

# Texas Law Review

## *See Also*

### Reply

#### The Varieties of Motivation and the Problem of Supply: A Reply to Professor Ellickson

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##### I. Introduction

When I read *Order Without Law* back in my first year of law school, it never occurred to me that I would one day be part of a conversation with the author of that book about private ordering in the world of women's roller derby. Happily, though, it turns out that my imagination was limited, as evinced by Professor Robert Ellickson's thoughtful critique, *How Norm Entrepreneurs and Membership Associations Contribute to Private Ordering: A Response to Fagundes*,<sup>1</sup> written in response to my *Texas Law Review* article about intellectual property norms governing roller derby pseudonyms.<sup>2</sup> Among the many reasons that Ellickson's response is valuable is that it has allowed me to further elaborate the story of derby-name regulation in two ways. First, it highlighted places where I could have pushed the analysis of the Master Roster further. And second, it created the opportunity to explore some of those issues in this space.

In this Reply, I seek to do two things. The first is to develop in more detail one of the subjects in *Talk Derby* that Ellickson identified as inviting more analysis.<sup>3</sup> What motivated the skaters who worked on the Master

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1. Robert Ellickson, *How Norm Entrepreneurs and Membership Associations Contribute to Private Ordering: A Response to Fagundes*, 90 TEXAS L. REV. *SEE ALSO* 247 (2012).

2. David Fagundes, *Talk Derby to Me: Intellectual Property Norms Governing Roller Derby Pseudonyms*, 90 TEXAS L. REV. 1093 (2012).

3. I stress that this is merely one of Ellickson's apt suggestions for areas where I could have pushed the envelope farther in *Talk Derby*. To take just one example, much more remains to be said about the role norm entrepreneurs played in the development of the Master Roster. *See* Ellickson,

Roster to invest tremendous amounts of time developing and maintaining a regulatory project for which they received no traditional remuneration? I reinterviewed the Roster's creator and current administrator in order to explore this issue further. The second is to ask what the results of these discussions tell us about various debates about the reasons that norms-based systems arise and persist. I comment on what the results of these additional issues may tell us about this issue, and also use this evidence to further refine the phrase "labor of love" that I invoked in *Talk Derby*.

## II. More Derby Talk: Skaters Speak About the Problem of Supply

In his Response to *Talk Derby*, Robert Ellickson reviews my discussion of the factors that motivated Hydra, Paige Burner, Soylent Mean, and others<sup>4</sup> to create and maintain the Master Roster. He observes that I "might have worked harder to fathom the motivations of the skaters who created and administer the Master Roster."<sup>5</sup> Ellickson's critique highlights one of the central themes in *Talk Derby*.<sup>6</sup> The founding and continued persistence of the Master Roster is puzzling for the same reason that any private provision of public goods is puzzling: It requires the investment of time and effort by a handful of people to create a system that has widely distributed benefits.<sup>7</sup> Numerous other scholars have endeavored to understand this puzzle in the context of regulation generally.<sup>8</sup> The emergence of the Master Roster represents a particularly acute framing of this problem. The Roster's administrators often spent as many as forty hours a week on its maintenance—a cost far in excess of the marginal value of individual name security that every user of the Roster enjoys.

Ellickson proposes some plausible solutions for this puzzle that draw on many of the leading theories of norm emergence. I asked Hydra, the Master Roster's founder, and Elaina B., its current administrator, to weigh in on this issue.<sup>9</sup> This sample size is of necessity small,<sup>10</sup> but meaningful, since it

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*supra* note 1, at 252–53. I limit myself to exploring only one of the various areas Ellickson identified as warranting further investigation in order that this piece remain a mere Reply, and not become another sprawling primary article.

4. This list of derby girls who helped to create and maintain the Master Roster is far from complete. Jelly HoNut was a crucial contributor in the Roster's early years. And Elaina B., the Roster's current administrator, has made significant strides toward eliminating the months-long backlog of submitted names.

5. Ellickson, *supra* note 1, at 251.

6. See *Fagundes*, *supra* note 2, at 1138–43 (discussing motivations of the Master Roster's creator and administrators).

7. See *id.* at 1098 (describing the Master Roster as an example of the problem of supply).

8. *E.g.*, ELINOR OSTROM, *GOVERNING THE COMMONS* (James E. Alt & Douglass C. North eds., 1990); MANCUR OLSON, *THE LOGIC OF COLLECTIVE ACTION* (1965).

