in more
detail when Judy moved into the ‘tongue-lashing’ advice portion of her judgment. When Judy questioned the defendant, her tone and facial expression easily gave away the fact that she did not believe Vincent’s story.

Vincent: “The children’s bicycles – one tire was underneath the bumper.”

Judy: [rolling eyes and contorting her face] “No it wasn’t.”

Vincent: “Yes it was.”

Judy: “No it wasn’t. No it wasn’t. Go ahead, keep going. Make sure – listen to me – you make sure that every single word you tell me is the truth. There was no tire under a bumper. That didn’t happen!”

In this particular dispute, it was difficult to pinpoint exactly at what time Judy began to enter the judgment phase. The above exchange seemed to indicate that very early on Judy had made up her mind about the truthfulness of the defendant’s allegations about the plaintiff. However, Judy clearly began to enter into a long and drawn out judgment – largely consisting of a ‘tongue-lashing’ for all parties – when she dragged what appeared to be a key confession out of the defendant’s daughter:

Judy: “You know what happened, I think that you both, you both acted very badly that day…”

Vincent: “I did not do anything to hurt her.”

Judy: “Your daughter opened up a big fresh filthy mouth. Right?”

Alexandra: “Yes ma’am.”

Judy: “Yes you did! Right. She opened up a big fresh…”

Vincent: “After she was almost run over by this lady here.”

Judy: “She opened up a big fresh filthy mouth which she could only have learned at home.”

Vincent: “Your honor I…”
Judy: “I’m speaking. That doesn’t excuse the plaintiff from having any kind of interaction at all with your child. Maybe she couldn’t have had a reasonable conversation with you either because the apple doesn’t fall far from the tree and if that’s the kind of language she learns at home she wasn’t going to get much further with you.”

In this way, Judy brought the issue of home schooling around to explain the cause of all of the animosity that existed between the litigants. In this case, home schooling became a metaphor for parental (ir)responsibility. However, as Judy went to great pains to explicate in her cross-examination of the daughter Alexandra and her mother, the defendant was poorly qualified to instill proper values in her children. She was a failure as a home school teacher and, by extension, a failure as a parent. But most importantly, the actions of the defendant inside her home did not simply affect her own family, but they could also impact upon others in the community, as we have seen in this case. In a final warning to the defendant’s children to ‘clean up their acts,’ Judy forged a powerful link between home schooling and bad behavior when she declared “you better learn to clean up your mouth otherwise you’ll end up home schooling your children.” In this way, Judy has taken the home schooling metaphor to its limit as a lesson in poor parenting.

This case indicated that leaving the care and education of children to amateur teachers who lack the skills to properly instill values and knowledge was folly. Judy moved close to a therapeutic discourse as she railed against the home schooling and tacitly embraced the education of the plaintiff’s child in a ‘special needs’ school, no doubt run by professional educators who have seen to the proper socialization of children. Perhaps it was for this reason that Judy ultimately declared that everyone is guilty of behaving badly – that is, everyone except Samantha who was the only ‘innocent’ one in
this dispute. It was in this way that legal discourse had forcefully given way to moral and therapeutic frames of reference in this neighbourhood dispute.

Further evidence that the tide had shifted and the blame was being foisted squarely on the actions of the defendant and not the plaintiff could be found in the last narrative as the program returned after the final commercial break. In the first two narratives reference was made to the plaintiff’s version of events as well as the defendant’s counterclaim that her children had been run down by the plaintiff’s minivan. However, in the last narrative the defendant’s counterclaim disappeared, and with it her credibility in the eyes of Judy and, perhaps by extension, the audience as well. In the final few moments of testimony, the defendant tried to paint a picture of ongoing tensions in the neighbourhood between her children and the plaintiff and the plaintiff’s mother. However, the defendant was not permitted enough time to develop a coherent narrative of what she claimed was ongoing harassment and ultimately ended up appearing incoherent and paranoid. This was a classic example of a relational litigant running up against a judge who demanded a rule-oriented account of the facts instead of a ‘rambling’ narrative. The dispute was probably much more complex than what we saw on the program despite the fact that the entire half hour episode was taken up with this one case, an event that is not very common on Judge Judy.

In the end, Judy dismissed the case, awarding no damages to the plaintiff despite viciously chastising the defendant and her home-schooled children. The animosity between the litigants, however, continued unabated in the aftermath. Moreover, there
was no mechanism in place to help those parties, or the audience, to try to make sense of what had happened, or to try moving ‘beyond’ the courtroom testimony and into some form of mediation of the relational aspect of the dispute. This particular community will remain torn apart by this dispute, and the court of Judge Judy has done little to repair it.

The final segment – the aftermath – demonstrated decisively that the parties in this neighbourhood conflict will remain at odds, and their relationship will remain transformed from idyllic peaceful coexistence in the imagined American suburban community to one of continued open conflict and animosity. Without any intervention from Judy or a supporting cast, the litigants spoke – although in ways that were likely mediated or edited to heighten the drama of the exchange – and their comments provided a background as the programs credits rolled:

Harris: “When you have a mouth like that on an 11 year old, it kind of shows you what kind of family environment they have.”

Vincent: “Screaming out of your car window on a regular basis in front of my home with your foster care children in your car is harassment.”

Harris: “Her children did the wrong thing and they got caught and she’s upset at the way Judge Judy reacted I’m sure.”

Vincent: “Clarissa is a good liar.”

Plaintiff’s Mother: “He’ll run out and dare you to hit him on his skateboard or his bicycle, he’ll poke sticks through the fence and tease the dogs…”

Samantha: “He’ll pop holes in your tires.”

Plaintiff’s Mother: “Yes he will.”

Harris: “Had I known what a problem these children were, I would’ve got my sister and went home and just called the police.”

Vincent: “And because they lie well, they’ll continue to get away with it like a lot of liars.”
Harris: “I live in Idaho, so I’ll never have to see her, so it’s not like she’s going to affect my life from this day on.”

When listening to the final exchange between the litigants one is struck immediately by two things. First of all, nothing from what both litigants were saying would indicate that the lawsuit or the judge’s decision had in any way brought about closure to the dispute or a transformation of the relationship between the two parties that would allow them to live again in harmony. In fact, only the plaintiff indicated that she would be able to go on without being bothered again by the defendant. However, the reason the plaintiff cited for this had nothing to do with Sheindlin’s decision. Rather, it was because she had moved away from the community where the trouble had taken place to a different state. In the end, the only way peace could be brought to this neighbourhood was by physically removing one party from the place altogether. This ending to the story could hardly be described as the most the ideal resolution for a neighbourhood and community dispute.

A second striking feature of this final exchange was that there was clearly much more going on between these two neighbours than we heard in court. Both sides were making allegations of ongoing harassment by the other and yet none of these allegations were brought up in the testimony. Or, if they had been, the final edit did not allow the audience to be a party to these details. Thus, while the dispute was obviously a relational one, with both sides articulating a narrative of ongoing harassment, this aspect of the dispute did not come through in what we saw of the courtroom portion. If Conley and O’Barr (1990) are correct in suggesting that litigants often find a measure of satisfaction in being able to tell a judge an uninterrupted narrative of their problems, then these
relational litigants appear to have been denied this satisfaction. Judge Judy is not prepared, it would seem, to handle relational disputes in a way that might allow the litigants a chance to tell their story and achieve a catharsis. One can’t help but be struck by the very abrupt way in which this case ends. But do cases like this really end when the screen goes dark and the local news takes over?

This case provides a highly illuminating example of the telemediated ‘reality’ of the program coming into conflict with alternative renditions of the events that have purportedly transpired in the ‘reality’ TV courtroom. The relatively democratic nature of the Internet discussion board provides a small but potentially powerful opportunity to contest the images broadcast on programs like Judge Judy, and in effect, allow wider numbers of people a chance to judge not only the behavior of litigants, but also to judge the judges. In this particular instance, however, the Internet discussion board also provided one final chance for the defendant to tell her story and resist the powerful moral discourse that Judy had employed to disparage her abilities as a mother and as a home school teacher.

The discussion of this particular case on TVTalkshows.com spawned quite a different narrative of the events, and one that directly questioned Judy’s approach to the home schooling issue. The following excerpt is from the daily ‘recap’ that regular posters to the Judge Judy message board faithfully maintain:

Anyway, the plaintiff is suing her parents [sic] neighbor for having her falsely arrested. Some kind of altercation occurred between plaintiff and defendant's kids; something to do with a problem between the plaintiff's [12] year-old sister and defendants' kids, which from the sounds of it, happened first. Apparently plaintiff drove off her in her van after
the argument and one of the kids ran in front of her van; defendant thought she deliberately tried to run her down. I'm a little confused as to the sequence of events after not paying full attention to the beginning of the case so anybody feel free to fill in the details! It's a very interesting case though. JJ called each girl up to question them. Defendant claims she heard her kids screaming, ran out and found the plaintiff's van up on the sidewalk. I guess she assumed she deliberately tried to run her kids down. This whole thing sounds nuts. JJ got more than a little irritated during questioning the defendant. I thought she made too big of a deal over the fact that the kids are homeschooled [sic]; I know a lot of people who homeschool [sic]. I guess she figures it's because her kids are problem kids or sumfin [sic]. This is the only case in the first half and should make for some interesting discussion. (<Christine> May 22, 2002)

There are several interesting issues presented in this narrative. First of all, the viewer pointed out the unusual aspect of the case that involved the children being cross-examined on the stand by Judge Judy. Even for regular viewers who have presumably been following the program closely for some time this was a peculiar turn of events. A second noteworthy aspect of this viewer's narrative is her opinion of Judy's treatment of the home schooling issue. By drawing on personal experience and that of acquaintances, this viewer easily refuted Judy's moralizing message about the danger of home schooling. While the narrative on home schooling constructed by Judge Judy presented the practice as unusual, anti-communitarian and possibly harmful, this counter-narrative questioned the basis of Judy's narrative construct and offered an alternate view that presented the practice as certainly not unusual and most likely benign.

Another very interesting point brought up by this viewer was found in her very last remark. After following the discussion on this message board over a number of months, one recurring theme among the messages posted by regulars related to the pleasure of discussion. Particularly, contributors to the message board delighted in discussing interesting, or unusual cases. In some cases, the regular posters even
suggested that the larger pleasure is to be had from the discussion of cases, rather than just watching:

To me the best part of these shows, is discussing them here; I enjoy that. But now I see that we can have discussions and have fun and fight with trolls, even on boards where nobody watches the show, so I’m okay either way! (<Christine> May 22, 2002)

The shows have ALWAYS seemed incidental to what people post at these message boards with VERY few exceptions. (<Mel> May 22, 2002)

The above exchange between ‘Christine’ and ‘Mel’ makes reference to a common fact that much interaction on Internet message boards can degenerate into arguments and ‘flaming’25 contests, often between non-regular interlopers – referred to as ‘trolls’ because their inflammatory posts are a means of ‘trolling’ for a reaction from regular board posters. Moreover, from this line of discussion it is also evident that what constitutes a ‘good’ case by those on the chat boards were those that prompt a great deal of discussion in cyberspace. So the question at this point is what is it about a particular case that makes it the object of considerable discussion by viewers?

One key element that invariably prompts discussion from the regular viewers involves decisions that seem unfair, or that do not seem to be congruent with the evidence that is presented, at least to home viewers. The present case of Harris versus Vincent tapped into a strong feeling among regular viewers that Judy’s decision may have been the wrong one:

I think the plaintiff was falsely accused and deserved to get a judgment against the defendant. Telling the defendant’s children to leave her sister alone right after she thought her sister was in some sort of danger was hardly an inexcusable act. JJ caught the defendant in enough lies to be convinced that she went after the plaintiff with no just cause. (<Randi> May 22, 2002)

25 ‘Flaming’ is Internet jargon for insulting one another on chat boards and discussion groups.
Yep, I agree with you. I wasn't too impressed with the defendant OR her kids.  
(<Christine> May 22, 2002)

What is notable about the sentiment expressed by ‘Randi’ in the first part of the exchange is her reference to the legal sounding principle ‘just cause.’ It is not clear what she meant by this, but it seemed to indicate something about the presence or absence of evidence. In this case, the ‘evidence’ that largely turned the tide against the defendant was an admission by the defendant’s daughter that she ‘opened up a fresh, filthy mouth.’

Instead, ‘just cause’ may have a great deal more to do with what ‘Christine’ said in the second part above: she just wasn’t impressed with the defendant in this case. In the end, the judgments that were passed upon litigants in the more democratic realm of the internet-based chat board are in their own way authoritarian and law-making in that they frequently apply legal-sounding jargon to thinly disguised moral and normalizing judgments.

The fans also have engaged with questions about the telemediated nature of the cases they watch on Judge Judy and, in so doing, bemoan the lack of a complete picture of all the details surrounding conflicts. In this way, regular viewers seem to recognize the incomplete nature of the narratives presented on Judge Judy. While the program adopts a largely rule-oriented perspective on the cases, the more relational orientations of many of its litigants do not mesh with the approach leaving many participants, both on the program and in cyberspace, feeling that the story is left incomplete. That was the case in the present dispute:

Would somebody PLEASE explain to me why Judy said, "You are ALL guilty.... the ONLY one that is innocent is" (and named the little sister)???
What on EARTH did the [plaintiff] do that was so out of line?? She saw her little sister being confronted and instead of merely telling her sister [sic] to go home she asked the nasty brats (my term) WHAT they were doing & to leave her sister alone?

Is it acceptable to just keep hoping that someone will be around to 'rescue' this child from those nasty brats???

What a crock of shit. IF kids are fighting, there is NOTHING wrong with appealing to them and telling them to behave.

Another case of feeling like a LOT was edited out. It made no sense to me. (<Mel> May 23, 2002)

This rather long quote clearly demonstrates that audience members who participate on the chat boards do not simply accept the so-called reality-based courtroom program as unmediated 'fact.' Instead, there are frequent questions about the editing of cases to fit the half-hour format and what this might mean for getting at 'the truth.' It seems fair to say that these audience members are not easily 'duped' by the program’s producers into thinking that what they are seeing is 'reality.' Rather, audience members who participate in Internet-based discussions are well aware of the fact that Judge Judy is a telemediated phenomenon.

Perhaps further contributing to viewers’ skepticism about the veracity of the events depicted on this particular episode was the entry of the defendant’s uncle into the foray of discussion on TVTalkshows.com and, later, the defendant herself. While there is no way to say with complete certainty that these individuals actually were who they claimed to be, it is still very useful to consider in full the reactions of those on the talk board when they were interacting with people who they believe were truly involved with the case under discussion. In other words, it is less important to debate the ‘reality’ of the identity of people who entered into the discussion under the guise of being the defendant and her uncle than it is to observe the interaction between these interlopers and the
regular posters on the Judge Judy discussion board. The interaction began when a man posting under the name ‘Nicholas’ offered a counter-narrative of the events discussed in this case:

As the Uncle to the two children and the brother-in-law of the Defendant, I must say one thing: No one here knows what happened in that mock court room. The past month, I have delt [sic] with Big Ticket Television and Paramount, fighting to edit a plethora of words, suggestions and bullshit that was originally taped.

What you saw neither helped the Plaintiff, nor told the story of the Defendant's [sic] accurately. There were lines that were cut, that defamated [sic] the character of my nephew. Furthermore, the entire process was a joke. What you saw, what was edited and aired would make anyone think differently then what happened. There was plenty that was cut out of the show, after lengthy discussions with Big Ticket and Paramount's Attorney's, [sic] that would make everyone on this board, pissed off at JJ attitude and approach to children. You have no clue what these people are like. The retaliation that has stemmed from the show is unbelievable.

I suggest the show be cancelled, and I am doing all I can, contacted people I know in the industry, from the President of the Network, to the Presidents of the sponsors. She is not a Judge, she is an evil old bitch that needs some 'strees' [sic] released. I hardly doubt she acted this way in a 'real courtroom.' (<Nicholas> May 23, 2002)

‘Nicholas’ was obviously of the opinion that Judge Judy was unable to bring about resolution to a difficult case such as this. He instead argued that the program had actually made a difficult neighbourhood dispute even more volatile and retaliatory. Furthermore, he claimed that the final edited product that viewers saw was a result not only of the decisions of producers and editors concerned with creating drama and fitting the requirements and constraints of the format, but also from the cautions of attorneys concerned with issues of liability and defamation. According to Nicholas, the case contained a great deal of testimony that, if left in, might drastically alter loyal viewers’ perceptions of Judy and her ‘approach to children.’ However, the initial reactions of viewers to this man’s claims were cautious, and perhaps even a bit cynical as typified by the first response:
Nicholas - I'd love to see your poor innocent niece go head to head with the "evil old bitch." (<Mel> May 23, 2002)

However, others were more diplomatic in their responses to the allegations of Nicholas and offered some sympathy, albeit cloaked in a discourse of individual responsibility that cast the blame for the unpleasant situation on the litigants themselves for agreeing to take part in the televised small claims court in the first place.

I think most everyone on and not on this board realizes that television is an illusion. Even the so called "reality shows" are illusions. What actually happens and what makes it into a 30 minute show or two different [sic] things...

What amazes me that there are still people out there who believe that these host [sic] care and that their problems can be solved by so called "experts" and "Judges." And how many times do I have to read or hear about an angry guest, plaintiff [sic] or defendant that feels they've been exploited by a "Producer" or host, etc. The trend isn't that hard to see. Or is it? (<HARPER> May 23, 2002)

There are several noteworthy observations to be made about this particular viewer’s take on the complaints of ‘Nicholas’ and the nature of the program. First, is the assertion that ‘most everyone’ knows that these programs are an ‘illusion.’ In a very dismissive way, ‘HARPER’ seems to be denying the power of the television program as a social construction of reality engine. In the context of the on-line debate, it appeared that ‘HARPER’ was implying that the impact of reality TV on audience members’ view of reality was negligible. Or, at the very least, the implication is that any person should be able to see reality TV for what it really is: an illusion. In other words, if there are any effects at all from programs like Judge Judy, they are a result of participants being foolish enough to take part in the program and believing the promises of a quick fix for interpersonal or complex problems. From ‘HARPER’s’ perspective, the responsibility of the program and, by extension Judge Judy herself, is limited to a form of consumers’ rights where caveat emptor is the law of the land. Ignorance of Judge Judy justice or her
abrasive ways was no defense in this case. Thus we should not feel sorry that 'Nicholas's' sister stepped into a situation that turned out to exploit her troubles for the entertainment of North America.

Another very interesting point made above by 'HARPER' relates to the idea of reality programs that promise 'expert' advice for needy guests or contestants. It seems clear – particularly by the use of the inverted commas around the word 'expert' – that 'HARPER's' view was that the expertise of TV judges, therapists and other experts is at best hype and at worst an outright sham. This was certainly not the type of reaction I would have expected on a message board like TVTalkshows.com where one presumes the majority of serious posters are regular viewers of talk shows and court shows. That 'HARPER' would be so critical of the expertise of TV judges is a good cautionary note to keep in mind when we consider the power of these programs to influence viewers' ideas about law and its place in their social world. However, the assertion by 'HARPER' that everyone knows that TV court shows are not real demonstrates the subtle power of TV to cast its influence on audience members without many believing that they personally might fall prey to the mass media's influence. 'HARPER's' seemingly conservative view of humanity, with an emphasis on individual responsibility over the power of social forces external to individual freewill, is suitably congruent with that of Judge Judy. Have 'HARPER's' attitudes toward this affair been shaped by viewing episodes of Judge Judy, or was he or she merely drawn to watch Judy because those conservative attitudes were already present? As most media pundits would agree, the research on audience 'impacts' is anything but conclusive. It seems unlikely that a simple, unidirectional relationship
exists between media messages and audience members’ attitudes. However, at the same time it is clear that television does interact with and influence audience members in their perceptions of the world. To deny that there is any effect, or to suggest that only ‘dupes’ are misled by television experts is to obfuscate the power of reality TV and its ability to shape popular understandings of the law by viewers.

