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Affective Architectures: Photographic Evidence and the Evolution of Courtroom Visuality

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Abstract

This article examines the courtroom situation, focusing on courtroom spectatorship, architecture, and visuality in US trials. Visual evidence is situated within the architectural apparatus of the courtroom to examine how affect unfolds between a testifying witness and courtroom audience members. The movement of photographic evidence during judicial proceedings is linked to the disruption of temporal and spatial equilibrium. The idea is introduced that a feeling of vertigo is produced in the testifying witness and audience participants. Following Sianne Ngai's conception of the 'minor affects', it is proposed that disconcertion and confusion are characteristics of witness testimony and thus important political affects to note in analyses of the relationship between vision and the discovery of justice in legal spectatorship.

Keywords

chiasmus • domestic violence • legal spectatorship • minor affects • photographic evidence • proprioception • vertigo

Introduction

In a 2016 themed issue of the *journal of visual culture* devoted to architecture, editors Jae Emerling and Ronna Gardner propose that contemporary architecture has failed to address 'the full complex of issues engaged by visual culture studies' (Emerling and Gardner, 2016: 296). Martino Stierli (2016: 313, 314), in his contribution to this issue, considers 'how a building serves as an apparatus for the production and display of an image', and places the

emergence of architecture as the art of space in the late 19th century, a period during which, he notes, 'psychology, theories of perception and empathy theory became driving forces in art history'. This article accords the spaces in which law is enacted the status of architecture in Stierli's sense to examine affective immersion among witnesses and spectators engaging with digital visual material in law's environments. Legal scholar Neil Feigenson (2014: 13) has proposed that 'each dimension of legal visibility creates tensions in our conceptions of what law and legal knowledge should be.' Enactments of law in the field's built environments are precisely one of these dimensions of visibility. Scholarship in visual theories of law has mostly limited itself to interpretation of the image and its technical production. Scholarship about the space where legal interpretation is visually managed through legal protocol is surprisingly sparse. This is especially the case regarding the architectural domain of the courtroom, a place where photographic evidence is routinely circulated by law professionals and consumed by legal spectators. This article takes up the circulation of images in the space of the courtroom to consider the specific tensions around legal knowledge as they articulate through the affective dimensions highlighted by Stierli.

Until recently, legal theory has seldom accounted for the role of the courthouse and courtroom and the historical shifts in architecture in the discovery of justice. More importantly, legal theory has neglected the question of how the design of the courthouse and courtroom disclose valuable insights about Anglo-American political history and its structures of feeling. Also infrequently explored are courtroom dynamics after the incorporation of electronic projection, digital media, and digital filing systems into courtroom architecture (see Mirzoeff, 2011; Resnik and Curtis, 2011; Robles-Anderson, 2012; also see Robles-Anderson, forthcoming). This article interprets photographic evidence that circulates electronically in the courtroom through a framework that foregrounds the formation of structures of feeling in architectural space. By offering an examination of the courtroom situation, it also demonstrates how photographic evidence becomes, in effect, a component of courtroom architecture. In this capacity, photography plays a decisive role in the relational unfolding of affect among legal personnel, testifying witnesses, and courtroom audiences situated together in the space of the courtroom.

This analysis is focused on misdemeanor and civil domestic violence trials. It is supported by a definition of legal spectatorship that is forged in response to what I perceive to be a problem in visual culture studies research as well as in legal scholarship: a dearth of discussion of the legal protocols that organize spectatorship. Legal spectatorship delineates looking practices for courtroom testimony called into being by the interaction of the First and Sixth Amendments of the US Constitution (Simonson, 2014). I use this term, legal spectatorship, at a time when courtroom looking is being evacuated from democratic practice. In 2016, courtroom looking remains a protected right in the United States. Yet the contemporary courtroom has never had fewer audience members (Feigenson, 2014; Mulcahy, 2007).

Projection systems have been a standard display feature in US courtrooms since the 1910s (Schwartz, 2009). However, currently 95 percent of US court appearances end in a plea, resulting in fewer trials. In the 2010s, courtrooms are heavily networked, but nobody's home. This problem traverses critical legal and visual culture. Given the preponderance of black defendants in the criminal justice system (Alexander, 2012; Gilmore, 2007; Roberts, 2001, 2004; Simon, 2007), it is also an issue for black studies.