9. If a picture is worth a thousand words, a conversation with a derby girl must be worth at least as many law review words.

includes the perspectives of the skater who created the Master Roster back in the early days of roller derby's resurgence, and of the skater who is currently responsible for managing the Roster in its current incarnation. I began by asking them to tell me what motivated them to work on the Roster in the absence of traditional forms of compensation, and then sought their insights about specific rationales for norm emergence that have been advanced in the literature.<sup>11</sup>

Hydra and Elaina B. sounded two similar themes when asked to explain why they chose to work on the Master Roster. First, both women invoked intrinsic features of their personalities as the leading factors that led them to volunteer for this task. Hydra and Elaina B. both clearly possess the kind of gritty perseverance that ideally suits them to complete challenging, complex tasks—even when those tasks are not particularly enjoyable. Hydra has a successful career as a hydrologist (in addition to her derby duties for the Texas Rollergirls, of course),<sup>12</sup> which entails the execution and completion of complex data-management projects not unlike the Master Roster itself. Elaina B. not only founded and skates for the Lehigh Valley Rollergirls, but she also works full-time, is raising a burgeoning family,<sup>13</sup> and is working toward a degree in radiography. In a turn of phrase that seems equally apt for both of these women, Elaina B. observed, “If I say I’m going to do a job, I’m going to do it. Even if it kills me. And I’m going to do it right.”<sup>14</sup>

Second, both women characterized their commitment to the Master Roster as growing out of their love for roller derby, and of their understanding that maintaining the Roster was central to the success of the sport. Elaina B. expressed her commitment primarily in terms of her faith in

10. There are, after all, fewer than ten women who have contributed substantially to the development and/or administration of the Master Roster, so the small-n problem is sort of inevitable.

11. This methodology comes with a major caveat: By asking these individuals about their own motivations for working on the Master Roster, I ran the risk of getting only responses that revealed self-serving bias. I’ve tried to correct for this in two ways: first, by introducing where appropriate a skeptical approach toward self-serving answers; and second, by seeking external sources of evidence that might check or confirm answers thought to be self serving. See Robert K. Rasmussen, *Lawyers, Law, and Contract Formation*, 98 MICH. L. REV. 2748, 2749 (2000) (acknowledging the presence of self-serving bias in interviews while acknowledging that its presence is not fatal to the gathering of useful information via this means).

12. Hydra’s occupation is part of the inspiration for her skate name, though other influences included the mythical many-headed creature as well as the punchy names of the competitors in the old American Gladiator television show (e.g., Nitro).

13. In fact, during the past year, Elaina gave birth to a daughter, making her work on the Master Roster even more challenging. In an understatement for the ages, Elaina observed that “[t]rying to do the Master Roster with a little tiny baby is . . . challenging.” Interview with Elaina B., Lehigh Valley Rollergirls (Apr. 23, 2012) [hereinafter Elaina B. Interview] (notes and recording on file with author).

14. *Id.* Similarly, Hydra observed that at the inception of the Master Roster, she was one of the first people willing to put in the time to do the organization and record keeping, and who truly appreciated the importance of each. Interview with Hydra, Texas Rollergirls (Apr. 26, 2012) [hereinafter Hydra Interview] (notes and recording on file with author).

derby itself: “I guess it all comes down to, I really love roller derby. I believe in what it does for women. . . . We [work on the Master Roster] for the common good.” Love for derby is, of course, widely shared among its participants, but what appears to differentiate Elaina and Hydra<sup>15</sup> is that they understand that name regulation is critical to the success of the sport they love, and they felt that their help with name registration was necessary since others were unlikely to do the same. “I’ll step up,” Hydra recalled saying about her pioneering work on the Roster, “If nobody’s leading, someone has to.”<sup>16</sup> Similarly, Elaina B. reported that while a number of skaters offered to help Paige Burner with the Master Roster, Paige observed that only Elaina consistently followed through with assigned tasks—thus contributing to Elaina’s being the one to take over name-registration duties when Paige stepped aside.<sup>17</sup>

These are the themes the Master Roster’s founder and current administrator invoked when I asked them open-endedly about their motivations for working on the project in the absence of traditional means of compensation. I then followed up to see how these narratives fit more specifically into prevailing theories of norm emergence.<sup>18</sup> One such theory is that people develop norms because they seek esteem from their peers.<sup>19</sup> Ellickson and I both suggested that this theory might help explain why the Master Roster’s founders and administrators were moved to work on it.<sup>20</sup> Subsequent interviews, though, cast doubt on this story. Hydra reported that esteem was “not at all” a factor that led her to create or maintain the Roster.<sup>21</sup>

15. As well as, I think it’s safe to surmise, the other women who contributed to the development of the Master Roster.

16. Hydra Interview, *supra* note 14; *see also* Fagundes, *supra* note 2, at 1116–17 (discussing the early development of Master Roster).

