

Spectacle, Consumer Capitalism, and the Hyperreality of the Mediated American Jury Trial:
the French Perspective on O.J. Simpson, Casey Anthony, and Dominique Strauss-Kahn

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ABSTRACT

This study investigates modern French criticism of jury trial mediation in the United States. By engaging the work of twentieth-century French theorists Jean Baudrillard, Guy Debord, and Pierre Bourdieu, as well as French journalistic reporting on the jury trials of O.J. Simpson, Dominique Strauss-Kahn, and Casey Anthony, this study argues that mediated images of the American jury trial abandon the pursuit of justice in favor of a consumer capitalist endeavor to create spectacle. Ultimately, jury trial mediation generates a hyperreality in which the media simulates the pursuit of justice with no reference to the “real” pursuit of justice.

In order to examine the progression of jury trial mediation toward the hyperreal, this study situates images of the jury trial within Jean Baudrillard’s four image phases, which mark the transition from the representation of the “real”—defined in this study as the pursuit of justice—to its simulation. Chapter one presents phase one and phase two images through the lens of French intellectual Régine Hollander’s theatrical analysis of courtroom proceedings. Chapter two examines phase three images from the Neo-Marxist and sociological perspectives of Guy Debord and Pierre Bourdieu. Finally, phase four images—simulacra with no reference to the “real”—are explored in chapter three. French reporting on the jury trials of Simpson, Anthony, and Strauss-Kahn will appear as case studies at the conclusion of each chapter.

This study suggests that, for French intellectuals and journalists, jury trial mediation in the U.S. loses reference with and ultimately jeopardizes the “real” pursuit of justice. French criticism, along with fundamental differences in French and American legal and media systems, further reveal that the hyperreality of jury trial mediation—born of a cultural, consumer capitalist penchant for spectacle—constitutes a uniquely American phenomenon that would never come to pass in France.

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INTRODUCTION

America makes its fascination with crime and punishment quite evident: a quick scroll through television channels reveals numerous fictional crime dramas and networks dedicated to real-life court cases. Moreover, the intrigue of judicial proceedings seeps into the rosters of news networks, which tend to favor jury trials that exhibit remarkable crimes—or defendants—over more mundane, everyday cases. Such interest on the part of producers and the American spectators to whom they appeal is unsurprising and might, at first glance, appear indicative of an innocent—perhaps even noble—attempt to foster an informed public and uphold justice. However, the media’s penchant for extraordinary jury trials is, instead, rooted in an endeavor to generate entertainment—an easy goal to achieve, given the theatrical nature of the lawyer’s colorful exposition before the juror. The transmission of mediated jury trial images that aim to amuse viewers marks the media’s transition away from the pursuit of justice and into the realm of spectacle, which dictates the diffusion of only the most sensational images of the most remarkable cases. Furthermore, spectacle is inextricably linked to consumer capitalism, which chiefly reveals itself via the American public’s insatiable demand for sensational images and the media’s subsequent capital gain via network ratings and the creation of “star” journalists. Beyond the capitalist use of spectacular jury trial images—problematic in its own right—media “stars” transcend the domain of spectacle by broadcasting speculative images. The projection of speculation disguised as news—often in the form of public polls, live phone calls with viewers, input from “expert” panelists, and the opinions of media “stars,” themselves—appears to signal total indifference to the pursuit of justice. However, its implications transcend indifference: speculative jury trial images simulate the pursuit of justice, generating a hyperreal with no reference to “real” justice.

The intersection of jury trial images with spectacle and consumer capitalism, and ultimately their generation of a hyperreality, attracts criticism from French intellectuals and journalists who question the effect of mediated images on the American pursuit of justice. French criticism largely relates to the American media system, which differs notably from the French equivalent. For instance, according to a study published in the *Journal of Communication* at New York University, the American “liberal” model of mediation unites commercialism with information, whereas the French “polarized pluralist” model places greater emphasis on deliberation (Benson 22). With regard to jury trial mediation, the French system is notably more conservative: while the question of news cameras inside the courtroom—for the purpose of live trial coverage—varies state to state in the U.S., French law prohibits the release of images depicting courtroom proceedings until a sufficient amount of time has passed to allow the trial—and any process of appeal—to conclude (Barbier 7). Furthermore, the French “Loi Guigou,” enacted on June 15, 2000 under the co-sponsorship of Elisabeth Guigou, the Minister of Justice at the time, prohibits the diffusion of images that incriminate—or threaten the dignity of—trial defendants; images of an alleged perpetrator in handcuffs, for instance, while common place in American mediated images, is illegal in France (Barbier 7). Although this study will emphasize French criticism of the American media, it is noteworthy that the American legal system also endures some reproach from the French, due in large part to the pivotal influence of the lawyer in American common-law courtroom proceedings, which contrasts to the less lawyer-dominated, nonadversary model featured in the French civil-law system (Tomlinson 134).

Given the distinguishing characteristics of the American and French media and legal systems, this study will engage the theoretical perspectives of various French intellectuals, chiefly twentieth-century theorists Jean Baudrillard, Guy Debord, and Pierre Bourdieu, in

addition to French journalistic reporting on the jury trials of O.J. Simpson, Dominique Strauss-Kahn, and Casey Anthony, in order to prove the following argument: French intellectuals and journalists are critical of the media's coverage of jury trials in the United States insofar as it diffuses images that gradually depart from the pursuit of justice in order to cater to a consumer capitalist appetite for spectacle, which in turn facilitates the generation of a hyperreality where mediated images constitute simulacra with no reference to the "real" pursuit of justice. This study will define the American "media" as national, televised news networks—like CNN and ABC—and the "public" as the media's American viewers.

Theoretical Framework

The notions of simulacra and hyperreality—developed by sociologist and philosopher Jean Baudrillard—will constitute much of the theoretical framework for this study. In *Simulacra and Simulation*, Baudrillard distinguishes between an image as a representation of reality and simulacra—an image or copy without an original to represent. He offers as an example the idea of God, the many images of which, rather than represent the notion of God, *create* it insofar as the images generate and "deploy" their own "power and pomp of fascination" (4). In other words, the images of God simulate the idea of God—the original or the "real"—and therefore constitute simulacra—"a question of substituting the signs of the real for the real" itself (2). Having lost reference to the "real," simulacra constitute a new, regenerative reality that is hyperreality, in which the distinction between "true" and "false" or "real" and "imaginary" dissipates, and meaning collapses on itself. Baudrillard outlines four sequential phases through which an image transitions from representation to simulacrum: in phase one, the image is a reflection or representation of the "real"—it is "a *good* appearance;" in phase two, the image

distorts the “real”—it is “an *evil* appearance;” in phase three, the image masks the absence of the “real”—“it plays at being an appearance;” and in phase four, the image is “pure simulacrum” with no reference to the “real”—“it is no longer of the order of appearances” (6; original emphasis). For Baudrillard, these phases illustrate an irreversible societal progression; American culture—which he classifies as postmodern—has already achieved phase four. In other words, postmodern America is fully, irrevocably hyperreal. This study will contradict Baudrillard in this regard by situating mediated jury trial images within his four image phases—as if they exist simultaneously—in order to highlight the images’ transition from representation to the hyperreal.

In order to apply Baudrillard’s image phases to the mediated jury trial, this study will define the “real” as the pursuit of justice (i.e. the genuine interest in whether the defendant is guilty or innocent). In the jury trial context, phases one and two—the representation and distortion of the “real”—correspond with “images” presented by the lawyer inside the courtroom, whose chief objective is to act in the interest of his/her client. Jury trial images transition into phase three—the masking of the absence of the “real”—at their intersection with the media, whose emphasis on the spectacular elements of scandalous trials replaces the pursuit of justice with the pursuit of spectacle and capital gain. Phase four—pure simulacra and the entrance into hyperreality—is marked by the media’s projection of speculation via opinion polls, “expert” panelists, and so forth. Speculative jury trial images simulate, rather than reflect, the “real” pursuit of justice; together with consumers of such images, the media generates a hyperreal court of public opinion, which ultimately affects change in the actual courtroom.

This study will begin by examining jury trial images at the fundamental level of the courtroom where, for French intellectual Régine Hollander, proceedings resemble theatre, which is noteworthy insofar as courtroom theatricality plays into spectacle. According to Hollander,

the lawyer in the courtroom functions as an actor, producer, and dramatist who ultimately presents a play to appeal to the juror-as-spectator. Hollander cites numerous interviews with American law professors concerning the use of simulation—mock trials—and acting classes in law school curricula, as well as the prevalence of cinematic, dramatized depictions of the jury trial as a pedagogical tool. In the context of Baudrillard’s image phases, the “images” the lawyer-as-actor presents before the juror function as phase one images. While the lawyer-as-actor frames them in a way that, according to Hollander’s research, is designed to appeal to the juror’s emotions, they still qualify as representations of the “real” pursuit of justice. On another level, the lawyer-as-producer-and-dramatist presents phase two images that distort the “real” pursuit of justice insofar as he/she controls what and how information is presented before the juror in order to serve the interest of his/her client. The lawyer’s theatrics furthermore inspires various small-screen and cinematic productions. While not problematic in themselves, these fictional depictions of courtroom procedures are often used as pedagogical tools in law school curricula, where they teach law students how to present a compelling image. This suggests a sort of virtual redoubling in which the lawyer inspires fiction, which then doubles back to inspire the lawyer’s behavior in the courtroom, and so forth. Ultimately, the courtroom theatre—especially the phase two images presented by the lawyer-as-producer-and-dramatist—calls into question whether courtroom proceedings hinge on the pursuit of justice or the ability of the lawyer to act, that is, to inspire spectacle.

Jury trial images enter Baudrillard’s third phase the moment they are diffused by the media, which replaces—and hides the absence of—the pursuit of justice with the pursuit of spectacle. Entrance into phase three is facilitated by the permission of news cameras inside the courtroom and the engagement of highly mediated, spectacular events like the “perp walk.” In

this phase, the media selects only the most spectacular trials—which typically entail a celebrity defendant or an especially appalling crime—of which it both emphasizes the most sensational elements and spectacularizes the mundane. From the neo-Marxist perspective of theorist Guy Debord, the pursuit of spectacle is linked to consumer capitalism. Debord argues that spectacle constitutes the “absolute fulfillment” of consumer capitalism; having replaced commodity use value with sign value, it assumes the form of an image (6). Furthermore, spectacle regenerates itself by feeding the consumerist appetite for spectacular images, ultimately conditioning consumers to seek spectacle everywhere. In other words, consumers participate in the media’s pursuit of spectacle by maintaining a demand for spectacular images. Sociologist and philosopher Pierre Bourdieu examines mediated spectacle from a sociological perspective, emphasizing the media’s penchant for “sensational news” that “calls for dramatization [...], that puts an event on stage, puts it into images,” which ultimately serves the capitalist agenda of media “stars” and corporations via network ratings (19). The function of mediated spectacle in phase three—the extent to which it replaces the pursuit of justice—is exemplified by the “perp walk,” “perp” being short for “perpetrator.” The “perp walk” refers to the accusation and subsequent arrest of a supposed perpetrator, who is handcuffed by police and paraded before the cameras of various media outlets. This practice criminalizes the defendant by celebrating his/her arrest before allowing for due process of law, which undermines the American—and French, for that matter—premise that one is innocent until proven guilty. Ultimately, mediated images of the “perp walk” illustrate the media’s pursuit of spectacle in lieu of justice in Baudrillard’s third image phase.

Finally, mediated jury trial images enter phase four—where they constitute pure simulacra with no reference to the pursuit of justice—when they take the form of speculation.

Whereas the first three images phases were of the “order of appearances” (Baudrillard 6), images in phase four have no relation to the “real;” rather, they simulate it, generating a self-referential hyperreality. The media simulates the pursuit of justice by projecting the opinions of “star” journalists, “expert” panelists, and viewers. Furthermore, the American public in phase four becomes part of the media’s simulation, generating what can be termed a hyperreal court of public opinion. By simulating the pursuit of justice, mediated jury trial simulacra cause the “implosion of meaning” whereby they abolish the distinction between the “simulated” and the “real.” Without the “real,” these speculative images refer exclusively to themselves, infinitely regenerating the hyperreal. Finally, the hyperreal court of public opinion doubles back to affect change inside the actual courtroom, where it undermines the “real” pursuit of justice altogether.

