JURISMANIA[1]

REVIEWED BY MAJOR J THOMAS PARKER[2]

The editor of a sports magazine recently noted that Formula One racing's rules prohibit, in four words, the use of traction control devices.[3] Apparently, there is an ongoing controversy surrounding whether or not one of the sport's top teams is benefiting from such a device or system. The controversy is unlikely to be resolved anytime soon since the rule on point is sparse, and since it will be impossible to truly determine whether any particular technological innovation adds traction control to a vehicle. The editor goes on, however, to compare Formula One's rule to the European Union's twenty-nine thousand word regulatory provision governing duck egg commerce. His obvious conclusion is that Formula One will probably need something more than four words to clarify what is prohibited, but something less than twenty-nine thousand.[4]

The call for more regulation for Formula One and the European Union's rule on duck eggs are both examples of what professor Paul F. Campos has termed "jurismania." The tenents of this general idea and Campos' comments on the law in the United States and on what the status of the law means to society in broader terms are all explained in his recent book *Jurismania: The Madness of American Law.*[5]

In order to understand what Professor Campos calls "jurismania," one must first grasp his notion that we, as a society, think and act in broad, legalistic ways. Professor Campos begins his discussion of this point with a story about how he was contacted by a reporter from the *New York Times*. The reporter had called about the Denver Nugget's Mahmoud Abdul-Rauf, a player who created quite a stir when he refused to stand during the playing of the national anthem, despite a National Basketball Association (NBA) rule mandating that its players do so.[6] In reply to the reporter's

1. PAUL F. CAMPOS, JURSIMANIA: THE MADNESS OF AMERICAN LAW (1998); 198 pages, $23.00 (hard cover).

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3. Matt Bishop, *A Case of Working to Rule*, F1 RACING, Sept. 1998, at 6.

4. *Id.*

5. CAMPOS, *supra* note 1.

6. *Id.* at 3.

question about the First Amendment implications of this story, Campos comments that "there seems to be no issue of public life that can spend more than a few minutes on the national radar screen before legal modes of argument begin to take over."[7] He believes that the NBA's rules are "a prime example of an ongoing process we might think of as the juridical saturation of reality."[8] The NBA and other organization's detailed rules and regulations are an "example of both juridical saturation and of what might be called the Will to Process."[9] To Campos, the really interesting aspect of the NBA's rule concerns neither the First Amendment implications nor how the rule actually works. Rather, the answer to those types of questions "[are] . . . not as important or interesting as the mere fact of the [NBA's] provision itself."[10]

The general situation, as Campos describes it, is one where "the workplace, the school, and even the home mimic the language of the law, and as a consequence replicate its conceptual schemes."[11] We live and "move through a social space . . . with . . . regulations that attempt to control the minutiae of our social roles in ever more obsessive detail."[12] Additionally, the law has grown in more areas than just the regulatory and administrative. As to criminal and constitutional law, Professor Campos believes that the law has grown to such an extent that the full application of its rules in every court case would cause the system to collapse. It "doesn't collapse only because of a tacit understanding that its formal rules must never be followed."[13] Consequently, it is only the rich who can afford to bring the law's full panoply to bear on a given dispute.[14]

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7. *Id.*

8. *Id*. at 4. Professor Campos explains a bit later that "juridical saturation" is the substantial equivalent of "hypertrophy" which "is the name given to the anthropological concept that attempts to describe and explain such extreme process of ritualistic elaboration." *Id.* at 81. Thought of a bit differently, "'juridical saturation' . . . is a consequence of the belief that the best way to attack a problem is to inflict a comprehensive regulatory scheme on the social context in which the problem occurs." *Id.* at 82.

9. *Id*. at 8.

10. *Id*. at 4.

11. *Id*. at 5.

12. *Id*. As it turns out, "we all live in the midst of an *anarchic panopticon* . . . where[ ] cadres of technocrats . . . maintain . . . continual surveillance . . . ." *Id.* at 46-47 (emphasis in original). As to this point as well as to many of Campos' points, it should be noted, at least in passing, that other commentators have explained many of his ideas. *See*, PHILIP K. BROWN, THE DEATH OF COMMON SENSE: HOW LAW IS SUFFOCATING AMERICA, 5 (1995) (discussing the notion that the law is extending to control and cover more and more of our lives).

