

“Pics or It Didn’t Happen” and “Show Me the Receipts”: A Folk Evidentiary Rule

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“Pics or It Didn’t Happen,” “Show Me the Receipts,” and related refrains are frequently encountered in online discussion threads today. They are typically invoked to demand corroboration in support of a claim or to declare from the outset that a claim is supported by some sort of proof. In many ways, they are the functional counterpart of legal evidentiary objections in online discussions. They embody a folk evidentiary rule, democratically and organically developed by the people.

The topic of “Pics or It Didn’t Happen” is much broader than can be covered in a symposium piece. As such, this Article seeks to provide a brief exploration into the use of the rule, drawing out some of the underlying evidentiary principles and pointing to some of the pitfalls of proof by “pics.” It also explains the importance of studying “Pics or It Didn’t Happen” for scholars of law and of evidence law in particular.

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INTRODUCTION

“Pics or It Didn’t Happen.” “Show Me the Receipts.” “I Have the Receipts.” These phrases (collectively, “Pics or It Didn’t Happen”) are ubiquitous on online discussion platforms today. Any reader of this Article, except for those who assiduously avoid internet discussions and social media, will likely have encountered them in some form or another.

Why should a law review be concerned with “Pics or It Didn’t Happen”? A reader could easily be tempted to think of the topic as unserious—the stuff of internet memes and banter.

Let us consider, however, the archetypical use of “Pics or It Didn’t Happen” in online discussions. Some user (the “claimant”) makes an assertion. Another user (the “objector”) invokes the phrase, demanding some sort of “pics” or “receipts” (collectively, “pics”) from the claimant to corroborate the assertion. If the claimant fails to supply the requested “pics,” the objection is effectively sustained.

Seen in that light, “Pics or It Didn’t Happen” is operating as an evidentiary objection. It can rightly be said to be the evidence rule of the internet.¹ Indeed, “Pics or It Didn’t Happen” is one of the internet “rules” that is actually taken seriously and seemingly enforced in internet interactions.² For the scholar of evidence law and

1. Indeed, “Pics or It Didn’t Happen” was one of the “Rules of the Internet” circulated within the controversial 4chan discussion forum. Chris Menning, *Pics or It Didn’t Happen*, KNOW YOUR MEME, <https://knowyourmeme.com/memes/pics-or-it-didnt-happen> (last updated June 20, 2019) [<https://perma.cc/PZ94-LQ4N>].

2. There are of course no “rules” of the internet. Nonetheless, it is instructive to look at posts purporting to collect “rules” to observe what may generally be considered a “rule” or norm. Taking one of the earliest known posts of such nature, published on 4chan in 2007, we find that most supposed “rules,” including, “[a]s long as there is internet there will be drama,” and, “Snape killed Dumbledore,” are not rules, but observations or assertions. Anonymous, *The Rules of the Internet*, 4CHAN (Feb. 15, 2007, 11:05 PM), <https://archive.ph/QvSpe> [<https://perma.cc/BMU5-KC3L>]. Few

epistemology, there are valuable observations to be drawn from the experience of internet users about the practical difficulties of proving facts by visual evidence as well as the type of visual evidence that is considered persuasive.³ These observations may help inform the development of evidence law to accommodate fact finders who are increasingly accustomed to, even if not completely expectant of, visual evidence. For the scholar of law in general, it is worthwhile to observe in real time the emergence and evolution of a folk rule.

Part I of this Article briefly examines the origins of “Pics or It Didn’t Happen” in the early 2000s and gives an overview of how it is used in the present day. Part II then analyzes some issues with the application of “Pics or It Didn’t Happen” in internet discussions. Finally, Part III reflects on the importance of “Pics or It Didn’t Happen” in the study of the law in general and the law of evidence in particular.

It must be noted that the topic of “Pics or It Didn’t Happen” cannot be covered in one single article or by one single author. Just understanding how “Pics or It Didn’t Happen” evolved from its probable birth in the early 2000s will require a comprehensive archeological expedition across the internet that ties together not only posts on internet discussion fora, many of which may already have been erased, but also the underlying technologies of those fora, many of which have since changed or are now defunct. Also, understanding how “Pics or It Didn’t Happen” operates today as an online evidentiary rule is no trivial task; it requires examining thousands of internet comments to determine how and when the objections are posted, how claimants react to objectors, and when the responses are accepted. Finally, the universality of “Pics or It Didn’t Happen” is an open question. The phrase is written in English, and the predominant usage is presumably by objectors in the Anglo-American sphere. To understand whether “Pics or It Didn’t Happen” is universally accepted will require looking at whether the phrase has an equivalent in internet discussions in other languages.⁴ This Article cannot do all of this; it only aims to start a conversation for a possible interdisciplinary study program.

items from this list can be applied as “rules.” Even then, “rules” such as “[i]t needs more DESU” and “[t]he internet is for porn” appear to be trollish comments, rather than “rules.” *Id.* Those that arguably are “real rules” include “[p]ics or never happened” and “[b]ringing up Nazis is insta fail.” *Id.*

3. See NEAL FEIGENSON & CHRISTINA SPIESEL, *LAW ON DISPLAY: THE DIGITAL TRANSFORMATION OF LEGAL PERSUASION AND JUDGMENT* 2–4 (2009) (explaining the concept of “to write with pictures” and the importance of understanding it in the legal concept (emphasis omitted) (citing LAWRENCE LESSIG, *FREE CULTURE* 36 (2004)).

4. The Chinese phrase “沒圖沒真相,” which roughly translates to “no truth without a photo,” is used among Taiwanese users of PTT. Mei Tu Mei Zhenxiang (沒圖沒真相), PTT鄉民百科, <https://pttpedia.fandom.com/zh/wiki/沒圖沒真相> (last visited Oct. 24, 2023) [<https://perma.cc/>

I. NATURE OF “PICS OR IT DIDN’T HAPPEN”

A. *Origin of “Pics or It Didn’t Happen”*

“Pics or It Didn’t Happen” has a murky origin. According to KnowYourMeme.com:

One of the earliest instances of the expression was posted in a discussion thread titled “[]So my sister has her hot friend over” on the forums for gaming site Tribal War on June 20th, 2003. In the thread, the OP (original poster) boasted about how they were having a pillow fight, to which forum member Blitzkrieg responded: “Obligatory ‘pix or it didn’t happen.’” Though the thread lasted several hours, BlackMyst never produced photographic evidence.⁵

“Show Me the Receipts” first entered popular consciousness in a now-infamous interview of Whitney Houston by Diane Sawyer,⁶ conducted on November 7, 2002, and broadcasted later that year.⁷ Sawyer asked Houston about an allegation that Houston had a “\$730,000 drug habit,” to which Houston replied:

Come on, 730? I wish. No. I wish that was making that money off of me, you could share it with me. No, no way. *I want to see the receipts.* From the drug dealer that I bought \$730,000 worth of drugs from. *I want to see the receipts.*⁸

Both phrases and variant forms, such as “I Have Receipts” in place of “Show Me the Receipts,” are now frequently encountered in online discussions.⁹

B. *“Pics or It Didn’t Happen” in Current Usage*

It is beyond the scope of this Article to delve into the evolution of the uses of “Pics or It Didn’t Happen” from 2003 to today;¹⁰ indeed, it

63UB-L8TP]. PTT can be thought of as the Taiwanese counterpart to 4chan. It is unclear to the author whether this Chinese phrase is a development separate from “Pics or It Didn’t Happen.”

5. Menning, *supra* note 1.

6. Alyssa Glanz, *Show Me the Receipts*, BEACON: NW. COLL. (Apr. 20, 2021), <https://beacon.nwciowa.edu/show-me-the-receipts/#> [<https://perma.cc/8TCA-QSBN>].

7. *The Whitney Interview: Producer’s Notes*, ABC NEWS (Jan. 23, 2003, 4:15 PM), <https://abcnews.go.com/Primetime/story?id=132003> [<https://perma.cc/5EX6-CLY2>].