Case Studies: O.J. Simpson, Dominique Strauss-Kahn, and Casey Anthony

A professional football player with a successful acting career, Orenthal James “O.J.” Simpson, or “The Juice,” as his fans remember him, was charged with the double homicide of his ex-wife, Nicole Brown Simpson, and her friend, Ronald Goldman on June 17, 1994. Often deemed “the trial of the century,” the Simpson affair spanned 474 days from his arrest to his acquittal, and cost an estimated nine million dollars. Simpson’s indictment and trial only increased his celebrity, thanks in part to a low-speed car chase the day of his arrest (which captivated around 95 million television viewers), Simpson’s release of a memoir while imprisoned, and a general media frenzy that included numerous talk shows with family and friends of the victims and courtroom players—even Judge Ito’s wife. French journalists largely criticize the Simpson affair—or “circus,” as Jean-Paul Dubois calls it—with regard to its over-the-top mediation, which transformed a murder trial into a spectacle. Furthermore, consumer

capitalism became a major theme in most French reporting on the trial, which emphasized Simpson's preexisting wealth and the capital gain enjoyed by news network, courtroom players, and even members of the public (Dubois 106). For French journalists, the Simpson "circus" ultimately cast an incriminating light on the impact of spectacle, capitalism, and theatrical lawyers on the American pursuit of justice.

The role of spectacle in American jury trial mediation hit closer to home for the French with the indictment of Dominique Strauss-Kahn on May 14, 2011. Managing Director of the International Monetary Fund and a leading candidate for the 2012 French presidency, DSK was arrested and charged with the sexual assault and attempted rape of Sofitel New York Hotel maid, Nafissatou Kiallo. Taken into custody aboard an Air France jet, a handcuffed DSK was escorted out of the Kennedy International Airport before rows of news cameras in a "perp walk" that would outrage French journalists. Beyond his innocence or guilt, the DSK "perp walk" earned an overwhelming amount of negative coverage by the French media, which accused the practice of at once attacking the defendant's dignity and undermining the presumption of innocence. Charges against DSK were dismissed on August 23, 2011, but French criticism of the "perp walk's" incriminating nature—one journalist referred to it as "exécution médiatique"—would resonate long after the trial's conclusion. For many French journalists, the DSK affair seemed indicative of a media system and culture that value spectacle over the pursuit of justice.

While the French were seething over the DSK "perp walk," much of the American public had its sights on the acquittal of Casey Anthony, a Florida woman accused of murdering her two-year-old daughter, Caylee. Though Anthony's trial would not begin until May 24, 2011, the media began its coverage of the affair beginning with her arrest in 2008. While the Anthony trial made the headlines of a number of national news networks, HLN's exhaustive coverage of the

affair was the most striking—notably due to “star” news anchor Nancy Grace’s “Justice for Caylee” crusade.¹ Known for her angry tirades and shameless assumption of guilt, Grace effectively ‘tries’ defendants in her own ‘court’ by conducting dramatic phone interviews with family members and friends of courtroom players, hosting numerous “expert” panelists (often former lawyers or HLN producers), and closely analyzing images of defendants in court. When Anthony was acquitted on July 5, 2011 after 33 days in court, Grace proclaimed before her estimated 4.57 million viewers that “the devil [was] dancing [that] night,” and assured that she would continue her “Justice for Caylee” campaign until Anthony was behind bars. French reporting on the Anthony affair took note of Grace’s over-the-top trial coverage, which it largely criticized for projecting speculation that undermined the presumption of innocence.

This study will reference the jury trials of Simpson, DSK, and Anthony throughout each chapter in order to illustrate the work of French theorists and intellectuals. French reporting on these trials—treated as case studies—will appear at the end of each chapter.

¹ HLN is a CNN Worldwide network, which is a division of Turner Broadcasting System, Inc.—a Time Warner Company.

CHAPTER 1: From the Courtroom Theatre to Onscreen Spectacle

The American jury trial begins its journey toward hyperreality well before the flash of the journalist's camera; it originates at the fundamental level of the courtroom, where the realization of justice relies heavily on the lawyer's persuasive power over the juror. Régine Hollander investigates the implications of such power in her article, "La justice-spectacle aux États-Unis," in which she examines courtroom proceedings through the lens of theatre in order to explore the extent to which the American Judicial System lends itself to spectacle. Her argument interprets the lawyer-juror relationship as analogous to the rapport between the theatre stage and its audience on two levels: first, the lawyer functions as an actor; second, the lawyer behaves as a producer and dramatist; in both cases, the juror serves as a spectator. Within the postmodernist framework of Jean Baudrillard's four image phases, the images presented by the lawyer-as-actor and the lawyer-as-producer-and-dramatist correspond, respectively, to phase one (representation of the "real") and phase two (distortion of the "real"), where the "real" equals the pursuit of justice. As Hollander shifts her analysis to the courtroom theatre's onscreen presence, she engages the term *justice-spectacle* in order to describe how the theatricality of the lawyer-juror rapport contributes to the creation of spectacle. Due to the introduction of courtroom-inspired fiction into law school curricula, the jury trial as "*théâtrale par essence*" (Hollander 103), together with the public's demand for spectacle, fosters a virtual redoubling of sorts, which ultimately moves the jury trial away from the "real" and toward the spectacular. In order to explore and contextualize the transition from the courtroom theatre to onscreen spectacle, this chapter will engage French critiques of the O.J. Simpson trial, which exhibits the lawyer's use of performance to seduce the juror and appeal to the American public.

1.1 Inside the Courtroom Theatre

In her article, “La justice-spectacle aux États-Unis,” Régine Hollander examines the American jury trial as a theatrical production, where the lawyer functions, on one level, as an actor who attempts to recreate a series of dramatic events before the juror-spectator. Because the juror presumably bases his/her verdict solely on the information presented by the lawyer (who, representing either the defense or the prosecution, must confront the case brought forward by his adversary), the lawyer’s success—and the verdict—hinges on the ability to persuade. In an analogous manner to an actor onstage, the lawyer must therefore strive to present the juror with an account that is at once captivating and believable. Yet the lawyer’s role transcends analogy: in the courtroom theatre, he/she functions as an actor in a literal sense, as evidenced by the inclusion of acting classes and mock trials in various American law school curricula. Hollander explains that acting classes typically endeavor to teach students to “maîtriser leur corps et leur voix” and to “ménager leurs effets tout en captant l’intérêt d’un auditoire (port de tête, direction du regard, pose de la voix, distance à maintenir, etc.)” (113). John Simonett, former American lawyer and one of Hollander’s sources, further elaborates on what he terms the “dramaturgical approach” to the jury trial, highlighting the emphasis placed on “costumes” in law school curricula (Simonett 1145). For instance, he explains that female law students are often advised to “be sure to wear a dark dress” in order to convey a sense of authority whereby they might appear more convincing (Simonett 1145). In addition to acting classes, Hollander notes that it is not uncommon for law schools to include courses on the art of storytelling. She cites, for instance, a seminar at the University of Connecticut School of Law, titled “Law and Popular Storytelling,” in which “il s’agi[t] de réapprendre [aux étudiants] à utiliser leur imagination et leur créativité de manière à ce qu’ils sachent raconter une histoire, celle de leur client, lors d’une audience” (109).

The emphasis on persuasive devices in law schools—and their use of more classical theatre training—reinforces Hollander’s allegation that the success of the lawyer-as-actor relies on his/her ability to deliver a compelling performance; but, in the courtroom theatre, the lawyer controls a good deal more than how he/she communicates.

The actor role assumed by the lawyer constitutes only a small part of a larger role in the courtroom theatre: the lawyer also functions as a producer—even a dramatist—who, beyond the persuasive devices of the actor, exercises a certain degree of power over other factors, including the ‘players,’ in the production. With the ability to specify—with regard to his/her own case—elements like who will testify, the order in which they will do so, and the questions to which they will respond, the lawyer’s authority mirrors that of a producer backstage during a play. Such power, once again, is instilled and reinforced in law school curricula. For instance, Hollander cites Joe Guastafarro, a professional actor and trial consultant who, in partnership with lawyer Gerry Spence, conducts mock trials for law students on the West Coast. In his courses, Guastafarro exceeds what law students might learn in an acting class: beyond actors, he insists that his students consider themselves producers, as it is they who determine the “*déroulement de l’histoire*” that plays out before the juror (Hollander 113). Hollander offers a distinctly theatrical example of the lawyer-as-producer’s implementation of such control: “*lorsqu’ils [les avocats] préparent leur plaidoirie, ils peuvent choisir entre une explication psychologique ou sociale. La même alternative existe au théâtre ou au cinéma, où les intrigues sont centrées soit sur les motivations des personnages (character-driven), soit sur les événements auxquels ils participent (plot-driven)*” (113). John Simonett best explains the extent of control exercised by the lawyer-as-producer, the detail of whose account—suggestive of his own experience in the courtroom—bolsters Hollander’s argument significantly:

Unquestionably counsel may profitably borrow from the playwright to make dry legal bones come alive, to sharpen interest and focus attention on the issues by using the dramatic devices of exposition, complication, suspense, conflict, crisis and climax. The opening statement is the exposition which, by not divulging all, creates suspense. The artful order in which witnesses are called sets up crisis and climax. Conflict, the gist of any lawsuit, is developed during cross-examination and impeachment. Timing is always important; to maintain jury interest the climax should not come too soon [...] If this all smacks of manipulation, it is. Like a play, a trial must be produced. (1145)

The “manipulation” noted by Simonett suggests a third dimension of the lawyer’s theatrical role in the jury trial. According to Hollander, the impact of the lawyer in the courtroom theatre—most importantly, the implications of the lawyer’s performance with regard to the pursuit of justice—reaches a precarious level when, rather than merely “borrow from the playwright,” the lawyer becomes one.

The idea of the lawyer-as-dramatist in the courtroom theatre brings to light the problematic nature of his/her theatricality with regards to the American pursuit of justice. This concept is nothing new to law professors or students. Philip Meyer, a law professor at the University of Texas, reveals that law students regularly debate “whether the criminal trial is designed to reveal the truth, or whether [...] the lawyer’s role is merely to present a compelling story that best serves his client’s narrow vision” (Hollander 109). While the lawyer is prohibited from lying in the court of law (and therefore, presumably, does not), he/she assumes the role of dramatist insofar as the juror’s decision is limited to the information the lawyer puts forth.

Hollander illustrates this role by citing New York University law professor, Anthony Amsterdam, who welcomes first-year law students with the following exposition:

You are the God of creation. [...] When the trial begins, a new cosmos is born. Nothing exists in that cosmos until you put it there. You create the content, of that cosmos, piece by piece. At the end of the trial, the jury will decide on the questions of fact on which the parties are at issue. In doing so, the jury may consider only the contents of the cosmos which you have created during the trial. If you haven’t created something, it doesn’t exist. (Hollander 110)

While Amsterdam is careful to specify that the lawyer's "creation" is comprised of "questions of fact," Hollander criticizes him for what she considers "encouragement à la mégalomanie [dans lequel] il est bien peu question de quête de la vérité" (110). Hollander further emphasizes that, in the lawyer's cosmos, "son talent de contour est déterminant [...] d'où la nécessité de développer l'imagination et la créativité des étudiants de droit" (Hollander 110). Given that the lawyer's courtroom objective is to win his/her client's case, the theatrical endeavor to persuade the juror—especially given the lawyer's power over the information put forth and withheld—seems to suggest that the jury trial hinges on the lawyer's ability to persuade more so than a *quête de la vérité*. It is important to note that, in comparison with the French legal system, the lawyer's power as an actor, producer and dramatist is uniquely American. While France does utilize jury trials, the French lawyer neither appeals directly to jurors, nor calls his/her own witnesses; rather, he/she speaks to the judge, who then questions witnesses and addresses jurors (Tomlinson 134-135). In other words, the French nonadversarial system is notably less dependent on the lawyer's ability to persuade. It is therefore reasonable to assume that French law school curricula might place less emphasis on theatrical devices than those in the U.S. Ultimately, as the American lawyer's theatrical power in the courtroom increases, his/her performance before the juror seems to appeal more to emotion than to reason, which renders the lawyer's role within the pursuit of justice increasingly precarious.