13. CAMPOS, *supra* note 1, at 21.

With this basic perspective in mind, Professor Campos moves on to discuss his primary ideas. The most unique of these revolve around what he calls "equilibrium zones." Equilibrium zones are basically those areas where subjective and objective decisional criteria reach a point of comfortable reconciliation. As an example, Campos describes how the gambler's point spread and the stock market work. In simple terms, gamblers and investors both take whatever relevant information is available assemble that information and arrive at a mathematical (monetary) point from which it is possible to gamble and purchase.[15] As to the law, we have "legal equilibrium zones." Unlike a stock price, "[a] legal equilibrium zone is a sort of negative analogue to an 'equilibrium price' . . . ."[16] One might say that in a legal equilibrium zone, equilibrium is reached at a point of uncomfortable irreconciliation.[17]

Within legal equilibrium zones reside some of the supposedly great legal questions of our time such as abortion and physician-assisted suicide. These questions are "legal" questions because we have chosen to refer them to the court system and not because they are inherently within the court system's purview. Unlike most questions that the law faces, these types of questions are ultimately irreconcilable since they "involve not only complicated empirical questions, but also problematic judgments . . . of moral value . . . ."[18] In other words, "[a] legal equilibrium zone develops whenever the materials of legal interpretation faithfully reflect this underlying cultural tension, by failing to resolve through formal rules social conflicts that are not otherwise usefully amenable to rational analysis."[19] Additionally, "[s]ocial, political, and legal equilibrium zones arise when-

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14. *Id*. at 24-25. Professor Campos believes that O.J. Simpson's case establishes this point. The Simpson case took a terribly long time to process because each potentially applicable rule was fully explored. Nonetheless, it is not always true that only the rich benefit from the tactic of employing the law to the fullest extent. Timothy McVeigh's Oklahoma City bombing trial took three months and cost nearly $10,000,000. *Id*. at 183. The ultimate question becomes one of whether "there [is] any good reason to believe the vast social resources being devoted to this and similar juridical inquisitions produce better (more just, more accurate) results than would a well-designed set of more modest proceedings each lasting, say, a week?" *Id*. at 183-84. *See*, HAROLD J. ROTHWAX, GUILTY: THE COLLAPSE OF CRIMINAL JUSTICE, 23, 222-34 (1996).

15. CAMPOS, *supra* note 1, at 50-57.

16. *Id*. at 62.

17. As Professor Campos says, "*our* law is always a contingent product of fallible human choices - choices that within interpretive equilibrium zones must remain essentially contestable." *Id*. at 116 (emphasis in original).

18. *Id*. at 63. *See id*. at 158-59, 167.

19. *Id*. at 89-90. In other words, "[i]t is when the law *cannot* give us an answer that we will demand it do so." *Id*. at 192 (emphasis in original).

ever public disputes implicate powerful competing ideological visions–visions that are themselves the product of axiomatic political and moral beliefs."[20]

With this notion of the legal equilibrium zone in mind, it probably goes without saying that cases with constitutional implications are among those cases that reside most assuredly within legal equilibrium zones:

> In the American legal system, to call something a question of constitutional law is not so much an act of formal categorization as it is a shorthand way of signaling that it involves the most intractable moral and political issues our society faces. Constitutional law is the categorical dumping ground for everything the normal political process can't digest: race and religion, sex and death.[21]

A legal equilibrium zone comes about when the parties to a question are unable to resolve the issues surrounding a dispute. As an important predicate, however, we have the idea that most of our law works, albeit in the background, to keep disputes from arising.[22] The process by which this occurs and by which the equilibrium zone is reached is what Professor Campos calls an "efficient process." His "efficient process theory," has three "propositions." First, "[i]n a legal system, efficiently processed disputes will be settled to the extent that the available information predicts a likely outcome."[23] The key word here is "settled." If it can be determined what the likely outcome will be, the controversy will not be litigated. With sufficient information in hand, people will choose to avoid the courthouse. Lawsuits will not be filed, guilty pleas will take place and settlements will be reached. On the other hand, "to the extent the process fails to produce a reliable prediction, the further the dispute will tend to travel through the dispute processing system."[24] Hence, Campos' second proposition that "[t]he further an efficiently processed dispute travels through a dispute processing system, the more firmly that dispute is lodged in a legal equilibrium zone."[25] As to this, it becomes clear that the dispute will not be resolved without resort to formal proceedings. Although there is no great

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20. *Id*. at 36. *See* BROWN, *supra* note 12, at 144.