The Courtroom: Architecture, Audience, and Audiovisual Technologies

Courtroom architecture and design organize the courtroom audience. The audience of family, friends and neighbors who support those involved in making court appearances is a crucial yet neglected aspect of legal looking. Courtroom space is designed to situate bodies, including these visitors, in the performance of the trial. Whereas the jury sits to the side of the judge and witness box, the courtroom audience sits in rows of seats facing the stand frontally, much like a theater or cinema audience. Constitutionally protected through interlocking terms of the Sixth and First Amendments, the courtroom audience is instantiated as a central and permanent crowd of witnesses whose spectatorship, conducted from this optimal classic viewing position in the space of the courtroom, both materially and symbolically fulfills the individual's democratic right to a public trial (U.S. Const. amend. IV). The spatial situation of the audience also affirms the public's combined rights of free speech, free press and free assembly (U.S. Const. amend. I). Thus, constitutional protocols organize and give shape to legal looking. For the purposes of this discussion, I focus on free assembly. In this context, US courtroom audiences perform a type of civic witnessing that, through the design of seating and acoustics, is rendered historically subordinate to the work of juries, who observe from the side. Much legal scholarship and activism is dedicated to analyzing the demographic composition of juries and the logic of its legal fact-finding (Bowers, 2012; Ryan, 2012; Simmons, 2002). Less attention has been paid not only to the moral economy of courtroom audiences, but also to the unofficial and unsupported means by which these community witnesses participate in the production of public goods such as mutual recognition, care, and information dissemination about courtroom activity to the public. Central to this prospective area of research would be an understanding of how the spatial architecture and design of the courtroom, in their positioning of courtroom audiences as prime legal spectators, do and do not shape and inform these potential roles.

At the same time, since the 1910s, audiences have been organized in the space of the courtroom in relationship to technologies of courtroom projection as well as to the stand. Algorithmic projection software and hardware, PowerPoint technology, digital cameras, and images – all of these together instantiate forms of spectatorship that inflect and reshape the everyday public and private looking practices of legal spectatorship in

US courtrooms of the 2010s. Thus, not only constitutional protocols but also visual and algorithmic protocols condition the practice of legal looking.

I wish to suggest that, by grounding spectatorship in constitutional law, the practice of circulating and observing photographic evidence becomes inseparable from law's architectural environments. Although courts circulate more images than ever before (Feigenson, 2014), they also vigorously interdict the recording of live courtroom events. Audience members are forbidden to photograph, video, and audio record courtroom activity, despite being ideally situated to view. Thus the labor constitutive of the audience's legal spectatorship is controlled and archived officially by the state alone, not by the members of the viewing community themselves. US courtrooms maintain a monopoly on all forms of documentary or witness enunciation including voice, image display, repetition and the timing of speech, etc. By forbidding alternative means of performing and recording what is said, the state controls the technology of liveness, an important concept in the fields of television and performance studies that deals with the relationship of technologies of recording and documentation to the experience of witnessing events as they unfold in their immediate time and space. The prohibition on recording and documentation makes it almost impossible for court audiences to speak about 'what happened' without going through the court and its technologies, and artifacts – official court records and transcripts. Knowledge of the officials is the only documentation available other than unofficial written and verbal descriptions. There are few theories for handling the physical and affective presence of courtroom audiences. There are still fewer accounts not only of the reception of photographic evidence, but also the experience of being excluded from operating cameras and recording devices in the space of the courtroom. There is thus great irony in the central positioning of the audience, which is revealed to be symbolic of the right to witnessing, and to being witnessed, that is at the same time stripped away by this prohibition to record – an activity conducted on the sidelines. In these ways, constitutional protocols and courtroom architecture shape the direct experience of spectatorship, and also shape the experience of spectatorship in relationship to audiovisual technologies of recording and documentation.