The relation between the lawyer's case—presented as an actor, producer, and dramatist—and the pursuit of justice befits Baudrillard's image phases as described in *Simulacra and Simulation*: the lawyer-as-actor corresponds with phase one (representation of the "real"); the lawyer-as-producer-and-dramatist corresponds with phase two (distortion of the "real") (Baudrillard 6). As an actor, the image presented by the lawyer—while delivered in a persuasive

manner—functions as a representation of the pursuit of justice. The lawyer-as-actor's case might be best understood in comparison with a gothic painting: though, due to factors like brush strokes and use of color, a gothic painting does not perfectly imitate the object it depicts, it still reflects a basic reality. In a similar manner, the image presented by the lawyer-as-actor represents the pursuit of justice despite how colorful (persuasive) his/her depiction. But the first image phase is short-lived in the courtroom theatre; the lawyer's case quickly transitions into phase two as he/she exercises power as a producer and a dramatist. In phase two, the lawyer presents an image that distorts the pursuit of justice insofar as his/her actions aim to serve the interests of his/her client more so than to uncover the truth (i.e. whether the defendant committed the crime in question). The lawyer's use of distortion comes into play, for example, with regard to his/her strategic choice of witnesses. In order to set the foundation for a strong defense, it is not uncommon for the lawyer to call witnesses who, though lacking any special insight regarding the crime in question, offer a favorable account of the defendant. For instance, in O.J. Simpson's murder trial, his defense team opened its case by questioning Simpson's oldest daughter, Arnelle, as its first witness. Though Arnelle did claim that her father was distraught over the death of his ex-wife (an arguably important factor), she offered no substantial knowledge related to the murders; she did, however, paint a sufficiently endearing, compassionate picture of Simpson. By engaging witnesses like Arnelle, the lawyer aims to present an image that distorts the pursuit of justice in order to serve the interest of his/her client. The pursuit of justice still exists behind the lawyer's depiction, however; it is simply a "denatured" and "evil appearance," to use Baudrillard's terms (6). In other words, phase two images in the courtroom function like a funhouse mirror, distorting—sometimes greatly—the pursuit of justice, but reflecting it, nonetheless.

Because the lawyer generally assumes the roles of actor, producer, and dramatist in the same move, the line between phase one and phase two images remains rather obscure throughout courtroom theatre proceedings. At the same time, it is important to note that a clear line exists between phase two distortion and the creation of full-blown fiction. While the lawyer-as-producer-and-dramatist remains on the distortion-side of that line, the courtroom theatre does appear to cross it with its emergence onscreen which, introduced into and recycled by law school curricula, foretells of a gradual transition from courtroom theatricality to spectacle.

1.2 The Courtroom Theatre Onscreen: Transition into Spectacle

Having motivated countless cinematic and small-screen productions, the American jury trial is a long-time favorite visual media theme in the United States—a reality largely indebted to the theatrical nature of courtroom proceedings. In itself, the idea that the courtroom theatre might inspire fictional, onscreen productions is not problematic. Fascination with crime and justice is neither an exclusively American nor modern phenomenon—the courtroom scene has inspired dramatists since Antiquity. However, for Hollander, the public’s interest in the courtroom theatre is uniquely American insofar as its theatricality is, to a certain extent, written into the U.S. Constitution. The Constitution’s Sixth Amendment outlines the rights of criminal defendants, including the right to a public trial before an impartial jury; in other words, through the lens of Hollander’s analysis, the amendment sanctions the participation of spectators in the courtroom (“Amendment VI”). Furthermore, the amendment neither prohibits nor permits the presence of cameras in the courtroom; states maintain the right—granted by the Supreme Court in 1981—to “experiment” with cameras in trials that play out within their jurisdiction (“Cameras”). The possibility for live, televised trials in the U.S. marks an important distinction

between American and French justice, the latter of which prohibits the use of courtroom images until well past the trial's conclusion (Barbier 7). Due to its theatrical nature and the allowance of televised trial coverage (which, in turn, creates heightened public fascination with courtroom proceedings), the American jury trial lends itself to fiction more readily than jury trials in France. The creation of trial-inspired fiction then becomes problematic the moment it doubles back and becomes theatrical inspiration for the budding American lawyer.

American law school curricula often engage cinematic and small-screen depictions of the jury trial—with an emphasis on the comportment of fictional lawyers— as pedagogical tools, which at once increases the theatricality of the lawyer and, once again, suggests the distortion of the pursuit of justice. As fictional representations created for the purpose of entertaining the public, films and TV shows favor and exaggerate the most dramatic aspects of the jury trial. In other words, they create a dramatized, distorted image of the courtroom, which is already quite theatrical on its own. Interestingly, the law professors cited by Hollander indicate full awareness that such courtroom depictions are not illustrative of reality; yet they continue to use them in the classroom. For instance, Hollander cites law professor Lawrence Friedman, who asserts that the representation of the jury trial in “popular culture [...] is not, and cannot be taken as, an accurate mirror of the actual state of living law,” insofar as it neglects banal—yet important—aspects of justice (Hollander 108). Noting that Friedman, nevertheless, uses popular culture as pedagogy, Hollander critiques:

Cela n'empêche pas Friedman de se pencher sur la culture populaire, et donc sur le cinéma, pour étudier la justice. Il est suivi en cela par beaucoup de ses collègues qui, loin de froncer le sourcil devant la vulgarisation commerciale d'un système judiciaire complexe, en font un terrain d'études privilégié. (Hollander 108-9)

Furthermore, professors like Friedman do not engage cinema and television in order to reveal how reality is deformed by fiction; on the contrary, they use “la fiction comme modèle” for the

lawyer in the real-life courtroom in an effort to render him/her “plus efficace, c’est-à-dire plus persuasive” (Hollander 112). By using fiction to inspire the lawyer from a theatrical perspective, the theatricality of the courtroom experiences a redoubling of sorts: the lawyer’s theatrics inspire fiction, which in turn inspires the lawyer to become more theatrical, and teaches him/her how to use such theatricality to manipulate the juror. Hollander clarifies the problematic nature of this theatrical redoubling:

Corriger la fiction pour qu’elle reflète la réalité ou corriger la réalité pour qu’elle réponde à un désir de justice tout autant que la fiction ? Quelle que soit la démarche, aucun homme de loi américain ne prétend que les films sont un reflet fidèle du système judiciaire. Pourtant, la plupart aiment se mirer dans le miroir déformant que leur tend le cinéma. (112)

Hollander’s “miroir déformant” echoes the distortion of Baudrillard’s second image phase, by which, in this case, the lawyer and popular culture take turns creating and recycling images that ultimately disfigure the pursuit of justice.

The redoubling of theatricality transitions toward spectacle—where the courtroom theatre merits Hollander’s term, *justice-spectacle*—with the advent of networks like Court TV (now TruTV), which capitalize on the permission of cameras in the courtroom and reveal the public’s fascination with the courtroom as spectacle. Court TV is an American network that broadcasts real jury trials; for Hollander, it is the place where “l’exploitation de la justice-spectacle prend toute son ampleur” (115). While Court TV representatives claim (in an interview with *Le Monde*) that the network endeavors to function, above all, as a pedagogical tool, it exhibits a penchant for especially spectacular trials, which it distorts “pour satisfaire l’appétit de sensations des consommateurs” (Salles “Court TV”). *Le Monde* further notes that the network has become known for broadcasting and prioritizing celebrity trials. On a more fundamental level, Court TV presents a distorted, dramatized view of the pursuit of justice by only depicting jury trials, which

are a fairly anomalous occurrence. Court TV's "distorted view" of justice is, however, well received by the American public; within one year of its creation in 1991, the network catered to four million viewers, which would increase to 20 million with its coverage of the O.J. Simpson trial in 1995² (Salles, "Court TV"). The public's fascination with the jury trial, spectacularized by networks like Court TV, suggests a redoubling of *justice-spectacle* that contributes to that of courtroom theatricality: entertained by the theatrical nature of the jury trial, the public tunes in to its "real" depictions, which contributes to and increases the public's fascination with the courtroom; TV and film producers take note and use such images to inspire fiction; finally, said fiction is introduced into law school curricula to teach the lawyer to become more theatrical. The theatricality of the courtroom and the public's appetite for spectacle therefore ultimately reflect and perpetuate one another.

The cycle forged by courtroom theatricality and the societal consumption of spectacle constitutes an important step in the direction of hyperreality—a step characterized by a meta-theatrical transition: with its entrance into the domain of spectacle, the jury trial moves outward from the juror-spectator observing the lawyer inside the courtroom to the American public watching—as spectators—courtroom coverage on television. This transition and its effects emerge in the critical reporting on American trials by French journalists, who comment on the lawyer's theatricality, the impact of his/her use of drama on the pursuit of justice, and the trials' movement into spectacle.

² Due to Court TV's re-launch as part of TruTV in 2008—a reality network that, while still dedicating airtime to jury trials, now includes various other shows unrelated to justice—exact data regarding the popularity of its current trial coverage is unclear.

1.3 O.J. Simpson and the “Dream Team”

In his book, *L’Amérique m’inquiète*, Jean-Paul Dubois notes that, due to his successful football career, O.J. Simpson was “le personnage le plus populaire du pays” prior to being charged with double-homicide (109). Given his celebrity and wealth—which enabled him to enlist America’s most successful, expensive (read: crafty) lawyers for his defense team—it is hardly surprising that the trial translated to enthralling television. The trial’s small-screen prevalence in the U.S. and the public engagement it fostered—the Ford Bronco chase, described by one French journalist as Simpson’s “odyssée en direct sur les autoroutes de Los Angeles,” entertained 95 million television viewers—are responsible for initiating most of the French journalistic interest in the trial (Kauffmann, “Prétoire”). Prior to exploring the French perspective on the Simpson trial as spectacle, which will be examined in depth in Chapter 2, the French perspective concerning courtroom theatricality is worth surveying.

Each of Simpson’s six lawyers—who comprised the “Dream Team,” deemed as such due to their previous success in the (otherwise presumably doomed) trials of other celebrities—were theatrical to the tune of \$4,000 per hour, which suggests that they proved truly masterful actors, producers, and dramatists. Sylvie Kauffmann, a reporter for *Le Monde* who covered the Simpson trial from start to finish, observes the behavior of one of Simpson’s lead lawyers at the beginning of the trial: “Bob Shapiro se comporte avec lui [Simpson] comme on le fait avec une victime profondément traumatisée, lui pose une main rassurante sur l’épaule lorsque le juge l’interroge et tient les reporters scrupuleusement au courant de l’évolution de son moral” (“Prétoire”). Kauffmann goes on to insinuate that Shapiro’s behavior is purely theatrical, noting that “ce prévenu traité avec tant d’égards” is in actuality a celebrity who, far from a “victim,” had only just finished entertaining the masses with an epic car chase (“Prétoire”). Dubois also

invokes Shapiro's acting and penchant for drama, criticizing the lawyer's use of race as a way to craft a victimized image of Simpson for the jury: "Il faut l'entendre pour le croire. Shapiro, le lézard des palaces, la diva de Beverly Hills, jouant le ghetto contre le gotha. Filou, il peaufine son personnage" (114). It is noteworthy, as well, that Dubois' use of the term "personnage" is not coincidentally theatrical; in addition to titling the chapter of his book dedicated to the trial, "Simpson's Circus"—(is a circus not, essentially, a highly produced performance?)—Dubois consistently refers to the trial as "une comédie," complete with other "personnages" who interact on/in "la scène." His use of theatre terms echoes Hollander's notion of the lawyer's role in the courtroom theatre; but most of all, it insinuates an assumption that lawyers in the Simpson case are far more interested in offering up a performance than pursuing justice.

Though the manipulation on Shapiro's part is noteworthy, it is certainly not limited to the defense: in another article, Kauffman describes the prosecution's creation and use of drama in order to develop an "image" of Simpson to be "implantée dans l'esprit des jurés" ("O.J. et les autres"). She notes, for instance, the prosecutor's questioning of Denise Brown, sister of the slain Nicole Brown, whose highly emotional testimony was ultimately manipulated in order to create a dramatic effect: "Intensité dramatique maximale: pour permettre au témoin de reprendre ses esprits, le procureur demanda alors, et obtint, l'ajournement du procès jusqu'au lundi, laissant les jurés passer le week-end sous le coup de cette émouvante déposition" ("O.J. et les autres"). Kauffmann appears convinced that, rather than a benevolent act meant to benefit the witness, the prosecutor's request for recess was merely a ploy to leave the jury with a compelling image in mind. The use of such devices provokes Kauffman to insist that the Simpson trial, "plus qu'aucun autre, [...] révèle la puissance des avocats dans le système judiciaire américain,"

where they are notably more theatrical and manipulative than their French counterparts (“O.J. et les autres”).

For Kauffman and Dubois, the lawyer’s theatricality in the Simpson trial is perhaps most disconcerting with regard to their awareness—and exploitation—of cameras inside the courtroom. Kauffman describes the prosecution’s theatricality, which suggests an endeavor to put on a show: “le procureur général occupe une charge électorale et adore les caméras, l’avocat général, une jeune femme énergique, est en passe de devenir une star et le sera sans aucun doute d’ici la fin du procès” (“Prétoire”). Dubois also references the prosecutor general’s awareness of and appeal to her ‘spectators’ outside the courtroom—the public, which he terms “un jury fantôme” (115). In response to a media-executed, mid-trial public poll that deemed her appearance and behavior too austere, the prosecutor—who clearly understood that, with cameras present, “chaque détail compte”—reappeared in court the following week ‘méconnaissable’: “cheveux courts, maquillée, tailleur blanc cintré, elle sourit à bout de champ et plaisante avec le président Ito ” (Dubois 115). Later, she would shorten her skirts at the bequest, once again, of the « jury fantôme ». For Dubois, the costume change was simply an endeavor to seduce the real jury—to sway the verdict—and to entertain the “jury fantôme,” perhaps in the hopes of securing post-trial fame.