The final ‘counter-narrative’ of the dispute was offered by a poster claiming to be the defendant herself. Arguing that in fact she had won the case, a woman posting under the name ‘Mother’ assailed Judge Judy and offered her own explanation for some of the contentious issues brought up during testimony, including the issue of home schooling:

Well all of you nasty people out there who don't know one thing about this case. My family and myself have been harassed for 2 years by these people for no reason. The children got along just fine. The mother is a crazy bitch. She drives bye [sic] my home every day yelling at my house calling me a whore. This from a Mormon, church going women [sic] with foster care children. Just for the record. The police department of Modesto arrested the plaintiff [sic] with assult [sic] with a deadly weapon because of the evidence at the scene of the crime and all of the witnesses that were there. I did not place a citizens arrest on her. It is public record. The Judge did not want you to know that. She wanted you all to misunderstand what was going on because there was not a case to begin with. The plaintiff [sic] would have had to sue the police department of Modesto. Not me. All of you should get to know the law better!! I am a great mom. My children do not do drugs or have sex or are they in a gang. That's what public schools has [sic] to offer. The Plaintiff [sic] and her sister did hunt my children down and the Judge was not there. So, she has call [sic] the police department liars too.

Remember this was not a real court room. And she is no longer a Judge. And I won the damn case. And if the apple doesn't fall far from the tree. Than [sic] I have beautiful, smart, productive children. (<Mother> May 23, 2002)

What is interesting about the phrasing of the above is that it adopts a quasi-legal style of discourse, using turns of phrase like ‘just for the record’ and ‘it is public record’ to try to add weight and authority to the counter-narrative to the testimony heard during the taping of Judge Judy. In fact, the defendant tried to undermine Judy’s legal authority by reminding those on the chat board that Judge Judy is not a ‘real’ judge, and that the
program is not, in fact, a ‘real’ courtroom. Thus, the former litigant tried to appeal to a higher version of ‘law’ in order to neutralize Judy’s judgement. However, there is no means of appealing an unpleasant and humiliating ‘tongue-lashing’ by Judy. As a result, ‘Mother’s’ long counter-narrative goes unanswered on the chat board, perhaps because there was no way to dispute it, but more than likely because the real weight of public opinion had already been formed on this case. The complete lack of any supportive comments by regular posters on TVTalkshows.com seems to attest to the fact that ‘Mother’s’ counter-narrative strategy was unsuccessful. What is perhaps most interesting about this entire episode was the fact that, strictly speaking, ‘Mother’ was right, she did actually ‘win’ the case. Judy dismissed the lawsuit against the defendant for having the plaintiff falsely arrested and there were no damages awarded for the incident. However, to the casual observer, the defendant in particular was punished roundly for her behavior in connection with this incident, as well as more generally in relation to her decision to home school her children. Thus, what counts the most in the courtroom of Judge Judy is not who wins or loses, but who Judy’s verbal lectures damage the most.

Everything that has been discussed in conjunction with this case raises several key questions to reflect upon. First of all, we might ask what this case suggests about the ability of Judge Judy to resolve a tough community and neighbourhood dispute. Moreover, what does the ensuing exchange on the Internet tell us about the ability of the general viewing public, or those who have appeared as litigants on the program, to successfully mobilize counter-narratives that contest the authority of Judy to construe the final and binding ‘official’ version of the truth? Finally, to what extent do regular
viewers – and litigants – understand the program to be real or an accurate reflection of the American legal system? This last point bears perhaps most directly on the overarching question that I have grappled with from the outset about the power of reality TV court programs to shape everyday, commonsense understandings of the law and the legal system in the minds of regular viewers. Before moving to a discussion of the other typical dispute types, some very preliminary observations can be put forward at this point.

In answer to the first question posed above, the community dispute we have just examined did not reach a resolution that was satisfactory to all the parties involved. If we are to take at face value the words of the individual claiming to be the uncle of the defendant in this case, the appearance of his sister on Judge Judy has only aggravated the situation and led to further legal disputes between the defendant and the producers of the program. Furthermore, the uncle suggests that further ‘retaliation’ has occurred after the case was aired on television, suggesting that the relationship between the neighbours involved in this dispute was not neatly transformed back to a harmonious state that ought to exist in a community when all parties are at peace. In fact, the appearance of the neighbours on Judge Judy has served to tear an even deeper rift through the neighbourhood with allegations of continued and escalated harassment from the plaintiffs toward the defendant. It was even alleged that the plaintiffs in this case used the TV appearance to further vilify or punish the defendants by posting signs throughout the neighbourhood alerting nearby residents to watch the program and see the defendant humiliated and reprimanded by Judy. This is a good example of the use of the TV small
claims court to realize a litigant’s ‘hidden agenda’ – to use the terminology of Conley and O’Barr (1990). It would appear that taking a neighbourhood dispute before the television judge in this instance only added to the animosity between neighbours, and furthered the transformation of relationships in this community from peaceful – and perhaps anonymous – coexistence to open hostility and uncomfortable familiarity with certain intimate details of each other’s lives.

The second question above concerns the ability of viewers more generally, and the litigants specifically, to resist the dominant and authoritative version of events constructed in the TV courtroom and forcefully displayed before a wider audience. While there is some evidence to suggest that the meaning of the facts and events discussed on programs like Judge Judy is somewhat malleable and can be renegotiated by viewers through discussions on online forums like TVTalkshows.com, certain dominant ways of construing human behavior and conceptualizing responsibility for a person’s actions frame the discussions in ways that limit the possibility for resistance and the establishment of counter-narratives of the disputes. For example, the issue of home schooling was a central part of Judy’s discourse in this case, serving almost as a metaphor for bad behavior and parental irresponsibility. However, in the ensuing discussions online, viewers challenged this conception of home schooling as irresponsible by drawing on personal experiences and those of acquaintances to recast Judy’s words as being ‘out of order.’ Nevertheless, when the defendant’s brother-in-law tried to claim that Judy’s treatment of the defendant was unfair and at odds with testimony unseen by home viewers, the reaction of participants in the online discussion was unsympathetic and cast
responsibility back squarely on the shoulders of the defendant. By employing a rhetoric
of responsibility and arguing that litigants on programs like *Judge Judy* should be aware
that TV judges do not really care about them or their problems, a strong undercurrent of
personal responsibility pervaded the discussion online in a way that lent support to Judy’s
overall ideology of conservatism and responsibility.

Lastly, it is worth adding just a few words at this point about the final question we
must consider. That is, to what extent do viewers regard what they are witnessing to be
real, and to what extent might this shape viewers’ understanding of their own relationship
to the law and the legal system? Many people who participated in the on-line discussions
acknowledged the fact that television was an ‘illusion’ and not to be taken at face value.
To repeat ‘HARPER’s’ succinct rendering, “I think most everyone on and not on this
board realizes that television is an illusion. Even the so called "reality shows" are
illusions” (May 23, 2002). Or as another regular viewer noted, “I’m the FIRST to say
that we only see an edited version of what goes on in these cases” (‘Mel’ May 23, 2002).
However, despite the claims of viewers that *everyone* knows reality-based TV programs
are not ‘real’ and are in fact mediated spectacles – edited and shaped to fit the
requirements of the format – there is still a strong belief that, as a judge at least, Judy
reflects the reality of the American legal system. One viewer makes this point by
drawing upon her own personal experience in the legal system:

I once worked at a job which had me in courts quite often, and I have seen many Judges
with quite an array of different temperaments. Believe me, I’ve seen some with harsher
personalities than JJ [Judge Judy]. The only reason hers [sic] is pronounced is because
she is in the limelight. (<Liberty> December 14, 2001)
In such a way, discursive reconstructions of cases in the online discussions of TVTalkshows.com rarely challenge the overall authority from which Judy’s decisions stem. There may be minor disagreement about the details of certain components of the day’s testimony but, in the end, Judy’s authority is reaffirmed. As a judge, Judy is not unlike other judges and therefore viewers may still take in her decisions as a slightly edited form of ‘reality,’ but ‘reality’ nonetheless. Before moving to consideration of community disputes in the People’s Court it is worth highlighting one final bit of irony to arise from this case. The man claiming to be the uncle of the defendant’s children, after roundly lambasting the television industry for its frequent distortions of ‘reality,’ turned out himself to be in the entertainment business, with an office on the Paramount Studios lot in Los Angeles. How can he be so critical of the industry in which he works? “Oh well, it's television ... that's why I deal in Motion Pictures” (‘Nicholas’ May 23, 2002). An interesting distinction, one must suppose.

Neighbourhood and Community Relations II: Neighbourhood Values in Urban America from the People’s Court

When the glue of trust and appreciation in neighborhoods wears away, the same ties start to disappear in the larger society, and we are no longer the country we should be. We are not yet at that point, but the signs and portents are clear. (Wapner 1987, p. 51)

In this section, I will look in depth at what was perhaps one of the most interesting cases in my sample of People’s Court episodes. The case provided an excellent illustration of very different sorts of neighbourhood and community experiences and values. While the neighbourhood dispute examined in the previous section was really a quintessentially suburban conflict involving white, middle class suburban homeowners, the next case, by contrast, was shot through with distinctly urban
experiences of neighbourhood and community. It may be no coincidence that the disputes examined in my sample of *Judge Judy* involved predominantly Caucasian litigants. Judy, despite her claim to the somewhat marginal status of a Jewish American woman, speaks with the authority of conservative, Middle American, white values. In contrast, *People's Court* is usually attended by a much more ethnically and racially diverse group of disputants. This diversity of litigants might be a result of the program’s deliberate attempts to cultivate a racially diverse audience by *specifically* recruiting the first Hispanic female TV judge (Hernandez 2002, p. 50) – the result of which was the hiring of Marilyn Milian. Added to this, Milian frequently – and much to the consternation of some fans posting to TVTalkshows.com – cultivates a different type of legitimacy through attempts to demonstrate her street credibility. Frequent use of Spanish turns of phrase and her penchant for sometimes punctuating her speech with the supposed slang of the street mark Milian as a judge of the racialized urban masses rather than suburban Middle America. While a full-scale analysis of race is not a focus of the present study, others (cf. Banks 2003; Karno 2004) have noted that the TV small claims court genre provides an illusion of empowerment for racialized groups. A key way that this is accomplished is through the use of judges drawn from ethnic and racial minority groups. For example, just as Judge Milian proudly acknowledges her Latino roots, so too does Greg Mathis – an African American TV Judge – play up his assent from ‘ghetto to gavel.’ In this way, “by the gesture of including the figures of African American [and other minority] judges as purveyors of justice, television seems to occlude the problematic ways in which African Americans [and other minorities] have been represented throughout television history” (Karno 2004, p. 266). It should therefore
come as no surprise that more racialized litigants find their way to the *Peoples’ Court* than to *Judge Judy*.

The case discussed below provides a powerful illustration of the way notions of community and neighbourhood become infused simultaneously with those of class and race. *People’s Court* provides a tableau upon which battles over America’s central city streets may be fought, but perhaps not won. I will begin here, as I did in the previous section, by examining in close detail the very earliest characterization of the dispute in the opening ‘teaser’ or preview section, and then move to a consideration of the opening dual narrative.

**Charles Randolf III versus Malachi and Matthew Smith**

*The People’s Court: Tuesday, March 27, 2001*

**Preview Sequence:**

*Medium close up of Milian*

Milian: “If you’re helping the kid get the coke…”

*Medium close up of the Plaintiff, Charles Randolf*

Milian: “…it’s just as bad as if you had sold it to him.”

*Medium close up of Milian*

Milian: “Why is it that you think that there is some nobility in…”

*Medium close up of Randolf*

Milian: “…only being the broker – you keep correcting me on it, like that…”

*Medium close up of Milian*

Milian: “…like, like I’m making some big mistake, I’m confusing you with a dealer.”

*Medium close up of Randolf*

Milian: “If you’re brokering the deal you’re as big a dealer as the guy…”

*Medium close up of Milian*
Milian: "...who had the coke originally buddy. Get it? You get it now? Are you getting it?"

The opening preview or 'teaser' sequence of this particular case featured an intense address from Judge Milian to the plaintiff in this dispute, Charles Randolf III. As the teaser forcefully demonstrated, this man was to be despised as a drug dealer who preyed upon young children in his neighbourhood and who seemed to be to blame for the destruction of urban neighbourhoods all over the United States. Unlike the opening hyper-framing sequences of Judge Judy, this particular segment, with its continual oscillation back and forth between close ups of Milian and the plaintiff, conveyed a more intimate conversation - albeit a one-sided one - between the judge and the 'accused.' The audience was invited to watch closely the facial expressions of the Judge and the plaintiff and to listen intently as Milian lectured the man for his transgressions. Sound effects, visual devices and rapid fire editing techniques all took a back seat to the stinging words of the judge. This segment very adeptly foreshadowed what was to come in this case. From this, the program moved seamlessly to the entrance of the litigants, a key part in the ongoing framing of the dispute and disputants:

Opening Dual Narrative
This is the plaintiff, Charles Randolf III and his girlfriend Wanda. He contends the defendant had no right to bust in his car windows just because he didn’t approve of his coke dealings with his little brother. Three weeks later another brother came up to him and Wanda on the street, threatened to slice up his pregnant girlfriend, then viciously beat him until he was unconscious. He’s suing for $2269.86 for medical bills, car damage and lost wages.

Charles Randolf III
Plaintiff
Suing for:
$2269.86

These are the defendants, Malachi and Mathew Smith. They admit, things got a bit out of hand, but they were distraught. The degenerate plaintiff preys on little kids and sold crack to their younger brother. Besides, Mathew hit the guy strictly in self-defense and
bottom line, how can you even begin to compare some stupid broken glass to the value of a human life. They’re accused of assaulting a man and his car.

Malachi and Matthew Smith
Defendants
Accused of:
Assault and Battery

All the litigants in this particular case were visually marked as racially Other and their speech patterns, style of dress and testimony all very clearly situated this dispute in the inner city. The plaintiff in this case was an African American male, while his girlfriend Wanda appeared to be Hispanic. In contrast, the Smith brothers were marked by dark skin, although their mother was fair skinned with blond hair. While the defendants may have been racially ambiguous, they were clearly not ‘white’ and their location within the American inner city was unambiguous. It was clear that this case — with its racially diverse and ‘Other’ litigants — worked in powerful ways to create difference between those who appeared on the program and those who took it all in at home. By presenting the alien and dangerous urban ‘Other’ as a subject for discipline in the televised small claims court, this dispute also aided in placing “the viewer in positions of superiority to the subjects we gaze upon” (Karno 2004, p. 271).

The tone and wording used to set the scene during the opening dual narrative painted a picture of selfishness and greed on the part of the plaintiff — not to mention his tremendous audacity — as details emerged about the extent of Randolf’s drug dealing activity among vulnerable youth in his inner city neighbourhood. The opening narrative was presented in such a way as to give the audience the impression that these were the very words that the litigants might have used themselves to characterize their dispute. In
this way, when the narrator nonchalantly dismissed the defendant’s rage directed toward Randolf by saying “the defendant had no right to bust in his car windows just because he didn’t approve of his coke dealings with his little brother,” the effect was to cast the plaintiff as a callous and unfeeling man more concerned about his car than the way he has potentially ruined a young person’s life with drugs. Correspondingly, when the narration switched to the Smith brothers, it in turn cast them as responsible family members, perhaps acting rashly – “things got a bit out of hand” – but they were only responding to a man who had threatened their little brother, and in turn, the whole family. Furthermore, using the term “degenerate” to characterize the plaintiff, as well as alleging that he “preys on little kids,” conjured up images of pedophilia and focused the rage on this man while remaining silent on the so-called ‘little’ brother’s involvement in drug taking. It is worth noting that the youngest Smith brother was a physically imposing 16-year-old high school student who towered well over his two elder brothers. At one point in the proceeding, Milian questioned the ‘little’ brother about his claim that this was the first and only time that he ever did drugs.

Milian: “So, you then go to him, because you know that he can supply it?”
Youngest Smith Brother: “Yeah.”
Milian: “And the one time that you do it that’s the time your brother catches you?”
Youngest Smith Brother: “Mm hmm” [affirmative].
Milian: “Yeah? That’s your story and you’re sticking to it?”
Youngest Smith Brother: “Yep.”
Milian: “Alright.”

While Judy might have seized upon the opportunity to call the youngest Smith brother a liar and to lecture him about his poor choices, Judge Milian instead simply left the matter
alone, focusing her energy on Randolf who presented as a ‘defense’ to Milian’s angry barbs the excuse that he acted only as a middle man in the cocaine deal, not as a dealer. Throughout the testimony, audiences would have had to remind themselves that the lawsuit was about medical bills incurred from an assault at the hands of the older Smith brothers and their alleged vandalism to Randolf’s car. The singular focus upon the plaintiff in this case was almost astonishing given the mediational tone that is frequently present in the People’s Court. It was clear that blame for this neighbour problem was to rest squarely on the shoulders of Mr. Randolf.

For the most part, this case was about drawing a bold line between right and wrong, good neighbours versus bad, and Randolf very early on was clearly set apart from the defendants as the embodiment of evil and a catalyst for urban decay and degeneracy. More than this, though, the case was equally about the distinction between suburban and urban spaces and all the racial and class distinctions that mark such a difference in American society. Just as COPS takes the viewer on an excursion into that everywhere-yet-nowhere urban netherworld of decay and vice so, too, does this particular case take the viewer on a safari through the rundown housing projects and trailer parks that comprise the American ghetto. Just as viewers of COPS might worry that the tide of deviance characteristic of these urban wastelands might wash over their quiet, suburban streetscapes, viewers of People’s Court might similarly look to the legal system as a last line of defense between themselves and the dark-skinned, racially ambiguous figures inhabiting the imagined ghetto (Rapping 2004). Though the present case was ostensibly about medical bills and car repairs, a casual onlooker would be hard pressed to know this.

335
Instead, the testimony and Milian’s ‘cross examination’ focused around issues such as drugs, neighbourhood decay and the failure of law to produce justice in urban communities. One got the sense very quickly that this was a case taken very seriously by *People’s Court*, as even the puns and off-color jokes that normally permeate the narration and the commentary of Levin seemed subdued. The opening narrative, which often culminated in a stinging – although somewhat tongue-in-cheek – jab at the defendant’s behavior, this time made only the feeblest attempt at humor with the quip “they’re accused of assaulting a man and his car.” Later in the program, however, there would be plenty of opportunities to laugh at the expense of the plaintiff. However, as Karno (2004) points out, when we laugh at litigants in the reality TV courtroom, “we engage with the degradation and demeaning of certain legal subjects to bolster the notion that they are Other to us” (p. 272).

In the previous community and neighbourhood dispute drawn from *Judge Judy* we saw that resolution or transformation of the conflict was not to be found in the aftermath of Judy’s decision. In the *People’s Court*, however, we were given a different take on the community dispute. From the very earliest glimpse of testimony in the opening ‘teaser’ sequence’ to the dual opening narrative segment, *People’s Court* presented an unambiguous morality play, with characters painted in unmistakable, broad black and white brushstrokes irrespective of the facts of the dispute and the nature of the law. While Judy had declared all parties guilty of some transgression of neighbourly behavior, Milian and others in the *People’s Court* framed this dispute in melodramatic terms with a clear villain and several heroes. While *Judge Judy* presented us with an
intractable community dilemma that was not helped but rather harmed in the end by legal intervention and her sermonizing tongue lashing, the People's Court offered a ray of hope to those who stood on the right side of the law and on the side of community values and morality. To this portion of the public, Milian spoke, articulating the fears and anxieties of an anxious middle class besieged by an inner city full of uncontrollable and animalistic 'degenerates' who are just waiting to prey upon the innocent youth of the nation, and who threaten to tear at the very fabric of community and civil society. To this portion of America Milian spoke loudly. Milian did not just speak, however, but she also acted by exacting punishment from a pariah – the plaintiff in this case – who stood in for all of these fears. Charles Randolf III provided an opportunity for a clear-cut villain, or scapegoat, for all the woes of contemporary urban life. In this way, the People's Court set up the audience for a potential catharsis as the villain was driven out of the community so that order might once again be restored.

Despite Milian’s tendency to strictly adhere to the letter of the law, she allowed – and encouraged – discussion to range well beyond the facts, deeply into territory of hearsay, as the testimony uncovered the ‘sins’ of Mr. Randolf. Milian began the trial by paraphrasing what she believed to be the essence of the dispute rather than allowing Mr. Randolf to express his case in his own words. In this way, Milian neutralized Randolf’s power to establish his own narrative of the events that had led up the court case and instead imposed her own authoritative version of the story. The following exchange highlights this process as we hear Milian’s powerful narrative, buttressed by hearsay provided by the eldest Smith brother, while Randolf’s voice is virtually lost in the ordeal.
Milian: “Okay. Mr. Randolf, you are suing Malachi and Mathew Smith for damages that you say they inflicted on you and your car when they found out that you sold cocaine to their little brother.”

Randolf: “I didn’t sell no cocaine. I went and got it, I didn’t sell it to him.”

Milian: “You’re not the cocaine dealer, you’re just the middle man?”