Today's media environment is saturated with numerous communication interfaces. According to Alexander Galloway (2012: 31), the interface delineates 'the [transition] place where information moves from one entity to another, from one node to another within the system'. Interfaces are allegorical devices, 'figurative aids for understanding today's control society', specifically how communication occurs in bounded communication systems (p. 99). Photographic evidence is indeed an interface within the courtroom testimony situation that allegorizes the discovery of legal facts and justice in US courts. Kaja Silverman's (2015) discussion of the chiasmus, a concept found in Maurice Merleau-Ponty's phenomenology, suggests the rhetorical, mechanical, and ultimately architectural form of relation produced through photography, which she argues is 'the highest form of poiesis' (p. 159). The idea is conceptually aligned yet distinct from the media interface – electronic 'significant surfaces' like keypads,

screens, and kiosks, including the computational code that gives shape to such objects of mediation (Flusser, 2000). Chiasmus refers simultaneously to a 'crosswise arrangement', a 'reversible reversal', and a 'fluid' that allows photography's 'miracle of analogy' to take hold.¹ I prioritize Silverman's use of chiasmus because it emphasizes analogy, which goes beyond what seems a grand narrative of photography-as-interface that would operate as fable, parable, or allegory of how we make legal decisions. Allegory is the stuff of major affects instrumental to how fable, parable, and myth illustrate moral lessons and rationalized politics. It does not do the work to explain new, unnamed, or otherwise unmarked activities that may also illustrate something distinctive about law communication and courtroom politics.

In other words, the interface does not capture Sianne Ngai's powerful excursion away from the tradition of philosophical aesthetics and moral philosophy toward a consideration of what she considers the 'minor affects'. Where rage, shame, and fear are the 'grand affects' represented in Western thought, minor affects attach to moments of 'suspended agency', a vulnerable state of confusion or weakness felt variously as envy, animation, disconcertion, irritation, and so on. Ngai (2005) queries the role of ambiguity in the constitution of political liberalism and the power of uncertainty to 'diagnose situations'. The chiasmatic nature of photography focuses attention on *the intimate analogical work of comparison* made possible through crosswise spatial arrangement between live, co-present spectators during moments of projection, reception, and interpretation of visual evidence. Analogy is the core of photography's chiasmatic nature. As such, the chiasmatic nature of photography includes repudiation, confusion, concern and a host of other ugly feelings/minor affects that often occur along lines of race and gender. In another sense, the work of analogy characteristic of the chiasmus is more appropriate to explain the intricacies of the legal process, which is historically dominated by analogical, not allegorical reasoning.

One could readily interpret the space of the courtroom as a theatrical space of major affects (Auslander, 2008; Byers, 2009; Conquergood, 2002; Feigenson and Spiesel, 2009; Sherwin, 2011). However, I choose to turn instead to misdemeanor court, a space of minor offenses – small civil infractions that matter the least. The activity of misdemeanor courts, I propose, is an important location for theorizing what I call a minor literature on legal spectatorship – a critical discourse that attends to the production and circulation of minor affects.

A Minor Literature on Legal Spectatorship in the Space of the Courtroom

Misdemeanor court is a training ground for new law professionals. New attorneys achieve fluency in courtroom procedure. They establish their own routines for trial preparation and finesse strategies for articulating arguments. Misdemeanor courts are professionalization centers for attorneys and de-professionalization centers for other court-involved individuals. They

are control technologies that oversee how new attorneys are mentored and monitored by more seasoned lawyers. Jenny Roberts (2013) observes that the criminal misdemeanor trial often exposes individuals to major disciplinary and carceral power. Historically minor offenses have often been met with extreme measures (see also Gonzalez Van Cleve, 2015). The activity of misdemeanor courts, then, is an important location of what I will call ‘the minor literature’, a term I use to describe the talk patterns of court participants, the minor affects, and the paperwork about minor infractions that appears in the archives of these trials. A ‘minor literature’ is a phrase I draw from Ngai (2005). I use it to describe a literature within law communication – a literature of mediatized courtroom testimony. I also introduce the metaphor of ‘irritation’, a feeling that is fitting to the diagnosis of the situation of domestic violence misdemeanor and civil trials – fitting not only because the term captures the physical pain and suffering of domestic abuse, but also because it describes the experience of legal spectators observing communication in misdemeanor trials for issues such as domestic violence. These spectators, I explain, experience imbalance, disconcertion, and frustration – not over the fact of violence in itself, but in response to the rhythms of its courtroom enunciation, which are pulsating, erratic, difficult to follow.