Unfortunately for the prosecutor general, her costume-overhaul was in vain as, given that Simpson was ultimately found innocent, the “Dream Team” seems to have proved more adept at playing to the cameras. Fully aware of imminent opportunities for exploitation—which he was sure to secure, thanks to the courtroom cameras—Shapiro enlisted the services of a multimedia agent before the trial even began in order to “négocier les droits d’un livre et d’un film télé sur le procès” (Dubois 114). As bent as Dubois clearly is on outing Shapiro’s manipulative tactics,

Shapiro effectively revealed himself before the Simpson trial ever began by publishing an essay titled, “Using the Media to Your Advantage,” in which he shamelessly acknowledges the benefit of performing for the cameras in order to contribute to what Kauffmann terms “une frénésie médiatique” (“Prétoire”). Shapiro’s essay is worth noting, here, as it illustrates his use of theatrics to craft a more spectacular image for courtroom cameras. The lawyer’s use of the media will be explored in Chapter two.

The presence of cameras inside the courtroom constitutes a pivotal element in the American jury trial’s movement towards hyperreality in two ways. First, the introduction of cameras marks the trial’s entrance into the domain of onscreen spectacle, which will eventually translate to Guy Debord’s neo-Marxist notion of spectacle as the ultimate expression of consumer capitalism and an all-consuming element of postmodern American society. Debord’s notion of spectacle—tied to mediated images—will ultimately lay the groundwork for hyperreality. Second, the permission of cameras in the courtroom—notably the diffusion of images prior to the trial’s conclusion—serves as a significant point of differentiation between French and American jury trials. The American public would likely exhibit far less (if any) fascination with—and encouragement of—lawyer theatricality were it not for the trial coverage of networks like Court TV and that of media outlets (to be examined in Chapter two). The impact of such televised images on the public’s engagement in jury trials is evidenced in the fact that, while millions of viewers tuned in to the Simpson trial in 1995, the Nielsen Rating of courtroom trials in the 1960s was quite low, and audience attendance inside the actual courtroom was even lower—a trend that corresponded with notable legal ambiguity regarding the presence

of cameras in the courtroom (Simonett 1145). Given that the French judicial system prohibits current trial coverage, it stands to reason that the self-perpetuating cycle of courtroom theatricality and spectacle exhibited by the American jury trial would never come to pass in France; hence the French interest in and critique of cases like that of Simpson, where lawyers appealed to spectators outside the courtroom in order to secure the exoneration of a defendant who was, in all actuality, probably guilty. But the lawyer is not solely to blame for distorting the pursuit of justice; the media has its own part to play—chiefly that of spectacularizing jury trial images in order to serve its own interests.

CHAPTER 2: Mediated Spectacle, Consumer Capitalism, and the Absence of the “Real”

Beyond depictions of the courtroom in cinema and small-screen drama, images of the jury trial transmitted by the media—thanks to events like the “perp walk” and the permission of cameras in the courtroom—situate American justice within the domain of Guy Debord’s neo-Marxist notion of spectacle. In *Society of the Spectacle*, Debord characterizes spectacle as “a social relation among people, mediated by images” (Debord 6) that occurs within postmodern, consumer capitalist culture, like that of United States. In such a society, capitalism reaches its “absolute fulfillment” in spectacle, where it assumes the form of an image (Debord 36). While Debord’s revolutionary Neo-Marxism contrasts with Baudrillard’s nihilism regarding postmodern society, the transition of mediated jury trial images into Debord’s realm of spectacle can be taken to correspond with their movement into Baudrillard’s third image phase, both of which ultimately funnel into hyperreality. In the third image phase, the media spectacularizes images of the jury trial, masking the absence of the pursuit of justice, which has been replaced by the pursuit of spectacle. From a sociological perspective, Pierre Bourdieu examines the implications of mediated spectacle in his book, *On Television*, where he explores both the media’s use of spectacle for its own capital gain and the demand for spectacle by American consumers. In order to illustrate spectacle’s consumer capitalist role in jury trial mediation, this chapter will feature the French perspective on the Dominique Strauss-Kahn affair, whose spectacular “perp walk” provoked outrage across France, and the O.J. Simpson trial, which illustrated the “spectacular” impact of consumer capitalism on the pursuit of justice.

2.1 Mediated Spectacle-as-Capital

Debord explains his notion of spectacle from a Neo-Marxist perspective, in which he ties the rise of spectacle to that of consumer capitalism. Spectacle is an expression of capitalism in its most complete form; as such, spectacle, like capitalism, corresponds to the erosion of use value. In order to understand Debord's spectacle as a step toward hyperreality (and to avoid hopping down a Marxist rabbit trail), use value—a product's primary, material use—can be taken to correspond with Baudrillard's "real." With the rise of consumer capitalism, "everything that was directly lived has moved away into representation"—use value is replaced by sign value, the totality of which is spectacle. In Debord's words, "spectacle is *capital* to such a degree of accumulation that it becomes an image" (34; original emphasis). The hallmark of spectacle is its consumption of and by society. Debord explains: "The spectacle is the moment when the commodity [its sign value] has attained the *total* occupation of social life. Not only is the relation to the commodity visible but it is all one sees: the world one sees is its world" (42; original emphasis). Furthermore, spectacle instills in its conquered society an insatiable craving for more spectacle (hence the "consumer" in consumer capitalism), whereby it insures its own perpetuity. Via its "shimmering diversions," which become standard in the "society of the spectacle," spectacle captivates consumers and diverts their attention from the "real" (use value), all the while conditioning them to seek the spectacular everywhere, which ultimately fosters what Debord calls the "banalization" of everyday life (59). In other words, consumers in the "society of the spectacle" grow bored of—and gradually disconnect from—the "real." This hyperreal power to divert attention away from the "real" finds "its most glaring superficial manifestation" in the media, whose penchant for sensationalism as a way to appeal to consumer capitalism makes it especially suited to the perpetuation of spectacle (24). Though Debord never

uses the term “hyperreal,” his theory successfully establishes spectacle and capitalism as fundamental components of hyperreality, and his notion of spectacle will come to correspond to Baudrillard’s third and (eventually) fourth image phases. Prior to situating spectacle within Baudrillard’s theoretical framework, however, it is useful to explore present-day manifestations of spectacle in the media.

Debord’s theory is echoed in Bourdieu’s *On Television*, in which he examines the media’s penchant for—and the public’s consumption of—spectacle from a sociological perspective. For Bourdieu, the media and the public share a cyclical relationship, characterized by “symbolic violence [...] wielded with tacit complicity between its victims and its agents,” (17) by which both parties perpetuate spectacle. While the media is responsible for transmitting spectacular images, spectacle, being consumer capitalist in nature, requires the compliance of consumers in order to thrive. In a “world ruled by the fear of being boring,” as Bourdieu observes, the media-public relationship constitutes a question of the supply of and demand for the sensational; or, in Debord’s language, mediated spectacle functions as both a cause and effect of the “banalization” of real life, by which the public develops an insatiable appetite for the spectacular that perpetually regenerates the fear of the banal (Bourdieu 2; Debord 59). This fear translates to news networks’ seemingly endless endeavor to entertain, rather than educate, which explains the subsequent journalistic obsession with “scoops.” In order to appeal to viewers (consumers), media outlets award a disproportionate amount of attention to spectacle, of which sensational news is, Bourdieu assures, “an easy example” whose favorite themes include “blood, sex, melodrama and crime” (17).

The preference awarded to sensational news is very easily observable in the context of American justice. Like Court TV’s special penchant for celebrity jury trials (described in

chapter 1), news networks favor particularly spectacular trials, which typically involve either a celebrity or an especially shocking, grotesque crime (or both). But the media does more than merely seize the opportunity to broadcast spectacular events; in the absence of truly dazzling manifestations of spectacle, news networks cast a spectacular light on otherwise banal (or serious, as the case may be) events by cherry-picking their most entertaining elements. As an illustration, Bourdieu describes reporting on an earthquake in Turkey. Rather than dedicate valuable air-time to a discussion of “subtle, nuanced changes or processes” related to the event—like continental drift, or its long-term, socioeconomic implications—news outlets prefer to broadcast a series of “flash photos” and brief comments that focus on havoc (6-7). In the “society of the spectacle,” the media must, essentially, endeavor to “interest everybody without touching on anything important,” because “important” events relate too closely to the “use value” from which spectacle is disengaged (Bourdieu 18).

When examined within the specific context of the jury trial, the media demonstrates a more advanced and precarious level of spectacularization: beyond merely highlighting spectacular elements (like the lawyer’s theatrics or death-tolls in Turkey), news outlets create spectacle by bombarding the public with images of a particular trial until it subsequently becomes spectacular. Casey Anthony’s indictment is an excellent example of a trial-turned-mediated-spectacle. An otherwise unremarkable person, Anthony was charged in 2011 with the murder of her three-year-old daughter. While infanticide is certainly noteworthy, the public frenzy over her trial—it caused the biggest public stir since O.J. Simpson—was far more indebted to the media’s over-the-top trial coverage than to the grotesque or rare nature of her crime. In an interview with *Le Monde*, Lawson Lamar, a prosecutor in the Anthony trial, emphasizes the extent of the trial’s spectacularization by noting the existence of other less

mediated cases of infanticide. For Lamar, the sole reason the Anthony affair incited more outrage than other similar cases “est que les médias n’ont pas attiré la lumière sur eux” (Chetrit, “Casey Anthony acquittée”). The Anthony trial and its extensive—ultimately hyperreal—mediation will be examined in depth in chapter three. However, in addition to illustrating the media’s ability to mold a terrible, yet fairly unspectacular, event into full-blown spectacle, the Anthony trial exemplifies spectacle’s inherent capitalism, whereby networks and journalists profit from the spectacularization of jury trials.

Consumer capitalism and mediated spectacle drive one another in two primary ways: first, news outlets spectacularize events in order to make more money; second, thanks to said spectacularization, individual journalists and anchors become media “stars” with their own, spectacular celebrity. Revenue for media outlets is tied directly to its number of viewers, which, in turn, correlates with ratings; as ratings increase, so does the worth of airtime, which increases the price at which networks might sell ad space. In other words, for news networks, the ability to entertain and captivate viewers makes money. During its exhaustive coverage of the Anthony trial, for instance, HLN’s ratings increased 12%, and an average of 4.57 million viewers—a record for HLN—tuned in to witness Nancy Grace—former prosecutor turned celebrity news anchor—berate Anthony’s acquittal (Stelter). Furthermore, the network’s trial coverage contributed to a 9% profit increase for CNN (its ‘parent’ network), which pulled in an estimated \$196.3 million in ad revenue in that year (Gillette, “Hungry for Ads”). In this way, viewer ratings essentially “impose the sales model” on news, according to Bourdieu, which is problematic because, in encouraging spectacle, it discourages reporting on less sensational—but more important—events (27). “Star” journalists and news anchors exemplify the impact of this “sales model” most obviously, as their celebrity is more tangible than network ratings and

revenue. Named “capitalistic entrepreneurs” by Bourdieu, the capital gained by media “stars” depends on their onscreen visibility, which is, like network ratings, tied to their ability to present sensational news (6). While media “stars” are not exclusively an American phenomenon, Bourdieu notes the difference in salary between the American media “star” and his/her European equivalent: the former is salaried to the tune of several million dollars, while the latter typically earns a salary in the \$100,000 range (6). This seems to suggest that consumer capitalism is, perhaps, an especially American aspect of spectacle. Money aside, media “stars” perpetuate spectacle by becoming spectacle in their own right. For instance, Nancy Grace’s celebrity is arguably just as spectacular as her jury trial images, if not more so, due to her angry tirades and fondness for renaming defendants (Casey Anthony is now largely known as “Tot Mom”). Spectacularization by “star” reporters like Grace—lucrative for both networks and individual “stars”—illustrates Debord’s theory of the perpetuation of spectacle-as-capital and affirms the media’s role as its chief manifestation.