Randolf: [inaudible] “… yeah, I’m not the dealer.”

Milian: “You’re just the middle man getting coke for a seventeen year old?”

Malachi Smith: “Sixteen year old.”

Milian: “For a sixteen year old. You don’t want me to confuse you with a guy who’s actually selling the coke because you’re just the middleman getting the coke for the six, for the sixteen year old, right? Have I got you straight now?”

Randolf: “Yes, I’m not the dealer.”

Milian: “How often do you get coke for minors in your hood?”

Randolf: “No, never did.”

Milian: “Just did it as a one time favor for him?”

Randolf: “Yes.”

Malachi Smith: “Your honor…”

Milian: “Sir, what’s your name?”

Malachi Smith: “Malachi Smith. He has…”

Milian: “Malachi.”

Malachi Smith: “He has his own blood relative, a nephew, that has admitted to my brother – which are very close friends before all this drugs got into play – his young nephew, same age as my brother, that is also addicted through him. He has stated that to my brother.”

Randolf: “No.”

Malachi Smith: “This individual is always around young kids and it’s nothing for him to show drug paraphernalia to anybody.”

At this point, if it was a jury trial, Judge Milian should have stopped Malachi from relating what the plaintiff’s young nephew had allegedly admitted to his younger brother,
but Milian simply continued with the testimony by asking Malachi what he did after he found out about Randolf 'brokering' a coke deal on behalf of his young brother. Thus, in a style evocative of the lawmaker, Milian seemed to play loose and fast with the legal rules in order to hear damaging allegations against Randolf. The plaintiff’s character became painted in blacker and blacker shades as we heard about his predilection for corrupting young children by showing them drug paraphernalia. The central aspect of this case, the assault on Mr. Randolf, became progressively lost.

What exactly was occurring here, as the discourse around a relatively simple lawsuit became contorted in such a way as to turn the full force of the judge’s fury against a plaintiff whose case seemed destined for a favorable judgement? How could the relatively uncomplicated facts of the case get lost in a protracted discussion about the nature of drugs, children and community? How was it that the law became a tool of revenge and retribution for the sins of a plaintiff in the legal right instead of the value neutral barometer of facts and evidence that we are so often led to believe that it is? Was this a graphic example of the way middle America would like to see the law in action? Watching this case as it was transformed into a platform upon which the judge could express her thoughts about the correct moral course for neighbours and community members against would-be interlopers in that community – such as Mr. Randolf – we become keenly aware that the ‘talk’ of Milian in this TV courtroom was much more than ‘just words.’ Instead, the power of Milian’s discourse was to reframe a simple tale of factual, legal liability into a moral tale of good versus evil, family versus the lone corrupter of youth, and honor over greed. What was playing out on this particular
episode of the People’s Court was a morality play – acted out not for the benefit of those who had appeared in the televised courtroom, but for those at home who watch the the nightly news daily broadcasting images of urban war zones, crack houses and racially marginalized youth brought down by guns, violence, crime and drug abuse. It was no accident that both the plaintiff and the defendants in this case were non-white. By focusing on litigants of color, locked in a heated dispute over a violent confrontation fueled by drugs, audience members could feel a secure in their own suburban lives, confident that the power of the law will cast out such cancerous parasites that prey upon the innocent – in this case innocent, single parent families from the inner city who have no other recourse but to take their problems before a national court of public opinion.

This image of the People’s Court as a court of last resort for the socially, racially and economically marginal was an ever-present one that recurred throughout my sample. The parade of litigants of color and litany of disputes involving what would seem to many middle class viewers paltry amounts of money or property loss offered confirmation of the desperation with which litigants were approaching the People’s Court. It was a most striking contrast from Judge Judy, where the litigants are largely white, professionals and students. In the People’s Court, African American and Hispanic litigants predominated, perhaps reflecting the racial and ethnic diversity of the New York City area where the program is taped. Perhaps too, the program’s more collaborative and mediational style tended to draw a class of litigants that has been traditionally without a voice or a venue for their troubles, while Judy’s authoritative and conservative style tends to repel such marginal groups while at the same time attracting those of a similar mind set.
and sharing her politics. One ardent *Judge Judy* fan with a web-based tribute to
Sheindlin proudly exclaimed:

My opinion of Judge Judy: I love her! Why? Because she is a no-nonsense judge that
takes crap from no one. I get sick and tired of people trying to play victims. As a member
of the conservative right, I would seriously vote in Judge Judy as president of the United
States! The only bad thing about Judge Judy is that she is too honest and logical for most
Americans. Her show was rated number 1, above Jerry Springer and Oprah! I have also
read her book, "Don't Pee on my Leg and Tell Me It's Raining." Excellent reading for
anyone with a brain (excludes our liberal friends). I'm looking forward to her next book,
"Beauty Fades, Dumb is Forever!" I watch her show every day, including re-runs and
hope someday I get to meet her! (http://judgejudy.virtualave.net/judy.html).

Apparently, politically liberal Americans – or people without a brain to use the words of
this fan – need not take their woes to Judy, nor should they try to play the role of victim.
While these are merely the words of one fan who took the time to put her thoughts down
in a hypertext format, we can expect that Judy would hold a great deal of appeal to many
on the American conservative right. Her emphasis on personal responsibility and her
lack of interest in examining social or contextual forces that might impact upon a
litigant’s behavior clearly resonate with such an audience. In contrast, we might argue
that Milian’s more relational approach to judging, combined with the program’s more
participatory-democratic format is likely to draw those who oppose the conservative
right’s political and social agenda. But even if this could be proven to be the case, is the
*People’s Court* truly sending the message to viewers and would-be litigants that context
matters and crime is a complex, multi-causal process that cannot be neatly summed up
and explained by mere reference to personal choice and individual pathology?

The present case could help point us toward the answer to the questions posed
above. Without a doubt, the dispute was framed from the very earliest moment in terms
that were melodramatic. That is to say, a clear villain was identified and painted in very
stereotypical brushstrokes. At the same time, the program presented an image of the defendants' family as innocent and undeserving victims of a violation of their innocence by this evil force. In other words, the program set up a simple, dichotomous relationship between good and bad people that all but instructed the audience how to view the case. Moreover, the program narrative clearly pointed in only one direction for the resolution of the problem. Like any children's story or fairy tale, good and evil are easily identifiable and even a child can know what beast must be slain in order to allow the townspeople to live happily ever after. It is through this gross simplification of complex disputes into simple dichotomies of good and evil that the People's Court— even with its democratic possibilities— aids in the construction of crime and deviance as simple matters of personal choice rather than the results of complex social, economic and political relations and inequalities. In this way, the middle class viewer can turn off their television set at the end of a case confident that the evil villain has been slain and the alien threat to the community's well-being driven out of town like the biblical scapegoat in Leviticus. Thus, through different means both Judge Judy and People's Court may indeed accomplish the same ends: the legitimation of the dominant understanding of the nature and extent of America's crime problem and the construction of the citizen as a discrete bearer of rights and responsibilities for the prevention of crime.

As an illustration of the way the present case helped to entrench the dominant political and ideological understanding of the urban crime problem, we can take Milian's narrative about drug use and drug pushers as a point of departure for our discussion. In framing the contours of the case at hand, Milian drew on popular ideas of the drug pusher
as the corrupter of youth and the evil scourge to be driven from neighbourhood streets.

What is interesting, however, is the defendant’s mother’s own admission that the plaintiff in the present case is not actually a drug pusher as we know the term, but more than likely a drug addict himself who merely helped younger kinds in his neighbourhood obtain drugs in exchange for the opportunity to share in a quick high himself:

Mother Smith: “...they wanted him [Malachi] to do a controlled buy, but he [Randolf] doesn’t, he doesn’t sell it, he gives it, he helps kids get it, he doesn’t sell it, he’s telling the truth.”

Milian: “Well, see here’s the problem. The problem is that the best customer is the kid. You know why? Because the kid is still living at home. A kid still has access to somebody else’s money, to things that, like VCRs, televisions, things ... money in your wallet, in your purse that you leave lying around, things that they can take, steal, sell and then buy. If a kid gets arrested they’re probably going to get a much more lenient sentence if they’re caught possessing it than an adult, so they’ll be back on the street and they’ll be a very good repeat customer. They know, that’s why they prey on our kids.”

Despite the mother’s protestations, Milian twisted the case to fit an anti-drug agenda. This allowed the judge to pontificate about the predatory nature of drug dealers and pushers, further casting Randolf in the role of calculating villain. While there was no doubt that Randolf used drugs and probably helped neighbourhood kids buy drugs so that he could feed his own addiction by sharing the purchases, he remained virtually silent throughout most of the testimony, almost incidental to the narrative that Milian constructed about the nature of drug use and the economics of the drug business. The present case was merely a setting in which to situate an authoritative narrative about drugs and drug dealers that did not include any consideration of race, urban blight, poverty, or other socio-economic factors that might have contributed to the present situation or the American drug problem in general.
Despite this ideological excursion into Milian's opinion about drug dealing and the nature of child customers of drug pushers, we are ultimately reminded that this was not a trial for drug possession or trafficking charges, but a lawsuit over damages to a car and an assault on the plaintiff. Though Milian didn’t say it, we might also be reminded that the plaintiff was actually not the one on trial here. However, given the fact that the narrative constructed by Milian, as well as that of the opening narration, firmly placed the defendants into the role of victim and the plaintiff into the role of offender, it might have been hard for the audience to conceptually shift their outlook on the litigants at this point, and view the actions resulting in the lawsuit apart from the wider context in which they had been placed by Milian and the defendants. In this way, the People's Court as well as the defendants established a relational point of view as the authoritative frame of reference for this dispute, ruling out of order the more factual, rule-oriented testimony of the plaintiff. In this way, we can see that the rule-relationship model of Conley & O'Barr (1990) became turned on its head, with the court demanding far-reaching contextual information from the litigants while simultaneously minimizing the plaintiff's rule-oriented account.

Relationships were clearly more important to this dispute, and in particular, the primary family relationship that existed within the Smith family. Below is an excerpt of an exchange between Malachi – who had taken on the role of spokesperson for the family – and Judge Milian about the hardships that the Smith clan had endured. We learn that the family was headed by a single mother and that her eldest son had to step in and take over as a paternal figure for the younger brothers. The absence of the father in this
family was an issue that reoccurred more than once in this dispute. The excerpt
reproduced below shows the oldest brother Malachi providing important contextual
information for the viewer and for the Judge:

Malachi: “One night I came home and uh, my mom had two hundred dollars missing, and
uh, our family, we don’t have a lot…”

Milian: “Where’s mom, where’s mom?”

Malachi: “Mom’s right here.”

Milian: “That’s mom? How many brothers are you?”

Malachi: “There’s five of us, and just, and her, so you know, for the longest time I’ve
been playing the father figure role, and a, a big brother to my younger siblings here.”

The Smith family had not only endured the hardship of nearly losing a son to drug
addiction, but we learned that they also had scarce money stolen from them in the
process, and this would surely mean much more to a single parent family struggling to
get by than to a more affluent middle class family. Further, the impact of a lawsuit – on
top of the monetary and emotional costs that have already been incurred – would be
much more severe for this family than for others. This socio-economic context seemed to
provide a reminder for the audience that social and economic circumstances of deserving
victims of crime matter in the People’s Court and, unlike the conservative approach taken
by Judy, Milian might be prepared to listen to these wider situational factors and perhaps
even regard them as mitigating factors in a lawsuit. Again, this version of the law is
much more ‘liberal’ in its ideological implications. Family thus became an important
part of the defense employed in this case and, at the same time, it was also mobilized as a
point of contrast against which the lone Mr. Randolf was juxtaposed. Ties to family, and
by extension the community, were heralded throughout this case as a remedy to the
unattached outsider to the community, typified by the plaintiff. Through this continual
comparative examination of the tight-knit Smith family versus the family-less Mr. Randolf and his unwed, pregnant girlfriend Wanda, audiences received important normative cues about what it means to be a good community member and citizen. Viewers were also warned about the dangers of the Other – the outsider to white, middle class values and community – particularly one who does not have the support of a close family.

In addition to being the father figure and spokesperson for the Smith family, Malachi was perhaps the most articulate speaker of the family. He used vocabulary and phrasing that were congruent with what Conley and O'Barr (1990) refer to as a 'strong' speech style. That is to say, Malachi’s manner of speaking was clear, assertive and generally free of grammatical errors. Perhaps for this reason, Milian was better able to empathize with Malachi and the plight of the family. In fact, Milian offered tacit approval for his actions against the predatory Mr. Randolf.

Milian: “...so in any event, you find out about this, and let’s get to what we’re really here about, which is this lawsuit, okay? So you find out about this and you, understandably, blow your top, and when you’re done blowing your top on him [youngest Smith brother] you turn around to blow your top on him [Randolf]. And so you catch him on the street, or you actually catch his car, and what did you do?”

Malachi: “I broke out his windows in, in a fit of rage.”

Milian: “What’d you, what’d you break it with?”

Malachi: “I had a, a club, a club to a car, a piece of the club, um...”

Milian: “How, how’d you get caught doing it?”

Mother: “The police happened to drive...”

Malachi: “The police pulled around the damn corner just as I was breaking the windows...”

Milian: “You all got the worst luck!” (my emphasis)
In the above dialogue, the italicized portions clearly indicate the points at which Milian expressed her tacit approval and sympathy for the Smith clan. Being caught vandalizing a car is not Malachi’s ‘just desserts’ for breaking the law, but merely an example of bad luck. Likewise, given the background information about Malachi’s position as father figure and his genuine concern for his younger brother’s health and well being, Milian regarded his violent eruption as ‘understandable.’ Furthermore, Milian not only expressed her own sympathy for the actions of Malachi, but she interpreted the actions of the local police who arrested the eldest Smith brother as also being similarly sympathetic, noting that: “...they let you sign instead of taking you to jail because when you told them your story they felt bad, so they didn’t make you spend the night in jail before seeing a judge.” In this way, Milian continued to force her frame of reference upon the dispute in such a way that partly excused the actions of the plaintiffs because, after all, if a judge like herself and police officers like the ones who arrested Malachi could sympathize with his violent actions, then we all should, and therefore in cases such as this, vigilantism might be excusable. In this way the law of the People’s Court is both popular, as well as populist.

The second Smith brother – Matthew – employed what Conley and O’Barr (1990) refer to as a ‘weak’ speech style. That is to say Mathew used a lot of slang and his speech was dominated by poor grammar. At one point, Milian had to ask for clarification about an expression used by Mathew – “messed up in the head” – and his testimony was peppered with the habitual use of the phrase ‘know what I mean’ after nearly every statement. Despite Matthew’s difficulty conveying his testimony to the judge and
audience, Milian was most certainly struck by Mathew’s final allegation that Randolf actually smoked crack with the youngest Smith boy:

Mathew: “…I was all messed up in the head ’cause of my little brother and stuff, and I see him…”

Milian: “Meaning you were upset?”

Mathew: “Yes, know what I mean?”

Milian: “Okay.”

Mathew: “I see him on the corner, and I just walked up to him, asked him, know what I mean, like, like you know what he did to my little brother hurt the whole family. And he was acting like he ain’t care [sic]. And he smoked it with my little brother, know what I mean?”

Milian: “He smoked it with you?”

Mathew: “He smoked it with him!”

Milian: “Did you smoke it with him?” [Drum roll, cuing music before the commercial break]

Levin: [Narration] “Will the plaintiff crack under judge Milian’s cross examination? We’ll find out as the testimony continues.”

Milian and the family found Randolf’s admission that he had shared the crack with their son the most offensive aspect of the incident. Why this disclosure would be more troubling than if he had simply arranged to provide the teen with drugs was not entirely clear. Whatever the case, Milian blasted Randolf for his conduct, giving him only a minimal amount of time to defend himself and provide a counter-narrative of his own. Perhaps the most interesting aspect of this case was the fact that attention continued to be diverted away from the lawsuit and redirected toward all the details of the man’s interaction with their son and his attitude toward illegal drugs. So, even after Milian redirected the testimony back to the real reason why the litigants had gathered in her
courtroom, she was not immune from being drawn away from the lawsuit and back to the contextual details surrounding the assault and vandalism that was really at issue.

The Decision:

This case provided one of the best illustrations of the way law was conceptualized by the People’s Court as a negative and restrictive force rather than a positive implement of justice. While I have already argued this point in my discussion above, it is well worth reiterating now. The People’s Court draws upon a negative view of law, perhaps having its roots in the decidedly negative portrayals of law and legal procedure that emerged in the late 1960s and 1970s in the wake of US Supreme Court rulings affirming the rights of accused and curtailing the powers of police and prosecutors. Commentators like Nicole Rafter (2000) argue that this trend was clearly reflected in American cinema throughout the 1970s. Likewise, we can argue that in the People’s Court, we see a conception of law and judging as being often impotent in the face of massive injustices. While the legal process depicted in People’s Court may be open to all people, we nevertheless must acknowledge that the process is flawed in that law can bind the hands of lady justice just as easily as it can empower her to act out of fairness and equality. This is the double-edged character of the law embodied in the ideology of People’s Court.

Below is reproduced the decision of Judge Milian in the present dispute. In it, we get a very clear picture of the limits of law. However, to be certain that viewers did not walk away with irreverence or disrespect for the law, this decision also underscored the danger of taking the law into one’s own hands. As if suggesting that while the law is indeed fallible it still must be respected, Milian’s decision in this particular case
presented a paradox about the nature of the legal process. Thus, just as the former

*People's Court* Judge Joseph Wapner (1987) recognized the imperfections in the

American legal system, he also forcefully argued that we ought not draw the conclusion

that there is something wrong with justice. Instead, we should accept it, warts and all:

A citizen might get the impression that judges, sitting on the bench, ordering people
around, deciding cases, must surely be beyond the need to compromise. Fortunately, that
is not so. Even a judge must behave strictly in accordance with the law. He is as
restrained by the law as anyone else... To my way of thinking, that is an acceptable price.
But make no mistake, it is a price. The system metes out justice, but no one should
consider it perfect. Not yet, and probably ever. (Wapner 1987, p. 78).

As if she had taken a direct cue from Wapner's *View From The Bench*, Milian very
carefully outlined a similar philosophy in her decision in the matter of Randolf vs. Smith.

More than just a legal 'compromise,' however, Milian's decision appeared to punish the
innocent and set the guilty free, the very thing most feared by those who have lamented
the growth of rights of accused:

Malachi: “Your honor, with all due respect of your judgment, I know this man, we know
his involvement... he's absolutely up to nothing, if you give him money, I guarantee you,
he'll probably take that money and smoke it with some other kids in our neighbourhood,
your honor.”

Milian: “You know, here’s where my problem lies ... and I’m going to say this and then
I’m going to take a short recess ... *(long thoughtful pause)* My hands are tied by the law,
and I’m going to go over all this testimony and see where my conscience can lead me,
Alright, but my hands are always tied by the law. And uh, you know, part of the problem
is that it’s not necessarily okay for you to take the law into your own hands ... now
would I be proud of you were you my son? Probably.”

Milian: *(after commercial break)* “You sir, make me sick. You literally make me sick.
You sir [Randolf], made sure that a 16 year old got some crack. And then you smoked it
with him! Is that what you want for your baby? *(Wanda indicates no)* Well then think
twice about it ... it’s not okay! It’s people like you who are ruining the youth of your
country! It’s people like you who are bringing down the neighborhoods in our country!
’Cause you prey upon the young ’cause you know they’re a ready source of steady
income. You make me sick. You make me sick. I am sickened that I am in this position,
Malachi and Mathew, because what am I going to have to do, my friends? You can’t
take the law into your own hands, you can’t do that, alright? I know that there was a
certain amount of satisfaction that you must of gotten, and there ain’t a person within the
sound of my voice that doesn’t know and feel good about the satisfaction that you got, by
doing that. But where did it leave us? It led us to a criminal case for you [Malachi].
which is causing more suffering for her [mother Smith], a criminal case for you [Mathew], which is causing more suffering for her [mother Smith], the civil case that brings you to my courtroom, and what? And what for him [Randolf]? Cash in his pocket. That’s what it ended up doing for him. You can’t take the law into your own hands, you would have been better off co-operating with the police and doing the controlled buy. Then, the guy who would have spent the time in prison wouldn’t have been the two of you, it would have been him, right where he belongs. But unfortunately, my friends, my hands are tied by the law [Milian clasps both wrists together as if bound] and you cannot take the law into your own hands. And therefore I find myself in the disgusting position of having to award him [Randolf] his damages on the repair of the car, that’s one thousand, two hundred and nine dollars Malachi. Mathew, as to you, I hope it felt good, I hope it felt good because you’re going to end up having to pay him now for the medical bills – nine hundred and twenty dollars. And you know it’s ironic, because usually what I find is that the people with the most chutzpah are the ones who, you know, have the least deserving position. I’m surprised that you’re not also suing for pain and suffering – after all the pain and suffering you caused this family.”