21. CAMPOS, *supra* note 1, at 73.

22. *Id*. at 60. In other words, "[o]utside a legal equilibrium zone law tends to be both an invisible and powerful factor in the maintenance of social cohesion." *Id*. at 185.

23. *Id*. at 60.

24. *Id*. at 61.

25. *Id*.

new insight that comes with these first two propositions, there is something startling about Campos' third proposition.

In his third proposition, Campos states that "[i]n an efficient processing system the terminal decision making structures of the system will resolve disputes *arationally*."[26] Ultimately, Professor Campos' point about the legal equilibrium zone is that when a controversy reaches the zone, it will never be wholly and satisfactorily resolved. Thus, we come full circle and we are beset with the notion that our legal system is essentially not rational despite its nearly infinite attempts to regulate. In other words, despite our best efforts, some of the types of questions that reach the legal process are simply not designed to be answered by a formal system of rules, however detailed, and by resort to logical dissection based on that formal system and its compiled precedents.[27]

If one accepts the notion that our law does not work rationally, then one must also be concerned with why this is so. Professor Campos believes that there "are three major impediments to rational dispute processing: overgeneralization regarding the powers of rational analysis, professional vanity and fear."[28] Distilled down, overgeneralization takes place because it is not possible to know what to do with an intractable social issue. If an issue is intractable and yet it is processed, then the process must overgeneralize in order to fit the issue within the framework of those solutions that the process was designed to resolve.[29] Professional vanity has a role because attorneys believe that they are the ones destined to grapple with socially intractable issues.[30] Combined, overgeneralization and professional vanity lead to fear. As a society, we are afraid that if we did not have the process of overgeneralization and the process owners (attorneys), then we would have nothing else in their place and nothing left to do with socially intractable issues.[31]

What does this conclusion that our law and legal process are so terribly arational mean to our society as a whole? According to Professor Cam-

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26. *Id*. at 64 (emphasis added). *See*, BROWN, *supra* note 12, at 28.
27. CAMPOS, *supra* note 1, at 74-75.
28. *Id*. at 75.
29. *Id*. at 75-77.
30. *Id.* at 77-78. Professor Campos finds that "[t]he ideology of American law . . . encourages lawyers to imagine themselves as masterful technocrats or freelance philosophers, purveying 'rational policy solutions' or 'practical wisdom' to the culture as a whole." *Id.* at 77.
31. *Id*. at 78-80.

pos, it means several things. It does not mean, however, that "moral beliefs are merely subjective and therefore nothing more than manifestations of arational preference . . . ."[32] Instead, "in a society that doesn't feature enough widely held axiomatic moral agreement on fundamental ethical questions, there simply isn't any way of distinguishing between subjective or intersubjective preference and objective moral truth."[33] Second, fundamental rights, once they have been subjected to a continual process of elaboration, lose their meaning and applicability. As already noted, "it is simply impossible, as a practical matter, to actually carry out [all of] those generous procedures."[34] Next, the more regulated a system becomes, instead of being more predictable, it actually becomes less predictable.[35] Fourth, hypertrophy or continual elaboration makes it difficult, if not impossible, for one to actually know the law.[36]

An ultimate upshot to all of this is Professor Campos' conclusion as to the limits of reasoning. He finds, quite simply, that when we continue to use reason in instances when it "doesn't seem to help, . . .[that] what is called 'reason' soon turns into something that can be positively unhelpful: an elaborate form or rationalization."[37] Mired in complexity and rationalizing beyond its limits, the law, to Campos, no longer exists and it takes on a mythical quality. The law is, for example, like a unicorn and something we know does not exist. We nonetheless refer to it and discuss its attributes just as though it did exist.[38] Ironically, under the circumstances, the only "rational" thing to do is to come up with more law.[39]