17. Elaina B. Interview, *supra* note 13. There is obviously also a major element of path-dependence in both Hydra’s and Elaina B.’s stories. When Hydra started the Master Roster, it was the only game in town, so that its uniqueness contributed to its utility and credibility. *Cf.* Richard McAdams, *A Focal Point Theory of Expressive Law*, 86 VA. L. REV. 1649, 1663–72 (2000) (discussing the role of focal points in creating legal regimes). And soon after Elaina volunteered as Paige Burner’s helper, Paige finally stepped aside. Because other volunteers had not proven to be as reliable, Elaina was left as the sole (and only plausible) candidate to take over administrative duties. Elaina B. Interview, *supra* note 13.

18. *See* Ellickson, *supra* note 1, at 249–51 (outlining several theories of norm emergence that might help explain the development of the Master Roster).

19. Richard H. McAdams, *The Origin, Development, and Regulation of Norms*, 96 MICH. L. REV. 338 (1997).

20. Fagundes, *supra* note 2, at 1140; Ellickson, *supra* note 1, at 250.

21. Hydra Interview, *supra* note 14. Elaina B. also flatly dismissed the idea that subcultural esteem was a driver of her decision to start working on (or to continue working on) the Master Roster. Elaina B. Interview, *supra* note 13.

These responses invite skepticism. After all, who would admit to doing something to gain the esteem of their peers? The Yahoo! RollerGirls boards reflect frustration with delays associated with the Roster, but also appreciation for the work that its administrators do. *E.g.*, Posting of Bazooka Joe, Pioneer Valley Roller Derby, to roller\_girls@yahoogroups.com, available at [http://sports.groups.yahoo.com/group/roller\\_girls/message/424477](http://sports.groups.yahoo.com/group/roller_girls/message/424477) (acknowledging the “troubles and frustrations of current-day name registration”, and that “[t]he people maintaining the roster are

“You might get a few people appreciating it,” she recalled, “But people were more concerned about themselves and protecting their names. They were pretty fast to complain and argue with you about stuff. It’s a pretty selfless job.”<sup>22</sup> Elaina B. went a step further, estimating that for each expression of appreciation for her work on the Roster, she receives at least twenty complaints for not registering names fast enough, or for declining to register proposed names.<sup>23</sup> One could imagine that hope for esteem and positive reinforcement might have inspired Hydra or Elaina B. to start work on the Master Roster, even though it did not ultimately materialize. But if vocal appreciation from other derby girls had been a major *ex ante* motivation, then both women would likely have quit soon after starting when they discovered that their work was a path to far more criticism than adulation.

Another theory is that people contribute to norm creation (and comply with norms generally) because they want to signal that they are good team players, thereby securing future opportunities for advancement or exchange within the relevant subculture.<sup>24</sup> Ellickson indicated that I “might have questioned Hydra about opportunities that her work on the roster had opened up to her.”<sup>25</sup> So I did. Hydra responded that she could, of course, “only guess” at what influence her work on the Master Roster had on her subsequent status in the derby world, and the Women’s Flat Track Derby League in particular.<sup>26</sup> And while she acknowledged that her work on the Master Roster likely contributed to her later high status within WFTDA, she also stressed several reasons for the complexity of this relationship. First, the Master Roster predates the founding of WFTDA by at least a couple of years,<sup>27</sup> a temporal gap that suggests attenuated causation. Second, the Master Roster is officially separate from and unrelated to WFTDA,<sup>28</sup> so that

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busting their asses to keep this up to date for OUR benefit”). That said, both Hydra’s and Elaina B.’s reports of criticism are based on private emails attacking them for being dilatory in delaying or failing to register names. The story is likely a complex one (more so than can be fully explored in a mere Reply) that may turn on the presence of various sources of esteem. It may be, for example, that Hydra and Elaina B. earned esteem from working on the Master Roster from leaders of the derby world, even though they received complaints from the rank-and-file.