Mother: “I should be the one.”

Mathew: “Can’t we sue for like emotional distress or something?”

Milian: “Knock your socks off, file a lawsuit!”

Milian displayed the classic traits of the strict adherent to the law. Her speech to the defendants in this case – and really to all those tempted to take the law into their own hands – is really quite simple. Obey the law and you will be rewarded. Take the law into your own hands and you will be punished and the guilty will be set free. Despite her own feelings about the injustice of the situation, Milian did not feel empowered to deny the Plaintiff his claim. Instead, the judge’s decision clearly was an example of Wapner’s imperfect justice. However, lest we think that this ruling was a signal to the audience to forget about law entirely, the last portion of Milian’s judgement clearly argued that law must remain central to a just and civil society – even society in the urban ghetto. Milian provides a direct address to those tempted to eschew the law in favor of quick satisfaction in the form of lawless violent retribution. The consequences were clearly laid out in her decision.
Despite the fact that Milian seemed to be assailing the law for its inability to produce justice in this dispute, and although she seemed to partially condone the vigilante actions of the older Smith brothers, her final words to Mathew once again re-centre law. Law may have failed to produce justice in the present case, but we should not take this to mean that law *per se* does not have a potentially constructive place for the defendants. In the end, it should have been clear to audiences that the law was still potentially potent, but its power had been undermined by the rash actions of the Smith brothers. Instead, if cooler and more logical heads had prevailed, Milian argued, justice would have been served. In fact, law could be potentially re-deployed by the Smith family to punish Randolf for causing them pain and suffering – or emotional distress, in the words of Matthew Smith. So, at the end of the day, viewers of the *People’s Court* walk away with an ambiguous view of law’s potential to produce justice. Significantly, the judge did not condone the vigilante actions of the Smith brothers. Thus, the program provided continued support for the justice system and law and order, while simultaneously assailing law as often an obstacle to true justice.

**Audience Reactions:**

This particular dispute was drawn from the earliest data collection phase of my analysis in March of 2001. At this time, the popular discussion forums at TVTalkshow.com were in their infancy and posts to the *People’s Court* bulletin board were few and far between. Unfortunately, despite the dispute’s rich ideological and moral contours, there was no on-line discussion of the case when it was originally broadcast. Despite mention of this case occasionally in the fan forum as a ‘classic’ example of an audacious plaintiff, the only substantial fan reaction to this dispute could
be found in the words of spectators in the Times Square Visitor’s gallery segment regularly featured on the program. Below is the entire exchange between Levin and the spectators for this particular episode:

Levin: “Welcome back to the People’s Court, Harvey Levin here, what do you think?”

Spectator One: “I think two wrongs don’t make a right and there’s better ways to help your brother out.”

Levin: “Sir?”

Spectator Two: “I think the judge is stuck between a rock and a hard place and she’s got to go according to the law. At the end of the day any one of us here would feel exactly the same as the defendants.”

Levin: “That is indeed the truth, she has a tough situation here, Judge Marilyn Milian is on the bench right now, let’s go into the courtroom, here’s her ruling.”

It was noteworthy that although the audience members who provided their opinion to Levin seemed to express sympathy for the defendants, they also appeared to hold the rule of law in very high esteem. Although Milian may have felt hamstrung by the rigid requirements of the law, these spectators still believed that vigilantism was not to be tolerated. It was particularly instructive that these viewers seemed also to have internalized Milian’s words about the restrictive power of the law. Even though we may not always agree with the outcome of a legal ruling, and even though we might have acted the very same way under the same circumstances, the law still must be respected. It is not for humans – judges included – to second-guess the law or play hard and fast with its rules. Instead, if the law deems something wrong then it is indeed wrong, and like it or not, two wrongs can never add up to be a right.
Aftermath:

The final segment in this dispute featured the announcer drawing attention to the boys' mother as a single parent, while simultaneously singing the praises of the strong family bonds in evidence in the Smith clan. By this time, the conflict had wound down, and it was clear that no reconciliation was to be had in the hallway. However, this final encounter with the litigants served to reassert proper community values and, in so doing, perhaps tacitly blame the rash behavior of the Smith boys on the lack of a father figure in their household:

Curt: (to the mother) "How does it fall on you to handle this whole thing alone? Where's the father?"

Mother: "The father? He's supportive too. He's working. But what is the aggravating part is someone can give my son something – he's under eighteen – and then actually we see it that our local law enforcement say that's there's nothing we can do."

Curt: "Let's give Mathew the final word – come on over. Mathew, what do you have to say to your brother now?"

Mathew: "Well, just do right, know what I mean? Become a basketball star for us, then you'll really be on TV, know what I mean?"

Curt: "Yeah, for the right reasons. You have any idea how lucky you are to have a family that's supportive and strong like this?"

Mother: "We love you."

Young Son: "Yeah."

Curt: "Anything you want to say to them?"

Young Son: "I love you all." (hugs mom, and brothers)

The family unit emerged triumphant, despite losing the lawsuit. However, the actual winner was vilified in the end and recast as the loser. The final exchange in the hallway between Randolf and Curt and court reporter drove this point home:

Curt: "Come on out here Mr. Randolf."

Randolf: "Nothing to talk about."
Curt: “I just want to ask you a question. How do you have the nerve to come out here and fight this case?”

Randolf: (walking away) Nothing to talk about ... nothing to talk about...

Curt: “Over to Harvey.”

As Karno (2004) has argued, this is but the final stage of a long process that has firmly cast the evil-doer in this dispute – in this case the plaintiff – in the role of Other. As we laugh at him, ridiculed as he emerges from the courtroom after winning his lawsuit, we are also learning. We learn what it means to be an evil and destructive force in an urban neighbourhood. We learn about the strength that even those in poverty can draw from a supportive and loving family. We learn that the law can be a powerful tool in bringing about justice, but only if we respect it and never act without taking its intricacies into account. We also learn through this powerful narrative that to disrespect the law is to throw away the protection it might offer to us. The American legal system may not be perfect, to paraphrase Judge Wapner, but it is the best that human beings can achieve. The price to be paid for an imperfect justice system is to sometimes let those whom we all ‘know’ are guilty walk away free. This state of affairs is acceptable because the alternative is a lawless society. In People’s Court, respect for law and respect for community become conflated and powerfully articulated through this dispute. As if to hammer the moral of this tale powerfully home, Harvey wraps the story up as he normally does with legal analogy and advice for those who were not able for themselves to draw the threads of this sad tale together:

Harvey: “This case is very much like those burglar trap cases where people rig a gun – the burglar either gets injured or dies and there’s a lawsuit – and the homeowner actually loses. And when the burglar dies, in some cases they’ve actually been prosecuted for manslaughter. This is a good lesson on vigilanteism.”
Disputes involving community and neighbourhood relations on both *Judge Judy* and *People’s Court* are some of the most emotionally charged and ideologically laden cases that I have encountered in my sample of reality-based courtroom television. Perhaps more so than relationship or stranger disputes, these conflicts are alive with opportunities to judge and assess the ability of litigants to live up to the basic moral and ethical tenets of civil society. Community is invoked in the court of *Judge Judy* as a nostalgic American value that has been largely lost in the ever-increasing erosion of traditional family values. Judy primarily functions not so much to instill these lost values in her litigants, but to help middle Americans mourn their loss of community and also to provide graphic warnings about the damages that can result from a society that has been lodged free of its moral moorings.

*Judge Judy* is not at all about celebrating the deviant, as the daytime tabloid talk show arguably is, but is instead about showcasing the damages wrought by an overly permissive society. As Asimow (1998) argues, the reality TV courtroom is the very antithesis of the daytime trash TV talk show: “Unlike talk shows, the real court shows have resolution. The judge always decides the case before our eyes. Somebody wins, somebody loses. But on a talk show, bad people can walk away without any consequences and victims don’t get any redress” (Asimow 1998, para. 19). Consequences in the court of *Judge Judy* usually amount a verbal tongue-lashing as all litigants are ultimately paid for their participation on the program whether they win their case or not (Asimow 1999). But Judy’s tongue-lashing is a poignant reminder to take responsibility for oneself and one’s community. As Karno (2004) points out, “the invocation of foolishness and stupidity” – a key element of Judy’s lectures – “seems an
anchor for the sort of judging occurring in these Small Claims Court shows, and even a
banner for why the shows have public utility” (p. 273). Thus, the ability to demonstrate
for audiences at home the “discipline of being a good citizen” (p. 279) is a presumed
benefit of reality-based courtroom television programming, particularly for those who
side with the neo-liberal worldview of judges like Sheindlin.

While currents of neo-liberal citizenship run deep in Judge Judy, they may also be
found in slightly different forms, particularly in community disputes on People’s Court.
The decisions of Milian urge a disciplined and responsible citizen as well, but a form of
citizenship that not only governs the self, but also works as a conduit for state agencies of
law enforcement officials and always within the strict letter of the law. In the case
examined in this section we saw a perfect example of this type of responsible citizenship.
Despite the protestations of the Smith family – who did not want to get involved in a
‘controlled drug buy’ to catch the plaintiff – Milian scolded the elder Smith boys for
taking matters into their own hands in an attempt to protect their family. Instead, they
should have taken a role in policing their community by cooperating fully with local
police, and helping them to do their job. Thus, in the People’s Court, responsibility is
seldom a completely personal task, but often requires self-sacrifice and doing what is best
for the community at large – even if it means acting as a tool of law enforcement. For the
Smith family – and more importantly for those watching at home – the lesson in all of
this was that community and the law of the land come before family, and that those who
fail to act in accordance with the law will be punished.
Relationship-Oriented Disputes: Friends, Family and Lovers

Disputes I: Former Friends & Lovers

We have had committees, commissions, blue-ribbon panels and other study groups tinker with social problems at great expense, using all kinds of theories. The bottom line is always the same: spend more money. I have never read a study that concluded that people must take responsibility for their own lives (Sheindlin 1996, p. 20).

Lyndsey Arthur versus Broc Gendron

Judge Judy, Tuesday, May 21, 2002

HyperFraming Sequence:

**Narrator:** [medium shot of male defendant in a pensive pose, cutting rapidly to a different pose with the words “every moment” in large block lettering across the bottom of the screen] “He spent every moment [screen split into three vertical panels, with mirror images of the defendant in the two outer panels laughing at the plaintiff whose image occupied the middle panel] torturing her.”

**Plaintiff:** “I got into the bed to go to sleep [cut to medium close up of defendant] and he had poured water [cut to medium close up of Judy] on my side of the bed, and he took [cut to medium shot tracking toward both litigants from Judy’s right] my keys [cut to medium close up of plaintiff] from me and would not let me leave [cut to medium shot of both litigants] and then [cut to medium close up of defendant tracking in to an extreme close up] he punched about five or six holes in our room.”

**Narrator:** [cut to medium close up of Judy] “Why would [The words “why would” appear across the bottom of the screen in large blue block letters] any woman [The words “any woman” appear across the bottom of the screen in large blue block letters] put up with [The words “put up with” appear across the bottom of the screen in large blue block letters] this?” [The word “this?” appears across the bottom of the screen in large blue block letters]

**Plaintiff:** [cut to medium close up of Judy] “I was trying to help him. [cut to medium close up of plaintiff] He has a problem, he needed help.”

**Judy:** [cut to medium close up of Judy] “What kind of a problem does [cut to medium close up of defendant, laughing and looking up toward the ceiling] he have?”

**Plaintiff:** “A heroin problem.” [As the plaintiff says this, from the medium close up shot of the defendant, appearing to be maniacally laughing and looking upward vacantly into space, the camera rapidly zooms in on the man’s face, and this image is transformed into a reverse black and white image, as if something from a horror film]

**Defendant:** [cut to medium shot of defendant] “Your honor [cut to a medium shot of plaintiff] I think she likes the drama.” [pan right from plaintiff to defendant]
Judy: “I know that [cut to medium close up of Judy] several people may be operating [cut to medium shot of defendant] in your brain this morning...”

Narrator: “Judge Judy.” [cut to “Judge Judy” title graphic]

Judy: [cut to medium close up of Judy] “...but I want you to [cut to medium close up of defendant] try to control [cut to medium close up of plaintiff] the person [medium shot of defendant] who’s here.”

The title sequence, described in full above, was typical of the dramatized and highly televisual sequences that normally open the program. As is usual, a dramatic, mood-setting musical score was played under while the sequence unfolded. It was clear that creative editing had taken place during this segment. The editors made effective and dramatic use of a single shot of the defendant laughing and leering wildly upward, toward the ceiling. This single shot, looped over and over again – and with sequencing that seemed to punctuate dramatic pieces of dialogue or narration – worked to cast the defendant as an evil madman. The looped shop of the leering defendant, the dramatic music, the title graphics displayed on the screen at key moments, and the shocking allegations about torture, abuse and drug addiction, all worked to powerfully frame this case as one of high drama. The key issues in the case, it seemed, revolved around danger and violence stemming from drug addiction.

Of course, the opening segment always seemed to promise much more than the actual case. In this instance, the essence of the dispute that underpinned all of this drama was a variant of the typical ex-boyfriend-girlfriend case that has appeared with regularity in my sample. A couple that was once involved romantically had come before the TV court looking for resolution to painful episodes in their past relationship. This particular case was chosen for analysis here because of the amount of discussion that it provoked on
the Judge Judy discussion board at TVTalkshows.com. The case raised issues about domestic abuse and the responsibility of women in bad relationships to ‘help themselves.’ It also provided a good case example of the kinds of explanations and remedies offered by the private model of law articulated by Judge Judy. As well, it provided a good opportunity to examine how these issues were negotiated by regular viewers of the program. As such, it was important in the analysis to focus on what the audience had to say about these issues as well as what Judy offered.

The basic elements of the lawsuit were described in the opening narrative as follows:

Opening Narrative:

“22 year old waitress Lyndsey Arthur is suing her ex-boyfriend 22 year old Broc Gendron for destroying her apartment and for breaking her windshield.”

The case was summarized in similar but more detailed terms by a regular viewer and poster to the on-line bulletin board as follows:

Well, the first case today looks really good. Her [sic] goes: Plaintiff suing ex-boyfriend for destroying her apartment and vandalizing her car. Apparently he was living with her and her sister and when he got mad he punched holes in her walls and told her she was lucky she wasn’t the holes. Defendant says she’s just a drama queen. Sounds like his behavior was pretty bizarre. One night when she had gone out and he wasn't happy about it, he poured water on her side of the bed and then punched five holes in their bedroom wall. He also vandaized [sic] her car and used his own blood to write words on it. LOL at some interrogating from JJ of the defendant about how he gets his spending money since he does not work right now. Plaintiff admitted to JJ that defendant has a heroin problem. His behavior in court was pretty bizarre (<Christine> May 21, 2002)

Like many regular viewers, ‘Christine’ seemed to delight (LOL = lots of laughs) at Judy’s cross-examination of the defendant. The man who was being sued in this case was alleged to have a drug problem and Judy seemed certain that he was selling drugs to support himself since he reluctantly admitted that he was unemployed. Judy’s tone throughout the case was consistent with her conservative ideology – stated very clearly in
her books – which emphasizes personal responsibility above all else. Many ex-
boyfriends and girlfriends argue cases before Judy, but this particular case touched a
nerve in viewers more so than many of the others I have examined. Therefore, I was
interested to analyze this case to see what provoked the interest. I had a particularly
strong feeling that the theme of personal responsibility was key to understanding why this
case had touched off such a lively discussion among regular viewers.

First and foremost, this case gave the contributors to TVTalkshows.com – mostly
women from what I could gather by screen names and information that was volunteered
in posts – a point of reference against which they could compare themselves. Women in
general on Judge Judy, and specifically the woman in this case, exhibit for viewers all of
the foolish behavior Judy warns against in the program and in her books. For viewers,
the woman in this case was stupid for making the poor choices that she did. Rather than
framing the woman’s troubles as the product of bad circumstances, poor upbringing, or
psychological forces beyond a person’s control, this case was framed perfectly to
reaffirm Judy’s neo-conservative worldview about the causes of people’s misery and
misfortune. Early in the testimony, Judy aggressively framed the dispute in a way that
shifted the blame for the young male defendant’s violent outbursts – during which he
punched holes through their apartment walls – equally onto the shoulders of the young
female plaintiff. In the following excerpt from the testimony, Judy pushed the defendant
to admit she made a poor choice in continuing to see her unpredictable ex-boyfriend – but
a choice nonetheless:

Judy: “So, when did you two lovebirds take up residency together?”
Plaintiff: “October of 2000 is when we moved into the apartment … we had priorly [sic.] lived together at other places for four years.”

Judy: “Really? Did he make holes there too?”

Plaintiff: “At, uh, a friend of ours – Daryl’s – yes he did.”

Judy: “He did?”

Plaintiff: “Um hmm [yes].”

Judy: “Didn’t that give you a clue?”

Plaintiff: “Yeah, it’s … I don’t know … live and learn maybe, I’m doing better now…”

Judy: “You lived and learned for a long time. You lived together for four years? He made holes?”

Defendant: “Your honor, I think she likes the drama, personally. She’s a, she’s one for, uh, drama. She’s a drama queen. She’s just a big drama queen, she likes it.”

Judy: [whispering to Bailiff Byrd] “I’m going to enjoy this. Did you hear what I said? I said I’m going to enjoy this.”

Bailiff Byrd: “Okay. Have a good time.”

Judy was not particularly sympathetic to the defendant in all of this, as the excerpt above demonstrated. In fact, viewers delighted in Sheindlin’s verbal dressing down of the young man as much as in watching the young women receive a lecture about poor personal choices. However, the young man’s poor attitude was only a sideshow to the main issue in all of this: the fact that the plaintiff had chosen to continue a relationship with a man who had a history of acting violently and unpredictably. Sheindlin drove this point home in rendering her decision about who bore responsibility to pay for the holes in the apartment walls punched by the defendant:

Judy: “But he lived there.”

Plaintiff: “Yes.”

Judy: “But he lived there. You took him back.”
Plaintiff: "Yeah."

Judy: "You took him back."

Plaintiff: "Yeah."

Judy: "You pay for half the holes. You wanna know why? 'Cause quite frankly I don't understand why a young woman like you -- who had four years experience with his bad temper and saw that he was continuing that bad temper -- when you moved in some place else would continue to tolerate that kind of behavior, unless you enjoyed the fighting and making up. I'm not so sure. But you've gotta smarten up!"

Rather than keeping it simple, as Sheindlin advocates in her books (cf. Sheindlin 1999, 2000), this woman complicated her life and failed to take responsibility for her choices. The result was a lawsuit and, of course, a stern lecture from Judy. Commenting on the present case as well as the second case from the same episode, a regular viewer had this to say about the poor choices of the women appearing in Judy's court that day:

First case [Arthur vs. Gendron] - What some women won't go through for a boyfriend! I'm surprised JJ didn't have him repeat "I am a bum" like she did in yesterday's case. What was that remark JJ made?? Something like "I know there's many people in your head, try to take control"??

Second case - What some women won't go through to get rid of some wrinkles! (<Randi> May 21, 2002)

For regular poster 'Randi,' women who make poor choices in the pursuit of a boyfriend or a wrinkle free appearance -- this is a reference to a case involving Botox injections -- are foolish and perhaps deserving of the consequences that befall them.