2.2 Mediated Spectacle and the Absence of the “Real”

The media’s appeal to consumer capitalism via the perpetuation of spectacle can be understood within the framework of Baudrillard’s third image phase, in which mediated jury trial images mask the absence of the pursuit of justice, or the “real.” Whereas the lawyer-as-producer-and-dramatist presents an image that distorts the pursuit of justice (but reflects it, nonetheless), the jury trial image presented by the media does not reflect the pursuit of justice; rather, it spectacularizes the image for its own capital gain, then presents it under the guise of an obligation to inform the public. This process involves what Baudrillard terms “dissimulation,” which distinguishes the media’s action in phase three from the “simulation” that will characterize

phase four. According to Baudrillard, “to dissimulate is to pretend not to have what one has” (*Simulacra and Simulation* 3). In the third image phase, the media dissimulates (masks) the absence of the pursuit of justice by filling the void with spectacle, ultimately crafting the illusion that it serves the good of the public. The media achieves the latter via a second level of dissimulation—that of spectacle—in which it bombards viewers with (spectacular) jury trial images in order to make them appear to constitute crucially important—rather than sensational—news. In other words, spectacle preserves and regenerates itself by dissimulating itself as such. This principle is reflected in Bourdieu’s discussion of media spectacularization, in which he appears to connect Baudrillard’s third image phase with Debord’s explanation of spectacle’s “shimmering diversions.” Bourdieu explains that “sensationalism attracts notice, and it also diverts it, like magicians whose basic operating principle is to direct attention to something other than what they’re doing” (17-18). It is important to clarify that, while the spectacular, mediated jury trial images in phase three do not reflect the pursuit of justice, they do not (yet) constitute its simulation. In phase three, the distinction between the “real” pursuit of justice and the spectacularized mediated images, however well masked, remains intact, whereas “simulation threatens the difference between the “true” and the “false,” the “real” and the “imaginary” (Baudrillard, *Simulacra and Simulation* 3). By directing the public’s attention toward spectacular images in phase three, the media effectively conceals the absence of the pursuit of justice while replacing it with the pursuit of spectacle.

The media’s use of spectacle to hide the absence of the “real” is exemplified by its images of the “perp walk,” which the media passes off as fulfillment of an obligation to inform the public. The “perp walk”—short for “perpetrator walk”—refers to the practice—orchestrated by police departments and media outlets—in which an alleged perpetrator is handcuffed and

escorted by police officers to and from the courthouse and/or precinct, during which process he/she is paraded before an audience of journalists who capture the event in images. The only real information conveyed by “perp walk” mediation is news of an accusation and subsequent arrest—news the media could deliver just as (if not more) easily without the use of images. Therefore, it is reasonable to argue that the media’s use of “perp walk” images is not, in fact, motivated by an endeavor to inform the public. Rather, the “perp walk” serves the exclusive purpose of spectacle, which explains why the practice is typically reserved for high-profile defendants. (Viewers are far more captivated by the arrest of, say, a wealthy French politician, than that of an every-day member of the working class.) Furthermore, in contributing to spectacle, mediated images of the “perp walk” undermine the pursuit of justice by broadcasting incriminating images of the defendant—handcuffed and surrounded by cops—before allowing for due process of law. French Journalist Laura Raim, who covered the Dominique Strauss-Kahn trial, refers to “perp walk” mediation as a form of “lynchage médiatique” that compromises the presumption of innocence—a central premise in both American and French justice (Raim, “Affaire DSK”). The media’s use of such spectacular, judicially precarious images strongly suggests the presence of spectacle and the absence of the pursuit of justice, which situates the “perp walk” within Baudrillard’s third image phase. Furthermore, the “perp walk” constitutes a clear point of differentiation between French and American judicial reporting. Beyond criticizing the “perp walk’s” tendency to compromise the presumption of innocence, the French media system abides by the “loi Guigou,” which prohibits the transmission of incriminating images of a defendant prior to the end of his/her trial (Legifrance.gouv.fr, “Loi 2000-516”). Ultimately, examined from the perspective of both

Baudrillard and modern French law, the mediated “perp walk” seems to suggest that the phrase, “society of the spectacle,” is notably more descriptive of the United States than of France.

French criticism of the American media’s penchant for spectacle is exemplified by French reporting on the trials of O.J. Simpson, Casey Anthony, and Dominique Strauss-Kahn. This chapter will close with an examination of Dominique-Strauss Kahn’s “perp walk,” illustrative of spectacle’s displacement of the pursuit of justice, followed by the highly sensationalized Simpson “circus,” which demonstrates the extent to which spectacle intertwines with consumer capitalism to the detriment of the pursuit of justice. The ever-spectacular Anthony trial will be examined in chapter three.

2.3 Dominique Strauss-Kahn and the “Perp Walk”

Managing Director of the International Monetary Fund and a leading candidate for the 2012 French presidency, Dominique Strauss-Kahn was indicted on May 19, 2011 for the alleged sexual assault and attempted rape of Sofitel New York Hotel maid, Nafissatou Diallo. While both French and American reporting considered the political implications of his arrest for France, his “perp walk,” in particular, provoked an overwhelming amount of negative attention from French reporters and intellectuals, who claimed that the highly mediated event undermined the presumption of innocence. The DSK “perp walk” further incited a nation-wide debate in France regarding the legal implications of the French media’s retransmission of American “perp walk” images, which had already “gone viral” on a global scale.

French journalists largely viewed the mediated images of DSK’s “perp walk” as a “frénésie [et] exécution médiatique” that at once humiliated and criminalized him, ultimately undermining the American (and French) judicial premise that one is innocent until proven guilty

(Garrigos, “Presse et télé”). Laura Raim, for instance, describes the French as “scandalisés” by the incriminating images of DSK, and portrays the “perp walk” in the following way: “Entre la sortie du commissariat et l’exhibition devant le tribunal de New York, le tout offert à l’œil avide des caméras, il est évident que tout a été organisé, planifié et orchestré pour donner l’image d’un homme condamné par avance” (“Affaire DSK: les médias”). This description of anticipatory, “orchestrated” condemnation by the “avid” media and the public illustrates that the “perp walk” acts exclusively in the interest of spectacle, and heavily implies the absence of the pursuit of justice. *Le Point* reinforces Raim’s portrayal by framing its condemnation of the “perp walk” within the larger argument that “les images sont des piloris modernes” (Agence France-Presse (AFP), “L’affaire DSK: les temps des questions”). Furthermore, the same article suggests that, as an unnecessary addition to jury trial reporting, such incriminating images imply “une forme de double peine.” The use of the phrase “double peine” seems to suggest that DSK was subjected to both the American court of law and that of public opinion, the latter relying exclusively on images. Renaud Dély reiterates the spectacular nature of the DSK affair by suggesting that jury trial coverage within the “système judicairo-médiatique américain” constitutes a “mise en scène permanente”—a “grand show indécent” that is symbolized by the sensational “perp walk” (“DSK: les médias en ont-ils trop fait?”).

In his article for *Le Point*, titled “Affaire Strauss-Kahn: question de principe,” journalist and intellectual Bernard-Henri Lévy presents a similar argument from a more analytical perspective, underpinning his examination of the DSK “perp walk” with the idea that American culture is consumed by spectacle. Like other French journalists, Lévy claims that the American media—especially the tabloids—undermines the pursuit of justice by transmitting incriminating images along with its own, unfounded judgment. He begins his article with the assertion that the

DSK “perp walk” “fut une humiliation délibérée et ne servait en rien l’établissement de la vérité.” Furthermore, Lévy argues that, in broadcasting images of DSK in handcuffs, “on a fait comme si [DSK] était déjà coupable et on a donc portée atteinte au principe, pilier de toute justice, de la présomption d’innocence.” He goes on to specifically attack tabloids, like *The Daily News*, that accompany such images with the blatant and premature presumption of guilt. Lévy explains: “Je maintiens que les tabloïds qui, dès la première minute et avant que l’on sache rien de sa version des faits ni mêmes des faits tout court, ont traité Strauss-Kahn de ‘pervers’ [et] se sont érigés en juges à la place des juges—ce qui est une infraction, de nouveau, aux plus élémentaires règles de droit.” By casting judgment based entirely on opinion (and spectacular images), the media’s coverage of DSK and his “perp walk” appear, for Lévy, to reflect the pursuit of spectacle rather than justice. Furthermore, Lévy highlights the “perp walk’s” unfair penchant for celebrity defendants. He explains: “Je maintiens qu’arguer d’une épreuve qui serait ‘la même pour tous’ est une fumisterie double d’une hypocrisie car il n’y a pas, pour tous, à la sortie de tous les commissariats américains, les mêmes haies de chasseurs d’images envoyant, dans le monde entier, les clichés de leur homme menotté, déjà déconsidéré.” Throughout his article, Lévy’s observations suggest an acute awareness of the displacement of the pursuit of justice by spectacle in the American media.

In a second article, titled “Les cinq leçons de la non-affaire Strauss-Kahn,” Lévy examines the spectacular nature of the DSK trial images in theoretical terms that seem to directly reference Debord. The very first of Lévy’s “cinq leçons” is “la cannibalisation de la Justice par le Spectacle,” which he explains as the “façon de noyer l’établissement patient de la vérité sous un flot d’images dignes d’un mauvais reality show.” Though Lévy does clarify that the societal consumption by and of spectacle is not uniquely American, he immediately stresses that, in the

context of justice, the “perp walk” distinguishes the United States from other postmodern cultures. Lévy describes the “perp walk” as a media-produced “mise en scène” in which subjects are dehumanized for the sake of spectacle; as such, it constitutes “un sommet d’obscénité” in postmodern society. In the context of the DSK affair, “dehumanization” refers to the reduction of DSK and his accuser to symbols—the rich, powerful, white man and the poor, mistreated, immigrant woman. For Lévy, this serves to simplify the affair in order to make it more digestible for the everyday consumer of mediated spectacle, who favors undialectical, spectacular generalization.³ The dehumanization inherent in the media’s jury trial images echoes spectacle’s ability to divert attention away from the “real” and foreshadows its gradual transition towards hyperreality.

DSK’s “perp walk” enlivened a debate among French journalists and intellectuals regarding the media’s obligation to inform the public, which reveals fundamental differences in American and French trial mediation. In an interview with *Libération*, law professor Jean Cédras, discusses the French disapproval of DSK’s treatment by the American media, citing the French “loi Guigou,” which prohibits the media from showing images that might incriminate a defendant prior to the trial’s resolution (Bonal, “DSK: la prison, le grand jury et après?”). American justice, according to Cédras, contrasts sharply with the “loi Guigou,” as the very images the latter aims to discourage constitute an integral aspect of the American media’s intersection with justice. He explains that, in the U.S., “les juges et les procureurs sont élus, donc en quête de notoriété pour leur réélection.” In other words, in addition to serving the

³ The term, “undialectical” is used in opposition to Terry Eagleton’s notion of “dialectical” thought. He defines it in the following way: “[dialectical thought is] a response to a certain embarrassment. Dialectical thought arises because it is less and less possible to ignore the fact that civilization, in the very act of realizing some human potentials, also damagingly suppresses others.” (*The Idea of Culture*, 23)

media's penchant for spectacle, sensational "perp walk" images benefit courtroom players. In this way, the "perp walk," according to Cédras, "fait partie de la règle du jeu aux Etats-Unis, où la notion de présomption d'innocence s'applique surtout au moment du procès." Furthermore, he claims that, for Americans, the "perp walk" is typically "perçu comme faisant partie du jeu démocratique et du devoir d'information."

While the French system opposes the notion that the "perp walk" satisfies the media's obligation to inform the public, a number of French media outlets aired American mediated images of DSK's "perp walk" in spite of the "loi Guigou," which some justified by citing "la mondialisation des images [qui] rend assez absurde l'application d'une telle loi" (Berretta, "Affaire DSK: coup de semonce"). Others argued that, because the image was American and the trial was not in France, not showing it simply because it depicted a French person would have been hypocritical and unnecessary, given the media's obligation to inform the public and the "loi Guigou's" national jurisdiction (AFP, "Images de DSK menotté"). However, others, like Richard Malka, condemned French outlets that aired the "perp walk" images, asserting that "le droit à l'information n'est pas celui du droit à l'humiliation" (Coex, "Le droit à l'information"). Furthermore, he claims that the "loi Guigou" applies to the DSK images despite their global "hypermédiatisation," or the fact that the trial took place in the U.S., since its objective includes the prevention of "la diffusion d'images qui portent atteinte à la dignité de l'homme," and DSK's dignity surely suffered as a result of his "perp walk." Ultimately, the incriminating "perp walk" images of DSK cornered the French media "entre la loi qui prohibe ces images et le devoir ou le droit d'informer" (Berrette, "DSK menotté, des poursuites possibles"). Regardless of whether French media outlets were justified in diffusing the American image of DSK, the fact that the images were so heavily debated by French journalists and intellectuals is noteworthy.