22. Hydra Interview, *supra* note 14.

23. Elaina B. Interview, *supra* note 13.

24. See generally ERIC POSNER, LAW AND SOCIAL NORMS (2000).

25. Ellickson, *supra* note 1, at 250–51.

26. Hydra Commentary on an Early Draft of Ellickson’s Response at 6 [hereinafter Hydra Commentary].

27. The initial version of the Master Roster was available in Excel spreadsheet format on a discussion board for the United Leagues Coalition. The now-defunct ULC was an ur-version of today’s WFTDA. [Is the term ur-version correct?]

28. The reason it has to be separate is that several leagues, including influential ones like TXRD Lonestar Rollergirls and LA Derby Dolls, are banked-track leagues, and thus cannot be members of the Women’s Flat-Track Derby Association. But the Roster needs to provide complete regulation of all names (since non-WFTDA skaters from the banked-track leagues compete in flat-track tournaments on occasion, and vice versa), so it has to include non-WFTDA leagues and teams.

work on it might not garner as much esteem as WFTDA-sanctioned projects. Third, the benefits of Hydra's work on name registration were widely distributed, touching thousands of skaters, but each only to a marginal extent. This distribution thus may not have been sufficient to give her substantial political capital with any one individual influential enough to earn major status within the league.<sup>29</sup> Finally, Hydra's efforts on behalf of roller derby's development substantially included, but were by no means limited to, her founding of the Master Roster. So it's difficult to say whether any subcultural influence she earned was a result of her help with the Roster or something else (e.g., her skill at skating, her organization of other league activities, etc.). All this having been said, Hydra and Elaina B. agreed that the acquisition of opportunities for advancement within the roller derby world may have been a benefit of their name-regulation work.<sup>30</sup> Importantly, though, they both stressed that this was more like an *ex post* realization about potential advantages of that work than an *ex ante* strategy for self-aggrandizement.

I also discussed with Hydra and Elaina B. the role that first-party sanctions might play in the development of the Master Roster. Could this work be part of a "deeply-internalized norm of reciprocity"?<sup>31</sup> This seems plausible. Hydra's invention of the Roster occurred during a time when roller derby was experiencing a resurgence led by a relatively small number of devoted enthusiasts. Each of these enthusiasts contributed in different ways to the sport's renaissance. While Hydra spearheaded many projects during this era, helping to register names was inspired in part by the need to do her part to help assure derby's comeback as a countercultural phenomenon.<sup>32</sup> Similar concerns about reciprocity prevail in the Master Roster's current regulation. Elaina B. has a handful of derby girls around the country help her with registration, and delegates tasks to each of them. Their inspiration to work on the Master Roster thus comes not only from a desire to do an important service for the roller derby world. One person's slacking

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29. See Hydra Commentary, *supra* note 26, at 6 (observing that the decision to name the WFTDA national championship trophy after Hydra was made by "a group of 4 women who gave little thought to the master roster").

30. Hydra Interview, *supra* note 14; Elaina B. Interview, *supra* note 13.

31. Ellickson, *supra* note 1, at 251 (citing Benkler, Kahan, and Strahilevitz on reciprocity); see also Dan Kahan, *The Logic of Reciprocity: Trust, Collective Action, and Law*, 102 MICH. L. REV. 71 (2003) (suggesting that people are emotional/moral reciprocators rather than simple wealth maximizers).

32. Hydra Interview, *supra* note 14. The reciprocity narrative has particular plausibility because Hydra's initial efforts on behalf of name regulation were inspired by a felt need to protect the names of skaters on (and teams in) her local league, the Texas Rollergirls. The reason Hydra made the registry encompass the entire derby world was that she realized a league-only system would be doomed. Other skaters would not respect the Master Roster if they could not take advantage of its protections as well. See *id.*

causes each of the others to have to take on more than their fair share of the work.<sup>33</sup>