The women in these cases had directly contravened Judy's 'life lessons' for women, outlined in her book Beauty Fades, Dumb is Forever (1999). According to Judy's prescription for healthy living, a woman should not focus on beauty at the expense
of common sense. For the woman who sought Botox as a shortcut to physical beauty, Judy might counter by quoting the following from her book:

Don’t allow yourself to be defined by the way you look. Remember, a gorgeous model will someday become a ‘former model.’ A beauty queen will eventually be an “aging beauty queen.” But if you’ve got brains, spirit, drive, and personality, you’ll never be a “former” anything. You’ll always be the one great you. Don’t hitch your identity and your dreams to a façade. (Sheindlin 1999, p. 11)

While it may not be poor advice to suggest that women should focus on their insides rather than their exteriors, Judy specifically maintained that this was all a matter of personal choice. A woman could simply choose to be a better person as long as she possesses brains and the drive to succeed. However, by recounting her own middle class upbringing as the archetypical model of the triumph of brains over beauty, Sheindlin does not take into account the fact that many women do not have the same opportunities to attend law school that she did. While it was no doubt good advice to suggest that women become self sufficient through education, Sheindlin did not acknowledge that the view may be somewhat different from the racialized ghettos that many women in the United States occupy. Judy’s mantra of personal choice and responsibility seemed to be thoroughly insulated from this consideration and likely aimed more at a presumed conservative and middle class audience of converts rather than those ‘stupid’ women out there who regularly appear on Judge Judy as fodder for ‘Judge Judy justice.’ That is to say, Judy’s advice may not appeal much to those women who are the stated object of Judy’s derision and moralizing sermons – the sometimes racialized and often economically downtrodden who appear on her show – but instead provide middle class, conservative women with confirmation of their own beliefs.
Judy might also offer similar advice to the woman who was the subject of the present case. This plaintiff found herself in the unfortunate position of being in an allegedly abusive relationship with an apparent heroin user. However, Judy’s self help tracts emphasized choice – not circumstance – as the underlying cause of any bad situation that a woman could find herself in. Even in the case of abusive relationships, Judy forcefully argued that all women need is to pull themselves up – and out – by their bootstraps:

Women are massive deniers. They’re the only known species who can be covered with bruises and still think, “But he really loves me.” If your husband, your boyfriend, your boss, your coworker, or your friend is abusing you, you’re a victim. But you’re also a dope. It’s time for an eye-opener. (Sheindlin 1999, p. 12)

This excerpt underscores Judy’s penchant for labelling women – and men too – who find themselves in poor relationships or unfortunate circumstances as simply “stupid.” Stupid is a word that Judy repeats endlessly on the program and in her books. Calling a woman in an abusive relationship “stupid” or a “dope” for not getting out is far from being helpful, I would argue, but certainly part of the work of neo-liberal governance from a distance. The constant implication that any problem – not matter how systemic or rampant in society – is merely the fault of those who are caught up within it, is a very powerful way of advancing a neo-liberal agenda of cuts to programs that might help women and children trapped in abusive situations. What need would there be for women’s shelters or programs to assist the poor with education if we were to believe that all problems are really just the fault of women who are ‘dopes.’ Women who read Sheindlin’s books and consume her program are engaged with a neo-liberal address that has much to say about what constitutes proper discipline of the self in a variety of situations. For many viewers, the powerful discourse framing human behavior contained
in this address takes on the status of ‘common sense.’ For one viewer, it is common
sense advice that all “stupid” people should heed:

Yes, if you have never read Judge Judy’s books, you should. I have checked them out at
our local library and have bought a couple at Sam’s. She is so smart about getting the
obvious across to some very stupid people!! Jan. (<ledhead> Apr. 27, 2002)

In the present case, many of these neo-liberal ideas percolated through the testimony and
the subsequent discussion among viewers. What was abundantly clear from the very
outset of this case was that Judy’s neo-liberal ideas of personal choice in all areas of life
would be directly invoked as an explanation for this particular abusive relationship. The
conjoining of abuse and responsibility in women formed a perfect crystallization of
Judy’s neo-liberal worldview. The implication of responsibilizing the victim of abuse for
popular conceptions about the place of law in the regulation and punishment for domestic
assault cases is enormous. Framing the dispute from the outset as a puzzling choice of
the female litigant is a powerful way of presenting the dilemma of domestic assault law
to the viewing public. Asking the audience quite graphically “Why would any woman
put up with this?” drives this point home. This discourse powerfully suggested – to
audiences perhaps already inclined that way – that law is not an effective remedy in cases
of domestic ‘torture’ when women are primarily to blame for choosing to put up with
these abusive situations.

In order to drive this message of personal responsibility home in the present case, Judy
took the law-making approach of splitting the cost of damages between the litigants by
only awarding the plaintiff half the damages caused by the defendant in his violent
episodes. The significance of this judgement was certainly not lost on regular viewers
such as ‘Mel,’ who summed up Judy’s decision as follows:
Clear message from Judy: He's a loser and YOU can't change him and to help you remember to stay away from losers, I'll let you pay his bills. Bad decision from what testimony *I* heard. (<Mel> May 22, 2002)

In other words, because women often make poor choices, such as staying in abusive relationships, Judy was required to use her position as judge to teach a lesson to this particular woman – and to all women who might someday find themselves in a similar set of circumstances. Thus, Judy “punished” the victim in the present case so that she – and more importantly other women watching the program – would not forget to make better choices in the future. This decision to ‘punish to victim,’ so to speak, was deemed quite appropriate by others contributing to the Internet-based fan discussion group. For example, one woman commented:

I agreed with Judy, Mel. That gal needed that lecture, whether it was pleasant or not, because she's young and is very likely to continue in that same pattern, picking dysfunctional guys like him. I understood her ruling. Many times the judges will tell the plaintiff that they are partly responsible and only give them half. (<Christine> May 22, 2002)

To regular viewers, then, this case was an example of Judy’s tough – and neo-liberal – love in action. It may have appeared harsh to the young woman who had sought the law’s help in this matter, but the consensus among regular viewers posting on TVTalkshows.com suggested that it was for the plaintiff’s own good. Moreover, viewers such as ‘Christine’ found Judy’s decision to split the cost between the litigants in this case to be eminently fair, and in accordance with her expectations of what ‘real’ courts might order in similar situations. Thus, Judy’s decision was perceived to be not only very just, but also very realistic.

Without a doubt, this relationship-oriented case in the court of Judge Judy had very real consequences for the litigants involved. Neither party ultimately got what they were
looking for from the court. And, assuming that Conley and O’Barr (1990) are correct in
their assertion that most litigants simply want a chance to be heard by an authoritative
figure like a judge, neither party to this dispute is likely to have walked away from their
experience on Judge Judy feeling better than when they started. Both parties were
ridiculed on an (inter)nationally syndicated television program and both parties were out
of pocket in the end for damages to the apartment that they had once shared. However,
the real winner in this case – if I can use that term – was the audience who could take
away important lessons about human conduct based on watching the consequences for
those who do not follow Judy’s prescription for healthy living. Women in particular are
the assumed audience for this message of self-reliance, self-help and above all total
responsibility for all problems and pitfalls that one encounters in the course of life
(Ouellette 2004). Women who learn to follow the advice of Judy and other neo-liberal
daytime judges and advice-givers are promised greater success in life than those who are
locked in denial, self-pity, or worse yet, those who get sucked into a spiral of professional
therapy that for Judy is the equivalent of staying in bed with the covers pulled up over
your head (Sheindlin 1999, p. 6). For many regular viewers of Judge Judy, then, her
advice is a healthy dose of common sense for those in unhealthy and abusive
relationships.
Robert Levine versus Evan Brody

People’s Court, Friday, May 3, 2002

Opening Dual Narrative:

This is the plaintiff, Robert Levine, his wife Phyllis and daughter Bonnie. He claims his daughter’s estranged husband, the defendant, isn’t a man, he’s a mouse and he’s not about to cover for him any more. The defendant and his daughter had a little girl who needed surgery. He paid for it. Not long after the two year old tragically died and he paid for her funeral. The defendant would have let her be buried in a cheap pine box. He’s suing for $3,000 for medical costs, unpaid rent and property damage.

Robert Levine
Plaintiff
Suing For:
$3000.00

This is the defendant Evan Brody. He says the plaintiff is an abrasive bully who always disliked that he was a limousine driver, but the real problem started when his daughter was diagnosed with Down syndrome. His wife and mother in law carry an abnormal gene and the control freak plaintiff can’t stand it. Bottom line, he doesn’t owe the man a red cent. He’s accused of being a default daddy.

Evan Brody
Defendant
Accused of:
Taking Advantage

This was perhaps one of the most emotionally charged episodes of the People’s Court that I encountered in my sample, one that provoked a flood of follow-up discussion on TVTalkshows.com. Adding to the emotional nature of the dispute, the plaintiffs set a sombre tone to the proceedings by strategically placing three large photographed portraits of their deceased daughter/granddaughter in front of the plaintiff’s podium, in plain view of Judge Milian and the camera. This move was likely choreographed specifically to elicit sympathy from the Judge and, by extension, the home audience. Without a doubt, this was a difficult relationship-oriented case with its origins in the breakdown of a
marriage and the fallout from the tragic death of the former couple’s two-year-old
toddler. Because of the intense discussion that this case provoked on the set of the
program and later in the Internet chat group, I believe this was an important dispute to
analyze in order to understand how the model of judging on the _People’s Court_ is
understood, by those in the court and at home, to apply in family-oriented disputes.
Moreover, this case provided an excellent opportunity to examine the process by which
both litigants and the judge mobilized discourses of morality and therapy in tandem with
legal discourse in their pursuit of closure to an extremely painful and traumatic incident
that had ruptured their family. In this way, I could examine how popular ideas of the law
become drawn into wider discussions of personal responsibility, fairness and justice in a
dispute where no one was clearly to blame for the tragedy. The dispute was framed from
the very outset by the judge in terms that suggested it was not a matter appropriately
brought before a legal forum. Immediately following the dual narrative presented above
and just prior to the first commercial break, the ‘teaser’ of what was to come hinted both
at Judge Milian’s depth of emotional involvement in the case as well as the futility of
bringing the case to court. Milian appeared to be on the verge of tears as she remarked:

_Milian: “I have three girls of my own and I have a newborn girl, and I, I … I can only
imagine the pain that all of you – both sets of grandparents and both parents – are going
through at this very moment. Why are you in court?”_

Before even hearing any testimony about the damages alleged in the lawsuit, this dispute
was discursively placed firmly outside of the quasi-legal system of the program. Milian’s
remarks suggested that this was a family matter with no place in a court of law. By
extension, we could also have concluded that this family was deeply broken and in need
of direction – although perhaps not in the form of legal advice. The direction this case
was to take was very clearly mapped from the outset. From the perspective of the present
analysis, a key question is, what did this dispute suggest to audiences who were taking all of this in? Is the American legal system – as it is presented in the televisual space of *People's Court* – a place to settle family problems, or are those kinds of problems out of order? What can the law provide to a bereaved grandfather and distraught parents of a deceased child? What does this case say about appropriate conduct around family problems and tragedy? These are the questions that guided my analysis of the present case.

As I have outlined above, a defining characteristic of *People's Court* is that it seldom seems to take itself – or the litigants at times – all that seriously. This dispute was no exception. Attorney commentator Harvey Levin's characterization of the dispute at the outset of the case was clearly crass and in very poor taste as the transcription below makes explicit:

Levin: “Welcome back to the *People's Court*. Next case on the docket – unbelievable story – the plaintiff’s granddaughter died tragically now he’s suing the girl’s father for allegedly turning his back on his own flesh and blood in great time of need. It’s the case of grandpa strikes back”

But this kind of flippant characterization by Levin of a very tragic event also says something about the appropriateness of even bringing this tragedy to court. Viewers at home might have been appalled at the callous treatment of the particulars by Levin, but they might have been even more appalled by the fact that the family would allow the death of a young child to be brought to a television courtroom. Thus, the less than fully solemn and serious treatment of the subject matter by the program harboured a powerful type of judgement about the ‘kind’ of family this really was. Contributors to the Internet discussion also found the behavior of this family unusual and questioned their motives for taking their dispute to court in the first place. In particular, fans felt that the family –
and the mother in particular - was strangely unemotional about the death of the child.

The mother's detached demeanour was pointed out as improper conduct by the fans, and was singled out for debate and judgement in the on-line discussion forum:

- Which part of the mother's testimony did you find touching? I found her robotic. She recalled her daughter's death without a trace of emotion. Quite frankly I found all the litigants were a bit "off" and much more compelling than the infant's death (<Randi> May 03, 2002)

- I found it very sad, but I do have to agree about the mother ... how could she stand there so composed and emotionless? I got the impression the grandfather keeps everyone controlled and under his thumb! (<Vicki_coll> May 03, 2002)

- I thought the second case was sad, but not overtly so. The wife seemed slightly "mentally challenged", the husband was emotionally weak, and the grandfather was clearly a control freak. And I thought that the bringing in and displaying the pictures of the child was incredibly tasteless. (<Chinanski> May 4, 2002)

The discussion amongst fans pulsated with normalizing judgement about proper behavior in a time of grief. The mother of the young child at the centre of this case was particularly harshly judged in the fan forum for appearing 'cold,' 'unemotional' and even 'robotic' as the above excerpts clearly demonstrate. Speculation about why this might have been included a range of possible diagnoses about the mother, most prominently that she was mildly mentally retarded. In any event, the fans coded the behavior of this woman as improper and a little 'off.' From this, fans were able to generate a consensus about the norms of behavior around a family tragedy such as this. The family in this dispute was clearly at odds with these norms and deserved little sympathy from fans or the judge.

In stark opposition to Judy's Solomonic, law-making style of judgement, Judge Milian adopted a much less rigid approach to the litigants in this case. Milian's visible emotions were a signal to the audience that this case touched a raw nerve for her. Rather
than berating the plaintiff—who Milian later described as an overbearing in-law—for his insensitivity in this dispute, she took a very gentle approach in her line of questioning. More to the point, Milian adopted a distinctly therapeutic tone to her cross-examination of the angry grandfather. After becoming visibly shaken after listening to the baby’s mother recount the details of the two-year-old’s death, Milian asked the bailiff to remove the pictures of the toddler from her view. Milian then began the process of casting the law aside in favor of discourses of therapy and mediation as the following exchange with the grandfather demonstrates:

**Milian:** “What’s really going on here? (...) What is it that could propel you from a moment of tragedy like this, where it should be time for introspection, and reflection and prayer...”

**Plaintiff:** [interrupting] “Well he didn’t want to be a father...”

**Milian:** “... that would cause you to come to court over this? What is making you so angry that you feel you need to come to court to, to ... to address it?”

**Plaintiff:** “He didn’t ... he didn’t want to conduct himself like a father, like a father...”

**Milian:** “Tell me about that.”

Deliberately using gentle and soothing tones akin to a professional therapist, Milian tried her best to get beneath the monetary issues to the root of the dispute. While the plaintiff attempted to mobilize a legal frame of reference in order to characterize this dispute in a way that would punish his ex-son-in-law for acting irresponsibly, Milian instead adopted the attitude that all the parties in this case were suffering from the tragedy and therefore law was the wrong tool to use. The tacit lesson from Milian in this case was that drawing law into a moral or ethical dispute was highly inappropriate. As she stated emphatically to the grandfather, “Listen, morally I’m with you a hundred percent, but I’ve got to do things as the law requires.” And in this case, the law required formal contracts or binding agreements that could be enforced in court. Instead, the plaintiff merely came to court
with the belief that his daughter’s estranged husband ought to have been ‘a man’ or should have acted more ‘like a father normally would.’ The man struggled to force this general notion of fairness, morality or ethical behavior into a legal framework that might then be enforced in a court of law. This was akin to the general rights-based strategies employed in the lower courts of Massachusetts by the subjects of Merry’s (1990) study. However, like many other litigants who have come to small claims courts looking for a judge to right an irreparable wrong, this plaintiff walked away unsatisfied and unable to forgive his ex-son-in-law. The decision of the judge to award only a fraction of the plaintiff’s claim – a small sum of money for unpaid rent rather than all the funeral and medical costs he was seeking – drove home the point that law was out of place in the arena of family disputes. Morality and therapy were themes that permeated this case from start to finish: from the judge’s parting comments to the litigants – “May all of you be able to live with yourselves afterwards for putting each other through this after such a tragic moment in your lives” – to the comments of the spectators in the Times Square visitors’ reception centre outside the court. The following excerpt illustrates these dual themes of moral responsibility and therapeutic intervention as key frames for understanding the conflict:

**Visitor’s Gallery: Audience Reaction:**

Levin: “What an emotional case! The plaintiff is suing his ex-son-in-law. Who should win this one?”

Spectator 1: [*middle-aged, white woman*] “Definitely the grandfather.”

Levin: “Why?”

Spectator 1: “Because it’s the father’s responsibility to pay the bills.”
Levin: "Okay. Sir?"

Spectator 2: [white, thirty-something male] "The father shouldn’t have to pay. The grandfather’s being vindictive and he needs some therapy."

Levin: "You’re going to get the final word."

Spectator 3: [twenty-something African-American male] "Yeah, I think that, um, it’s the mother’s fault in the first place that the child died because the mother should have been..."

Levin: "So you think this is guilt?"

Spectator 3: "Yeah, this is guilt."

These audience members were clearly very comfortable exploring this case in terms that went beyond the law. The call for therapy by the second spectator and the first spectator’s concern with the father taking responsibility echo the therapeutic and moral terms that the case had become framed within. However, what did this case tell a wider audience about the role of the judge in family conflicts and the place of morality and emotions in the law? Extensive debate in the Internet discussion group explored these issues and produced disagreement about what the proper role for a judge should be.

Some fans thought Milian’s open display of emotion was embarrassing or inappropriate in a court of law.

And the Judge should have held it together. I understand her ability to greatly empathize with the situation, having young daughters herself. Watching her break down was embarrassing [sic]. It was just too melodramatic! (<LHOOQ> May 4, 2002)

I didn’t get to see it, but I have seen her get emotional before and I totally agree with you. If you’re going to be a judge, you need to learn to keep your emotions in check in the court room. It looks really bad. (<Christine> May 4, 2002)

However, others found this approach to judging refreshing and profoundly appropriate given the seriousness of the dispute facing the litigants:

I love it when JM is really hard-ass on the litigants but I also love it when she gets emotional with the cases because it shows that she cares. None of the other judges on tv
go on the verge of tears or shed tears for their litigants, and I think that JM shows a lil' more compassion with the cases. I'm not sayin' that the other judges don't care about their cases, I'm juss [sic] sayin' that JM is more of an emotional person than the others. Plus, JM really loves kids. (<Megan> May 6, 2002)

I'm also a sucker to see that emotional side in JM. She's only showing that she is human and indeed not a robot (or "off.") I'm sure there will always be a debate about the appropriateness of this, but I prefer it this way. (<DAS> May 4, 2002)

I also disagree with evry1 [sic] who said that a judge shouldn't be emotional. 1st of all a judge cannot get fired. 2nd of all there is nothing that says that you can't/shouldn't [sic] get emotional ... thats [sic] your opinion. 3rd - she was only relating her family and wishing both litigants and the family best of luck. by being emotional on the law's bench is not only but showing she cared. so ... i [sic] disagree. (<John> May 5/02)

There was no consensus among the viewers about how a judge should act. What was clear from the debate that raged on-line was that, for many regular viewers, cases like this one provided an important point of departure for a discussion about the legal system and for the ongoing establishment of normative guidelines for behavior within that imagined system. Just as the first community and neighbourhood dispute from *Judge Judy* provided a focal point for a discussion of the ‘reality’ of courtroom television specifically and reality TV in general, the present case provided a means to debate the place of emotions in the legal system. It was quite likely that those who felt the display of emotions on the part of a judge was a useful and potentially vital part of the legal system would fall closer to the ‘relational’ end of the rules-relationship continuum discussed earlier. Those who feel that law ought to be empowered to reward those who respect the norms of good citizenship and proper community and familial relations would likely find a judge who showed a sensitive side by verging on tears to be an eminently appropriate arbiter of human relations. However, those with a more ‘rule-oriented’ outlook on the judicial system would be sure to find such displays ‘embarrassing’ and grossly out of place in the American justice system. In other words, the fear of relationship-oriented viewers is that a judge who is too ‘robotic’ would only dispense justice based on a set of...
inflexible rules and guidelines without any regard to the unique and distinctly human set of traits and circumstances surrounding each and every litigant and dispute. The robot metaphor is an apt one, and it was employed to interesting effect by a regular contributor to the Internet discussion:

I believe all judges are human, but HEY! Now THAT might make an interesting show! How about a robot judge that gets automatic feedback from a national audience where WE get to decide what is said and done... Hmm... LOL! (<DAS> 05/07/02)

In other words, for ‘DAS’ – who seemed to embrace a relational outlook on the law – the robotic judge would only be tolerable if it took its cues directly from the people in the ultimate expression of a true democratic and participatory justice system. Only then might the legal system resemble a true people’s court.

Much of this debate about the role of judges and their empathy for litigants echoes the words of Judge Wapner, an unabashed legal realist in his outlook on the American judicial system. For Wapner “The law on the books is about resolving pain and conflict in the abstract. Judges make it happen in the flesh. If they cannot feel for the people in front of them, they should be in another job” (1987, p. 20). Judging by the level and intensity of the debate around this particular case, it would be fair to conclude that the People’s Court provides a powerful point of departure for fans to consider and discuss these issues, even if the program does not fully resolve them. More than Judge Judy, the People’s Court is a platform for the consideration of judgement and judging by ordinary fans.