Misdemeanor domestic violence trials must establish whether or not a minor degree of violent touch occurred. Evidence publication and witness authentication are organized in terms of traditional spatial sightlines of courtroom architecture – judge’s bench, courtroom well, attorney desk, jury box, etc. Domestic abuse courtwatching entangles the subject in the spatial logics of courtroom publication of photographic evidence and authentication of the content of the image by testifying witnesses. By sitting in the audience of misdemeanor and civil domestic violence trials, I exercised the right of the public to attend criminal court guaranteed by the First and Sixth Amendments of the Constitution. Despite these Constitutional protections, the *absence* of a viewing public in domestic abuse trials is overwhelming, the emptiness of the courtroom aisles a palpable silence save for a few friends and family of the defendant or witness or law professionals visiting from other countries and school children taking tours of the courthouse as a lesson in civics and justice.

I now turn to affective interplay between the human vestibular system and moving courtroom architectures – including photographic evidence – as individuals perform the duty of witness testimony and legal spectatorship inscribed by the US Constitution. Affect theory, visual culture, critical race and legal studies are tapped to develop a concept of legal spectatorship. To shape this theory, I connect Ngai’s (2005) work on minor affects to Hortense Spillers’ (2003) distinction between flesh and body, through which she positions black Americans in what she calls a ‘vestibular’ relation to US culture.

In her work on the spatial representation of anxiety in literature, Ngai proposes a theory of suspended agency and thrown projection. In psychology,

projection is a defense mechanism whereby one displaces a shameful quality found in the self onto another. Ngai shifts projection's emphasis on timing (i.e. when the subject is motivated to project onto the other) to projection as a matter of *location and means*, suggesting that through projection 'affect assumes a particular form', thrown in space (p. 212). Suspended agency is the 'situation of passivity itself, [including] the allegorical significance it transmits to the ugly feelings that both originate from and reflect back upon it' (p. 12). These concepts, which I appropriate into the courtroom scene, help me to theorize legal spectatorship of domestic abuse trials. The two concepts are dialogical, such that a suspended agent can be any witness or bystander of a thrown projection, 'a passive body hurled into space' such as photographic evidence (p. 36).

In the DV courtroom, the audience apprehends photographic evidence via thrown projections by attorneys, court officers and projection systems. Suspended agency in this context articulates the audience legally ordered into passive silent viewing under threat of contempt of court. Photographs are projected in a chiasmus structure instantiating many analogical comparisons between witness and self, attorney and juries, audience and judge, and so on. Thrown projection in the courtroom, I propose, manifests in the haptic customs of law professionals during image publication and witness authentication.

The hand is a crucial yet often ignored aspect of courtroom thrown projections. In DV cases, prosecutors often circulate evidentiary images of wounding directly to jury hands in addition to projecting them on screen. The belief is that in these moments juries are 'holding the body' of the abused witness (Public Defender Susan Clemens, 2010: personal communication). In this technique, each jury member waits in anticipation for the next image to be passed even while oral testimony is ongoing. In this way, prosecuting attorneys tie their display choices to greater degrees of empathy in jury members and their own abilities using projection technology. My participation in the courtroom audience highlighted the irritating and frustrating predicament facing the legal spectator anticipating a passed image and the inability to attend to the rhythm of simultaneously spoken and visual testimony – the thrown projections of misdemeanor domestic abuse trials.

Haptic customs of law professionals are hand rhetorics that choreograph the interactions with media interfaces.² They condition the possibilities in which the display of visual evidence can and does conflict with live testimony from battered women, creating moments where 'eye knowledge' interrupts, frustrates, and vexes the flow of 'ear knowledge' of the witness and other spectators. Haptic customs take three forms: publishing images individually, projecting them to everyone at once as in the experience of a cinema or slide show, and a combination of piecemeal and projection.

Losing Balance and Rhythm in the DV Courtroom: A Scene of Minor Subjection

When photographic evidence is published during live court testimony, the image file and witness are sutured together in the performance of memory. The routine of testimony begins with the witness verbally authenticating their image at the time of the events. These are two processes called publishing and authentication, respectively. The witness is bound to their image and equally to any subsequent speech. Legal spectators grapple with the *content* of the image file and the witness's spoken testimony. The power of this moment is fragile precisely because of the coveted nature of the testimony and its potential to establish legal facts. There is a heavy moment of anticipation. Attorneys establish and coordinate the rhythm of testimony with the witness by acting as a playback mechanism, perpetually starting and stopping the witness's speech. At the same time, attorneys also coordinate the display of the image or images to the jury. Roshanak Khlesthi (2015: 22) has remarked upon the phonograph's playback function:

As a playback medium [the phonograph] requires a listener who encounters it within a new contact zone, the listening event. This is a context where different temporalities and actors (who were not present at the original recording event) can be brought together.