Finally, to what extent might work for the Master Roster be inspired by intrinsic enjoyment of the task, rather than desire to acquire status or esteem, or to avoid a sense of guilt at shirking? Here, the answers varied a bit, as one might imagine, between individuals. Hydra suggested that intrinsic enjoyment of name registration might have been “a part” of why she stepped up to help with it.<sup>34</sup> The kind of data organization derby-name registration requires is also something she does and enjoys in her professional life as a hydrologist. Elaina B., by contrast, did not express the same sense of intrinsic enjoyment of working on the Master Roster. Quite the contrary. While she seemed quite happy to be helping out with something as central to roller derby’s success as name registration, Elaina indicated the work itself was often a “thankless” chore, and that she had to “pump up” herself and her other helpers by invoking the importance of the task to the “common good” of the sport.<sup>35</sup>

## I. Beyond Derby Talk

### A. *Some Brief Theorizing about Theories about Norm Emergence*

What do these additional interviews tell us about norm emergence? Any conclusions must, of course, be modest given the small sample size and the brevity of this Reply.<sup>36</sup> That said, the first point that emerges from this evidence is that the reality of the motivations behind norm development is a lot messier than the theories that have been invoked to explain it. My follow-up interviews revealed multiple, variant motivations rather than a clean, uniform story. First, exploring Hydra’s and Elaina’s motivations revealed a pastiche of explanations—intrinsically driven personalities, a sense of reciprocal duty, and some sense of enjoyment of the task—rather than a unique, dominant narrative. Second, the various revealed motivations varied even between the two respondents. Hydra’s account of her motivations for starting and working on the Master Roster, for example, features much more

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33. See Elaina B. Interview, *supra* note 13 (explaining that a lot of the in-moment inspiration for slogging through the drudgery and detail of name registration is the desire not to let down colleagues, as well as “for the common good”). This seems to align with Ellickson’s suggestion that those who are “free-rider[s] on the efforts of others . . . might feel the cold prickle of guilt.” Ellickson, *supra* note 2, at 251. Indeed, roller derby’s “douchebag rule” appears to derive largely from concerns about reciprocity. Nothing makes someone more of a douchebag in the derby world than failing to give back to the community, thereby making others do more than their share of the work. See Fagundes, *supra* note 2, at 1111 n.86 (citing Hurt Reynolds on the “douchebag rule” as instantiating a reciprocity norm).

34. Hydra Interview, *supra* note 14.

35. Elaina B. Interview, *supra* note 13.

36. E.g., Ellickson, *supra* note 1, at 251 (suggesting that exploring this issue farther with Hydra in particular “might . . . contribute[] to the resolution of the McAdams-Posner debate”).

in the way of intrinsic enjoyment of the task of organizing data itself than Elaina's does.

What do we do with this divergence between nice clean theories and a reality that is (at least in this case) much more disorderly? Of course, no single account can explain the Master Roster's emergence and maintenance to the exclusion of others. One might suggest that these interviews represent one small indication of a general principle that the multiplicity of motivations, and their variance among individuals, renders futile the task of crafting or comparing theories about norm emergence and maintenance. I don't think this is the case. While the data in this case are too few to confirm or disconfirm any particular theory, one thing that's clear about Hydra's and Elaina B.'s responses is that they're certainly not entirely random or unconnected to prevailing solutions to the problem of motivation. Just the opposite appears true. Prevailing theories actually capture much of the respondents' rationales for doing their work, especially Kahan's reciprocity account, and to some extent also Posner's signaling theory. That both Hydra and Elaina B. so strongly (and plausibly) rejected esteem as a basis for their work on the Master Roster also reflects on McAdams's account. I don't think it disconfirms that theory outright, but rather raises questions about the contexts in which it might have more or less leverage.<sup>37</sup> My discussions with Hydra and Elaina B. also suggest a substantial and less-appreciated factor in resolving the problem of supply: The personalities of the actors involved, some of which feature more grit and determination, and may simply be more inclined to take on and resolve tasks in the interest of their chosen group.<sup>38</sup>

So while my revisiting the question of motivation as Ellickson suggested did not neatly confirm or disconfirm any of the prevailing theories for why people create norm based systems, it may indicate a useful way to think about how these theories translate into reality. It's obviously not possible to craft a single theory that will explain all (or even the vast majority of) motivating factors behind the creation of norm based systems. Human motivations differ too much, among and even within individuals, to realize this aspiration. But these theories, or at least the ones that have intrinsic plausibility and also comport with empirical observation, clearly deliver substantial insight for answering foundational questions about what inspires the creation of any system with public-goods qualities. Hence they are better thought of not as mathematical theorems that must possess completeness to

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37. A desire to avoid esteem sanctions may, by contrast, explain why the average skater complies with the Roster, even if it does not explain why some skaters chose to create or maintain it. See Fagundes, *supra* note 2, at 1140 (discussing esteem sanctions).