There are of course dangers in accepting uncritically a conception of a participatory and empathetic justice system articulated in the People’s Court. While working through moral and therapeutic frames and mediational and therapeutic judging
styles, this program nevertheless obfuscates viewers’ understanding of what constitutes a legal problem. Even though Judge Milian quite often clearly demarcates the limits of the law by ruling major sections of a lawsuit or defense strategy out of bounds, the program simultaneously works to draw relational conflicts into a private courtroom couched in all the legal trappings of true American justice. Audiences may take Milian’s approach to ruling over relationships and her emotional intensity as an affirmation that relationships can and ought to be put on trial. Rather than questioning the logic of bringing family disputes to court, viewers seemed more interested in the etiquette of proper judicial and familial behavior. At the end of the day, then, the Judge and specific litigants are put on trial, not the system itself. The legal system remains for many viewers an appropriate place to take all types of moral and family problems. The reaction that one gets to these sorts of problems may differ depending on the judge hearing the case and on how litigants conduct themselves, but the process itself remains uncritically embraced as a part of the American way. In this manner, relational cases on People’s Court work in subtle and powerful ways to discursively extend the power of law over larger areas of our personal lives. The approach taken to relational cases on People’s Court is in sharp contrast to Judy’s neo-liberal conception of the law, judging and human relationships.

Judy’s approach to relational conflicts is the embodiment of law ‘the way it ought to be’ for advocates of both neo-conservative and neo-liberal political agendas. Judging should be left to private arbitrators who make quick decisions based on traditional moral family values. More importantly, however, the primary responsibility lies with individuals who must regulate themselves and their personal relations, and not the court. In drawing family and relationship-oriented disputes into a wider public debate within a
participatory version of the private legal system, the People's Court represents a more liberal-legal approach to the regulation of familial relationships. In other words, the People's Court advocates for a rights-based model of law and justice.

Business and Stranger Relations

Relationships With Strangers I: Landlord and Tenant Disputes

I've heard it all before: "I didn't know..." "I didn't think..." "I didn't mean to..." That's dumb talk. (Sheindlin 1999, p. 4)

The dispute discussed in this section was not a 'marquee' case with an opening hyper-framing segment. Instead, it occupied the second portion of the half hour program and was a relatively straightforward event. Cases concerning strangers are heard far less frequently on Judge Judy than cases centring on relationships or community — about one out of every five disputes I examined in my sample of Judge Judy involved stranger disputes. Furthermore, cases relating to typical business relations, like customer complaints or landlord and tenant disputes, tended not to provoke much discussion by fans in the Internet chat group either. The primary reason why I selected the present case to discuss was that it fit the criteria of involving strangers in a dispute, but it also stimulated more discussion on TVTalkshows.com than most cases of this type ordinarily did (often, cases in my sample involving strangers provoked no fan discussion on TVTalkshows.com). Thus, it provided a somewhat limited opportunity to examine the way relations between strangers were discursively constructed in legal, moral and therapeutic terms by the program and by fans participating in the on-line discussion of Judge Judy.
Diane Dorr versus Richard Dykstra

Opening Narrative:

Forty-year-old homemaker Diane Dorr is suing her former landlord fifty-year-old engineer Richard Dykstra for disposing of her personal property, the return of her security deposit and emotional distress.

Although the case appeared on the surface to be a very simple one, in the opening moments of testimony, the plaintiff made the assertion that she had “pretty much lived through hell” while a tenant in the defendant’s property. This assertion promised to inject relationship-oriented drama into the dispute. However, when the woman raised this point, Judy quickly stopped her from pursuing that line of argument. Instead, Judy was far more intent on examining the written order of eviction than she was on listening to the plaintiff’s allegations that her ex-landlord had been abusive and frequently drunk while on the job. This was a consistent pattern throughout this case, one where the plaintiff was keen to argue that her time spent living in the defendant’s rental property was intolerable and that she was justified in suing for emotional stress in addition to her full damage deposit. For this plaintiff – a recovering alcoholic and drug addict – a key issue was that her landlord had been insensitive by drinking alcohol when over at her house performing regular maintenance or repairs. This allegation of insensitivity on the part of the landlord was a central aspect of the plaintiff’s argument for emotional distress. In fact, the woman remarked that “she had no problem moving out.” Thus, the hurt suffered by the plaintiff was not related to the eviction per se, but to his callous disregard for her needs as a recovering alcoholic.

The landlord and judge, in contrast, were more interested in examining the facts – consisting mainly of formal documents and receipts – than they were in exploring the
emotional or relational aspects of the dispute as perceived by the plaintiff. This clash between relationship and rule orientations was typified by the plaintiff’s allegation that the defendant had “attacked her and her children.” The defendant laughed openly when the woman made this statement. Judy simply raised her hand in a silent gesture imploring the former tenant to stop this line of argument so they could continue to establish a timeline of events. Judy’s unwillingness to explore these other relational issues, and her dogged attempts to stay on track by confining the discussion to the date when the apartment had been vacated and the exact costs of damages, rendered a moral or relational discussion of the events out of order. The judge and the defendant imposed a legal frame of reference while the plaintiff struggled to reframe the discussion in relational and moral terms. Judy dismissed the plaintiff’s excited attempts as irrational, out of order and out of control:

Judy: “Ms. Dorr! Ms. Dorr! Listen to me very carefully.”

Plaintiff: “Yes ma’am.”

Judy: “You don’t want to display erratic kind of behavior, do you?”

Plaintiff: “Okay, no.”

Judy: “You are.”

Plaintiff: “Sorry.”

Thus, the repeated appeals by the plaintiff to examine the wider picture and to explore more of the context of the dispute than a simple examination of the ‘facts’ – in this case several formal documents and photographs – were coded by Judy as the behavior of an irrational woman. This dispute succinctly demonstrated the power of the court to discursively and authoritatively render certain legal accounts out of order. In the end, the legal truth established by Judge Judy was a narrow, factual version of events which did
not make room for explorations of moral responsibility or good citizenship. Unlike cases involving family members, neighbours or romantic partners, the court of Judy affirmed rules for personal conduct among strangers based on a narrow, individualistic legal conception of the citizen as a discrete bearer of legal rights and responsibilities. Relations among strangers cannot, therefore, be governed by moral obligations to treat one another decently or fairly, but only by legal rules. The plaintiff in this case gradually stopped pressing Judy to hear her allegations of abuse by her former landlord and substandard living conditions in the apartment as it became more and more clear that these ‘facts’ would be ignored by the court. By the end of the testimony, the plaintiff had ceased to argue for the ‘emotional stress’ aspect of her case because she had by that point clearly realized that the legal system was deaf to such information. When asked by Judy to explain this part of her lawsuit, the plaintiff simply replied “I’m not even going to bother because obviously you believe him.” Thus, the perception of this litigant was that by taking a rule-oriented approach to the dispute, Judy was siding with the other litigant.

What was somewhat unusual about this dispute was that the woman retained a high degree of sincerity throughout and became the subject of a significant amount of sympathetic discussion on the Internet. Although the woman exhibited what Conley and O’Barr (1990) describe as a ‘weak’ style of speaking and was unable to mount an effective case against her former landlord, she was nevertheless very polite throughout the proceedings and consistently deferred to Judy’s authority, answering yes ma’am and apologizing when she had spoken out of turn. As a result of her respectful conduct, the plaintiff was able to win favor in the fan discussion forum. Some of the fans on
TVTalkshows.com expressed sympathy for this litigant despite Judy’s negative judgement of her claims. This sympathy was largely related to contextual factors in the plaintiff’s life that fans read as mitigating circumstances:

I guess I felt so sorry for her, because even the defendant seemed so reasonable and laid back..... there were no really outrageous allegations flying back & forth. She just seemed like a basically decent person that had a real rough life ..... alcoholic, a bunch of kids ..... (<Mel> June 4, 2002)

That’s what I thought, Mel. Sometimes things just don’t go right for people; she seems to have had a very rough life, for whatever reason. Some of it may have been self inflicted too, of course, but I still felt compassion for her. (<Christine> June 4, 2002)

So, while Judy may not have been moved by the plaintiff’s relational arguments, the fans clearly were. This reaction was rather unexpected and not congruent with my expectations for fans of the program. So while ‘Christine’ remarked that some of the plaintiff’s misery could have been “self-inflicted,” she nevertheless conceded that “sometimes things just don’t go right for people.” This assertion was quite remarkable considering the often harsh rhetoric of the fan discussion site and from Judy in her books and TV program. Thus, it may be that some regular viewers of Judy do occasionally adopt oppositional readings of disputes rather than simply falling into line with the neo-liberal discourse of Judge Judy. Moreover, it may be that the rhetoric of personal responsibility is more dominant in cases involving close relationships. For example, when a woman makes poor choices in the context of a romantic relationship with a man, the results are not simply characterized as bad things that sometimes happen to good people. Instead, women suing ex-boyfriends or romantic partners are usually singled out for blame because of poor choices. For example, in the following quote referring to a different case involving former lovers, a fan had this to say about women making bad decisions in the context of relationships:
I can't believe how stupid some women are either. It seems at least one case a day is about how some woman loaned money or lets some d*ck*head use her credit card and the jackass says he thinks he's more than worth it in bed!! (Apr. 26, 2002)

Thus, things do not just happen to women in romantic relationships. On Judge Judy women are usually blamed for being blinded by their emotions or hormones in relationship cases. In Sheindlin’s (1999) direct neo-liberal address to women, Beauty Fades, Dumb is Forever, she contends that the women she had encountered in the legal system were often there because they did not make intelligent choices when it came to men:

I saw what happened to women who didn’t use their heads. Somewhere along the line, these women had decided, maybe subconsciously, to hide their light under the proverbial bushel in order to be more attractive to men. And the fallout of their stupid decision was the daily parade of misery that marched through family court. (Sheindlin 1999, p. 4)

Judy and her fans reserve their harshest commentary for women who are taken advantage of by men. There are no unfortunate circumstances that can explain a women’s decision to allow a man to harm her. However, as we have seen in the present case, such circumstances can be employed to explain the poor choices of women in business relationships with strangers. Therefore, it would seem that audience members may be less tolerant of women making poor choices when they appear to be deferring to men. Excuses such as having a rough life, being an alcoholic or having a bunch of kids may be acceptable in relations among strangers, but they are certainly not acceptable in closer relationships, particularly with men. Forgiveness for poor decision-making by women in the world of business relations and condemnation for poor choices in private relations may signal a larger assumption that women are inherently less capable in the public realm than in the private realm. Thus, women who make poor choices in the private realm are
blamed for their misfortunes while those who make mistakes in the public realm are seen as simply out of their element and therefore less blameworthy.

**Relationships With Strangers II: Customer Complaints and Contracts**

The law is for any conflict where human beings need another sensitive human being to hear the facts and mete out fairness … Law is fairness in action. (Wapner 1987, p. 149)

Using the same selection criterion as above, I chose one of the rare business-oriented cases from my sample of *People’s Court* that spurred significant discussion by the fans on the Internet. Cases involving strangers or business relationships appeared more frequently in my sample of *People’s Court* than in my sample of *Judge Judy*. Therefore, I had several more examples to choose from. One case that had initiated a spirited discussion on TVTalkshows.com was a dispute that had occurred in the days immediately following the 9/11 terrorist attacks on New York City. The lawsuit was initiated by a newly married couple against a pastry chef who had failed to provide them with a wedding cake that they had been promised for September 15, 2001. The defendant’s excuse for this situation was that he had simply forgotten about the cake in the chaos of the aftermath of the attacks on New York – his business was located in Wildwood, New Jersey, within sight of the Twin Towers. Thus, the dispute bristled with many more issues than simply the failure of a business owner to fulfill a contract. Above all, Judge Milian framed the conflict in terms of what it means to be a good American citizen which, following a national tragedy, ought to be the embodiment of neighborliness, cooperation and generosity – even among strangers. Therefore, the case itself and the discussion that followed provided me with a rich opportunity to explore the way *People’s Court* and those who regularly follow the program understand and define
proper relations between strangers and those involved in business affairs. In so doing, the
People’s Court provided a national platform for the articulation of mainstream values of
American citizenship. I will begin first by examining the way this dispute was described
in the opening narrative of the program.

Anne Fitzsommons and Jason Hippen versus Robert Burns and Ravioli House

People’s Court, May 22, 2002

Opening Dual Narrative:

These are the plaintiffs, Anne Fitzsimons and her husband Jason Hippen. They claim it
was horrible enough that their wedding was scheduled for September 15th; they didn’t
need the defendant, a baker, to forget to make the cake. When it didn’t appear at the
reception they frantically called and finally got him to send over a replacement. What he
brought was a complete embarrassment. They’re suing for two thousand dollars for the
cake and pain and suffering.

Anne Fitzsimons
& Jason Hippen
Plaintiffs
Suing For:
$2000.00

This is the defendant, Robert Burns, a pastry chef at Ravioli House. He admits, with all
the craziness after 9/11, he forgot to make the plaintiffs’ wedding cake. He felt awful
about the mix up and immediately sent over ten cakes. He offered them everything under
the sun but he doesn’t think he should have to pay for a new wedding reception. He’s
accused of: being forgetful.

Ravioli House
Defendant
Accused Of:
Forgetting a Wedding

In contrast to many of the other cases discussed so far, this particular dispute was framed
in terms that were largely free of moralized judgements about the conduct of the litigants.
Rather than being cast as a ‘deadbeat caterer’ or some similar distinction, the defendant
was simply labeled forgetful – a relatively forgivable offense. However, as the testimony
unfolded, it was clear that for the plaintiffs this was more than a simple contract case, and
the newlyweds tried their best to raise relational and contextual issues in order to press
for compensation for ‘pain and suffering.’ For Fitzsimons in particular, the dispute was
more about an emotional wrong than a simple monetary award for a less-than-satisfactory
cake. The defendant too was sensitive to the relational aspects of the dispute and did not
simply laugh as the plaintiffs made their allegations, but remained sympathetic and
conciliatory throughout. As the testimony unfolded, the defendant’s sincere attempts to
right this wrong came more sharply into focus and the sympathies of many fans,
discussed in detail below, began to waver between the new bride and the forgetful chef.
As a result, for fans and the judge it was difficult to choose sides. Unlike the previous
case from Judge Judy where a relationship-oriented plaintiff (the tenant) was suing a
rule-oriented litigant (the landlord), in this case, neither side seemed to be firmly rule-
oriented. Furthermore, Judge Milian employed her usual judging style: a mix of the strict
adherent to the law and the mediator. The result was a dispute that was not firmly
resolved within the court, but instead left it up to the defendant to do the right thing
outside the formal legal process. In this way, fans were yet again provided with a lesson
on the limits of law.

As with many of the conflicts that provoked copius discussion on the Internet
message boards, fans characterized this dispute as a ‘great case.’ It is useful to examine
in full the way fans understood the main contours of the issues involved by beginning
with their description of the case in the daily Internet ‘recap’:

Great last case here. It had a sad tale, with the plaintiffs failing to get their cake made for
their wedding. The defendant said he "forgot" as it was just three days after the Sept.
tragedy. (Though he did speak with them between that and the wedding). To compensate,
he sent over individual cakes. So they play a clip of the reception with the cakes being walked in with the theme from Mission Impossible playing. I thought that was great! It was nice to see people take an awkward and disappointing situation and make something amusing out of it (which will be more memorable in the long run). JM validates the brides [sic] disappointment and points out not having all her family there surely hurt more. I think the defendant wrote a heartfelt apology and seemed like he did what he could to right this embarrassing wrong. (<DAS> May 22, 2002)

The elements described in the narrative of the recap include: 1) a very sad tale stemming from what most Americans view as their worst national tragedy; followed by 2) the perseverance of the (American) human spirit – embodied here by the wedding guests making the most out of an “awkward and disappointing situation” and 3) the defendant making a genuine effort to right the wrong he had unintentionally inflicted on the plaintiff by writing a “heartfelt” apology for his mistake. The narrative, as outlined by the fans themselves, seemed to hint at a classic tale of human kindness in times of adversity. Even a total stranger, the baker – who was clearly moved and upset by the tragedy of the terrorist attacks on New York – went far out of his way to be decent and kind to his customers. Judge Milian read from the pastry chef’s letter, as if to punctuate this tale of kindness among strangers and the newfound sense of American community following 9/11:

I know there is nothing I can say or do that could make up for my ignorance. I am overwhelmed with regret for my lack of professionalism on such a special day in your lives. I am haunted by a vision of a beautiful bride in tears because of my neglect. This is something I will be reminded of my entire life.

As Milian put it, this apology hardly sounded like a person who was “cocky or arrogant” about the mistake he had made. Instead, the defendant appeared to be a businessperson who cared for his work and his customers. This was a kinder, gentler face of American business, wherein the proprietors took deep pride in their work and the satisfaction of their clientele. Moreover, these were the tender words of a man who was sincerely
regretful and deeply pained by the suffering he had caused. This defendant was in fact the civilian counterpart to Judge Wapner’s conception of the sensitive and human judge. This case reverberated with the lost sense of American community that seemed to have been suddenly rediscovered after the terrible events of 9/11. Perhaps for fans of the program as well, this apologetic businessman reaffirmed those mythic American values that had been re-forged in the crucible of a fiery terrorist tragedy:

As sad as the third case was, I really enjoyed watching it and it was my pick for the day. The Plaintiff’s corner and Defendant’s corner both seemed to be comprised of very nice, caring people. It was a pleasure to see an authentic civil relationship between these litigants. (<Liberty> May 22, 2002)

He admitted that he COMPLETELY forgot until the reception had begun and he sounded 100% sincere and offered a VERY reasonable compensation after the fact. Great case .... full of civility and compassion from ALL the people involved. (<Mel> May 22, 2002)

It is of tremendous interest that these fans used the terms “civil relationship” and “civility” to sum up their impression of the dispute. For those at home watching this program, very direct cues about responsible social conduct were being proffered. Even in business relationships between strangers, *People’s Court* emphasized doing the right thing far and above simply living up to the letter of legal conduct. A portion of the testimony concerning the efforts of the defendant to rectify his error demonstrates the spirit of good will and good (corporate) citizenship that all Americans should take heed of:

Milian: “You and the Ravioli House feel pretty bad about this.”

Defendant: “Yes we do.

Milian: “And um, you, um ... what’d you do after all this happened?”

Defendant: “I sent a letter of apology, along with a gift certificate, and I offered to cater a wedding anniversary or, you know, any day that ... it would have been the day of their choice – to, uh, cater a party for them and their friends, it would have been at no cost. And, they had never paid for the cake in the first place so...”
Milian: “I assume if they had paid, you would have returned their ... what they’d paid for the cake?”

Defendant: “I would have returned it, and I also would have tried to, you know, make right. There is a...”

Milian: “There’s all kind ... I, I, I see that there have been all kinds of, um, attempts to resolve this amicably. Um, they [defendant] offered to pay you [plaintiff] a thousand dollars.”

For Milian, and many fans watching the program and commenting about it on the Internet, this man seemed to have made genuine efforts to right his terrible wrong. At the same time, the couple suing lost some credibility and seemed to be making unreasonable demands of the defendant. Even though the plaintiffs had suffered on what was supposed to be a very special day in their lives, their failure to reach an amicable solution to this dispute out of court with a business owner who seemed by all accounts to be reasonable beyond expectation would mean their ultimate legal and moral downfall. In this case, the dispute came to be framed in moral rather than strictly legal terms. The Judge ultimately did not see the law as empowered to bring final closure for the plaintiffs. In fact, when it came time to render a judgement, Milian used a typical ‘strict adherent to the law’ approach to explain why the law could not do anything in this particular dispute. Thus, fans at home could see that even in business relationships gone awry, it is often up to the private actions between parties – and not the formal imposition of a penalty by the court – to achieve real justice and resolution to disputes. Thus, the limits of the law were cleared mapped for all types of relationships in People’s Court:

Milian: [to plaintiff] “Your contract with them is for a cake, and it is a contract for a cake. Your lawsuit is for two thousand dollars – four hundred for the cake and six[teen] hundred for pain and suffering. I cannot award you four hundred for the cake because you never paid for the cake. If you had, I would return every penny of what you paid for the cake. But you didn’t pay for the cake, so I can’t return something you didn’t give. The sixteen hundred for pain and suffering – even though I personally feel that there was great pain and suffering involved – legally speaking there is no pain and suffering in a
contracts case. Sometimes it’s a lot more costly to go to court for a principle than it is to resolve a matter and to put it behind you. I can’t award you what you’re asking for. I can’t award you pain and suffering because there’s no such thing as pain and suffering in a contracts case. I can’t award you the four hundred dollars for the cake ‘cause you didn’t pay anything for the cake. I can’t award you anything.