8. BkScorpion, *Whitney Houston Talks About Drugs*, YOUTUBE (Nov. 30, 2009), <https://www.youtube.com/watch?v=vkU19uj8GqQ> (emphasis added).

9. It is not practical to document all the variant forms. Some of the forms are straightforward, such as replacing “Pics” in “Pics or It Didn’t Happen” with “Pix” or substituting “Didn’t” with “Did Not.” There are also variants involving the substitution of “Pics” with something context specific for humorous effect, such as “Portraits or It Didn’t Happen” or “Paintings or It Didn’t Happen.” The possibilities are limitless. Nonetheless, not everything derived from “Pics or It Didn’t Happen” is truly a variant. Consider the example of “Peer Review or It Didn’t Happen.” It certainly derives from “Pics or It Didn’t Happen.” But peer review is conceptually distinct from “pics,” not least because it is a process rather than a thing.

10. This task is beyond the current capabilities of this author. A truly rigorous investigation into the evolution of “Pics or It Didn’t Happen” fairly would require research into posts on 4chan,

is difficult even to identify the contours of current usage of the phrase.¹¹ This Article can only sketch the outlines of how “Pics or It Didn’t Happen” is now used, drawing predominately from examples on Twitter, which is now known as X.¹²

1. Use Cases

There are numerous ways in which “Pics or It Didn’t Happen” is used or invoked today.

First, there is the traditional use case, where the phrase is used in an offensive fashion by an objector to challenge an assertion by demanding corroboration. A prototypical example of a traditional use can be found in the above Section concerning the origins of “Pics or It Didn’t Happen.”¹³ The original uses may have been in the context of male banter about relationships with the opposite sex,¹⁴ but it seems that the objection is nowadays invoked over any subject matter.

Second, there is the anticipatory use case. That is, anticipating that an objection would be launched, the claimant would defensively declare “Pics or It Didn’t Happen” on himself or herself in making an assertion and follow up the assertion with the requisite “pics.”¹⁵ The

the notorious forum which gave birth to memes such as “LOLCats” and “Rickrolling” and exerted influence on culture of the early twenty-first century, online and in real life. Sal Hagen, *An Overview of 4chan /b/ Archives: What Is Left of the Internet’s Cesspool?*, OILAB (June 9, 2021), <https://oilab.eu/an-overview-of-4chan-b-archives-what-is-left-of-the-internets-cesspool/> [https://perma.cc/3E5M-FNTC]. However, there are large gaps in the known archives of 4chan posts. *Id.* One cannot simply search these posts with keywords. But even if this technical challenge were somehow surmountable, any researcher who examines these archives would need a strong stomach to wade through the objectionable material. *See, e.g.*, Mike Pearl, *4chan Apparently Got a User to Chop Off Part of a Toe over the Weekend*, VICE (Aug. 31, 2015), <https://www.vice.com/sv/article/5ggy3k/4chan-wants-to-see-you-mutilate-yourself-but-why-682> [https://perma.cc/BF4X-HMZZ] (describing gruesome content on 4chan). There would be serious questions about the ethics and wisdom of resurrecting 4chan content.

11. There is no authority to consult about the application of “Pics or It Didn’t Happen.” Collecting and processing enough samples of internet discussions to identify consensus among internet users about how it should be used would require extensive, interdisciplinary research, combining both social science and computer science.

12. This Article refers to the platform now renamed “X” as “Twitter” since it was drafted when the platform was still known as Twitter. Twitter was chosen because of the comparative ease of searching for posts on Twitter at the time of writing. Searching on Twitter has become more challenging since this Article was submitted for review. *What Does Twitter ‘Rate Limit Exceeded’ Mean for Users?*, REUTERS (July 4, 2023, 8:10 AM), <https://www.reuters.com/technology/what-does-twitter-rate-limit-exceeded-mean-users-2023-07-03/> [https://perma.cc/3DAK-7853] (explaining limits imposed by Twitter on viewing posts). The author affirms that he is not party to any online discussion referenced in this Article.

13. *See supra* Section I.A.

14. *See supra* note 5 and accompanying text.

15. The phrase “Pics or It Didn’t Happen” can be used in both the offensive and defensive context. For “receipts,” a typical phrase employed in the offensive use is “show me the receipts,” while that employed in the defensive use is “I have receipts.”

post by the NASA Jet Propulsion Laboratory shown in Figure 1 below, made on the successful flight of the Mars Helicopter in 2021, is an example.¹⁶

FIGURE 1: ANTICIPATORY INVOCATION OF “PICS OR IT DIDN’T HAPPEN”



While some of the anticipatory uses are in the context of corporate publishing and advertising,¹⁷ they have also been found in posts by private individuals as well.¹⁸

16. NASA Jet Propulsion Laboratory (@NASAJPL), X (Apr. 19, 2021, 12:02 PM), <https://twitter.com/NASAJPL/status/1384175497404325899> [<https://perma.cc/LC6D-LTGC>].

17. See, e.g., Red Sox (@RedSox), X (Feb. 20, 2019, 9:23 PM), <https://twitter.com/RedSox/status/1098407793353244673> [<https://perma.cc/VSY7-JJ7H>] (“Pics or it didn’t happen! [] Our photographers bring you all the behind-the-scenes action & art from Photo Day 2019[.]”).

18. See, e.g., Andy Staples (@Andy_Staples), X (Aug. 10, 2017, 10:09 PM), https://twitter.com/Andy_Staples/status/895829604157599745 [<https://perma.cc/48UH-AB2M>] (“Before someone says ‘pics or it didn’t happen’ on the 64-ounce ribeye, here you go.”).

Beyond the situations described here where “Pics or It Didn’t Happen” is specifically invoked, it appears that after years of popular use, the phrase may not even need to be invoked to have an impact. Numerous authors from a range of seemingly unrelated backgrounds have pointed to the existence of a “culture” of “Pics or It Didn’t Happen” behind various phenomena, from the publication of celebrity wedding photographs¹⁹ to the proliferation of subway fight videos²⁰ to the development of new technological devices.²¹

It is of course difficult to attribute with any rigor specific events or actions as use cases of “Pics or It Didn’t Happen” when no one even cited the phrase in the context of those events or actions. Nonetheless, it does seem that this folk evidentiary rule casts a long shadow on contemporary social behavior and possibly even on technological developments. It is quite possible that “Pics or It Didn’t Happen” does not even need to be explicitly invoked anymore to affect real-life behavior or, at the least, change how assertions are supported by evidence.

2. Scope of “Pics”

The scope of “pics,” and also that of “receipts,” is amorphous, contextually dependent, and far broader than what is suggested by its name. For example, in one Twitter discussion,²² one claimant asserted a particular accomplishment in a video game for time spent exercising. In response to an objector,²³ the claimant posted the corroborating

19. See Christie D’Zurilla, *Ariana Grande Finally Gives Fans a Peek at Her Montecito Wedding to Dalton Gomez*, L.A. TIMES (May 26, 2021, 11:06 AM), <https://www.latimes.com/entertainment-arts/music/story/2021-05-26/ariana-grande-wedding-photos-dalton-gomez-vogue> [<https://perma.cc/NB23-ZJ25>] (“Ariana Grande has risen to the challenge of our pics-or-it-didn’t-happen culture: The newlywed just shared photos of her intimate at-home wedding . . .”).

20. Margaret Eby, *Subway Fights Are Their Own Awful YouTube Genre*, BROOKLYN (Nov. 12, 2014), <https://www.bkmag.com/2014/11/12/subway-fights-are-their-own-awful-youtube-genre/> [<https://perma.cc/NTD6-MZ2J>] (“The frequency of these events caught on camera no doubt has to do with the rise of smartphones, and the spread of a ‘pics or it didn’t happen’ culture.”).

21. Rob Marvin, *Spectacles Are the Missing Piece of Snapchat’s Business Model*, PC MAG. (Sept. 27, 2016), <https://www.pcmag.com/opinions/spectacles-are-the-missing-piece-of-snapchats-business-model> [<https://perma.cc/Y6MP-J2WH>] (“Spectacles are a piece of technology designed expressly for ‘pics or it didn’t happen’ culture.”).