In summation, what Campos gives us is a view of how the law works through his efficient process theory and how at least some of that law reaches legal equilibrium zones. From there, he takes us through what these concepts mean and why they do not work in rational ways. At this juncture, Professor Campos goes a bit further with his critique. What is ultimately at issue and worthy of consideration is not merely the law. Even

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32. *Id*. at 91.
33. *Id*.
34. *Id*. at 92.
35. *Id*. at 95. This is not a terribly unique idea and others have stated it, although in a somewhat different context. *See, e.g.*, HAROLD E. PEPINSKY, CRIME AND CONFLICT, 13-24 (1975). *See also* BROWN, *supra* note 12, at 10-22.
36. CAMPOS, *supra* note 1, at 95. *See* ROTHWAX, *supra* note 14, at 41-64; BROWN, *supra* note 12, at 30.
37. CAMPOS, *supra* note 1, at 98.
38. *Id*. at 104-21, 141.
39. *Id*. at 122-29.

though Campos obviously believes that the law plays a key, deterministic[40] role, he also believes that there is much more at work.

Again, the law fails to address what are intractable and fundamentally moral questions. As a consequence, "the modern law student is taught, either directly or by implication, that when the formal materials are indeterminate the outcome of a legal matter should be determined by the best policy . . . ."[41] When this happens, "the student is also trained to believe that the content of this policy can and should be determined through the proper use of legal reasoning."[42] Additionally, "this instrumental use of reason is supposed to achieve a level of scientific rigor; hence the contemporary conception of law as a kind of 'scientific policy making.'"[43] The law, however, as science or "[t]he reconceptualization of law as policy science is just one example of a more general trend" and "merely a prominent instance of how the cultural prestige of what is called the 'scientific'–that is, the materialist–world-view has come to play a crucial role in producing a kind of rational addiction . . . ."[44]

In the final analysis, after looking at how law operates, or fails to operate, and what this may mean on a deeper level, one would expect *Jurismania* to provide prescriptive guidance. Unfortunately, Professor Campos offers us very little in this regard. He even remarks that it is not his point to open up with solutions because that would be to commit the same sort of flawed overgeneralization and rationalization that is already taking place.[45] Still, he does offer at least some, minimal insight.

First, citing to the work of other scholars, Campos notes that it takes more than reason alone to change people's opinions on issues such as abortion.[46] As palpable as that notion is, Campos believes that "[t]he experiential and emotive side of the abortion question is just as ineluctably tangled as its rationalist and axiomatic cousin."[47] To Campos, the point we need to reach is one where we recognize that legalistic reasoning does not

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40. Professor Campos believes that the "Critical Legal Studies Movement's" point that "law is politics" must be considered. As to the Critical Legal Studies Movement, he finds that it held that law was ultimately referable to certain political considerations. *Id.* at 38-39. To Campos, though, the converse is just as plausible. In other words, "politics is law" and "political power is legitimate only to the extent [its] power is channeled through legal procedures, vocabularies and modes of thought . . . ." *Id.* at 39.

41. *Id.* at 136.

42. *Id.*

43. *Id.*

44. *Id.* at 136-37.

have to permeate and that it does not have to "be replicated in all other areas of social life."[48] More importantly, we should recognize the fallacy of "the widespread delusion that something called 'the rule of law' can succeed where politics and culture fail."[49]

These, then, are some of the major propositions brought out in *Jurismania*. At first blush, one might conclude that *Jurismania* amounts to a call for anarchy. Campos anticipates this claim, however, and denies it.[50] Notwithstanding his protests to the contrary, to the extent that the book tends to argue for less law, the anarchic label is apt to stick.[51] On the other hand, to accept that we suffer from juridicial saturation is to accept that our system is already anarchic.[52] A reader could also conclude that *Jurismania* is a treatise that argues against reason. On this point too, Campos anticipates his critics by stating that "this book . . . has also not argued against 'reason,' whatever that word might be thought to mean."[53] His argument is, of course, that reason simply has its practical limits.[54]