[to defendant] Now, having said that, let me tell you guys something, alright? I realize that she took it to court. You and your bosses should realize that she took it to court because she felt that there was a principle involved that was worth more to her than a thousand dollars. I would like to think, that in this world, the Ravioli House would have – in an effort to keep some kind of goodwill with their customers – will in fact try to, try to make some happy ending to this very sad circumstance.

[to plaintiff] I wish that you had taken the offer of a thousand dollars. I wish that I was your, your advisor, that I was a friend of yours who was a lawyer, who would have told you: “Are you crazy? Don’t, don’t, you know, don’t, don’t throw the dice like this.” But there’s nothing that I can do for you under the law. My hands are tied on this.

[to defendant] Now you guys, do the right thing!”

Much like former Judge Wapner’s admonition to his readers that it is always preferable to settle a case than to take it to court, so too did we find that very same advice here in this particular case. According to Milian, “Sometimes it’s a lot more costly to go to court for a principle than it is to resolve a matter and to put it behind you.” As a result of ‘throwing the dice’ and taking a lawsuit to court, these plaintiffs ended up with nothing. Rather than taking an offer of one thousand dollars, the newlyweds took their case to court. Milian believed that this was a matter of principle, but some fans coded this as simple greed, such as ‘Mary’ and ‘Chinanski’ who had the following to say in the fan discussion forum:

She should've just taken the money and bugged off or whatever. Yeah right, ching ching let the cash register ring. How much was that cake and how much was she suing for? Oh please! Give it a break! I don't know, maybe I've got it all wrong, but she just left me cold (<Mary> May 22, 2002).

I agree with the others on the 3rd case. The guy bent over backwards to remedy his mistake. He wrote the Bride a heartfelt letter, gave her a 100 dollar gift certificate, offered to cater a function for free, offered a thousand bucks, and he still gets taken to court (and to task at the end by Judge Milian)? (<Chinanski> May 22, 2002)
Perhaps this was not only a lesson in good civil behavior, but also a lesson about the evils of greed. Most fans involved in the debate after the fact seemed to agree that these plaintiffs would have been much better off taking the private offers from the defendant rather than throwing it all away by taking the case to court. In addition to the warnings about greed and good behavior in civil society, this case provided yet another graphic lesson on the limits of the law. Once again we heard Milian repeat the powerful refrain that the law had tied her hands. Taken in concert, these three themes seemed to suggest in very powerful way that law was not the way to resolve certain kinds of disputes – even those that took place between business owners and customers. This is simply another example how People’s Court works discursively to decentre the law from the lives and problems of ordinary people. And make no mistake, this is advice that fans see as applicable to other disputes in their own lives as well:

If you go to court, let’s say on a car accident case, You can choose to take X amount of dollars the insurance co offers OR have a trial. If you choose to take the money that’s the settlement and that’s that. At least you walk away with something. If you choose to have a trial and you loose [sic] ...... well that’s the end of that. Tough luck! You get nothing! (<Mary> May 22, 2002).

So for fans watching, this case was a powerful lesson about what to do in a dispute with a stranger – be it a pastry chef or an insurance company involved in an automobile accident claim: taking a settlement out of court is the better way to happy ending. Turning to the law on the basis of a principle is a costly error and, at best, a gamble – a throw of the dice to use Milian’s analogy. Reconciliation and restoration of relationships outside of the formal legal process should always be preferred over a costly and time-consuming lawsuit. This was a lesson powerfully proffered by the program and taken to heart by those contributing to the discussion in the fan forum.
Part V: Discussion and Conclusions

Case Closed?

Reality-based courtroom television is a category of TV that purports to depict realistically American small claims courts in action. However, demonstrating simply whether or not these programs stray far from the ‘reality’ of the American legal system was not the point of the preceding analysis. Rather, I assert that these programs have taken on a life of their own, creating a reality that may be more real than real for litigants, home viewers and those who contribute to on-line discussions. I would argue that these people are getting an authentic dose of American justice that truly matters in their daily lives. For one, those who watch Judge Judy or People’s Court may never set foot in a real American court – be it small claims, civil or criminal. Instead, these programs provide a rich depiction of a popular legal culture that is more tangible to those watching than is the so-called real judicial realm of official legal discourse or doctrine. To say that reality-based courtroom television is not a part of the American legal consciousness, I believe, would be a grave mistake. Therefore, in this dissertation, I have tried to analyze this reality TV phenomenon on its own terms. I have taken the ‘reality’ within a popular cultural form and critically assessed what it might tell audiences about law, justice and dispute processing. In this way, what I have done here must not be confused with a simplistic ‘debunking’ of a TV program as being unrealistic.

My analysis of the two programs suggests that each follows a distinct model of law that sometimes parallels the real American civil legal system and sometimes strays far from it. While I did not make any systematic attempt to compare my observations of
the TV small claims court against observations in a real American small claims court, it is clear that the two programs present divergent pictures of justice and send mixed messages about the power of judges and the efficacy of the court.

Of the two shows, People’s Court in some ways presents a more ‘legalistic’ picture of the American judicial system. On this program, the judge is often frustrated by the constraints imposed upon her by the narrow and technical nature of law. True justice often eludes the grasp of the judge in the People’s Court and the guilty may at times seem to avoid punishment. Only on this program have I seen a judge dramatically throw her hands into the air in a vivid demonstration of the legal ties that figuratively bind her wrists. Only here have I observed the judge read the actual text of a legal statute in order to justify a legal decision that was disappointing to the litigants. And only on the People’s Court do we regularly see attempts to repair broken relationships taking place outside of the courtroom and involving figures other than the authoritative judge. In this way, we could argue that the People’s Court presents viewers with a chaotic and often contradictory picture of justice that in some way reflects media and academic images of the imperfect nature of the real American justice system. While I am by no means arguing that People’s Court presents a wholly accurate picture of the American legal process, I would nevertheless argue that in certain ways it captures the spirit of that system. Moreover, in so doing it often highlights the failings of American justice in ways that other reality-based courtroom programs do not. One could argue that this program is akin to some of the gritty police dramas that rose to prominence in the wake of the American civil rights movement of the 1960s – such as Hill Street Blues – where police
were portrayed as often frustrated by procedural rules that only seemed to protect the guilty. Perhaps we might even make the claim that People's Court is depicting a type of 'realism' in its pessimistic depiction of the failings of American justice.

In contrast to People's Court, Judge Judy asserts a different picture of law. On this program, I never once observed the judge throwing her hands up in frustration with the law, or even reading from a legal statute to justify a decision. In fact, Judy Sheindlin typifies what Conley and O'Barr (1990) referred to as a 'law-making' style of judging. Litigants are not told that there may be no legal basis for Judy's decisions. In fact, Judy herself is often quick to point out that her decisions tend to spring from her intuition and her inborn sixth sense to divine the truth — her 'built-in lie detector.' Just as the Dirty Harry films of the 1970s and 80s depicted a no-nonsense form of police work that many ordinary Americans longed to see, I argue that Judy presents a form of judging that many Americans — and indeed Canadians — would find preferable to the real thing. Perhaps many viewers assume justice is much like the gritty 'reality' depicted on programs like Hill Street Blues — imperfect and hamstrung by too many safeguards for offenders. Dirty Harry eschewed the legal rules in pursuit of true and substantive justice. We could leave the movie theatre feeling that justice was served in the end and perhaps enjoy a type of catharsis. With Judy, it is much the same. Fans can find great joy in watching Sheindlin verbally assault and humiliate 'undeserving' litigants. For many fans, this is the way judges ought to act:

What some might view as "quick-tempered" or "crass," others appreciate as cut-through-the-bs-no nonsense honesty. Also, I can't stand it when plaintiffs and defendants try to outscreeam each other or constantly butt into the other's testimony. Judy doesn't put up with that nonsense. She may be irascible at times, but that's just part of her overall loveable style. (<Duach> Dec. 28, 2001)
So if we can tentatively characterize *People's Court* as a form of 'realism' that depicts the shortcomings of American justice, I would similarly assert that *Judge Judy* is a form of popular cultural 'idealism' in its depiction of American justice as it *ought* to be.

I would also point out that many litigants appearing on *People's Court* and *Judge Judy* did not actively seek to appear on a quasi-fictional television program. Instead, many litigants on these court programs – as well as the other imitators currently airing on syndicated American television – are actually culled from the dockets of 'real' American state small claims courts (Stein 1998, para. 7; Karno 2004, p. 262). Facing a sometimes lengthy wait to appear in a 'real' court, numbers of would-be-litigants opt for the swifter and sometimes much harsher process of the private/public TV arbitrator. And make no mistake, these TV judges are functioning as legally binding arbitrators not trial judges. As one fan on TVTalkshows.com noted of her reality-based legal experience: “appeal is a problem, because when you appear, they make you sign a contract that is rock solid - I had an attorney look at it already” (<Sandra> Feb 8, 2004). So litigants with “camera-worthy cases with strong narratives” (Stein 1998, para 9) are swept out of the legal system and into a form of private dispute resolution without the legal rights or protections afforded to those who would have proceeded in a ‘real’ small claims court. It must be stressed that for litigants who come to the TV small claims court via the real American courts, reality-based courtroom justice is experienced very much as a part of the real American justice system. While not likely doing much to stem the overcrowded dockets of the American lower courts, it should still be acknowledged that reality-based courtroom television in fact works in a way that benefits the ‘real’ American justice
system. Just as the 'real' justice system often works to discourage much litigation and formal court proceedings through the use of alternative measures or plea bargaining, so too does the TV small claims court operated to divert some cases away from formal legal proceeding and into the quasi-legal realm of reality television. In this way, we might argue that reality-based courtroom TV is serving as a very real part of the American legal system. The impact of reality TV on real American justice may not be felt so much in terms its potential to divert a large number of cases away from the formal system.

Rather, I would argue that because many litigants don't experience the TV court as an institution separate from real American justice its impact may be more at a symbolic level. For these litigants these shows are very real. However, at the same time, I want to underscore the fact that for many people of lower socio-economic status, opting for the safer bet — in the sense that a judgment will be swift and certain in the TV small claims court — is not really much of a choice. Rather, these may be courts of last resort for many Americans who have sought to employ the legal system in their everyday lives and problems. For these people, none of what we have witnessed in this dissertation is fiction.

A growing number of discussants on the TVTalkshows.com bulletin boards — such as 'Sondra' above — have expressed concern about the way their disputes were treated by reality-based courtroom television judges. I believe that this may be the tip of the iceberg of dissent among former litigants on these programs. Legal scholar Michael Asimow (1999) points out that numerous complaints have been lodged against Judge Judy with the California Commission on Judicial Performance for "inappropriate judicial
demeanor” (p. 10). What this suggested to Asimow – and to me – is that many litigants who have appeared on Judge Judy really believed that they were taking part in real courtroom proceedings. However, many might be shocked to learn that reality-based courtroom TV tribunals are not real courtroom proceedings at all and that the government commissions cannot help them, nor can litigants appeal the decisions of TV judges. So then, is there really any point in debating the reality of these programs if many viewers and litigants experience them as real? Instead, I have tried to argue here for an understanding of reality-based courtroom television on its own terms. In other words, I have endeavored here to analyze the jurisprudence of the TV small claims court just as other legal anthropologists and socio-legal scholars have analyzed the ‘real’ American justice system. I argue that this approach can tell us much about the potential messages these programs convey about the legal system, law and judging. While Internet-based fan fora may give us some hints about how these messages are received by viewers, there is clearly more research to be done on the audiences of the reality-based courtroom genre. The conclusions I offer here are naturally tentative and speculative when it comes to the reception of mass-mediated messages.

Equally important to my analysis here is the view that there is an active exchange taking place between the viewers at home and the ideological messages of the programs, as embodied by the political and social views of the judges, producers and other figures interacting with their presumed audience. What I mean when I suggest there is an exchange between programs and audiences is that the negotiation of meaning is very much an interactive process involving viewers and producers of programming. This
view that audience members are active agents in the construction of the meanings and uses of television has been presented in various ways by a number of researchers (c.f. Fiske 1987, Jensen 2002, Seiter 2004). In contrast to quantitatively-oriented analyses of audience ‘effects,’ this approach has been variously termed ‘new’ audience studies, reception or ethnographic audience studies because it tends to range beyond a simple consideration of the literal act of viewing in isolation from social considerations that may impact upon the negotiation of meaning (Allen & Hill 2004, p. 457). In essence, this qualitative view suggests that if we are to understand how audiences receive messages that may be implicit in particular programs, we must have some conception of the television viewer as a social subject (Fiske 1987, p. 62). At base, however, we must also recognize that viewers will read various messages in television programs quite differently from one another – and in ways that may not have been intended by the producers of those programs. To illustrate: Judy Sheindlin may intend to project a particular perspective on a specific issue – for example teenage pregnancy is stupid – or on human relations more generally – for example, take responsibility for your actions and stop blaming society for your problems. In Stuart Hall’s (1993) terminology, this would be the preferred meaning of Judy’s messages. Put another way, this is what Judy wants audience members to take away from the program; this is her intended message to viewers. However, audiences might receive these ideological messages from Judy in other ways. If an audience member adopts the perspective of Judy uncritically and without reinterpreting the intended meaning of her message – or that of the total program package – we might say that viewer has adopted a preferred reading of the program ‘text.’ Likewise, a viewer might engage in a negotiated decoding of the text by partially
accepting certain aspects of the program's message while rejecting others. For example, an audience member might agree with Judy's overall view that individuals must take responsibility for their actions, but might reject Judy's abrasive treatment of a particular teen litigant who had become pregnant. Finally, a viewer might understand Judy's message but choose to actively reject it. Thus, a viewer might openly critique Judy and her moral lectures and stern judgement, finding humor in places that were intended to be serious thereby subverting the intended message and asserting a different take on the events depicted on her program. Using Hall's terminology we would say that viewer has adopted an oppositional reading of the text.

I find Hall's model to be a useful way of conceptualizing the active role that audience members play in reading or decoding particular media texts. It would be naïve to suggest that the neo-liberal and neo-conservative ideologies circulating in the judgements of Judge Judy or the participatory-democratic message of People's Court will be simply absorbed in a linear and unreflective fashion by audience members. Instead, I want to emphasize that the viewers of the program I have followed in the fan fora exhibit a range of reactions and readings of the ideologies circulating in the judgements of the TV court judges. Thus, it would be a wise and useful endeavor for future researchers on this topic to carry out further analysis of fan reactions to the programs, as well as those of the litigants themselves, in order to understand the reception of messages articulated within reality-based courtroom television. To use a pun in the tradition of People's Court, the jury is still out on audience reaction in the present analysis.
Setting aside for the moment the perplexing issue of audience reception, what can we now say about the jurisprudence of the two reality-based TV judging programs examined in the present study? If we take these two legal worlds on their own terms, what can they tell us about the nature of law and dispute processing? I have argued at great length throughout my analysis that the two courtroom programs examined here represent very different models of law and perhaps signal a shift in political ideology around law, citizenship and social relations. *People’s Court* typifies an older conception of law forged within the liberal legal tradition of citizenship rights born in the wake of landmark legal decisions in the United States such as *Escobedo v. Illinois* (1962) and *Miranda v. Arizona* (1966). Such legal decisions affirming the rights of accused were reflected – often in negative ways – in popular culture throughout the 1970s, notably in film and television (cf. Rafter 2000). By the early 1980s, *People’s Court* had emerged in part from a continued interest in the legal system on the part of Americans. To my mind, the program has always retained its roots within this earlier era of expanding legal rights and focus on procedure in the legal system.

Leonard (1988) has asserted that reality-based courtroom TV programs were spawned by the need to see that justice could still be achieved in the present system. As such, these programs could be seen as a backlash against the culture of legal rights born in the 1960s and 1970s. Similarly, Slipock (1998) has argued that these programs reflect the public’s distrust of both lawyers and the legal system and offer ordinary citizens the chance for do-it-yourself justice while simultaneously allowing us to keep a watchful eye
on the courts. In this way, the assumption on the part of both these authors is that courtroom TV programs take a negative view of law as an institution and offer an alternative to it. Whatever the merits of this perspective, I instead contend that *People's Court* is very much a program about affirming the power and legitimacy of the law. In fact, I would argue that this program in some ways presents a very positive picture of the American legal system despite its inherent flaws.

Joseph Wapner (1987) has argued that the American legal system works because it is flexible enough to make compromises. The guilty may sometimes get off, but this is a natural and acceptable price to pay for a system that does not abuse or trample upon the rights of the individual. This same ideology is reflected in the program itself, with its strong emphasis on the law—not the judge—and the legal principles that empower the judge to make decisions. According to former New York Mayor Ed Koch, who presided over *People's Court* in the late 1990s, the basis of the program is the law, not the so-called common sense that drives other courtroom programs like *Judge Judy*: "Judge Judy has said that she makes decisions on the basis of common sense. And I have said, 'That's not what the law is about.' We do it on the law. This is not a court of compassion; this is a court of law" (cited in Stein 1998, para. 12). *People's Court* may never achieve the high ratings of *Judge Judy* because of its so-called "judicial diligence" (Stein 1998, para. 12). However, this is itself a very salient point to keep in mind if we are to situate the phenomenon of reality-based courtroom TV within a wider socio-political context.
While the folksy and sometimes mildly humorous style of the *People's Court* may have played well in the 1980s when presided over by Judge Wapner, it is clear that a marked shift in tastes and attitudes toward the legal system has occurred since that time. *Judge Judy* rose to popularity in the late 1990s by eschewing the ‘judicial diligence’ embodied by *People's Court* in favor of a more conservative and so-called common sense approach to law. Thus, I have tried to argue here that *Judge Judy* is in fact premised on a totally different model of law and judicial decision-making. Instead of reverence for the legal and procedural rights stemming from hard-won victories for civil rights advocates in the 1960s, Judy has embraced a neo-conservative philosophy of personal responsibility and just desserts for the guilty. Moreover, the program asserts a neo-liberal vision of a streamlined, privatized model of justice that refuses to coddle or even protect the guilty from potential abuses of the state or the verbal mistreatment of the judge, embodied by Sheindlin herself. According to Sheindlin – ironically appointed to the New York Family court by Ed Koch – “The law is supposed to be based on common sense. But in the last 25 or 30 years, legislatures have grafted onto the common law statutes that sort of fit a particular scenario … it’s something that I was frustrated with as a sitting judge in New York” (quoted in Stein 1998, para. 5). In this way, it is easy to see that *Judge Judy* represents a deliberate attempt to turn back the clock to a not-so-kinder – but simpler – legal system and, by extension, a conception of society that is simpler and based on traditional family values and the dual philosophies of neo-conservative conceptions of personal responsibility and neo-liberal conceptions of the minimalist state.
Methodological Reflections

In the preceding analysis, I strove to maintain a serious commitment to a qualitative and inductive content analysis of a small theoretical sample of reality-based courtroom television. Along with other proponents of qualitative methodology, I believe that it is more useful, particularly in exploratory research such as this, to gain a detailed understanding of a smaller sample of data rather than a more superficial understanding of a large and formally representative sample. In developing my analysis and data collection strategy, I have relied heavily on the work of David Altheide (1996). Altheide advocated a qualitative approach to media studies that he called ‘qualitative document analysis,’ which blends traditional content analysis with participant observation to form a sort of “ethnographic content analysis” (p. 2). In this way, I strove to ‘get inside’ the world of reality-based courtroom television in much the same way that an ethnographer would try to get an insider’s view of a particular culture or setting. Thus, I feel that the richness of my observations lent the analysis considerable weight and validity.