38. In contrast to the "norm entrepreneur," who wants to lead a group toward their preferred norm-based regime, this is more like a "norm yeoman," who is willing to do the kind of drudgery that is necessary to keep the regime functioning. I think the latter characterization is more apt as applied to Elaina B., who expressed distaste for seeking out acclaim and status. She described herself as someone who does not seek public praise and prefers to remain "behind the curtain." Elaina B. Interview, *supra* note 13.



be valid, but as available narratives that have the power to explain instances in which individuals and groups overcome the problem of supply. And this approach certainly does not mean that we should abandon comparison between theories. Instead, it merely means that what makes a theory (or narrative) of norm emergence more plausible is that it captures more data points than other narratives do, even if it does not capture all of them.

### *B. Locating Labors of Love*

Exploring the question of motivation further, per Ellickson's suggestion, also affords an opportunity to say a bit more about what it means for work such as the creation and maintenance of the Master Roster to be a labor of love.<sup>39</sup> This phrase is familiar in common parlance, but lacks formal definition. My recent discussions with Hydra and Elaina B. pointed toward a distinctive feature that may define and distinguish this category. Both women (and, I suspect, others who have done similar work helping with the Master Roster, or who have done any of the other mucky jobs that are necessary for roller derby to succeed) expressed a degree of ambivalence about the work itself. They both found it challenging and at times frustrating (not least because other skaters so frequently complained about not getting names registered fast enough), and they both linked the work to their love for derby as both a sport and a community rather than an outright enthusiasm for the task itself. This kind of work is labor, in the sense that it's often a yeomanlike slog to get through the tedious details of a given task (e.g., grinding through a massive batch of proposed derby names). But it is inspired by love in that it is linked to a larger project (e.g., helping to sustain the name structure of the roller derby world) that is deeply important to the person performing the task.

So defined, labors of love seem related to, but distinct from, other kinds of intrinsic motivations. Most of the literature speaks of intrinsic motivation as immediate gratification enjoyed by individuals who engage in a given task. Writers of fan fiction, for example, report experiencing a joy in the creative process itself that inspires them to write derivative works without hope or expectation of profit.<sup>40</sup> Altruists who truly enjoy helping others

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39. Fagundes, *supra* note 2, at 1144 & n.253 (invoking the phrase "labors of love"); see also David A. Hoffman & Salil K. Mehra, *Wikitruth Through Wikiorder*, 59 EMORY L.J. 151, 208 (2009) (describing the creation and governance of Wikipedia as a "labor[] of love"). My treatment of labors of love in this space is, of necessity, brief and incomplete. I explore this idea at more length in a forthcoming piece, David Fagundes, *Labor and/as Love: Roller Derby as Cultural Commons*, in CONVENING CULTURAL COMMONS (Oxford Univ. Press ed.) (forthcoming 2013).

40. See Rebecca Tushnet, *Economies of Desire: Fair Use and Marketplace Assumptions*, 51 WM. & MARY L. REV. 513, 522–36 (2009) (discussing the "ecstasy of influence" as an example of the intrinsic pleasure that writing fan fiction brings its creators). The no-profit assumption about fan fiction has recently experienced a surprising twist due to the breakout commercial success of E.L. James's *Fifty Shades of Grey*, which started as *Twilight* fan fiction. See <http://dearauthor.com/features/industry-news/master-of-the-universe-versus-fifty-shades-by-e-l->

experience a “warm glow” from the very act of helping itself.<sup>41</sup> Labors of love, at least as I have defined them, though, represent a slightly different kind of calculus. The reward of a labor of love does not derive from performance of the task itself. The task itself may even be drudgery. Elaina B. reported having to get herself “pump[ed] up” to work through the ever-increasing influx of proposed names, and even Hydra reported that her enjoyment of the task was a mere “part” of why she chose to create and maintain the Master Roster.<sup>42</sup> But some people engage in labors of love nevertheless, because they understand the local, immediate unpleasantness to be in the worthwhile service of a greater goal, such as the maintenance of an alternative sport like roller derby that provides both an identity-constitutive subculture and positive support for women.