22. @DougDinsdale, X (June 12, 2020, 4:56 PM), <https://twitter.com/DougDinsdale/status/1271561999437029376> [<https://perma.cc/9KWH-Z94N>].

23. @DrLavaYT, X (June 14, 2020, 12:45 PM), <https://twitter.com/DrLavaYT/status/1272223577010434048> [<https://perma.cc/C5KX-JTKP>].

screenshot shown below in Figure 2.²⁴ The objector was apparently satisfied, declaring: “Hmm, pics . . . it really DID happen.”²⁵

FIGURE 2: AN UNEXPECTED USE OF “PICS”



It seems clear that this screenshot does not fit within traditional notions of a “pic” or a “receipt.” It is not, for example, a photographic or videographic record of some event as it is taking place; it does not show the claimant playing the video game. It is also not a traditional “receipt” in that it is not a printed acknowledgment of a sale or transaction. Instead, it is a screenshot of the results from a database query showing that, at that moment, the claimant was ranked first among all players born in 1962. The information is fundamentally verbal, not graphic, but somehow the graphic presentation of this verbal information elevates it from mere data to an acceptable “pic.”

It appears difficult to describe with any precision what qualifies as a “pic” in internet discussions. It would, for example, be too broad to simply equate “pics” with any sort of corroboration. It would also not be accurate to limit “pics” to audio or visual records. A full exploration of this topic would likely require reviewing thousands of internet comments or conducting panel studies. For purposes of this Article, this author posits that three requirements must be met for information to qualify as a “pic.”

24. @DougDinsdale, X (June 18, 2020, 12:37 AM), <https://twitter.com/DougDinsdale/status/1273490000995180552> [<https://perma.cc/QEJ2-PMFH>].

25. @DrLavaYT, X (June 18, 2020, 1:26 AM), <https://twitter.com/DrLavaYT/status/1273502399009705984> [<https://perma.cc/C649-9VJD>].

First, the information must be generated by a machine, either captured natively as an audiovisual record or transmuted from verbal documentation or data into a digital graphic presentation. It should be relatively uncontroversial that information "captured natively as an audiovisual record," such as pictures, audio, or video recordings, would generally qualify as "pics."²⁶ However, the other component of "verbal documentation or data" transmuted by a machine into a digital graphic presentation would also encompass the aforementioned screenshot. As mentioned before, the information in the screenshot is data. It does not seem to this author that anyone would accept the same data, presented in purely text format, as a "pic." Instead, it was the machine transmutation of the data into a graphical form that made it a "pic" or "receipt."

Second, the algorithm or methodology of the machine generation of the information must be to some extent a "black box" to the claimant for the information to qualify as a "pic." It seems quite evident that the creation of a "pic" need not be entirely free from the claimant's control. For example, it seems unlikely that the aiming of a camera, the setting of camera dials, or the taking of a screenshot by a claimant would disqualify the information from being considered a "pic." However, information generated under the full and direct control of the claimant would probably not qualify as a "pic" either; it is likely that no one would accept, for example, a digital painting created by a human of an event as a "pic" of that event. It seems to this author that, at least for most objectors, the claimant must not have full, direct control over the generation of the information for the information to qualify as a "pic."²⁷

26. What is information captured natively as an audiovisual record is itself subjective. Consider two video recordings. The first is made by a video camera which de-ages a human subject using AI technology in real time. See David Smith, "We're Going Through a Big Revolution: How AI Is De-ageing Stars on Screen," *GUARDIAN* (Feb. 6, 2023, 10:19 AM), <https://www.theguardian.com/film/2023/feb/06/de-ageing-on-screen-ai-artificial-intelligence-film> [<https://perma.cc/XZD6-ZQ8K>]. The second is made by a video camera that detects and pixelates any human face for privacy protection. This author suspects many people will come to diverging conclusions about which one of the recordings is information captured natively and will struggle to arrive at a logically defensible explanation.

27. For example, a user on Twitter alleged to have successfully defied a request to wear a mask at a hospital. Liz Churchill (@liz_churchill10), X (Feb. 2, 2023, 10:34 AM), https://twitter.com/liz_churchill10/status/1621185263631273986 [<https://perma.cc/EC5B-B3SV>]. To show that she did not end up wearing a mask, she posted an image of "a note [she left] for the person in the clinic that called the Security Team" on her, stating that she "will NOT comply" with wearing a mask and that "[she] won." *Id.* An objector responded: "Pics or it didn't happen. (And no, this photo of a note uou [sic] supposedly left doesn't count.)" @NancyKoerner13, X (Feb. 4, 2023, 4:25 PM), <https://twitter.com/NancyKoerner13/status/1621998486312083456> [<https://perma.cc/2BMW-E6SP>]. The "Pics or It Didn't Happen" challenge might not have been lodged if, say, the user posted a "pic" of her walking around the hospital without a mask, which would be significantly less under her control than the mere "pic" she posted of her note claiming victory.

Third, what constitutes an acceptable “pic” probably requires some form of balancing between the value and importance of the claim against the cost and ease of manipulating the “pic.” The screenshot in Figure 2 from the video game, for example, is trivially easy to manipulate.²⁸ A screenshot like this does not stand up to serious scrutiny. However, the value of the claim in question is extremely low. The claimant’s achievement certainly meant a lot to him. But being “#1” in a video game, not even of all players but *of players born in 1962*, is very limited in scope and yields few bragging rights.²⁹ The effort needed to falsify such a “pic” is hardly worth the value of such a limited claim.³⁰ It is no surprise, then, that the objector accepted the corroboration with no further objection.

C. Reasons for the Existence of “Pics or It Didn’t Happen”

At this juncture, it may be useful to consider why internet users may have arrived at an evidentiary rule in the form of “Pics or It Didn’t Happen.” It is notable that “Pics or It Didn’t Happen” merely defines “pics” as a basic piece of corroboration needed for belief. Internet users have arrived neither at rules dictating how objectors should interact with corroboration furnished by claimants nor at standards governing what claimants must furnish to fully secure objectors’ belief.³¹

Although Ron Allen wrote the following passage in the context of lay knowledge as developed by fact finders in court, it is applicable to this discussion about lay knowledge created in internet discussions as well:

Although we see that the structures of scientific and lay knowledge differ both in organization and acquisition, implicit in them both is the inability to state the necessary and sufficient conditions for knowledge. Lay knowledge is, somewhat counterintuitively, an *a fortiori* case because of its complexity and the resultant lack of organized attempts to eliminate agreed-upon ambiguity. In the lay world, hordes of laymen do not descend in an organized fashion on well-articulated problems to resolve them in a fashion analogous to the work of scientists. This is not primarily because the problems are trivial but instead

28. It would be trivially easy to create a new account with the game, take a screenshot of the new account’s ranking of “#135,” and use a simple tool like Microsoft Paint to alter the ranking of “#135” to read “#1” by eliminating “35” and moving the remaining “#1” to the necessary position.

29. @DougDinsdale, *supra* note 24.

30. “Ambition should be made of sterner stuff.” WILLIAM SHAKESPEARE, JULIUS CAESAR act 3, sc. 2, l. 101.