Khlesthi's observation of the phonograph focuses on the playback of *sound among listeners*. Yet, other forms of 'noise' may parasite the playback function, such as the *image* of the wounded self. Although dominated by spoken testimony – facilitated by rhythmic playback – the talk patterns of the domestic violence trial are cut, disturbed, interrupted by the parasitic noise of the *image*. Following Michel Serres' (2007) work on the parasite in the philosophy of communication, the photograph is not there for the witness; witness is the object of the photograph.

A Family Court civil trial identified by a standard DV (domestic violence) prefix followed by a six number case docket number was filed in the Superior Court of California during March 2012. A civil trial was heard in Family Court May 2012.³ The case involved domestic abuse between husband and wife residing in San Diego County. Eleven photographs were published, seven of the witness and four depicting the home: an image of the garage, a master bedroom, a front door view of the house, a ransacked living room, and the hallway to the kitchen. Why are these images not included in a themed issue volume on affect and photography? Photographic evidence and its role in affect production occur in the moment of its live publication in court. Unlike art photography and other visual materials where permissions may be acquired for public display, photographic evidence is impounded by police and marked during trial by court officers. Although photographic evidence is referred to in court transcripts, such images are not included in stenographic transcriptions of court activity. Images entered into evidence are included in the official court records pertaining to this case; however,

not all images were included nor are they of the same quality as the images published within the trial's courtroom architecture.

The testifying witness is seated on the witness stand. Her speech is bound equally to the elevated chair situated between the judicial powers of judge and jury and the visual evidence authenticated. The prosecuting attorney uses both PowerPoint technology to project the images and printed 8.5-inch by 11-inch color photographs, which are displayed on a small separate projector. The prosecuting attorney in this trial, a recent law school graduate like most of the Assistants to the City Attorney, uses all of the images collected by the police – images of furniture and papers strewn about in three different rooms and several images depicting bruises on the witness. Some of the evidentiary exhibits include a set of injuries sustained during an accidental fall that the witness reports unrelated to the trial. The images are introduced to draw a distinction between them and the injuries pertinent to the case.

The prosecutor to the jury box hands an 8.5-inch by 11-inch color image depicting the witness's arm. The courtroom audience cannot yet see these images. The lights are turned off and the prosecutor then projects the image on screen. It is a close-up of one bruise and includes a ruler for scale, a common feature of many evidentiary photographs in domestic abuse cases. On screen, the bruise is a pale purple line about an inch in length. Another image is passed to the jury then projected on screen. The photograph is a bird's-eye perspective of the witness lying down wearing a neck brace. Her mouth is closed and her eyebrows are in a strained position. She is wearing a hospital gown. No bruising is present in this image, only the neck brace as the signification of injury. A third image of the witness's arm is passed and projected on screen. The image is dark and the injuries are difficult to make out. The prosecutor is obligated to clarify that the image is blown up. A forearm image is projected with a faintly perceptible bruise; a ruler is included in this image. A fifth image of the witness's neckline is passed and projected. A slight scratch is present showing a red abrasion at the neck. Finally, the jury is handed what appears on screen as an aerial view of a limb. It is another close-up image taken from the hospital bed. Five bruises are depicted accompanied again by the ruler. At this final thrown projection, the witness is initially unable to discern whether the image depicts her leg or her arm. She admits she is confused; are the colorful yet fading bruises depictions of her forearm or leg? The prosecutor 'throws' another image from the hospital bed to help reorient the witness to her body projected on screen diagonally from her seat.