If nothing else were to be said about *Jurismania*, it is certainly full of provocative thought. It is, nonetheless, worth considering more specifically the implications of its major points. For the most part, it is difficult

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45. *Id*. at 188-89. In at least one passage, Professor Campos does, however, offer the following specific prescriptive idea:

> [I]magine a system of criminal trials in which juries were seated by picking the first twelve people in the pool who did not know the defendant or the victim. Imagine a system in which witnesses could say what they had to say in their own words, without constant interruptions for evidentiary rulings by control-obsessed advocates and decision-makers. Imagine a system where these advocates played a relatively minor, facilitating role in the proceedings. . . . Finally, picture a system of criminal justice where mixed panels of legal professionals and lay judges would engage in a pragmatic, mostly nontechnical dialogue in the course of deciding the fate of the defendant.

Id. at 23.

46. *Id*. at 160-61.

47. *Id*. at 162.

48. *Id*. at 176.

49. *Id*. at 181.

50. *Id*. at 178.

51. *See, e.g.*, George Woodcock, *Anarchism*, *in* 1 THE ENCYCLOPEDIA OF PHILOSOPHY 111 (1967).

52. *See, e.g.*, BROWN, *supra* note 12, at 173.

53. CAMPOS, *supra* note 1, at 185.

54. *Id*. at 185-86.

to dispute some of its fundamental notions. In fact, it is difficult to say that they are anything other than compelling. It is easy to conclude, in specific instances, that Professor Campos' primary ideas are appropriately descriptive. At least three "close to home" examples of this applicability come to mind.

Consider first the Lautenberg Amendment[55] to the Gun Control Act of 1968.[56] Basically, the Lautenberg Amendment makes it a felony for a person to possess a firearm after having previously suffered a conviction for misdemeanor domestic violence. On its face, this law seeks to prevent those who have committed crimes of domestic violence from having access to guns that they might use to commit further, and possibly more serious acts of violence. The military faces a great deal of challenge with this law because it loses its context and since it is, for example, of little rational value at a remote firing range.

Notwithstanding these types of immediate concerns, this law brings to the fore a deeper point. What is really at issue is whether the solution for domestic violence entails assigning another law to the books. No one would quibble with the notion that domestic violence is bad. As voters it is also comforting to know that our elected officials have, in some way, sought to address the problem. The greater issue, though, is whether the law really works to solve anything or whether it merely adds complexity and uncertainty to our existence.[57]

Next, as ethics counselors, military attorneys should think of the Office of Government Ethics Standard Form 278. Certain agency personnel must file this form on an annual basis.[58] On its face, the form is simple enough in design. It has one-page and only four attendant schedules that may or may not be used depending on the circumstances. Even though the instructions total eleven pages, they are quite straightforward. One's initial impression, after perusing the form and after reading the instructions, is that there is not a whole lot to the form. As it turns out, there is an entire manual,[59] totaling 336 pages, designed to assist reviewers and agency ethics counselors. This is not to say that this manual is bad or that it has no

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55. Pub. L. No. 104-208, Sec. 658, 110 Stat. 3009-371 (1996).

56. Pub. L. No. 90-351, Sec. 902, 82 Stat. 226 (1968) (codified beginning at 18 U.S.C. Sec. 921).

57. *See* CAMPOS, *supra* note 1, at 122-25 (providing a similar discussion concerning the addition of legislation to fight the war on already illegal drugs).

58. 5 C.F.R. Sec. 2634.101 (1998). *See* DEP'T OF DEFENSE REG. 5500.7-R, JOINT ETHICS REGULATION, para. 7-200a, para. 7-203 (30 Aug. 1993).

value or that it is poorly written. It is also not to say that it constitutes the law. More simply, however, the manual can serve to draw our attention to the complexity of something that does not appear at first to be so complicated.

In this area, it has to be asked whether we have gone too far. If we continue to stretch our ethical requirements, to include detailing financial disclosure statements, are we actually defeating ourselves? When we add enormous detail, will the audience of those whose conduct we wish to guide fail to understand the message we are trying to impart? Is it even possible to miss primary goals such as revealing conflicts of interest? On a broader scale, the study of and adherence to ethical principles is meant to result in and bring about a normative good. If those ethical principles are mired in complexity and divorced from their meta-ethical foundation, they become, in the end, unknowable and of little value.