31. See generally Yvonne Kammerer, Steffen Gottschling & Ivar Bråten, *The Role of Internet-Specific Justification Beliefs in Source Evaluation and Corroboration During Web Search on an Unsettled Socio-scientific Issue*, 59 J. EDUC. COMPUTING RSCH. 342 (2021) (finding differences in browsing activity, such as number of websites visited, number of queries formulated, and opening of multiple browser tabs, in a German study of how university students conducted online research about an unsettled socio-scientific topic—whether or not sunscreen with nanoparticles should be used).

because the scope of ambiguity is far too wide. I think it fair to say, at any rate, that we lack consensus over the extent of our knowledge of conventional affairs (some people know, or believe they know, matters that elude others) or in what order aspects of it should be studied (some people regret ambiguity about wine more than ambiguity about truthfulness at trial; others do not). And of course, it is not obvious . . . what the payoff might be for investing greater resources than we presently do in an organized effort to eliminate conventional ambiguity

Faced with such wide-ranging and intractable ambiguity, the law must forgo reliance on any formalized theory of evidence [indicating how the relative plausibility of competing stories is determined, what counts as evidence, and perhaps how evidence is processed] and instead locate the decision over what is evidence somewhere and more or less live with the results. . . . [T]his locus is . . . the fact finder.³²

“Pics or It Didn’t Happen” is very much a result of the “lack of organized attempts to eliminate agreed-upon ambiguity” in internet discussions, which is even more “wide-ranging and intractable” than the ambiguities found in court litigation.³³ Disputes in courts are certainly wide-ranging, but there are practical impediments and procedural safeguards to ensure that the litigated disputes are serious. But as seen in the examples cited in this Article, internet discussions can cover not only the serious, such as a spacecraft landing, but also the completely trivial, such as pillow fights and video game achievements. Moreover, court litigation is always centered around some legally cognizable substantive right. Internet discussions have no such limit. To the extent that “any formalized theory of evidence”³⁴ was impossible in real law because of the wide scope of ambiguity, it certainly could not exist in the “law” of internet discussions. Indeed, as already discussed, “Pics or It Didn’t Happen” does not even come with a clear definition about the scope of acceptable “pics” or “receipts.” What it does is “locate the decision over what is evidence” with objectors—the fact finder in the context of this discussion—and “more or less live with the results.”³⁵

But while it could not be considered a “formalized theory of evidence,”³⁶ “Pics or It Didn’t Happen” is also not a system where “anything goes.” At its heart, it is a statement of preference for “pics” over narrative. The underlying dissatisfaction with verbal accounts of events is universal and ancient. For example, the English proverb “Believe Nothing of What You Hear” traces to the *Proverbs of Alfred*, a text from the thirteenth century.³⁷ The Chinese aphorism “口说无凭,”

32. Ronald J. Allen, *Factual Ambiguity and a Theory of Evidence*, 88 NW. U. L. REV. 604, 627 (1994).

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Believe Nothing of What You Hear, and Only Half of What You See, in THE OXFORD DICTIONARY OF PROVERBS* (5th ed. 2008).

which translates roughly to “verbal statements cannot be relied upon,” dates back to roughly the same time as a Yuan Dynasty (1271–1367) text.³⁸ Rather, humans appear to have always preferred *visual* corroboration of events.³⁹ The well-known phrase “Seeing Is Believing” is old, dating back at least to 1609.⁴⁰ The Chinese equivalent, “百闻不如一见,” was first recorded no later than AD 100.⁴¹

What “Pics or It Didn’t Happen” does is expand the “seeing” in “Seeing Is Believing” into a more concrete form. In crystallizing the aspiration embedded within “Seeing Is Believing,” the rule draws upon technological developments accessible to internet users in collecting and obtaining “pics,” and also in storing, retrieving, and proliferating them.

Technology is critical for enabling “Pics or It Didn’t Happen.” First, as implied by the name, “Pics or It Didn’t Happen” requires “pics.” What constitutes a “pic” will be discussed below; for the present discussion, it suffices to say that the rule is premised on the proliferation of digital imaging technology such as cameras and scanners. Proof by “pics” would not have been completely impossible in the analog era, but it would have been cumbersome and costly to take pictures with film and to wait for the film to be developed. Digital imaging technology enables the reasonable expectation that claimants can supply “pics” to corroborate their claims.

Second, “Pics or It Didn’t Happen” is not just about the one-to-one transmission of visual content from claimants to objectors. Rather, when the objection is made, the claimants are expected to *share* the “pics” for all to see. The rule is premised on the ability of the claimants to post the “pics” to a centralized file host and of the objectors to see them from that file host. It may be easy to take such technological developments for granted, but the mass availability of file hosting is a relatively recent phenomenon. For example, it was only 2003 when

38. Kou Shuo Wu Ping (口说无凭), ZDIC, <https://www.zdic.net/hans/口说无凭> [<https://perma.cc/44CE-WRSQ>] (last visited Oct. 24, 2023).

39. While the science cannot be considered mature, there are reasons to think that visual evidence will generally have more power than nonvisual evidence due to its stronger emotional effects. See Neal Feigenson, *Emotional Dimensions of Visual Evidence*, in RESEARCH HANDBOOK ON LAW AND EMOTION 312, 319 (Susan A. Bandes et al. eds., 2021) (explaining that in one mock juror study, jurors who saw neuroimaging evidence purporting to depict the defendant’s mental disorder were more sympathetic than those who only read the expert’s diagnosis).

40. *Seeing Is Believing*, in THE OXFORD DICTIONARY OF PROVERBS, *supra* note 37.

41. The phrase, which literally translates to “listening one hundred times is the not equal of seeing once,” is found in the Book of Han. Bai Wen Buru Yi Jian (百闻不如一见), ZDIC, <https://www.zdic.net/hans/百闻不如一见> (last visited Oct. 24, 2023) [<https://perma.cc/P3MM-NAQD>].

Photobucket was established for hosting photographs⁴² and 2007 when Facebook made it possible to include visual attachments in text replies to posts.⁴³ Instagram, the popular photo and video sharing service, was launched even later in 2010.⁴⁴

It is not surprising then that the earliest instance of “Pics or It Didn’t Happen” was dated no earlier than 2003.⁴⁵ It simply would not make sense to demand “pics” as a form of evidentiary objection in the type of text-based internet discussions that took place in the preceding decade or in older one-to-one communications such as email or fax.⁴⁶

II. PROBLEMS WITH “PICS OR IT DIDN’T HAPPEN”

The previous Part briefly examined the origins of, current usage of, and reasons for “Pics or It Didn’t Happen” as a folk epistemological rule. This Part examines some problems observed in the application of proof by “pics.”

A. Inference Gaps

1. Existence of Inference Gaps

One problem with the use of “pics” as substantiation for assertions is that there almost inevitably is some inference gap between the contents of the “pics” and the assertions. After all, “pics” can generally only capture a snippet of reality—sometimes more, sometimes less, but rarely the entirety of it.

Consider the example shown in Figure 3, where Senator Ted Cruz posted “[p]ics or it didn’t happen” on Twitter in response to an

42. Michael Arrington, *2% of U.S. Internet Traffic Goes Through Photobucket*, TECHCRUNCH (Apr. 19, 2006, 7:54 AM), <https://techcrunch.com/2006/04/19/2-of-us-internet-traffic-through-photobucket/> [https://perma.cc/V6BT-RSEU].

43. Kevin Der, *Facebook Is Off-the-Wall*, FACEBOOK (July 27, 2007, 7:05 PM), <https://web.archive.org/web/20090618200157/http://blog.facebook.com/blog.php?post=3532972130> [https://perma.cc/7XHB-AJXZ].

44. Raisa Bruner, *A Brief History of Instagram’s Fateful First Day*, TIME (July 16, 2016, 6:44 AM), <https://time.com/4408374/instagram-anniversary/> [https://perma.cc/6SFC-NRLK].

45. Menning, *supra* note 1.

46. The reader can consider this internet discussion from the 1990s. Tom McDonald, *Re: Top Ten Useless Lego Pieces (And How to Use Them . . .)*, LUGNET (Dec. 10, 1998, 4:32 PM), <https://news.lugnet.com/off-topic/fun/?n=433> [https://perma.cc/FQJ4-J46S]. Even in a discussion about using Lego blocks to make 3D constructions, which would likely have benefitted from the use of diagrams and videos, the commenters had to rely entirely on text to explain their positions. *Id.*

online article entitled “Biden, At Mack Truck Facility, Brags He Drove 18-Wheeler.”⁴⁷

FIGURE 3: CRUZ’S “PICS” WITH AN INFERENCE GAP



47. Ted Cruz (@tedcruz), X (July 29, 2021, 7:06 PM), <https://twitter.com/tedcruz/status/1420883497493876738> [<https://perma.cc/UA92-E5PQ>].