A few chiasmatic comparisons take shape amidst the small projection system, color prints, PowerPoint projection, and spectators: first, an analogy between the bruise and the ruler; without this measuring device, the projected injuries would be difficult to perceive. Second is the relationship between lights turned on and off each time the prosecutor passes an image to the jury's hands then projects it on screen for the rest of the courtroom. Third, an analogy between the witness's testimony about the pain referenced

by the bruises and neck brace and the images simultaneously projected on screen. Here the witness directs her speech to the prosecutor and courtroom but also projects her confusion and disorientation onto the image of her wounded self.

Ngai (2005: 212) argues that ‘acts of throwing reinforce the boundary between “here” and “yonder” on which the experience of threat depends’ such that anxiety and panic are ‘less an inner reality ... than ... a structural effect of spatialization in general’. The playback exchange between prosecutor and witness takes time, and is a disruptive element of testimony in which the witness loses coordination between her own speaking body and the body represented in the image. Saturated with close-up images, the evidence publication is not smoothly coordinated with the live testimony. It is a falter, a stutter, a hiccup, and does not articulate well in the testimonial record. Here ‘the logic of “anxiety” and that of “projection”, as a form of spatial displacement, converge on the production of a distinct kind of knowledge-seeking subject’ (p. 215). My interest lies in the communicable displacement of the witness’s anxiety onto the jury and court audience via the ‘objective mechanism’ of courtroom architecture, which includes photographic evidence (p. 221).

The witness lost control of her orientation to her body projected on screen by her attorney. Her loss in orientation was the defense’s gain, however. This case ended in a not-guilty verdict for the defendant. One of the issues upon which the judgment turned concerned the publication (thrown projection) of the evidentiary photographs. In post-trial interviews with the jury, the prosecutor and public defender learned the jury understood that both the prosecutor and witness lost control of the many images prosecution displayed during testimony. During deliberations, the jury thought they perceived two sets of injuries, one older than the other. The prosecutor’s failure to distinguish the two sets of injuries (one of which was reported as having nothing to do with the current matter) confused the jury about which images referred to the pertinent wounds. I argue the performance of citizenship – jury service – is linked here to particular anxious and disoriented attempts to read between the live body and its thrown image in the courtroom’s chiasmatic arrangement such that ‘the representation of anxiety’ concerning all legal spectators ‘oddly becomes dependent on a spatial grammar and vocabulary’ (p. 215).

The Assistant City Attorney violated what I suggest are the haptic customs of law professionals handling domestic abuse cases. Tina Campt (2015: 8) encourages a haptic mode of reading photography in order to engage the ‘sonic, haptic, historical, and affective backgrounds and foregrounds through and against which we view photography’. Publishing and authentication in the courtroom includes a fractured moment of semiotic interaction distributed across technologies and legal subjects. Attorneys may pass evidentiary photographs in a number of ways, all of them resulting in a moment of disruption, or irritation of the vestibular system for all spectators. The hands of prosecuting attorneys and court officers are endowed with special powers

of display. Passing photographs from an attorney to jury members then to court officers marks official moments of communicative interaction among law professionals and moments of high attention among court audiences. In this case, the prosecuting attorney passed images to the jury, manned the PowerPoint projected slideshow in addition to moving closer to the witness stand to draw on a poster board to help facilitate witness testimony when she became disoriented. The attorney drew stick figures, providing a visual reference for the witness to indicate injured body parts. A moment of shared but oddly placed laughter ensued when the prosecuting attorney remarked on his poor drawing ability. Attention was directed away from the comparative link being established between projected photographs and witness toward the poster board. The movement of testimony between witness and attorney, the endlessly advancing slideshow and poster board sketch created multiple and incommensurable views of physical injury, which I argue disrupted the vestibular system of the witness and my own position as courtroom audience member. It is this sense in which a form of vestibular imbalance dominates the sensorium when witness testimony begins and the legal spectator observes and attends to the spoken word and moving image. As evidentiary images are published and authenticated, the position of the spectator and testifying witness is a confused one of where and when to look and how to listen.