The French outrage concerning the DSK “perp walk” indicates an awareness of the American penchant for spectacle, and its precarious implications regarding the pursuit of justice. Furthermore, the subsequent debate over the role of the media in France seems to suggest a dialectical approach to culture—and ultimately to justice—that contrasts with the comparatively undialectical consumption of spectacularized images that characterizes consumers within the “society of the spectacle.” This is not to propose, however, that all Americans support the “perp walk;” but it is noteworthy that, those who do, usually acknowledge that the U.S. had not conveyed “anywhere near [the] level of outrage” expressed by the French during the DSK affair (Cohen, “DSK Fallout: Time for the Perp Walk to take a Hike?”).

2.4 The O.J. Simpson Trial and Capital Gain

Often called the “trial of the century,” the Simpson murder trial is among the most publicized criminal trials in American history. The media’s relentless reporting captivated the public via live coverage of trial proceedings, talk shows, “expert” opinions and, of course, the now infamous Ford Bronco chase, described by Jean-Paul Dubois in *L’Amérique m’inquiète* as a “burlesque road-movie” (114). Along with the countless viewers who tuned-in to (and therefore participated in) the “fièvre médiatique,” Simpson’s already well-established (now ever-growing) celebrity engaged admirers who sent him gifts and fan mail while he was in prison (Kauffmann, “Prétoire de stars à Los Angeles”). Perhaps the only element of the Simpson trial as remarkable as its hyper-mediation was the extent to which it was exploited to capitalist ends. The media’s profit was perhaps the most obvious; thanks to increased viewer ratings, ABC, for instance, sold its ad space at a 470% price increase during the trial coverage (Dubois 120). American spectators also capitalized on the event via the sale of Simpson murder paraphernalia,

while Simpson and his lawyers secured book and movie deals after, and even during, the trial. The role of spectacle in the Simpson trial was not lost on French journalists and intellectuals, who ultimately brought to light the precarious role of wealth in American justice.

Dubois, along with journalist Sylvie Kauffmann, criticizes the media-instigated public obsession with Simpson and his trial, placing special emphasis on the spectacular Ford Bronco chase. Fleeing from the police while holding a gun to his head, Simpson—or “The Juice,” as his fans called him—put on a show, and the public took the bait. Dubois notes the persistence of the media, which relentlessly pursued Simpson in the larger pursuit of spectacle. The event’s mediation paid out; even though the riveting “chase” occurred at a mere 35 miles per hour, its coverage captivated 95 million television viewers. Dubois goes on to highlight the public’s engagement in the streets of L.A., where “aux carrefours, comme au plus beau temps de ses interceptions, la foule acclame le ‘Juice’” (114). In such observations, Dubois emphasizes the ability of both Simpson’s already-established celebrity and the media’s endless coverage to create spectacle out of an otherwise anti-climactic event. Furthermore, he asserts that the low-speed chase accelerated Simpson’s murder allegation to a new, spectacular level: “A partir de là, l’histoire change de dimension. Un banal fait divers de quartier vient de passer le mur du son et de l’image. Aspirées dans les turbines médiatiques, les médiocres aventures d’un couple font soudain plus d’audience que les jeux Olympiques” (114). French journalists echoed Dubois’ sentiments: Sylvie Kauffmann observes that “les moindres développements de l’affaire Simpson monopolisent les petits écrans, souvent en direct, les “unes” des journaux et les couvertures des magazines” (“Prétoire de stars à Los Angeles”). Furthermore, given the overwhelming coverage of the Simpson affair, which began well before the trial, Kauffmann brings to light the potential impact of mediated spectacle on the pursuit of justice. She wonders: “Au bout de deux semaines,

les interrogations surgissent: peut-on envisager un procès équitable lorsque le public a été mis au courant heure par heure des moindres détails de l'enquête, vrais ou faux? Peut-on trouver à Los Angeles douze jurés qui n'aient pas été influencés, d'une manière ou d'une autre, par l'intense couverture médiatique?" ("Prétoire de stars à Los Angeles"). Kauffmann goes on to criticize Simpson's mediated "perp walk," which, like that of DSK, came off as "une forte présomption de sa culpabilité." Dubois' and Kauffmann's observations suggest, in similar fashion to French reporting on the DSK "perp walk," that the relentless mediation of the Simpson trial was fuelled by the pursuit of spectacle more so than the pursuit of justice.

Beyond capital gain on the part of media networks, the public's fascination with the Simpson spectacle translated to capitalist exploitation on the part of consumers, which supports Debord's idea of spectacle-as-capital. Dubois notes, for example, that Nicole Brown's home became a popular tourist destination, and the limousine driver who took Simpson to the airport the day of the murder would quickly sell "aux enchères la-voiture-de-la-nuit-du-crime" (109-110). On another, more striking level, Dubois describes consumers whose capitalist ventures not only demonstrated a grotesque, public fascination with the violent nature of Simpson's allegations, but also indicated a consequent increase in his celebrity. First, he references Lenward Holness II, who visited Simpson in prison to negotiate the right to build and sell, for \$3,395 each, bronze statues of the celebrity holding a football. Dubois quotes Holness, who justified capitalizing on Simpson's murder allegations by explaining, "dans la vie, tout le monde exploite tout le monde" (110). In addition to exploiting Simpson's celebrity, a store in the outskirts of L.A. called Ragztop profited from the violence of his alleged crime by advertising gory panoplies of "The Juice." Dubois explains the panoplies' contents, which made for very "en vogue" gifts: "L'ensemble se compose d'un maillot de football couvert de sang (22 dollars),

d'un couteau (20 dollars), d'un masque en latex du héros (20 dollars) et de la perruque blonde de Nicole (12 dollars)" (110). Upon asking the store's owner to specify the typical buyer of the gory panoplies, he assures Dubois of their universal appeal to consumers, "des types comme vous et moi, des gens qui vivent sur cette terre" (110). Given Dubois' observations, a more precise answer might have been consumers in the "society of the spectacle."

Capital gain was not limited to every-day spectators of the Simpson affair: the spectacle opened the possibility of profit to Simpson, his lawyers, and nearly anyone with a connection to Simpson or the victims. Kauffmann mentions that Simpson's book, *I Want to Tell You*, written in prison and decorated with photos depicting his former life with Nicole, sold nearly 500, 000 copies almost immediately upon its release ("O.J. Simpson et les autres"). Furthermore, Dubois explains that Simpson foresaw the opportunity to capitalize on his heavily mediated indictment from inside his prison cell, where he commercialized "lui-même une cassette video de remise en forme" (110). As mentioned in chapter one, Simpson's lawyers also predicted the lucrative nature of the spectacle—evidenced, according to Dubois, by their negotiation of trial-inspired films and books before the trial even began. Finally, Faye Resnick, best friend of the slain Nicole Brown, published *Private Diary*, in which she divulged details of Brown's private life with Simpson. Dubois credits the book's success—it became a best-seller within one week of its release—to the media's excessive use of spectacular talk shows, which featured friends and family of those related to the trial, from Resnick to the judge Ito's wife, and which served no purpose outside the perpetuation of spectacle. Dubois summarizes his critique of the consumer capitalism inherent in the Simpson spectacle in the following way: "On en est là. A ce point critique d'indignité. Au moment où un billet de spectacle ayant appartenu à O.J. vient d'être vendu 8000 dollars aux enchères" (115).

Beyond consumerism, the Simpson “circus” brought to light a new, precarious intersection of capitalism and justice, which caused French journalists to ponder the capacity of wealth to buy innocence in the American jury trial. Kaufmann, for example, underscores the bearing of Simpson’s very highly paid—therefore highly effective—lawyers:

Cet accusé-là n’a peut-être pas d’alibi, mais il est riche et célèbre. A prix d’or, O.J. Simpson a recruté une armée d’avocats si talentueux qu’on les sent capables de renverser les meilleurs arguments ; ils ont eu les moyens de faire mener leur propre enquête, d’interroger les moindres témoins, de faire passer les rapports et les indices au peigne fin par leurs propres experts. Médiatiquement, ce sont des bulldozers. (“O.J. Simpson et les autres”)

Simpson’s lawyers further proved themselves to be “masters” of the media by adding to “la frénésie médiatique par d’incessantes conférences de presse diffuses en direct sur CNN et les chaînes locales (Kauffmann, “Prétoire de stars à Los Angeles”). In making these observations, Kauffmann seems to imply that the success of Simpson’s case—in both the court of law and the court of opinion—was correlated to Simpson’s ability to dispense exorbitant amounts of money on a top-dollar (and theatrically top-notch) defense team—a factor that would not come into play in a French courtroom, where the lawyer has a far smaller impact on jurors. Dubois agrees with Kauffmann’s implication, which he makes quite clear by asserting that “le procès Simpson est bien une extravagance de riches” (118). To illustrate his point, Dubois compares the Simpson trial, which spanned 74 days and cost an estimated nine million dollars, to a more modest trial in Santa Monica. At the start of the Simpson trial, James Foster, “un Noir qui n’avait jamais joué au golf de sa vie,” was charged with killing his wife, a white, 29-year-old woman who wanted a divorce. Foster was defended by a single, state-appointed attorney, and at the end of a five-day trial costing \$500, he was found guilty (117). The French reaction to the spectacular cost of the Simpson trial can be summarized by a single statement, published in *le Monde* in response to the

celebrity's acquittal: "La grande leçon de ce procès, c'est que l'argent peut acheter la justice" (Dubois 118). From the French perspective, the intermingling of lawyer theatrics, spectacle, and consumer capitalism in U.S. jury trial mediation appears to undermine the pursuit of justice.

As a "society of the spectacle," most of America's mediated jury trial images constitute, to some extent, a departure from the "real" pursuit of justice. The most circulated images of DSK, for instance, happened to be at once the most spectacular and least important with regard to his trial. As for the Simpson "circus," the two hours of nonstop, live coverage of the 35 mile per hour Ford Bronco chase corrupted the pursuit of justice in order to entertain viewers. In a similar fashion, HLN's exhaustive reporting on the Anthony affair crafted full-blown spectacle from an otherwise fairly unremarkable event. Beyond the mere absence of the pursuit of justice, it is not uncommon for media outlets to jazz-up their trial reporting with speculation—usually from "expert" panelists, friends and family of defendants or victims, or "star" journalists and anchors. The moment the media broadcasts such speculation as news, it transitions from presenting an image that masks the absence of the "real" to projecting an image that simulates it, thereby entering the postmodern realm of hyperreality.

CHAPTER 3: Mediated Speculation and Hyperreality

When projected in the form of speculation, mediated jury trial images advance to Baudrillard's fourth and final image phase, where they constitute pure simulacra; as such, they surpass the dissimulation of the absence of the "real" to lose reference to—and ultimately eliminate—the "real" altogether. A simulacrum can be understood as a copy without an original; it constitutes the simulation, rather than representation, of the "real"—a "hyperreal" comprised of "the generation by models of a real without origin or reality" (Baudrillard 1). In the context of the jury trial, mediated speculation—the projection of an opinion—possesses no relation to the "real" pursuit of justice; rather, the media creates its own "hyperreal" pursuit of justice that incessantly refers to—and thereby regenerates—itself as a point of reference. While viewers in phase three perpetuate spectacle by maintaining a demand for it, the hyperreality of phase four entails an implosion of the media and its viewers within the same simulation, whereby they collectively constitute a hyperreal court of public opinion. This hyperreal "court" further exemplifies hyperreality's destruction of the "real" by exercising its (simulated) power to judge on actual courtroom proceedings, which otherwise hinge on the very distinction between the "true" and the "false" that hyperreality eradicates. The simulation of the pursuit of justice is epitomized by Nancy Grace's "Justice for Caylee" crusade, in which she projects self-referential speculation. This chapter will first engage Grace's coverage of the Anthony trial in order to illustrate how speculation functions in phase four; it will then examine the French journalistic perspective on her speculative reporting and its impact on the American public.