In the video Cruz provided, he can be seen sitting in the cab of a truck and activating the horn, but no movement of the truck can be observed. It is unclear what, if any, trailer is attached to the tractor. The following objections were made to Cruz's assertion:

- "Honking the horn is not driving the truck, Ted."⁴⁸
- "That's not driving. It's honking a horn."⁴⁹
- "If a loaded 53 foot trailer isn't attached, you didn't drive an 18 wheeler. You drove a Bob tail. Doesn't count."⁵⁰

Cruz technically did not assert that he drove an 18-wheeler; he did no more than demand "pics" of Biden driving an 18-wheeler while posting a video of himself in a truck cab. However, internet posters clearly interpreted Cruz's post as a counter-assertion. And had Cruz truly intended to imply that he did drive an 18-wheeler, the objectors would not be wrong to point out a gap between his "pic" and the assertion.

At the same time, it is difficult to conceive of any "pic" or "receipt" produced under natural conditions, as opposed to conditions artificially designed to show Cruz driving an 18-wheeler, that would not leave some inference gap between the corroboration and assertion. For example, a video taken of Cruz driving inside a truck cab would be unlikely to capture the nature of the trailer. As such, the viewer must draw inferences to believe that Cruz was in fact driving an 18-wheeler. Likewise, there are not many angles from outside of the cab that would allow a video camera to simultaneously record Cruz driving the truck and the existence of eighteen wheels on the truck. Outside of a video or photograph taken specifically to show Cruz driving an 18-wheeler, only an extremely fortuitous video or photograph would suffice to corroborate the assertion.

This problem with inference gaps in proof by "pics" will likely be present for all but the most simple and mundane of factual assertions. At the same time, simple and mundane assertions will likely not be the ones to draw a "Pics or It Didn't Happen" objection. As such, it is likely that there will always be a problem with inference gaps whenever the objection is raised.

48. @morten, X (July 29, 2021, 6:13 PM), <https://twitter.com/morten/status/1420885252285808643> [<https://perma.cc/6AQJ-4NLK>].

49. @SuperheroLife, X (July 29, 2021, 6:07 PM), <https://twitter.com/SuperheroLife/status/1420883699248242693> [<https://perma.cc/58BV-LRPH>].

50. @Kenirvin9164, X (July 29, 2021, 6:30 PM), <https://twitter.com/Kenirvin9164/status/1420889491603083273> [<https://perma.cc/Q3B2-MNBL>].

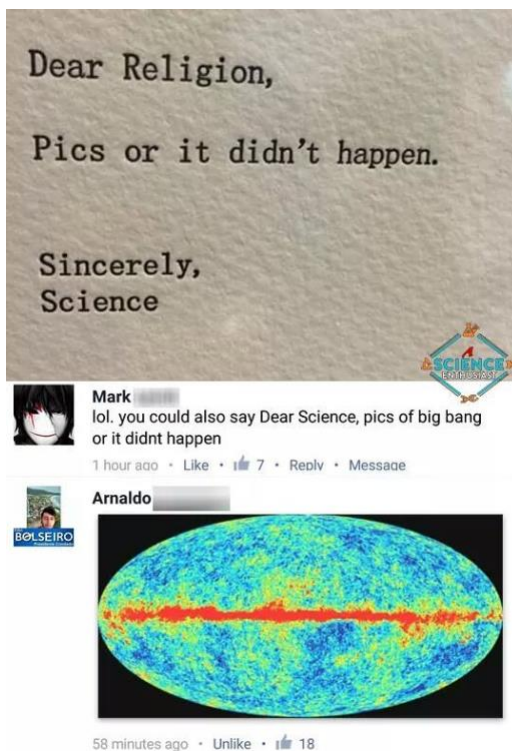
2. Filling Inference Gaps

Having discussed the existence of inference gaps in proof by “pics,” this Subsection now discusses two types of evidence that can be used to fill gaps. This Subsection also considers the implications of needing evidence beyond “pics” for the application of proof by “pics.”

a. Expert Evidence

One form of inference gap is derived from the lack of expertise possessed by the objector or the other viewers of the “pics.” As the reader may have noticed, much of the above discussion of Cruz and an 18-wheeler required some understanding of truck terminology. A more dramatic illustration can be seen in the screenshot of an internet discussion shown in Figure 4.⁵¹

FIGURE 4: LACK OF EXPERTISE AS AN INFERENCE GAP



51. @Pinkheretic, X (Aug. 22, 2022, 7:19 AM), <https://twitter.com/pinkheretic/status/1561689535448244225> [<https://perma.cc/2AAK-C8RH>].

In the post, someone demanded “pics” from “Religion” on behalf of “Science.” A counter-objector then demanded “pics” of the Big Bang from “Science” on behalf of “Religion.” A picture of blue, green, red, and yellow colors was duly posted.

It would take a reader with some scientific literacy to recognize that the picture is a full-sky map of the cosmic microwave background (“CMB”).⁵² It would take further sophistication to understand why the uniformity of the CMB seen in the map is evidence of the Big Bang.⁵³ As can be appreciated below, even lay explanations provided by NASA on this subject matter are not necessarily easy to understand:

Since the universe was so very hot through most of its early history, there were no atoms in the early universe, only free electrons and nuclei. (Nuclei are made of neutrons and protons). The cosmic microwave background photons easily scatter off of electrons. Thus, photons wandered through the early universe, just as optical light wanders through a dense fog. This process of multiple scattering produces what is called a “thermal” or “blackbody” spectrum of photons. According to the Big Bang theory, the frequency spectrum of the CMB should have this blackbody form. This was indeed measured with tremendous accuracy by the FIRAS experiment on NASA’s COBE satellite.⁵⁴

The need to fill inference gaps with a significant quantity of expert knowledge, as seen in the above example, may be a serious issue for an epistemological system based on proof by “pics.”⁵⁵ After all, had the user posted an entire explanation of CMB radiation to go along with the “pic,” then the “pic” would no longer be standalone proof of the Big Bang. The counter-objector could fairly demand that “Religion” be exempted from confining their explanation to “pics” as well. This response to the screenshot is not entirely unsurprising: “I’ve used this

52. The CMB map was likely the one published by NASA from the Wilkinson Microwave Anisotropy Probe. See *The Inflatable Universe*, NASA, <https://wmap.gsfc.nasa.gov/resources/edactivity1.html> (last updated Mar. 9, 2015) [<https://perma.cc/S3EZ-47J9>].

53. As stated, the “pic” is a full-sky map of the CMB radiation. Notwithstanding the dramatic red and blue coloring of the “pic”—deliberately used to “amplif[y]” the differences in the temperature of the radiation—fluctuations are actually very small. *Id.* (showing that dark red represents 2.7251 K and that blue represents 2.7249 K). Theories of the Big Bang require this near-perfect uniformity and omnidirectionality of the radiation. Ironically, the position of the counter-objector would actually be enhanced by the use of a “pic” that *does not* exaggerate the differences in temperature of the radiation.

54. *Tests of Big Bang: The CMB*, NASA, https://wmap.gsfc.nasa.gov/universe/bb_tests_cmb.html (last updated May 9, 2016) [<https://perma.cc/YGZ5-6JGP>].

55. The legal academic literature has discussed how experts should explain particular types of visual evidence, such as brain scans. See, e.g., Francis X. Shen & Owen D. Jones, *Brain Scans as Evidence: Truths, Proofs, Lies, and Lessons*, 62 MERCER L. REV. 861, 861–63 (2011). However, even if ideal methods for harmoniously combining expert knowledge with various forms of “pics” were developed, scaling up such methods to enable an epistemological system where everything is proved by “pics” would still pose a difficult practical challenge.

on someone once before and they just said ‘nah, don’t trust scientists.’”⁵⁶

b. Filling Inference Gaps with Narrative

Another form of inference gap between “pics” and assertions can be filled by old-fashioned narrative. Not infrequently, the narrative is actually contained within the assertion itself. An example can be found in the post by the Curiosity Rover shown in Figure 5.⁵⁷

FIGURE 5: NARRATIVE AS AN INFERENCE GAP FILLER



The probable accompanying “pic” is shown below in Figure 6.⁵⁸

56. @Nominal31152751, X (Aug. 22, 2022, 7:44 AM), <https://twitter.com/Nominal31152751/status/1561695684654497793> [<https://perma.cc/2KCN-4DKD>].