The 'suspended agency' that Ngai (2005) uses to mark disconcertion, irritation, and confusion as minor affects take hold as a sensation akin to vestibular cultural positioning discussed by Spillers (2003). Commonly known as vertigo in psychology and neurology, vestibular imbalance is a disruption of the vestibular system, the location and function of the inner ear and brain that coordinate balance and eye movement. After long debate about the diverse etiology of vertigo dating back to Plato, research in the 19th through 21st centuries has established a link between vestibular imbalance and panic disorders (Balaban and Jacob, 2001). Of particular significance for this study is the role of visual influence on the experience of vertigo. *Vertigo visualis* (visual vertigo) emerged as both the result of abnormal and normal perceptual phenomena. Neurologic perspectives associate vertigo with extra-ocular muscle weakness while the physiological literature supports visually induced vertigo as a normal perceptual phenomenon. Thus *vertigo visualis* currently describes 'any visually induced vertiginous symptoms' (Mallinson, 2011: 18, emphasis added; Bronstein, 1995). The significance of vision in orienting subjects in space is borne out in laboratory experiments in which 'patients with vestibular disorders appear to be more reliant on visual cues for postural stability than healthy individuals' such that posture control 'must rely on other sensory inputs, notably, visual cues, to maintain upright stance' (Redfern et al., 2001: 87). By disrupting the disciplinary boundaries between scientific experiments in proprioception and misdemeanor courtroom activity, we may come to a trans-disciplinary understanding of how phenomena like posture, spatial orientation, and the vestibular positioning of 'suspended agency' are shaped in political contexts where affect and architectural forms animate the legal spectator. This line

of flight demands a dual investment in the visual and audio component of testimonial speech patterns and their influence on the legal spectator who is trying to stay on balance during the playback comprising courtroom activity.

Prior to Ngai's (2005) work on suspended agency, Spillers (2003: 207) characterized black existence in white patriarchal hetero-normativity in terms of vertigo, arguing that black life is lived in a vestibular relation to white domestic arrangements. Neither outside the home nor inside the parlor, vestibular space is the liminal, queer element of black presence in a white hetero-patriarchal domestic community. A vestibule also refers to the opening region of the vagina. The vestibular, then, refers to architectural spatial convergences and anatomical systems; here social, cultural, and economic status are produced. Spillers positions black life as vestibular to American culture, locating 'a cultural *vestibularity* and *culture*, whose state apparatus, including judges, attorneys, 'owners,' 'souldrivers,' 'overseers,' and 'men of God,' apparently colludes with a protocol of 'search and destroy' (p. 207, emphases in original). In this account, Spillers signals the relationship between slave law, the reading of the body's flesh and its subsequent organization in space. Spillers writes, 'If we think of the "flesh" as a primary narrative, then we mean its seared, divided, ripped-apartness, riveted to the ship's hole, fallen, or "escaped" overboard' (p. 206). In the domestic violence trial, the image of damaged skin and the specularity of its blood is the primary narrative of the domestic violence trial. In Frantz Fanon's (1952: 111) oft-cited primary scene, the white child's declaration 'look a Negro' exposes Fanon's black body and face to the major affect of shame and mortification. Yet, for the legal spectator, the domestic violence image can be a site of minor affects such as irritation and disconcertion. These affects concern not only how to read the flesh but also its inseparability from the haptic customs of law professionals during the publication of photographic evidence of wounded flesh sutured to the architecture of the courtroom.

Like a keystone, photographic evidence of abuse is bound to the architecture of the physical courtroom. Moments of legal spectatorship prioritize the all-encompassing meaning of the vestibule as a transitional space: from the Middle Passage, in which slavery is imposed on black Africans by wounding the flesh, to the transitional space of the architectural vestibule, including the vestibule's anatomical reference of the female gendered body. I prioritize the transitional space of the vestibule over the interface in order to bring Spillers' (2003) use of the term into conversation with research on vestibular imbalance and its relationship to affect and feeling. In domestic abuse trials, photographic evidence remediates the metaphysics of flesh, initiating a variety of analogical comparisons. Legal spectators attempt to master and are mastered by this 'fleshy' matter. In the domestic abuse civil trial, the chiasmus is an affective architectural structure facilitating the analogical work of linking the overwhelming difference between the live testifying witness and photographic evidence of her abuse. As the aforementioned moments from the trial suggest, this visual practice is frequently done through minor affects and all of the politically meaningful uncertainty and confusion they entail.