3.1 Mediated Simulation and the “Implosion of Meaning”

Baudrillard’s fourth phase marks the end of the image as representation and its entrance into hyperreality, where it constitutes a pure simulacrum that simulates the “real” with no reference to reality. While images in the first three phases are of the order of “appearances” concerning the “real,” phase four simulacra possess no relation to the “real” whatsoever. Rather, they comprise its simulation, which “is no longer a question of imitation, nor duplication, nor even parody[;] it is a question of substituting the signs of the real for the real” (*Simulacra and Simulation* 2). Pure simulacra generate a hyperreal that eliminates the distinction between the “true” and the “false,” effectively destroying the “real” altogether. Baudrillard illustrates this erasure with a medical analogy, in which he differentiates between the feigning and the simulation of an illness. A doctor might discern that one is faking an illness based on the absence of “real” symptoms—in other words, by recognizing the “false” relative to the “true.” However, if one simulates an illness by producing “true” symptoms, it becomes impossible to determine whether the illness is “real” or “imaginary.” Baudrillard explains that, “if any symptom can be ‘produced,’ and can no longer be taken as a fact of nature, then every illness can be considered as simulatable and simulated, and medicine loses its meaning since it only knows how to treat ‘real’ illnesses according to their objective causes” (3). In other words, simulation is dangerous because it eliminates meaning. In Baudrillard’s first three image phases, representation, distortion, and dissimulation are all possible because meaning—the “real”—is still possible; in phase four, it is unattainable.

The “implosion of meaning” (31) that marks the start of simulation primarily reveals itself through televised, mediated images, which further entail an implosive relationship with the viewer. As illustrated by Baudrillard’s medical analogy, simulation begins at the “collapse of the

two traditional poles into each other;” the “poles” can be taken to represent any dichotomous relationship (including “transgression” and “law” or “crime” and “justice”). Baudrillard illustrates the media’s role in the “implosion of meaning” by comparing it to DNA, in which “the opposing poles of determination vanish” (30). For him, the media functions like “a genetic code that directs the mutation of the real into the hyperreal;” as such, it constitutes a “gigantic process of simulation” (30; 80). Furthermore, the distinction between mediated simulacra and the viewer is eradicated in the same manner as that of the “real” and “imaginary.” Baudrillard explains that, in hyperreality, “there is no longer any imperative of submission to the model, or to the gaze” (29); rather, the viewer becomes the simulation. In other words, the image and its audience merge into a cyclical, hyperreal relationship in which both constitute the same simulation of the “real.”

In the jury trial context, mediated simulation of the pursuit of justice facilitates its integration with viewers by staging its own death, by which it forms and legitimizes a hyperreal court of public opinion that expresses itself through speculation. Baudrillard describes mediated simulation as “the proof of theatre through antitheater” (19); the media stages the death of a given principle in order to justify its simulation. In the context of hyperreal jury trial mediation, the media legitimizes and regenerates its simulation of the pursuit of justice by staging the death of justice; its hyperreal images “speak themselves through denial” (Baudrillard 19). In the same move, the media draws viewers into the simulation, with whom it functions as a hyperreal court of public opinion. The self-denial of hyperreal jury trial mediation primarily manifests in the form of speculation, through which the media crafts the notion that justice is not being adequately pursued in the “real,” so it must be simulated; (the hyperreal court of public opinion must therefore take the pursuit of justice into its own “hands,” so to speak). Subsequently,

hyperreal mediated speculation self-regenerates by staging the public's interest in the simulated pursuit of justice. Baudrillard clarifies the function and regeneration of mediated simulation in the following way:

Rather than creating communication, it *exhausts itself in the act of staging communication*. Rather than producing meaning, it exhausts itself in the staging of meaning. A gigantic process of simulation that is very familiar. The nondirective interview, speech, listeners who call in, participation at every level, blackmail through speech: 'You are concerned, you are the event, etc.' More and more information is invaded by this kind of phantom content, this homeopathic grafting, this awakening dream of communication. A circular arrangement through which one stages the desire of the audience, the antitheater of communication, which, as one knows, is never anything but the recycling in the negative of the traditional institution, the integrated circuit of the negative. [...] [I]t is a circular process—that of simulation, that of the hyperreal. (80-81; original emphasis)

Ultimately, by projecting speculation, the media “stages” meaning just like it stages death. It creates hyperreal images of the pursuit of justice that are designed to self-substantiate.

3.2 Hyperreal Speculation as Exemplified by Nancy Grace

In her coverage of jury trials, Nancy Grace largely projects speculation by interviewing family members and friends of courtroom ‘players’ (usually the defendant or victim), engaging the opinions of “expert” panelists, encouraging viewers to call in to voice their own opinions and questions, and—above all—by broadcasting her own judgment. Furthermore, the extent to which Grace simulates the pursuit of justice—and fosters a hyperreal court of public opinion—is evidenced in her tendency to conduct her own speculative investigations and deliver her own verdicts. Finally, Grace bolsters her speculation by bombarding the public with literal images—chiefly photographs of the defendant, victim, and their family members—which she either analyzes or simply broadcasts on a loop while she addresses the audience.

In her coverage of the Anthony trial, for instance, Grace interviews a number of Anthony's family members and friends and closely analyzes Anthony's composure in court in order to substantiate her own presumption of Anthony's guilt. At the very start of the trial, Grace conducts a phone interview with Tot Mom's (Casey Anthony's) aunt, who reveals information that—though apparently worthy of Grace's "Justice for Caylee" crusade—was neither shared with police nor the courtroom. Anthony's aunt explains that, some time prior to Caylee's disappearance, Anthony had allegedly stolen money from her grandfather, in response to which her mother considered having her arrested. Grace then draws the following, highly speculative conclusion: "If she had only turned Tot Mom into the police then, than none of this would have ever happened and maybe Caylee would be alive today" ("Casey Anthony's aunt breaks silence"). Grace's obvious disregard for the presumption of innocence only worsens as the trial continues. In another segment, Grace, along with a panel of "experts" (former lawyers), discuss Anthony's decision to exercise her legal right to refuse to "take the stand" in court. Grace heavily implies that Anthony's refusal to testify is attributed to fear that her guilt will be revealed. She exclaims: "Do you really think she had the guts to square off against a veteran prosecutor on cross examination? It's not like she's got her two-year-old little girl with her anymore..." ("Tot Mom refuses to take the stand!"). Later, following the release of Anthony's deposition transcripts, in which the defendant recalls being sexually abused by her father, Grace—in an appearance on *Good Morning America*—assures viewers that "none of this was asserted in front of the jury because the defense knew it was a lie" (Loiaconi, "Nancy Grace: Casey's deposition 'unbelievable'"). Throughout the trial, Grace leaves little room for doubt regarding her presumption of guilt; but she makes it very clear at the trial's resolution. In response to Anthony's exoneration, Grace insists, "the devil is dancing tonight," and assures

viewers that she will continue to try Anthony in the court of public opinion (“The devil is dancing tonight”). Later in the segment, she announces the whereabouts of Anthony and her defense team, encouraging viewers to visit (read: harass) them. In her consistent projection of speculation, Grace simulates the pursuit of justice by awarding herself and the hyperreal court of public opinion the simulated power to judge.

Throughout the trial, Grace bombards viewers with various images, whose depictions include dramatic courtroom proceedings, incriminating photographs of Anthony, and Caylee (both alive and dead), all of which serve as fodder for her speculation. In one segment, for example, Grace analyzes images of Anthony’s mother, sobbing on the witness stand. Grace attacks Anthony’s comparatively stoic disposition: “She’s just sitting there, just looking at her mother like, ‘who are you?’ At one point, [her mother] had to stand and look at Tot Mom, she had to stand and they begrudgingly looked at each other. There was no love from Tot Mom toward her mother” (“Cindy Anthony sobs as 911 call plays”). In another segment, Grace loops graphic images of Caylee’s remains while describing them in chilling, dramatic, and—above all—entirely unnecessary detail. She goes on to describe Anthony’s response to the same images in court, which had caused her to sob and fall ill. One of her “expert” panelists—this time, one of Grace’s producers—confirms yet again the presumption of Anthony’s guilt by exclaiming, “the only time Casey Anthony cries in court is when it’s all about her” (“Tot Mom sobs”). (After all, why should a murderer weep over her victim?) Furthermore, Grace bombards viewers with photographs even when she is not conducting one of her expert image analyses. While conducting interviews or delivering a colorful monologue, she very often (if not always) splits the screen to allow for a simultaneous cycle of images, incessantly providing the viewer with incriminating depictions of Anthony, which are typically presented alongside compelling images

of an innocent, smiling Caylee. In any case, though the images themselves prove nothing and are taken entirely out of context, they ultimately bolster her speculation.

3.3 The Hyperreal Court of Public Opinion Inside the “Real” Courtroom

The hyperreality of mediated speculation projected by “stars” like Grace comes to a head when the hyperreal court of public opinion exercises influence over the actual trial, which is otherwise governed by “real” law—defined by Baudrillard as simulacra of the second order. Baudrillard explains three “orders” of simulacra: first, simulacra “founded on the image;” second, “simulacra that are productive, productivist, founded on energy, force;” and third, “simulacra of simulation” (121). The progression from first to third is characterized by a reduction of the gap between the “poles” of the “true” and the “false.” For Baudrillard, law qualifies as a simulacrum of the second order, where the “poles” have yet to implode. Because it still has access to the “real,” the actual trial, as it proceeds inside the courtroom, does not belong to the hyperreal. However, since the hyperreal court of public opinion belongs to third order “simulacra of simulation,” where the “true” and the “false” are “reabsorbed on behalf of the model” (121), its imposition on the courtroom abolishes the “real” and undermines justice altogether. In the Anthony trial, for instance, the hyperreal court of public opinion—chiefly via its demand for images like those diffused by Grace—directly impacted Anthony’s defense team. In an interview with PBS’s *Frontline*, José Baez—Anthony’s lead defense attorney—revealed that, during the trial, his team received \$200,000 from ABC in exchange for photographs of the defendant. Furthermore, Baez maintained that the payout enabled his team to mount an effective defense; more specifically, the money permitted the defense to challenge—and deem inconclusive—the forensic evidence against Anthony, which would later play a sizeable part in

her exoneration. In other words, were it not for the excessive diffusion and consumption of images by the media and the hyperreal court of public opinion, ABC might not have valued the photographs so highly (if at all), and Anthony's defense might not have been sufficient to secure her acquittal. In the Anthony trial, mediated hyperreality appears to have had a direct effect on the legal process, which suggests that the hyperreal court of public opinion did away with "real" justice altogether.

Finally, simulation's threat against the "real" regarding the Anthony trial was foreshadowed by Grace's coverage of the court's arduous search for impartial jurors, which further illustrates the extent to which mediated simulation is self-referential. On one of her segments, Grace and an "expert" guest recount the high proportion of potential jurors who were rejected for having illustrated a presumption of guilt. (Anthony's arrest and subsequent "perp walk," like those of Simpson, were heavily mediated in the months prior to her trial.) Grace's guest describes one of the potential jurors—a "woman who watches [Grace's] show every night"—who was turned away due to bias. She and Grace express shock at the woman's rejection for, as a loyal follower of Grace, she surely knew "more than anyone else about the actual case" and would have therefore made a great juror ("Potential jurors say Tot Mom is guilty"). They go on to marvel incredulously at the approval of a second woman who, according to Grace and her guest, should never have been selected as a juror because she "doesn't even pay attention to the news," and is therefore under-informed. Apparently ignorant of the meaning of the word, "impartial," Grace and her guest confirm that their speculative simulation of the pursuit of justice is, in fact, self-referential and out of touch with reality. Ultimately, mediated simulation of the "real" like that of Grace, along with the influence exercised by the hyperreal court of public opinion on actual courtroom proceedings, constitute "the most serious crime,

because it *cancels out the difference upon which the law is based*” (Baudrillard, *Simulacra and Simulation*; original emphasis). Phase four mediated jury trial simulacra—exemplified by Grace—transcend loss of reference to the “real” to destroy it entirely.

3.4 French Reporting on the Hyperspeculated and Hypermediated Anthony Trial

As the most mediated jury trial in the U.S. since O.J. Simpson, the American frenzy over the Casey Anthony affair attracted attention and criticism from a number of French journalists. Beyond the public’s fascination with the trial, the French—notably Laure Mandeville, who covered the trial for *Le Figaro*—heavily criticized the speculative reporting of Nancy Grace. As the Anthony trial overlapped with the DSK affair, some French journalists viewed the Anthony trial mediation—especially Grace’s presumptuous “Justice for Caylee” campaign—as confirmation of their suspicion that the American media undermines the presumption of innocence. While none of the journalists engaged the term “hyperreality,” their criticism of mediated speculation—including the excessive use of images—and the extent to which it undermines the pursuit of justice illustrates the media’s role as phase four simulacra.