57. @MarsCuriosity, X (Aug. 6, 2012, 12:47 AM), <https://twitter.com/MarsCuriosity/status/232352290919567361> [<https://perma.cc/NJR7-LZBQ>].

58. For some reason, the “pic” is no longer directly available from Twitter. What is included is taken from an article by Mark Stencel. Mark Stencel, *Mars Rover Pulls Off High-Wire Landing*, NPR (Aug. 6, 2012, 12:02 AM), <https://www.npr.org/sections/thetwo-way/2012/08/05/158178277/live-now-mars-rovers-high-wire-landing> [<https://perma.cc/YY2B-U9EP>].

FIGURE 6: THE CURIOSITY ROVER SEES ITS SHADOW



It seems safe to conclude from the “pic” that the rover is on some sort of ground, given the visible shadow. However, to the untrained eye, at least, there seems to be a large inference gap between the fact that the rover cast a shadow on ground and the idea that the rover is in a particular crater on Mars. It seems that one must necessarily credit the narrative in the post accompanying the “pic,” not the “pic” itself, in order to believe that the rover was in the Gale crater. Indeed, it may even be said that understanding the “pic” at all requires belief in the narrative.

What this indicates, notwithstanding the suggestion in the language of “Pics or It Didn’t Happen” that “pics” are the driving element of belief, is that inference gaps between “pics” and narratives may simply put “pics” in the position of firming up existing inclinations to believe the narratives. The reason one is inclined to believe the post about the Curiosity Rover is because one is already at least somewhat convinced by NASA’s narrative. The “pic” provided would be unlikely to convince anyone who believes theories about NASA’s faking of the Apollo moon landings that NASA successfully put a rover on Mars. Seen in this light, “Pics or It Didn’t Happen” could be conceptualized as the incorporation of “pics” with written argumentation.

To that end, it may be helpful to remember that “Pics or It Didn’t Happen” originated from braggadocio.⁵⁹ Claims, for example, that a person is with an attractive member of the opposite sex are small enough to be completely captured within “pics.” But proof by “pics” starts to fall apart when it comes to bigger claims that cannot be simply

59. See *supra* Section I.A.

captured within “pics,” as “pics” can only serve as a tessera among a broader mosaic of other evidence.

B. Situational Unavailability of “Pics” or “Receipts”

Beyond the issue of inference gaps, another problem with “Pics or It Didn’t Happen” is that there are many claims that, by their nature, are not amenable to proof by “pics.”

One category of claims involves claims about situations where the “taking” of “pics” is impractical or impossible. Consider, for example, an alleged incident of assault. If the incident took place in a private location and the victim was alone with the assailant, it may be unreasonable to expect a “pic” of the incident taken at the precise moment of physical contact. On the other hand, it may not be entirely unreasonable for an objector to demand a “pic” of the injuries incurred from the assault for a threshold belief of the assault.⁶⁰ And it may be more reasonable to expect a “pic” if the assault took place in a public location with heavy video surveillance and with numerous bystanders who can take pictures or videos on their phones.⁶¹ Though it may be difficult to write a succinct formula defining whether and what “pics” could reasonably be expected,⁶² a rough statement would incorporate the acuteness of the event or situation, the danger involved in the taking of “pics,” the location of the event, and the number of spectators.

Another category of claims that are less amenable to “Pics or It Didn’t Happen” are claims about certain events that are completed or ephemeral and that are not captured by a “pic” at the time. With these events, any “pic” corroborating the event must be taken after the event. But while some events do leave a trace such that “pics” can be obtained after the event to prove the event, others do not. A claimant who asserts that he bought a fancy car can supply a “pic” of the actual receipt or a

60. A “pic” only of injuries would of course leave problems with inference gaps about whether the injury was caused by the assault. That might require supplementation by narrative, as discussed previously.

61. The death of George Floyd while pinned down by police officers just outside of a police car on May 25, 2020 is a prominent example. It is noteworthy that, despite availability of video footage from multiple sources, there were still gaps in the videographic record of the event. The *New York Times*, putting together all available footage, finds that it could not tell why Floyd was pulled from the police car after being put inside it. Evan Hill, Ainara Tiefenthäler, Christiaan Triebert, Drew Jordan, Haley Willis & Robin Stein, *How George Floyd Was Killed in Police Custody*, N.Y. TIMES (May 31, 2020), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html> [<https://perma.cc/7B5G-L38Y>]. The information might have been useful for evaluating the demands of the officers that Floyd get into the car while they were pinning him down.

62. The “present sense impression” and “excited utterance” exceptions to the hearsay rule, found in Rules 803(1) and 803(2), are essentially concerned with similar situations. See FED. R. EVID. 803(1)-(2).

pic of the car. But a claimant who asserts that he kissed the Blarney Stone will have no “pic” that can prove the event if no “pic” were taken at the time the kiss occurred.⁶³ The trouble is that it is conceptually difficult, if not outright impossible, to draw boundaries about what completed events can or cannot be proved by subsequent “pics.”

In sum, the events that can be proved by “Pics or It Didn’t Happen” can be conceptualized like Swiss cheese—a subset of all possible events where the holes are unknowable, unpredictable, and not easy to define. Combined with the possibility, explained above, that the acceptability of a “pic” depends on the value and importance of the claim at issue, this suggests that “Pics or It Didn’t Happen” cannot be an ironclad rule in any epistemological system that actually seeks the truth.⁶⁴ However, to the extent that commentators now refer to the existence of a “culture” of “Pics or It Didn’t Happen,” the rule is at least sufficiently rigid in application among the people to incentivize behavior that is subject to capture by “pics.”

C. Collapse in “Seeing Is Believing”

As already stated, “Pics or It Didn’t Happen,” at root, is a form of “Seeing Is Believing” adapted to modern technological developments.⁶⁵ A person who does not subscribe to “Seeing Is Believing” likely will not be using “Pics or It Didn’t Happen” as an objection.

“Seeing Is Believing” may seem like a completely normal epistemological principle for those of us who are old enough to read this Article. We have been conditioned, after all, since childhood to believe pictures because editing pictures has historically been difficult, expensive, and unconvincing.

However, just as technology has improved to allow for the proliferation and dissemination of digital images such that “Pics or It Didn’t Happen” can even exist at all, it has also created an environment where manipulation of digital images is rampant and routine. The quality of manipulated images has reached a stage where humans are unable to tell the difference between edited and unedited photos unless

63. This assumes that the objector does not accept that the claimant has an increased gift of gab. For the properties of the Blarney Stone, see *Blarney Stone History*, BLARNEY CASTLE & GARDENS, <https://blarneycastle.ie/blarney-stone/> (last visited Oct. 24, 2023) [<https://perma.cc/RKP2-RWXZ>].

64. This author has not observed many occasions where “Pics or It Didn’t Happen” was invoked about claims that are situationally unamenable to proof by “pic.” Perhaps there is some unspoken consensus of fair play affecting when objectors demand a “pic” from claimants in online discussions.

65. See *supra* note 40 and accompanying text.

told to be vigilant or trained to identify manipulation.⁶⁶ Recent developments in artificial intelligence (“AI”) have further complicated the situation; anyone can ask a computer to generate highly realistic pictures with verbal instructions, further diminishing the skill and cost involved in manipulation.⁶⁷

As these technologies continue to improve and proliferate, the proportion of manipulated images to real images seen online will only increase.⁶⁸ There may come a time, perhaps in the not too distant future, when humans must condition themselves *not* to believe what is seen in digital images in their ordinary lives to avoid being tricked or cheated.⁶⁹

It is difficult to predict or foresee what will happen if “Seeing Is Believing” no longer holds true.⁷⁰ Will people come to prefer narratives over “pics” as evidence to support claims? Perhaps, but the AI technologies that made fake images easier to create are also making fake narratives easier to generate, such that people may also have to learn to distrust narratives.⁷¹ If so, what will be the next evolution of “Pics or It Didn’t Happen”? Will it be “Pics and Blockchain Metadata or

66. A study of human ability to tell “morphs”—fake pictures of human beings generated by blending together pictures of real human beings—shows that the human baseline detection ability of such fakes is poor. See generally David J. Robertson, Andrew Mungall, Derrick G. Watson, Kimberley A. Wade, Sophie J. Nightingale & Stephen Butler, *Detecting Morphed Passport Photos: A Training and Individual Differences Approach*, COGNITIVE RSCH., June 27, 2018, at 1.