As officers, and not just judge advocates, we can also relate to Professor Campos' message that our society has become accustomed not only to a bureaucratic mindset but also to a legalistic approach to problem solving. The Army publishes, beyond its regulations, a good number of pamphlets, field manuals, training circulars, messages, orders and the like. These documents are, for the most part, structured and worded very similarly to the regulations. In general, they start with a broad purpose and then provide more exacting detail. What is amazing though, is the level of detail involved. Consider as well that in some instances, the manuals have the same force and implications as the regulations. In *Army Field Manual 21-20*,[60] we find scripted directions on how to conduct the Army physical fitness test. The test is made mandatory by *Army Regulation 350-41*.[61] Thus, the field manual, when read together with the regulation, becomes a part of our regulatory law.

On a broader, philosophical plane, *Jurismania* may provide us with some insight, but what it really does is cause us to think. We should reply to Professor Campos and we should consider that our system works, in at least one subtle way, through a studied absence of rule making. In doing so it still leaves the doors to uncertainty open even as discretion is taken away. As to this, we should take note of the loosely defined doctrine of

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59. U.S. OFFICE OF GOV'T ETHICS, PUBLIC FINANCIAL DISCLOSURE: A REVIEWER'S REFERENCE (1996).

60. U.S. DEP'T. OF ARMY, FIELD MANUAL 21-20, PHYSICAL FITNESS TRAINING (30 Sept. 1992).

61. U.S. DEP'T. OF ARMY, REG. 350-41, TRAINING IN UNITS para. 9-8 (19 Apr. 1993).

justiciability. Under this general notion, controversies that do not flow directly from the facts of record, but that do flow, as a matter of logic, will be left undecided. These residual controversies are left open to be considered at another time. With this thought in mind, note that the law and our legal institutions are left in a situation where more questioning, searching, and lawmaking become necessary. Thus, even though continual rule making can result in more discretion, an absence of rule making–the decision not to decide–can work in the same way.[62] Justiciability is a doctrine of restraint. Yet it is, at one and the same time, a doctrine that invites the onset of uncertainty and continued rule making.[63]

Discussing further *Jurismania*'s broader meaning, at least two criticisms are possible. First, Campos' principle assertion is that only a certain category of case resides within an equilibrium zone and it is the moral nature of the issue that creates the tension that moves the case to equilibrium. Further, he is primarily concerned with appellate cases.[64] The reader must think that he considers all other types of cases frivolous since he says, "almost all nonfrivolous appellate court cases are litigated within what are both broadly social and narrowly legal equilibrium zones."[65] Apparently all other appellate cases are frivolous because they were tried despite the possibility that they could have been resolved without resort to the legal system or without resort to formal processing. This would apparently include, but not solely, those disputes that would be absolutely frivolous and distinct from those disputes that our law would not recognize as inherently cognizable.[66]

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62. Professor Campos does remark on our system's dialectical quality. CAMPOS, *supra* note 1, at 88-89. In fact, this "dialectical pattern, whereby a seemingly certain rule is eroded by the gradual accretion of standard-like exceptions to its application, until the increasing amorphousness of the exception produces a rule-like counterreaction, is probably an inevitable feature of any elaborate dispute processing system." *Id*. at 89.

63. As Professor Campos notes, "[i]n the actual practice of law new appellate court opinions redefine equilibrium zones, making some claims now 'obviously' right or wrong and creating fresh areas of ambiguity in the process." *Id*. at 77.

64. *See id*. at 58.

65. *Id*. at 96.

66. This may be an alternate interpretation of what Campos means by "frivolous." On the other hand, given the entire character of his argument it is not believed that he means to relegate to the category of "frivolous" only that category of case lacking objective veracity or legal efficacy. As he says, "the frivolous case isn't the case that isn't worth thinking about, but rather the opposite." *Id*. at 69. Thus, it would be dubious to expect that he means by "frivolous" merely those cases that go forward despite an apparent Rule 11 of 12(b)6) problem; that is, cases filed for an unwarranted purpose and those which fail to state a cause of action upon which relief may be granted. *See* FED. R. CIV. P. 11, 12(b)(6).