The labor of love fits somewhat uneasily within standard accounts of norm creation and compliance. These accounts typically fall into stories about carrots (individuals create and comply with norm systems to get some amenity they want)<sup>43</sup> or sticks (individuals create and comply with norm systems to avoid some sanction they fear).<sup>44</sup> Ellickson suggests that the creation of the Master Roster may be basically a carrot story: “An individual . . . may contribute to the creation of a norm because contributing is intrinsically pleasurable.”<sup>45</sup> But labors of love confound, at least to an extent, this account. This is in part because whatever pleasure they bring is not intrinsic to the task at all, but abstracted and delayed. And it may also be in part because the mere idea of introducing the word “love” sounds a dissonantly optimistic note in a discourse dominated by the twin grimnesses of law and economics. Perhaps this means our account of law’s subjects should be richer, and that alongside Holmes’s cynical bad man and the infinitely rational homo economicus, we need Hydras and Elainas, laboring not out of apprehension or selfishness, but in the interest of the common good.<sup>46</sup> This point about rhetoric has real world consequences. Beyond the obvious point that the assumptions about human motivation that animate law should be as accurate as possible, including labors of love in our dialogue

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james-comparison/ (showing that *Fifty Shades of Grey* is based on James’s preexisting *Twilight* fan fiction, despite James’s insistence to the contrary).

41. James Andreoni, *Impure Altruism and Donations to Public Goods: A Theory of Warm-Glow Giving*, 100 *ECON. J.* 464, 466–68 (1990).

42. Elaina B. Interview, *supra* note 13; Hydra Interview, *supra* note 14.

43. See, e.g., Lisa Bernstein, *Opting Out of the Legal System: Extralegal Contractual Relations in the Diamond Industry*, 21 *J. LEGAL STUD.* 115 (1992) (explaining that diamond sellers comply with community norms in part out of the desire and need for the exclusive benefits afforded to members).

44. E.g., Dan Kahan, *What’s Really Wrong with Shaming Sanctions*, 84 *TEXAS L. REV.* 2075 (2006) (emphasizing that shaming does play a role in enforcing societal norms).

45. Ellickson, *supra* note 1, at 251.

46. See Carol M. Rose, *Property as Storytelling: Perspectives from Game Theory, Narrative Theory, Feminist Theory*, 2 *YALE J. L. & HUMAN.* 37, 52 (1990) (discussing the varieties of legal subjects necessary for the provision of property systems).

about regulation also signals our faith that we are as moved not only by fear and greed, but by courage and generosity as well.<sup>47</sup>

## II. Conclusion

There's a scene in *Six Degrees of Separation* in which the father figure and art dealer Flanders Kitteridge dreams that he is visiting the classroom of his child's second-grade art teacher. Impressed by the many canvases he sees, Flan asks the teacher what her secret is. "I don't have any secret," she replies, "I just know when to take their drawings away from them."<sup>48</sup>

Deciding when work is done is challenging with arguments as well as art. Even at a borderline-elephantine 75 pages, *Talk Derby* inevitably left many aspects of the rich story of skate name regulation untold. Robert Ellickson's critique of this Article provided me with a valuable opportunity to head a bit farther down one of these unexplored avenues, as well as a roadmap for how to do it. In particular, his suggestion that I investigate the question of motivation in more detail led to dialogue with the Master Roster's creator and current administrator so that their voices can be heard on this issue. And their responses in turn led me to adumbrate two of the points I gestured at in *Talk Derby*, specifically how derby name regulation reflects on prevailing theoretical debates about why norm systems emerge and persist, as well as what new insights this research may generate about those theories.

Yet even with this Reply added to the story, still more remains to say. This is at least in part because the tale of roller derby names, and of derby itself, is changing faster than I can write about it. In the many years that have passed since I started working on this project, roller derby has continued to grow in number of participants and cultural salience, and its status as an amateur sport has become more contested. A growing number of participants now want derby to be as mainstream and commercial, perhaps like tennis (a largely recreational sport with a small percentage of pros). How roller derby will change remains to be seen. We can be certain, though, that it will change, and that its growth and increasing professionalization will alter in interesting ways the norm-based governance of the sport as well as the character of roller derby itself.

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47. See Kahan, *supra* note 31, at 103 (nothing that "the logic of reciprocity" "makes the hope that citizens will be morally and emotionally committed to the common good more realistic").

48. JOHN GUARE, *SIX DEGREES OF SEPARATION* 46 (2d ed. 1990).