67. NBC created an online quiz to test readers on their ability to tell whether a photograph was generated by AI or by a human being. David Ingram, Justine Goode & Anjali Nair, *You Against the Machine: Can You Spot Which Image Was Created by A.I.?*, NBC NEWS (Dec. 30, 2022), <https://www.nbcnews.com/specials/ai-generated-art-photo-quiz/index.html> [<https://perma.cc/EN39-TB8T>]. This author submits that the task is not easy.

68. It has been estimated that “[m]ore than 15 billion images [have been] created using text-to-image algorithms [in the first seven months of 2023]. To put this in perspective, it took photographers 150 years, from the first photograph taken in 1826 until 1975, to reach the 15 billion mark.” Alina Valyaeva, *AI Has Already Created as Many Images as Photographers Have Taken in 150 Years. Statistics for 2023*, EVERYPIXEL J. (Aug. 15, 2023), <https://journal.everyapixel.com/ai-image-statistics> [<https://perma.cc/5Y7E-JZS4>] (emphasis omitted).

69. In the words of a popular song, “I see the magazines working that Photoshop / We know that s*** ain’t real / Come on now, make it stop.” MEGHAN TRAINOR, *All About That Bass*, on TITLE (Epic Records 2014).

70. It may be that no amount of distortion of visual information, short of blinding, will suffice to induce complete abandonment of “Seeing Is Believing.” At least, with regard to mechanical distortions such as glasses that invert the world, humans have powerful brain processes that allow them to ignore those distortions and continue relying on sight. See Esther Inglis-Arkell, *Does Your Brain Really Have the Power to See the World Upside-Down?*, GIZMODO (Apr. 27, 2012), <https://gizmodo.com/does-your-brain-really-have-the-power-to-see-the-world-5905180> [<https://perma.cc/XZY5-U3TH>].

71. See, e.g., Samantha Murphy Kelly, *Teachers Are Adapting to Concerns About a Powerful New AI Tool*, CNN (Jan. 19, 2023, 9:21 AM), <https://www.cnn.com/2023/01/19/tech/chatgpt-teachers-adjusting/index.html> [<https://perma.cc/DJ7P-SEN4>] (describing efforts by teachers to defeat potential use of AI technologies to cheat in essay writing).

It Didn’t Happen”?⁷² It is quite possible that “Pics or It Didn’t Happen” will end up a phenomenon relegated to the first quarter of the twenty-first century, only to be replaced by something else as technology evolves.

III. THE IMPORTANCE OF “PICS OR IT DIDN’T HAPPEN” FOR LEGAL SCHOLARSHIP

As seen above, “Pics or It Didn’t Happen” is a folk evidentiary rule. The prior Parts described how it is used and some problems with its usage. This Part reflects on the importance of studying the rule as it pertains to legal scholarship.

Scholars have defended the general need for the study of folk law and customs for a long time. Some would argue, for example, that it is necessary to understand folk law to understand our current legal landscape.⁷³ Others work to reconcile Western laws and local customary laws to build legal pluralism in decolonized nations.⁷⁴ This Article can add no more to the broader argument for why folk law and customs deserve consideration.

But even for readers who would not otherwise care about folk law or custom, “Pics or It Didn’t Happen” is still worthy of serious study. First of all, “Pics or It Didn’t Happen” cannot be dismissed lightly as a development in the distant past or in some isolated geographic location. “Pics or It Didn’t Happen” is a recent creation, and its development is ongoing. It is impossible to estimate how many unique internet users employ the phrase online, but it can safely be said to be in use by people across all walks of life, from individual users to corporations all over the internet. It is not a rigid rule of folk law, in that users generally suffer no real-life consequence whether objections in internet discussions are sustained or not. But it has enough reach and impact for it to influence and incentivize real-life behavior. It has become a part of modern-day culture.⁷⁵ And it would be difficult to argue that any bit of “real”

72. See *Proof of X*, JULIAN DIGIT. (Aug. 6, 2020), <https://julian.digital/2020/08/06/proof-of-x/> [<https://perma.cc/GVE7-8WF4>] (analyzing features that social media platforms are adding to augment the range of things pictures can prove).

73. See, e.g., Harold J. Berman, *The Background of the Western Legal Tradition in the Folklaw of the Peoples of Europe*, 45 U. CHI. L. REV. 553, 554 (arguing that “Western concepts of law—and perhaps more important, Western attitudes toward law—cannot be understood unless they are seen partly in terms of [the folk law] they first emerged *from* and reacted *against*”).

74. See, e.g., 1–2 FOLK LAW: ESSAYS IN THE THEORY AND PRACTICE OF LEX NON SCRIPTA (Alison Dundes Renteln & Alan Dundes eds., 1994) (containing essays on the subject).

75. See Jacob Silverman, *Pics or It Didn’t Happen’—The Mantra of the Instagram Era*, GUARDIAN (Feb. 26, 2015, 12:59 AM), <https://www.theguardian.com/news/2015/feb/26/pics-or-it-didnt-happen-mantra-instagram-era-facebook-twitter> [<https://perma.cc/PYW6-SKGP>] (explaining

evidence law, such as the hearsay evidence prohibitions or character evidence restrictions, commands as broad a societal impact and as widespread a public acceptance as “Pics or It Didn’t Happen.”

Second, given the reach of “Pics or It Didn’t Happen,” it would not be surprising for jurors to carry a “Pics or It Didn’t Happen” attitude into the courtroom. This is a possibility that cannot be dismissed lightly just because phenomena like the “CSI Effect” may not actually exist.⁷⁶ After all, to the extent that the “CSI Effect” exists, it is because the television show led its audience to formulate opinions about forensic science evidence. At this time, it is at best debatable whether these television shows ever successfully altered attitudes toward forensic science evidence.⁷⁷ In contrast, “Pics or It Didn’t Happen” is something the public itself created. The public puts it to use in internet discussions every day. The “Pics or It Didn’t Happen” culture affects behavior. There is no need to second guess whether the public accepts the premise of “Pics or It Didn’t Happen”; the question to resolve is whether the public is bringing it offline into the courtroom.

Third and most importantly, the study of “Pics or It Didn’t Happen” reveals information about what the public accepts, favors, and finds helpful as evidence. The very existence of “Pics or It Didn’t Happen” suggests the presence of some broadly accepted, however vague, epistemological convention or principle. That is, the public seems to have some commonly recognized standard for accepting evidence before believing a claim. Understanding “Pics or It Didn’t Happen” is therefore important whether or not the public actually confines its “Pics or It Didn’t Happen” attitude to its online behavior and other activities outside of the courtroom.

If jurors *did* bring a “Pics or It Didn’t Happen” attitude to the courtroom, then it might behoove legal scholars to consider whether or how the rules of evidence or court practice should be adjusted. The glaring issue would be what, if anything, ought to be done in cases where there is a lack of “pics” to support cognizable and plausible claims. According to the theory of negative inference:

[O]nce certain theories of a case are presented and some evidence is offered to support them, triers of facts, especially juries untrained in evidence law and the rules governing

that the widespread mantra “[p]ics or it didn’t happen” reflects a need for individuals to provide proof to obtain belief and validation on the internet).

76. The “CSI Effect” is the concept that people who watch the television show *Crime Scene Investigation (CSI)* will think differently about forensic science evidence as a result and bring those attitudes into the jury room. For more discussion about this phenomenon or lack thereof, see Simon A. Cole & Rachel Dioso-Villa, *Should Judges Worry About the “CSI Effect”?*, 47 CT. REV. 20, 21–24 (2011) (explaining that although *CSI* has sprouted an abundance of literature espousing the effects of the show on juries, actual nonanecdotal evidence of the “CSI Effect” is difficult to come by).