As a criticism, this view of what is a legal equilibrium zone is not complete. To follow through with what is really meant by the idea of a legal equilibrium zone is to conclude that all litigated cases do, in some way, or at some level, reach an equilibrium zone. Imagine a hypothetical case of a defendant charged with a minor felony. Next, consider that this defendant was previously convicted for other felonies and if convicted he will likely spend some time in prison. Let us assume too that the state's evidence is quite overwhelming and convincing, but that the defendant will not agree to a plea bargain with the state. Again, to Professor Campos this matter does not really reach an equilibrium zone. Even if the defendant knows that his defense will fall short, when he pleads "not guilty," he is saying, in a very basic ethical sense, that "It is not *good* for you to put me behind bars." The state is saying in response: "It is a *good* thing to place you behind bars."

Even when the facts change and the state's evidence is less compelling, the fundamental ethical dialogue remains. The defendant, who fails to take full note of the state's evidence, will, even when convicted, still hold to his viewpoint as frivolous as it may be. As surely as the opposing sides of the abortion controversy have irreconcilable viewpoints, so too do the defendant and the State in just about any contested case.[67] Consequently, the point is that Professor Campos should have accounted for this implicit dialogue. He should have tasked the paradigm that is his legal equilibrium zone and efficient process theory more fully. He has either missed or failed to clearly elaborate on an inherently valuable insight about our legal system.[68]

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67. Another way to describe this point is to consider that equilibrium is reached through three layers. First, even a defendant who faces overwhelming evidence, but who chooses to defend, will do so by employing any defense available. Although it might boarder on the specious, a defendant faced with a charge of shoplifting might respond that he was arrested without probable cause. Once that claim is dispatched, the case goes forward on the merits and the state presents its evidence that is convincing beyond a reasonable doubt. When that second layer of dispute is peeled away, the case is still left in fundamental equilibrium. That is, the tension between the defendant's rudimentary desires is never reconciled with that of the state's. He still does not want to go to prison and the state still wishes to send him there. The only real difference between the obstinate criminal defendant and the loser in an abortion case is that the criminal defendant's case involves solely his own personal desires that are not a broadly social issue.

68. Professor Campos does offer a couple of reasons for why cases get litigated when they should not be litigated. In both instances he finds, nonetheless, that the rationales are faulty. In any event, the reasons offered are likewise not fundamental social, ethical or moral concerns. *See* CAMPOS, *supra* note 1, at 66-67.

Finally, *Jurismania* is a book that suffers itself from a strain of the same infection that is said to permeate our law, society, and life. As to this, the reader has to object to its lack of prescriptive guidance. Again, Campos believes that our society fails to have "widely held axiomatic moral agreement."[69] If our society is truly in such a state and if "[t]he experential and emotive side of [questions such as] the abortion question" are "ineluctably tangled,"[70] then we are certainly mired in a vicious cycle. This is not to say that Professor Campos' argument is illogical. Instead, this line of thought should be further considered and developed. The problem is that if we agree that the capability of our legal system to reason through certain issues is limited, then the capability of other potential processes should not be so quickly overlooked. The alternate conclusion–that our legal system is fully capable of processing disputes with moral implications–is, despite *Jurismania*'s line of argument, equally plausible. Thus, to the extent that the author goes beyond his points that the law is logically dissonant and that we are overly regulated; he tends himself to hit some strange notes.

In summation, Professor Campos tells us that *Jurismania* is for "the general reader."[71] As many of the quotes from the work reveal, it is dubious that *Jurismania* will actually reach a broad audience. In fact, it makes for rather challenging reading. Nonetheless, whether or not one agrees with the arguments and insight that *Jurismania* brings out, the reader cannot dispute that it is a book that causes us to look at many of our juridical and philosophical notions in a new way. *Jurismania* will, at the very least, provide cause for serious reflection. It will hopefully, in a more ultimate way, serve to bring about more objective debate and discussion.

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69. *See supra* note 33 and accompanying text.
70. *See supra* note 47 and accompanying text.
71. CAMPOS, *supra* note 1, at vii.