By taking seriously this qualitative and perhaps ‘ethnographic’ approach to content analysis, I will inevitably encounter critics who will point out that the study lacks numerical specifics. These detractors will perhaps argue that the work is not valid because the study is not grounded in quantitative data and is therefore not replicable in the sense that a quantitative content analysis would be. To these critics I would counter that the study is a much more important piece of work because it engages with the tricky theoretical questions surrounding the meaning of reality-based courtroom television. While it would no doubt have been possible – indeed in many ways easier – to simply
count the total number of male and female litigants, the number of cases decided in favor of the plaintiff or defendant, and so forth, such an analysis would have left more questions unanswered than answered. For example, what does it mean to simply say that one out of every five cases in my sample of *Judge Judy* involved strangers rather than friends, family and neighbours? Providing accurate totals of the number of litigants who were family members, strangers and so on is of little analytical value to the set of questions I have posed to the data. Instead, I would argue that it is far more important to situate each and every dispute within a wider context that can be gained only by a close and detailed examination of the data. How did the litigants characterize their disputes? Did they employ *relationships* in their defence or to make their case? How did the litigants speak? Were the litigants articulate? Did they make their cases effectively because they were able to express themselves in ways that fit the expectations of the judges? It was these types of questions that I grappled with in the course of my analysis. This is not to say that future researchers would not benefit by empirically testing some of my findings through more quantitative means. Indeed, I will no doubt want to follow up myself by testing my theoretical assertions against quantitative data and extending the analysis to other reality-based courtroom programs. However, what I have tried to do here is place this television phenomenon within a wider context and suggest possible answers to the question of what it all means for public understandings of law, courtroom procedure and human relations more generally. Thus, I believe that this is just the start of a line of inquiry to be explored in greater detail in the years to come.
One of the more perplexing tasks in my analysis was to find practical ways of undertaking my own 'ethnographic' content analysis of reality-based courtroom television. It is one thing to commit to a qualitative ethnographic program of research and quite another to actually get started! In order to do this, I looked to what I believe is the most thorough and richly detailed ethnographic account of the 'real' American small claims court. John Conley and Willian O'Barr's (1990) *Rules versus Relationships* is a comprehensive linguistic ethnographic account of the American small claims court experience. While I concede that reality-based courtroom television programs are unique in many ways from the small claims courts discussed by Conley and O'Barr, I believe that their methods and analytic framework were readily suited to an analysis of the discourse of television small claims courts. Because of their interest in the 'talk' of judges and litigants, I believe that it was extremely useful to employ Conley and O'Barr's analysis as my own point of departure. Their conceptual framework of judging types and their rules-versus-relationships continuum of litigant orientations were very useful and applicable to my own work. However, what their analysis lacked was engagement with the dominant political and social ideologies that small claims court judges and litigants operate within. In my analysis, I strove to build this aspect into the discussion by differentiating two unique models of law expressed through the programs. Furthermore, by situating the shows within their unique historical-political contexts -- the *People's Court* as an outgrowth of the liberal legal culture of the 1960s and 1970s and *Judge Judy* within the neo-liberal and neo-conservative reactionary politics of the 1980s and 1990s -- I have taken up the theoretical and methodological antecedents of these linguistic anthropologists and nested my own critical and theoretical analysis within them. The
result is a more complex analysis of the *meaning* of small claims disputes as they are experienced through the filter of two influential and popular reality-based courtroom television programs. My methods of analysis were highly appropriate and indeed extremely powerful tools for undertaking exploratory and critical content analysis of a mass-mediated cultural form with much to say about law and judgement in American popular culture.

In considering the many ways that reality-based courtroom television may interact with audiences to present competing conceptions of law, justice and the problems of ordinary people, it is impossible to escape the conclusion that these messages are aimed toward a presumed female audience rather than a male audience. Evidence for this can be found in the choice of judges themselves. Just as other daytime television programs such as soap operas, game shows and tabloid talk shows are geared to the everyday concerns and presumed tastes of housebound female audiences, it seems that the producers of reality-based courtroom television are attempting to reach out to this audience segment as well. Returning for a moment to some of the dichotomies presented above, we can see how yet another dichotomy – female versus male – also plays out in the reality courtroom.

Conley and O'Barr's (1990) ethnography of the 'real' American small claims court drew our attention to a rules-versus-relationship dichotomy. According to those authors, cases presented in rule-oriented terms by rule-oriented litigants tended to articulate well with the expectations of the American civil legal system. However, I have argued in the present analysis that this rules-relationship conception is turned on its head
in American reality-based courtroom television. Those cases that concern relational disputes tend to be the focus of spectacular judgement in the reality courtroom. It may be no coincidence, as Conley and O'Barr note, that women and racialized minorities tend to be more likely to present their disputes in relationship-oriented terms more often than men. Furthermore, the actual *substance* of the disputes presented by women tends more often to be private and relational rather than public and contractual. In this way, we could argue that not only in its scheduling but also in its content, American reality-based courtroom television forms an implicit address aimed toward *female* audience members and their conceptions of problems. Problems that are concerned with the private sphere of the home—child custody, marital relations, infidelity, and so forth—are the primary fodder for reality-based courtroom television. It is therefore no surprise that these programs transpire in the daytime hours rather than in primetime where male audience members are more likely to be watching.

The gendered nature of reality-based courtroom television presents some very important implications that have only begun to be considered in the present analysis. The fact that *civil* justice is presented as a mediated address aimed almost exclusively at female audiences in the daytime hours, while the *criminal* justice system appears geared more toward a presumed male audience in the lucrative prime-time slots, provides powerful cues about the way the problems of women should be addressed. We have seen above that women who err in the public realm of business are not always subjected to ridicule and normative discourses of responsibility and proper modes of personal conduct like they are when they err in *private* relationships with men. Thus, the private problems
of women are centred in the reality courtroom as public problems for the mass audience to laugh at and presumably learn from as graphic warnings about the consequences of irresponsibility and poor decision-making. More importantly, the women who bring their private troubles to the public quasi-legal realm are constructed as failures as women for dragging their personal lives into the telemediated courtroom. In this way, problems such as domestic assault and child custody disputes are deligitimated as serious concerns of the public sphere of the law and are recast as personal failings of housewives, mothers and daughters. At the same time, when women encounter problems in the public realm of business relations, they are likely to be only mildly chastised for being out of their realm and perhaps merely victims of bad circumstances. There are clearly many implications that flow from the gendered nature of reality-based courtroom television. My analysis here only begins to suggest several avenues where future researchers would be wise to investigate.

Legal Discourse and the Transformation of Disputes

At this point it would be useful to reflect upon and reemphasize a key theoretical strand running through the foregoing analysis. From the very outset I was interested in examining how disputes are transformed by the way they are discussed, presented and talked about in the quasi-legal forum of reality-based courtroom television. This emphasis was in turn inspired by the ethnographies of small claims and lower American courts undertaken by Merry (1990a; 1990b) and Conley and O’Barr (1990). In particular, Merry (1990b) has suggested that judges and other legal officials within the lower courts can discursively transform the way a dispute is understood, and in turn, the remedies available to litigants who bring certain types of disputes before the court. Disputes that
may be understood by litigants as ‘legal matters,’ or matters that involve their presumed rights as legal subjects, can be downplayed, minimized and reframed by judges, mediators and court clerks as petty disputes that fall outside the jurisdiction of the court. While it is no doubt true that many disputes brought forward do not fit the narrow and technical requirements of the law, it is the effect of this rejection by the courts that was of most interest to Merry, Conley and O’Barr and myself. More specifically, how does this often negative experience shape litigants’ overall understanding of the place of law in their daily lives? How does this experience with the courts alter or shape litigants’ understanding of justice and the courts? Surprisingly, many litigants in both my own work and in the work of Conley and O’Barr expressed a continued faith in the legal process despite having their claims rejected by the court, or reframed as irrelevant, out of order or moral rather than legal. How litigants – and audience members in the case of the present study – are able to continue to view the law in a positive light despite experiencing or watching the law fail to produce substantive justice is a particularly perplexing question and one that I have been preoccupied with throughout my analysis.

Merry’s conclusions about her study of the American lower criminal courts help to shed some light on the vexing question of why litigants continue to look to the courts for help in spite of the fact that the courts are not always amenable to their personal problems. As Merry argues:

The puzzle here, as throughout this book, is why these people come back to court despite the efforts of court personnel to persuade them that their problems do not belong in court. I believe they return because there is nowhere else to go for “justice,” however that is conceived, and because the law is preferable to violence. Moreover, the court does, from time to time, provide help, even if this help is simply a summons mailed to the opponent’s house or a lecture delivered by a judge, a clerk, or even a defense attorney. These actions are clothed in the symbolic power of the court, making them more than
they would seem ... What the courts provide is often symbolic rather than directly coercive. In many cases, the critical role of the law is its symbolic presence in the battle rather than its active intervention (Merry, 1990b, pp. 170-171)

I too would argue that reality-based courtroom television remains a popular site for contesting the contours of justice even though its power and efficacy are frequently called into question. Litigants and audience members may be disappointed or even outraged that, for example, a crack dealer could profit from his crime in civil court as well as injure an innocent family. However, those who had observed the moralizing and sermonizing lectures delivered by the judge, the court reporter and even audience members on the streets of New York could still rest assured that the evil beast embodied by the crack dealer had been at least symbolically slain by the power of the law. In the end, reality TV is an important symbol of the potential power of the law for those who have nowhere else to turn for remedy or advice than the TV courtroom.

In my analysis, I was also very interested in the complex ways that disputes were transformed by the discourse of the judges, the aural and visual narratives and the discursive strategies of other legal players in the reality-TV justice process. What I found was a process quite similar to that discovered by Merry (1990a, 1990b) and Conley and O’Barr (1990). While disputants were keen to present their problems in terms that underscored their individual rights as legal subjects, such litigants were often ridiculed as selfish, amoral and out of order on Judge Judy and People’s Court. On People’s Court, the law was often portrayed as a hindrance to substantive justice. On the one hand, those who were guilty of moral or ethical transgressions were able to use the law in ways that benefited themselves and penalized the innocent in society. On the other hand, the law was often presented as a highly technical set of requirements that was often out of reach
of most average litigants. In the end, many were left uncertain about how the law could ever be used to bring about true justice. To viewers as well, this presents a confusing message about the contours of American justice. Transformation of disputes on the People's Court often took the form of situating the troubles of litigants outside of the formal dictates of the law and within moral and therapeutic frames of reference. On People's Court, litigants and the audience received mixed messages about the place of the law in their lives. The overall message seemed to be: don’t take the law into your own hands, but try to settle disputes informally whenever possible.

On Judge Judy disputes were often transformed in ways that emphasized the moral responsibility of litigants to take care of themselves and their problems. This of course meant that legal arguments were set aside or transformed in ways that rendered them useless to litigants. For example, a litigant who tried to use a defense based on this presumed constitutional right to freedom of speech was ridiculed for being incapable of understanding and worse yet, being a ‘lowlife’ and a ‘piece of crap’ unworthy of the court’s time. This may suggest to some litigants that they do not merit the protection of the law. Furthermore, even those litigants who appeared to be the victim of some transgression – legal or otherwise – were frequently ridiculed by Judy for turning to the law for help. Women in particular were seen as ‘stupid’ when they allowed men to take advantage of them. The effect of transforming a dispute into a failure of self-control or the inability to exercise proper judgement is to minimize the legal troubles of those who seek the help of the court. In this way, audiences too receive many messages about the worth of those who come to the court for help instead of merely thinking before they act.
In this way, the message from *Judge Judy* about the law seems to be: “don’t screw up your life by making poor decisions, and don’t waste the court’s time looking for help after you do.” The power of the law then, would appear to be reserved only for those litigants who make wise decisions and few mistakes.

Despite their divergent messages about the place of law in our lives, what both programs emphasize through the transformation of disputes is that the reality TV court is an appropriate forum to discuss social relations, the meaning of citizenship and our place in relationship to law. In fact, the discourse of law and judgement has become the very language with which to articulate the contours of citizenship. On the one hand, *Judge Judy* promotes a sometimes contradictory model of citizenship that draws upon both neo-liberal and neo-conservative political ideologies where the state recedes into the background while individuals and private justice step into the foreground. On the other hand, *People’s Court* also promotes a particular vision of citizenship – one where 'fairness' and participatory democracy are invoked to suggest that the American legal system is imperfect, but still the best that humankind can achieve and worthy of respect. But yet the discursive-legal tug-of-war between litigants and TV judges on both programs masks an even deeper dilemma about the American legal tradition of due process, rights and entitlements under the law. While both programs may have differing orientations toward the place of ‘rights’ in their respective visions of citizenship, litigants continue to press to have what they see as their legal rights acknowledged by these quasi-courts. In so doing, however, litigants are inviting increased regulation of their private lives by a court that does not even provide the most basic mechanism for appeal. So while Merry (1990b, p. 182) worried that in the real American lower criminal courts “plaintiffs free
themselves from the control of their neighbors and spouses but tie themselves more closely to the state,” we are witnessing on reality-based courtroom TV a new take on the old public-private dichotomy of private troubles and public legal remedies. On reality TV we see private lives opened up to the quasi-legal regulation of the private sector. Through the language of ‘judgement’ and the spectacle of reality TV, litigants and audience members forge a new conception of citizenship, legal rights and moral responsibilities without the power of the state. In this way, one could argue that reality-based courtroom TV is not stripping litigants of their entitlements as legal subjects. Rather, litigants may be unwittingly turning their backs on the state in the hope of swifter and more powerful remedies than the real courts may be able to provide.

In my analysis it was the minute and sometimes gradual transformation of disputes on reality-based courtroom television that provided me with the raw material to consider questions about wider transformations that have resulted in a new culture of judgement and a new orientation toward citizenship that flows from this reconfigured “judgement society.” In the end, it is the new culture of judgement that that is most central to understanding the importance of reality-based courtroom television within the popular legal imagination. It is to a discussion of the so-called ‘judgement society’ that I now turn.

Toward the Judgement Society

The two programs analyzed here present very different legal models to a public that is clearly fascinated by the idea of the law and the process of judgement. That the
People’s Court has waned in popularity while Judge Judy has ascended to the top of the ratings heap seems to signal a preference for the latter’s vision of law over the former. Nevertheless, I have argued here that both programs accomplish the work of governance at a distance and promote what Karno (2004) sees as “the discipline of being a good citizen” (p. 279). More than this, she argues that these programs “offer inventive legal moments which propel Americans to rehearse the exercise of civic judgment in preparation for what will hopefully soon be a moment of more active public participation” (p. 279). While it is easy to see how these programs equate judgement of others with good citizenship, it is more of a reach to argue that they are preparing viewers to take a more active and positive role in civil society through judgement of others.

Earlier I suggested that a new ‘judgement society’ heralds a newfound interest in popular judgement. However, we must recognize that this new era of popular judgment does not amount to increasing levels of democratic participation in decision-making. Instead, I would posit that this incitement to judge is really a part of the work of offloading the state’s responsibility for the care of its citizens onto the backs of ordinary people. Thus, for example, we must now take responsibility for our own safety on the Internet by taking part in the action of judging others in their transactions with us on commercial websites like E-bay. Likewise, watching and judging those who appear before us on reality TV may present us with opportunities to learn about so-called proper choices – or those deemed correct in the worldview of judges like Judy Sheindlin – but they do not promote more active involvement in meaningful decision-making in our social worlds. In the world of reality-based courtroom television, disputes continue to be decided by the authority figure of the judge, not by ordinary people. Moreover, on these programs the
lack of protections offered by procedural law in favor of a ‘common sense’ approach to judging certainly does not herald a greater level of democratic participation in the legal system.

While *Judge Judy* and *People’s Court* present their messages through different models of judicial process, I argue that both contribute to a reconceptualization of judgement as a source of spectacle and entertainment. As I have demonstrated above, reality-based courtroom television programs represent a shift in the way judgement has been represented in popular culture. Older televisual and cinematic depictions of judges have tended to be cursory compared with the depiction of lawyers, police officers and even the traditional nuclear family as real sources of drama and entertainment. Judging in and of itself has not until recently been the object of entertainment. I argued above that judgement – conceived here in very broad terms – has been a hallmark of the movement in the television industry toward programs that claim to be ‘reality-based.’ Additionally, a new on-line culture of judgement of others in the form of rating, ranking and evaluation has grown up on the Internet. I argued that the on-line philosophy of ‘buyer beware’ and the collective ‘snitching’ on others – typified by the rating culture on E-bay and the telephone tips provided by viewers of *America’s Most Wanted* – is the perfect expression of a neo-liberal conception of citizenship where the individual is responsible for their own safety and protection. Government regulation of social and economic affairs is rolled back in favor of a responsiblized form of citizenship where we must all learn to manage our own risks.
I argue that reality-based courtroom TV is the leading edge of a movement toward a new culture of judgement marked by the multiplication of opportunities to judge and be judged; judgement from a distance facilitated by technology; the increasing use of judgement as a form of entertainment; and the incitement to not only ‘judge for ourselves,’ but to judge ourselves against the normative yardstick of those marginalized litigants who turn to the TV tribunal as a court of last resort. Thus, the judgement society as I have conceived of it here fits with other conceptions of an American justice system where punishment has become increasingly wedded to spectacle (cf. Donovan 1998, Doyle 2004). In my conception of the judgement society – which has risen in the wake of technological and broadcasting developments like mass access to the Internet and the rise of reality-based television – judgement has become closely aligned with spectacle. In this way, judgement itself can become a spectacular form of punishment, as litigants are humiliated before a mass television audience so that home viewers can laugh, learn about proper modes of social conduct and at the same time come to view the legal system as a central and important part of their daily lives. While programs like Cops and America’s Most Wanted depict police work as the black and white process of good guys going after bad guys, reality-based courtroom TV depicts spectacular judgement as the simple assertion of common sense principles over the ‘nonsense’ and ‘baloney’ brought into the courtroom by litigants accused of moral or legal transgressions. In this way, we learn how to judge the moral worth of other people and, of course, ourselves. Judgement, I would argue, is increasingly a common language of social control.
Judge Judy and People's Court are harbingers of this new culture of judgement, and certainly not the cause of it. Moreover, each program promotes judgement in its own way and differently around different types of disputes. For example, disputes involving strangers and communities are used as opportunities on People's Court to discuss what it means to be a good American citizen and a responsible member of a community. Often, those who seek to use the legal system as a way of avoiding sorting out community disputes informally are chastised for avoiding responsibility. Audience members in the fan fora pick up on these messages and can use these cases to discuss what it means to be a good member of civil society. In People's Court neighbourliness, community spirit and cooperation are modeled for audiences as important values to take into their daily lives and relations with others. Audiences are invited to judge those who violate these norms of community and compare their own ways of acting in relation to the litigants. In this way, litigants who sell drugs and destroy neighbourhoods, for example, serve as powerful scapegoats for those who live by the rules of civil society. The bad examples set by litigants on People's Court help to reaffirm the values of the majority. Moreover, even when the 'evildoers' seem to get away with their crimes, the proper values of community and family are reaffirmed symbolically in the end.

The view of citizenship on People's Court is in sharp contrast to the responsibilized and individualistic citizen cultivated on Judge Judy. In the latter program, citizenship is modeled for audience members in ways that emphasize personal responsibility and eschew the state's role in taking care of its citizens. In the view of Judy, it is up to each person to think before acting and above all take responsibility for
the consequences of poor decision-making. In particular, cases that involve personal relationships are used on Judge Judy as poignant reminders for women to make wise decisions and avoid being ‘stupid’ when it comes to the opposite sex. The presumed audience for these messages – like those who read Sheindlin’s books – comprises middle class women who readily subscribe to her politics. In this way, audiences are invited to judge themselves against the bad examples set by the litigants on the program.

Reality-based courtroom television is a powerful cultural symbol of the American dream of a society ordered by fair and neutral principles. Though Sheindlin and Milian may fight over the precise contours of those principles, they agree that citizens should not take the law lightly. Even in People’s Court, where litigants are encouraged to solve disputes outside the formal legal process, there is always the subtle warning that taking the law into your own hands can at times be dangerous and destructive. Therefore, I argue that both programs cultivate a heightened awareness of the law and assert the importance of judges within popular cultural representations of the American legal system. This is a significant departure from earlier periods in American popular culture where the judge was largely ignored in favor of other criminal justice professionals. Judgement is afforded a central position in this new articulation of justice and one that is analogous to spectacular forms of punishment that have come into vogue at the end of the twentieth century. Indeed, given the politicized nature of the legal system in the United States, real judges are engaging increasingly in spectacular forms of judging that result in sentences that David Altheide (1992) refers to as “gonzo justice.” Whether or not the spectacular and sometimes humiliating sentences of real American judges are a result of
the judging characterized by *Judge Judy* or whether the latter is a reflection of the former is not yet clear. What is clear, however, is that judgement is moving to the forefront of popular culture and becoming increasingly viewed as an entertainment form. Reality-based courtroom television is perhaps the most obvious outgrowth of this trend.
References


Merry, Sally Engle (1990b) *Getting Justice and Getting Even: Legal Consciousness Among Working-Class Americans* (Chicago: University of Chicago).