77. *Id.* at 24–28.

litigation, may expect to hear specific kinds of proof in further support of or in response to the offered evidence. If their expectations are not satisfied, triers of fact may penalize the party who disappoints them by drawing a negative inference against that party. The problem of negative inferences, then, involves predictable reactions by triers of fact to the presentation of some evidence coupled with the absence of other evidence. . . . [P]art of proving a case may involve meeting a jury’s expectations about proof—that is, satisfying the expectations of triers of fact who logically reason that a party whose position is sound should have evidence on particular points.⁷⁸

If “pics” are particularly important or trusted pieces of evidence to jurors, then it may be important to investigate jurors’ expectations about the availability of “pics” evidence. If members of the public are poor at determining the reasonable availability of “pics”—for example, believing that there should be “pics” of particular situations when in fact those situations are not conducive to “pics”⁷⁹—then it may be useful to at least consider whether something should be done about claims that may arise from those situations. And if the public is generally good at assessing the availability of “pics,” then perhaps we can believe that the public is usually reasonable in its expectations of evidence in general and be less concerned about the overall problem of negative inference.

Another possible consideration, should jurors bring “Pics or It Didn’t Happen” into the courtroom, is whether “pics” overwhelm other types of evidence in persuasive power. That “Pics or It Didn’t Happen” exists as a folk evidence rule is an indication that laypersons find “pics” to be desirable evidence.⁸⁰ If “pics” are overpowering other types of evidence, it would be useful to understand whether jurors are capable of identifying the distance between the “pics” proffered as evidence and the substance of claims asserted by litigating parties. While there is some “research . . . suggest[ing] that even images that . . . do not depict or explain the event in question can systematically bias people’s judgments,”⁸¹ internet users do at least seem to be able to identify, on their own, the existence of inference gaps between the “pics” and the asserted claim.⁸² More research on this topic might be helpful. And to the extent that “pics” may be particularly powerful evidence, it may be

78. Stephen A. Saltzburg, *A Special Aspect of Relevance: Countering Negative Inferences Associated with the Absence of Evidence*, 66 CALIF. L. REV. 1011, 1019 (1978) (citations omitted).

79. See *supra* Section II.B.

80. See Eryn Newman & Neal Feigenson, *The Truthiness of Visual Evidence*, JURY EXPERT, Nov. 2013, at 1, 2 (citing studies showing the persuasive power of “some kinds of visual evidence,” some of which would be “pics”).

81. *Id.*

82. This can be seen in the aforementioned thread of Senator Cruz in a truck cab. Ted Cruz, *supra* note 47. Interestingly enough, research on marketing also suggests the fit between the written content of printed advertisements and social media posts and the accompanying images has an impact on the favorability toward the advertisements and the posts. Yiyi Li & Ying Xie, *Is a Picture Worth a Thousand Words? An Empirical Study of Image Content and Social Media Engagement*, 57 J. MKTG. RSCH. 1, 2 (2020).

worth examining what, if anything, should be done about particular types of disputes where, due to the circumstances or the power dynamics involved, one side consistently enjoys superior access or ability to obtain “pics” independent of the actual merit of its position.⁸³

But even if the public does not carry a “Pics or It Didn’t Happen” attitude into the courtroom, the study of “Pics or It Didn’t Happen” is still important for furthering the development of evidence law because it can reveal what the public wants and accepts as evidence. Accepting that the public likes “pics” as evidence does not necessarily require something as drastic as adopting “Pics or It Didn’t Happen” as an actual rule of evidence. But, for example, if the public were known to be drawn toward a certain type of “pic” as evidence that is problematic for other reasons, then it might be useful to consider proposals to restrict the admissibility of this type of “pic.” If the public were to favor “pics” to find facts about particular events where proof by “pics” would leave large inference gaps or would be misleading, then it might be useful to consider what other types of evidence are needed to fill those inference gaps to assist fact finders. The public has rarely, if ever, left such a rich written record about what is desirable evidence. Evidence scholarship would be remiss to leave this record unmined in developing legal proposals that can meet the desire and needs of fact finders.

More broadly, the study of “Pics or It Didn’t Happen” is useful to understand the emergence of customs and law. “Pics or It Didn’t Happen” is a rule that developed organically, in a “crowdsourced” fashion. It is an evidentiary rule that evolved in a self-ordering system, taking into consideration what technology has become available for fact-finding. It provides a modern, real-time glimpse of how maxims, rules, and laws might emerge in a system that lacks governance.⁸⁴

83. For a recent example, consider the infamous discussion on Twitter between Elon Musk, the current CEO of Twitter, and Haraldur Thorleifsson, an employee of Twitter who may or may not have been fired. Barbara Ortutay, *Elon Musk Apologizes After Mocking Disabled Twitter Employee*, AP NEWS (Mar. 7, 2023, 6:34 PM), <https://apnews.com/article/twitter-musk-iceland-fired-wheelchair-haraldur-employee-0329405846dac8f1f08ac55594881bb6> [perma.cc/N27F-F896]. During the exchange, Musk invoked the “[p]ics or it didn’t happen” objection to Thorleifsson’s claim of certain accomplishments as a Twitter employee. Thorleifsson did not supply the requested “pic,” responding instead: “You locked my computer. I don’t have access to any pics or docs. If you want to have it opened I can get you things.” @iamharaldur, X (Mar. 6, 2023, 7:28 PM), <https://twitter.com/iamharaldur/status/1632916208231108615> [https://perma.cc/F23J-QQ45].

84. Roscoe Pound identified two competing positions about how maxims were developed. Roscoe Pound, *The Maxims of Equity—I: Of Maxims Generally*, 34 HARV. L. REV. 809 (1921). According to what he referred to as the “accepted theory,” maxims originated as “spontaneous utterances” of the people “called forth by unusual and stirring incidents and experiences.” *Id.* According to his preferred position, “[i]n the light of recent philosophy and folk-psychology,” such maxims are more likely “traditional versions of the orally expressed reflections of individuals gifted with more than ordinary power of observation, homely wit, and a trenchant tongue.” *Id.* This Article suggests a split decision. Based on what is known of its origins, “Pics or It Didn’t Happen”

Furthermore, a study of “Pics or It Didn’t Happen” suggests what these rules and laws might look like if they were developed by the “people” on their own in a bottom-up approach.

CONCLUSION

This Article provided a brief overview of “Pics or It Didn’t Happen” as a folk evidentiary rule. It covered the origins of “Pics or It Didn’t Happen” and the related “Show Me the Receipts,” illustrated the uses of these maxims in internet discussions, and highlighted some practical problems in a system of proof by “pics.” It concluded with reflections about the importance of “Pics or It Didn’t Happen” for legal scholars.

The topic of this Article is certainly unconventional, and the reader may well be tempted to dismiss the topic as unserious. Likewise, the reader may not be persuaded by this admittedly light-hearted and whimsical Article that “Pics or It Didn’t Happen” is worth studying at all. But even if the reader simply will not give “Pics or It Didn’t Happen” any further thought, this author urges the reader to admire the wisdom and beauty of the crowdsourced development of “Pics or It Didn’t Happen.” Internet users ordered their discussions with an epistemological system on their own, without any top-down guidance or diktat. With no way to even identify shared principles and values between themselves, they drew upon the technology available to them—namely, the ability to take, upload, and share images—and democratically achieved a sort of social consensus about how claims can be proved. “Pics or It Didn’t Happen” and “Show Me the Receipts” are crude statements; such wording would not likely be found in law codes or rule books. Still, the rule itself is remarkably easy to understand and to apply, and its intention is unmistakable. It may have originated in banter about trivial or distasteful subject matters, but there is surprising sophistication in its development and use. It may be messy, but it is beautiful.

appears to be an example of a development according to the “accepted theory.” *See id.* In contrast, “Show Me the Receipts” is a development according to Pound’s view, where Whitney Houston plays the role of Pound’s “individual[] gifted with more than ordinary power of observation, homely wit, and a trenchant tongue.” *See id.*; *supra* Section I.A.