Conclusion

The adjudication and redress of alleged violence is one of the most confounding political obligations for citizens. Although codified by the grand narrative of the nation-forming US Constitution, legal spectatorship organizes and encourages subtler micro-analytical approaches to how we see in legal settings. The ethnographic moments discussed are by no means an exhaustive description of the legal spectatorship of domestic abuse trials. These trial moments illustrate how photographic evidence becomes a site for the production and exchange of minor affects that are constitutive of legal spectatorship. Although part of the major, time-honored and official rituals of courtroom activity, it is out of the confusion and uncertainty characterizing the minor affects that some of our most pressing acts of legal spectatorship are performed.

There is an interface between anxiety and vestibular imbalance. Clinical research has long understood the connection between vestibular and visual systems and the experience of fear and panic. This knowledge circulates largely in the discipline of psychology and human behavior. Ngai's (2005) theory of the minor affects helps us appreciate visuality, vertigo, and anxiety outside of the clinical domain of psychological disorders, and suggests these links are germane to the legal domain and the performance of democratic citizenship in the courtroom. Likewise, Spillers' (2003) account of the vestibular position of black people to US culture extends the reach of the term from one tracking transitional anatomical and architectural space to the realm of everyday political participation within American domesticity. US courts incorporate the racializing visual practice of reading the flesh instrumental to chattel slavery as a democratic and government feminist looking practice.

This article argues that photography – remediated flesh – imposes a body on the diverse members of the courtroom audience, especially testifying witnesses. As the trial illustrated, one may lose a sense of the body in the very moment of flesh-photography's imposition. Anxiety and vestibular imbalance during testimonial observations suggests 'feelings may be formed and even "shaped" by the means used to project, "discharge" or "expel" them' (Ngai, 2005: 222). The hand rhetorics of law professionals, the frequency with which talk is interrupted during testimonial playback, and the delicacy of first impressions of courtroom players are viewed as inconsequential, taken-for-granted aspects of courtroom looking practice. Courtwatching domestic abuse trials can reveal how irritation, disconcertion, and confusion – minor affects sutured to thrown projections – contour legal spectatorship and the establishment of legal facts. Legal spectatorship marks the looking practices of the public in matters of law. It acknowledges the paucity of discourse about visual literacy in law communication at the same time as it encourages minor, micro-level analysis of law and photography amidst the growing incorporation of digital media interfaces and social media practices into law's environments. The potential of legal spectatorship for theories of visual culture follows a question Spillers (2003) had about the

processes of US chattel slavery: what are the ‘unacknowledged legislators of our discursive and economic regime’, and how is status made?²⁴ If legal spectatorship suggests a methodological approach to law and the image, it is one that traces the movement of affect and feeling in the form of thrown flesh-photographic projections within and between court audience members broadly conceived. Axiomatically it views the courtroom as a space that rehearses looking practices from slavery to adjudicate domestic abuse in the contemporary.

Notes

1. The full quote from Silverman (2015: 87–88) reads:

But chiasmus is also operative in other domains. The brain is able to fuse the two dimensional images that light inscribes on the retinas of two-sighted people into three-dimensional image because half of the optic nerve fibers carrying visual ‘information’ from each retina to the brain cross at the optic chiasm. ‘Chiasmus’ is also Merleau-Ponty’s name for the ontological thread stitching the seer to what is seen, the toucher to what is touched, and sight and visibility to touch and tactility.

2. Repertoires of touch and gesture have a long history in the pedagogy of non-typically ordered communication and the political education of the oppressed. John Bulwer’s 1544 *Chirologia and Chironomia* informed the hand rhetoric for deaf language.
3. It should be noted that, while domestic abuse comprises a significant amount of the courtroom docket, domestic abuse trials, including images, are a relatively infrequent occurrence. This accords nonetheless with my argument about the importance of the minor.
4. See ‘Peter’s Pans: Eating in the Diaspora’, in Spillers (2003). The full quote reads:

The marking, the branding, the whipping – all instruments of a terrorist regime – were more deeply *that* – to get in somebody’s face that way would have to be centuries in the making that would have had little to do, though it is difficult to believe, with the biochemistry or pigmentation, hair texture, lip thickness, and the indicial measure of the nostrils, but everything to do with those ‘unacknowledged legislators’ of a discursive and an economic discipline. (To that extent, the critique of ‘identity politics’ has positioned the wrong objects in its sights: it needs to ask, more precisely, how *status* is made and pay attention to *that* because *that* is the dialectic that plays here. (Emphases in original.)

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