Laure Mandeville discusses the media’s hand in the public hysteria surrounding the Anthony trial—accomplished in part by the unnecessary bombardment of images. She begins one article by describing the millions of Americans who, for weeks, remained engrossed by televised images of Anthony and her daughter, diffused “en boucle presque jusqu’à la nausée” by media outlets like HLN (“Casey Anthony, l’autre procès qui fascine et divise l’Amérique” 8). Such images include depictions of Anthony “assise, les yeux baissés, dans la salle d’audience, d’autres de Casey faisant sauter Caylee sur ses genoux, mais aussi des photos d’elle dansant langoureusement sous les spots de discothèques, ou des images de paquets en plastique supposés

contenir les ossements de l'enfant" (8). She goes on to condemn the use of such images, which cast a sinister light on Anthony and served only to evoke an emotional, presumptuous response from viewers. Mandeville asserts: "Ces photos ne prouvent rien et sont détachées de leur contexte. Mais bombardées sur les écrans jour après jour, elles contribuent à créer un climat presque hystérique dans une opinion qui a tendance à s'identifier avec le destin tragique de la petite fille" (8). In an article for *Le Monde*, Corine Lesnes notes the same "hysteria," which she suggests was disproportionately large given the case. She remarks: "Et sans que personne ne puisse exactement dire pourquoi—l'infanticide, l'insouciance de la mère, l'énigme, l'été? —, les télévisions se sont enflammées" ("Lettre des Etats-Unis" 28). An unnecessary addition to trial reporting, the bombardment of mediated images of Anthony and her daughter ultimately served the speculative simulation of the pursuit of justice—chiefly that of Nancy Grace.

Mandeville and Lesnes both criticize the extent to which Grace and her highly speculative "Justice for Caylee" crusade undermined the presumption of innocence. In one article, Mandeville describes HLN's coverage of the Anthony trial, in which Grace and one of her fellow (though much less notorious) anchors, Greta Van Susteren, "donnent leur avis d'une voix forte sans faire dans la dentelle, jouant sur les émotions de l'opinion, tranchant et découpant comme si elles étaient juges de l'affaire" ("Casey Anthony, L'autre procès qui fascine et divise l'Amérique"). In another article, revealingly titled "Aux Etats-Unis, le tribunal médiatique dicte sa loi," Mandeville continues her attack on Grace and her deliberate projection of speculation. She summarizes Grace's trial mediation in the following way: "Loin de peser le pour et le contre, Grace a toujours instruit à charge, convoquant sur son plateau les invités qui noircissaient l'image de la jeune mère" (6). Having already condemned Anthony in the hyperreal court of public opinion, Grace's incriminating tirades against Anthony resemble, for Lesnes, the "furie

vengeresse” of a “tricoteuse devant la guillotine” (“Lettre des Etats-Unis” 28)—an especially gruesome image, since Anthony faced the death penalty.

Grace’s Tot Mom never made it to the “guillotine,” but that did not discourage the anchor from continuing her condemnatory crusade; Mandeville examines the anchor’s refusal to “[voir] s’écrouler ‘*son procès*,’” revealing the extent to which Grace simulated the pursuit of justice (“Aux Etats-Unis, le tribunal médiatique dicte sa loi” 6; original emphasis). Mandeville notes: “Loin de s’interroger, la justicière du petit écran a redoublé d’invectives, affirmant qu’elle continuerait de juger Casey Anthony devant le tribunal de l’opinion” (6). Moreover, Mandeville recounts incredulously the mass of journalists who, at Grace’s command, flooded to the restaurant where Anthony and her defense team dined post-verdict pour “dévers[er] sa colère sur leur capacité à tromper des jurés ‘*irrationnels*.’ [...] Un comportement qui révèle le déchaînement de l’opinion avide de ‘pain et de jeux’ judiciaires” (6; original emphasis). She compares the “frénésie” propelled by Grace to the media circus surrounding DSK’s “perp walk,” which, she concludes, reveals “un système médiatique prêt à s’immiscer sans scrupule dans les affaires de justice” (“Aux Etats-Unis, le tribunal médiatique dicte sa loi” 6). By projecting speculation and casting her own judgment with no regard for the “real” trial, Grace essentially takes the law into her own hands.

French reporting further highlights the role of the American public in the simulation of the pursuit of justice—specifically its simulated power to judge. Mandeville describes the “véritable hystérie collective” that overtook millions of Americans, many of whom—from all over the U.S.—manifested at the courthouse in Florida to try for a front-row seat at the trial (“Aux Etats-Unis, le tribunal médiatique dicte sa loi” 6). Those unable to enter the courthouse were resigned to “faire le pied de grue devant le tribunal en criant ‘Baby killer’ à l’adresse de

Casey Anthony” (“Casey Anthony, l’autre procès qui fascine et divise l’Amérique” 8). Chetrit also emphasizes the public’s engagement in the trial; she remarks that, following the trial’s conclusion, “la foule agglutinée devant le tribunal continuait à crier ‘Justice pour Caylee’ et ‘Meurtrière d’enfants’” (“Floride: Casey Anthony Acquittée”). Moreover, the impact of the court of public opinion with regard to Anthony, as well as the DSK “perp walk,” motivate Mandeville to voice a more general critique of both the American media and judicial systems. She explains: “La réalité est que le système pénal américain est profondément dysfonctionnel. [...] La justice pénale est en effet très perméable à la pression de l’opinion publique. [...] L’immixtion spectaculaire des médias dans ces affaires de justice fait-elle partie du problème? En Amérique, on adore se précipiter pour juger. [...] L’immixtion des médias est omniprésente” (“Dershowitz: ‘En Amérique, on adore se précipiter pour juger’” 6). For French journalists, the public frenzy over the Anthony trial, based in large part on the speculative reporting of “stars” like Grace, culminates in a blatant disregard for the “real” pursuit of justice.

While Nancy Grace’s speculative reporting is especially brazen, the projection of speculation—and the subsequent simulation of the pursuit of justice—by media “stars” is not uncommon. Mediation of the Simpson trial, for instance, included numerous public polls, interviews with family members and, like Grace’s coverage of the Anthony affair, bombarded the public with out-of-context images. Furthermore, by merging with the public to form the hyperreal court of public opinion, mediated jury trial speculation not only threatens the public’s perception of the pursuit of justice—it threatens the “real” pursuit of justice inside the

courtroom. Ultimately, although mediated images can be organized in each of Baudrillard's four phases, the impact of phase four simulation on "real" courtroom proceedings, insofar as it threatens the legitimacy of law, appears to bring into question that of the three initial image phases. The media's ability to simulate the pursuit of justice seems to suggest that, once achieved (at least with regard to jury trial mediation), hyperreality is irreversible.

CONCLUSION

For many French intellectuals and journalists, American jury trial mediation threatens the pursuit of justice by serving the consumer capitalist agenda of spectacle and ultimately projecting speculation. In order to trace the development and implications of the growing divide between jury trial images and the pursuit of justice, this study examined such images within the theoretical framework of Jean Baudrillard's image phases. At the fundamental level of the courtroom-theatre, the case presented by the lawyer-as-actor before the juror-spectator functions as a phase one image—a colorful representation of the pursuit of justice. When the lawyer advances to the role of producer and/or dramatist, the image transitions into phase two, where it distorts the pursuit of justice. Such distortion is largely due to the lawyer's obligation to serve the narrow interests of his/her client, as well as the pedagogical use of courtroom-inspired fiction to incite new levels of courtroom theatrics. The presence of news cameras inside the courtroom marks the shift into phase three, where the media diffuses jury trial images that mask the absence of the pursuit of justice. Mediated images in the third phase represent the consumer capitalist pursuit of spectacle rather than justice, which is evidenced by both the media's penchant for especially remarkable trials and its tendency to sensationalize the mundane. Furthermore, phase three reveals the complicity of the American public—consumers of spectacular images—in the displacement of the pursuit of justice by spectacle. Finally, the media's projection of speculative images signals the progression into phase four, where jury trial mediation loses references to—and ultimately destroys—the “real” pursuit of justice by simulating it. In this phase, mediated speculation merges with consumers to form a self-referential, regenerative hyperreal court of public opinion that ultimately doubles back on the “real” courtroom to threaten the legitimacy of justice altogether.

Implications and Limitations

In keeping with Baudrillardian nihilism, the most problematic—and perhaps most obvious—implication of this study is the self-destruction of the four images phases. While this study asserted the simultaneous existence of each of Baudrillard’s phases, the theorist, himself, believed postmodern American society to be fully and irreversibly hyperreal. For him, the first three image phases have therefore already come and gone; like the “real,” they are no longer possible. It was stated in the introduction that this study would stand in deliberate contradiction to Baudrillard in this regard. However, the fact that “real” proceedings inside the courtroom are vulnerable to the influence of phase four’s hyperreal court of public opinion suggests that, while the lawyer, for instance, might theoretically correspond with Baudrillard’s first two phases, the destruction of the “real” in the final phase retroactively delegitimizes all that precedes it. In other words, once in the hyperreal, mediated images destroy the possibility of the first three phases. In attempting to contradict Baudrillard by tracing jury trial images through all four phases, this study ultimately revealed the impossibility of doing so, and affirmed Baudrillard’s belief that postmodern America (at least with regards to jury trial mediation) is, in fact, fully hyperreal. All the same, Baudrillard’s image phases provide a useful framework in which to examine (and attempt to understand) the progression from representation to hyperreality, which might further aid in revealing possible implications of hyperreality for American justice and culture.

One such implication, for instance, is a possible connection between the virtuality of jury trial mediation and the resilience of capital punishment in the United States. A practice abolished by America’s first world contemporaries, including France, the death penalty is implemented in thirty-two states in the U.S., which featured a total of 3,035 inmates on death

row as of October 1, 2014 (Death Penalty Information Center (DPIC), “Fact Sheet” 1).⁴

America’s continued use of capital punishment flies in the face increasing rates of exoneration and data illustrating its failure to deter crime. For instance, while the South accounts for over 80% of America’s executions, it maintains the nation’s highest murder rate (DPIC, “Fact Sheet” 3). Furthermore, over 150 death row inmates have been acquitted with evidence of their innocence since 1973, and annual exoneration rates have since gradually increased, presumably due to advancements in forensics technology (DPIC, “Fact Sheet” 2). In light of both the ineffectiveness of capital punishment as a deterrent to crime and the inevitable loss of innocent lives, its continued use in the U.S. is perplexing; the hyperreality of trial mediation might, however, offer an explanation. It is possible that the American public’s experience of the jury trial is now so virtual that the death penalty no longer involves human life; rather, the alleged perpetrator functions as a symbol of transgression—a threat to American morality and justice, the demise of which has been—and continues to be—efficiently staged by the media via the projection of hyperreal images. As a first-world country on equal ground with the U.S. in terms of economic and technological development, the fact that France abolished the death penalty over thirty years ago—and prohibits mediated speculation of its jury trials—seems to support a correlation between hyperreal media coverage and the persistence of legalized murder.

However, many Americans oppose capital punishment, which brings to light a limitation of this study: there are various American intellectuals and journalists who are leery of the American media’s pursuit of spectacle and its generation of a hyperreality. For example, this study was informed by Les Essif’s *American ‘Unculture’ in French Drama: Homo Americanus*

⁴ The Death Penalty Information Center is a nonprofit organization that publishes reports related to capital punishment in the U.S. The DPIC sources its data from federal agencies like the Bureau of Justice Statistics and the Federal Bureau of Investigation.

and the Post-1960 French Resistance, in which the author explores Baudrillard's hyperreality and Debord's spectacle in direct relation to a American (un)culture. Terry Eagleton, as a second example, critiques the role of mediated images and consumer capitalism in postmodern American culture in *The Idea of Culture*. America also has its share of journalists who, like the French, criticize the media coverage of the Simpson, Strauss-Kahn, and Anthony trials. For instance, Adam Cohen for *Time Magazine* cites—and agrees with—the French outrage over the DSK “perp walk,” asserting that, “perp walks can do irreparable harm to a defendant’s right to a presumption of innocence and a fair trial” (“DSK Fallout”). Though this study did not address Americans who identify with the French perspective, the existence of these thinkers does not change the hyperreality that characterizes jury trial mediation in the U.S. The American media and legal systems permit the diffusion of images that sensationalize, criminalize, and speculate. Such images constitute a direct reflection of American culture, for the media does not source its power from the ethers; there will always be members of the American public who engage in—and propel—mediated images that undermine the pursuit of justice. Ultimately, the American media system and the consumers who participate in it allow for the generation of a mediated hyperreality with regard to justice that would not be possible in France.

This study concentrated on the media’s role in generating a very specific brand of American spectacle and hyperreality; there remain various avenues for further research. It would be worthwhile, for example, to shift the gaze in the direction of the American public—the audience to which the media appeals—in order to more fully examine the hyperreal role of consumers. In the interest of a more detailed cultural analysis, a side-by-side examination of

French and American reporting—print and televised—on a selection of trials would surely prove enlightening.

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