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AN EMOJI LEGAL DICTIONARY

Leslie Y. Garfield Tenzer & Ashley Cangro*

INTRODUCTION

Does a reference to an eggplant just mean an eggplant? Not always, when it comes to emojis. Emojis are the ubiquitous characters that often replace words in conversations; they can have different meanings depending on the context of the conversation, the emoji's appearance, and the people engaged in the emoji-driven conversation. Consequently, the complexity required in the understanding of emojis has been problematic for our judicial system.

Parties are introducing emojis as evidence in their court cases at an accelerated rate.¹ Many of these emojis, however, are subject to different interpretations. Because judges and juries are often unfamiliar with the potential hidden meanings of emojis, defining them in a way that serves justice is somewhat futile.

Although public databases exist on the internet to help define emojis, they are imperfect. The ambiguity of emoji meanings, coupled with their varied appearances across platforms, raises a risk that those charged with resolving a legal dispute may misconstrue an emoji's meaning. Our work will help alleviate the definitional confusion of emojis.

This Article is the first to provide a legal emoji dictionary. We have reviewed over 100 cases to provide a legal definition of emojis as interpreted by U.S. case law. Our Article will have three parts. Part I offers a brief overview of the history of

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¹ Eric Goldman, *Emoji Law Year-in-Review for 2020*, TECH. & MKTG. L. BLOG (Jan. 20, 2021), <https://blog.ericgoldman.org/archives/2021/01/emoji-law-year-in-review-for-2020.htm> [<https://perma.cc/U8UD-8C2R>] (according to Professor Eric Goldman, the number of cases referencing emojis increases every year. In 2020, 132 cases referenced emojis, which was a 25% increase over 2019.). This Article is not an attempt to recognize every emoji cited in any case, rather it is limited to referencing those emojis that both civil and criminal parties submitted as evidence to support their case.

emojis and their increasing prevalence in U.S. case law, Part II highlights cases that have wrestled with emoji interpretation; and finally, Part III presents a detailed database of the emojis parties have introduced in courts of law with their legal interpretations—largely through context.

I. A BRIEF OVERVIEW OF EMOJIS

Emojis are a global phenomenon. Ninety-five percent of the online population sends over ten billion emojis each day.² Since a Japanese engineer first introduced 176 emojis in 1999, the number of emojis has grown exponentially.³ As of September 2021, the Unicode Standard lists 3,633 emojis.⁴

Emojis are now part of almost every country’s colloquial speech. For example, they appear in art, #twitterart,⁵ music videos,⁶ literature,⁷ and the cover pages of national news sources, such as *USA Today* and the *New Yorker*.⁸ In 2017 and 2019, emojis were the main characters in movies.⁹ In 2010, Fred Benenson published *Emoji Dick*—Moby Dick told entirely through emojis.¹⁰ Oxford Dictionaries even identified the “Face with Tears of Joy” emoji as its 2015 Word of the Year, reasoning

² Phill Agnew, *6 Facts About Emojis Found Using New Analysis*, BRANDWATCH (Jan. 9, 2018), <https://www.brandwatch.com/blog/6-facts-about-emojis-found-using-new-analysis/> [https://perma.cc/XFK6-ZHYM].

³ Katharina Buchholz, *The History of the 5 Billion Emojis Used Every Single Day*, WORLD ECON. F. (Sept. 30, 2020), <https://www.weforum.org/agenda/2020/09/emoji-numbers-facts-social-media-how-many-twitter-facebook-instagram> [https://perma.cc/J7AQ-LW6W].

⁴ *Emoji Statistics*, EMOJIPEDIA, <https://emojipedia.org/stats/> [https://perma.cc/KT3R-W5Z6].

⁵ Amanda Hess, *Look Who’s Smiley Now: MoMA Acquires Original Emoji*, N.Y. TIMES (Oct. 26, 2016), <https://www.nytimes.com/2016/10/27/arts/design/look-whos-smiley-now-moma-acquires-original-emoji.html> [https://perma.cc/27EQ-M68N] (stating that in 2016, MoMA added NTT DoCoMo’s original 176 emojis to its permanent art collection).

⁶ See, e.g., Katy Perry, *Katy Perry—Roar (Lyric Video)*, YOUTUBE (Aug. 12, 2013), <https://www.youtube.com/watch?v=e9SeJIgWRPk&t=40s> [https://perma.cc/J5XT-EJGG].

⁷ See, e.g., XU BING, *BOOK FROM THE GROUND: FROM POINT TO POINT* (MIT Press 2014).

⁸ The Gannett Co., *Cover Page*, USA TODAY WEEKEND, Oct. 9–11, 2015; see also Barry Blitt, *Cover Page*, NEW YORKER, Mar. 30, 2015.

⁹ THE EMOJI MOVIE (Columbia Pictures 2017); PICTURE CHARACTER: AN EMOJI DOCUMENTARY (Martha Shane 2019).

¹⁰ FRED BENENSON, *EMOJI DICK* (2010); see also Jenny Hollander, *Moby Dick Translated Into Emoji Icons*, BUSTLE (Nov. 19, 2013), <https://www.bustle.com/articles/9208-emoji-dick-moby-dick-translated-into-emoji-icons-this-exists> [https://perma.cc/2FGX-YRHY].

that emojis “have been embraced as a nuanced form of expression, and one which can cross language barriers.”¹¹ Today, over one in five tweets includes an emoji, and there are five billion emojis sent daily on Facebook Messenger.¹²

The Unicode Consortium, a technology consortium devoted to developing, maintaining, and promoting the Unicode Standard, approves new emojis every year for major operating systems like Apple and Samsung, and social networks like Facebook and Twitter.¹³ Although the emojis are standardized, they are not uniform across all platforms. A face with rolling eyes, for example, looks different on Apple, Google, and Samsung, and as a result, its interpretation varies from “way to miss the point” (Apple) to “Ugh” or “Oh Boy” (Google) to “heh, heh” (Samsung).¹⁴ Emojis with near-identical artworks across platforms are also subject to inherently different interpretations. A drop of blood can mean a blood donation, an injury, or menstruation;¹⁵ a snowflake may refer to snow, cocaine, and people with liberal political views.¹⁶ Emojipedia, an emoji reference guide and a voting member of the Unicode Consortium, hosts a platform offering emoji definitions to quell the confusion.¹⁷

The proliferation of emojis has, understandably, led to these characters becoming an integral part of legal challenges. According to Professor Eric Goldman, the number of reported cases with emojis in the United States nearly quadrupled from

¹¹ Yanan Wang, *For First Time Ever, an Emoji is Crowned Oxford Dictionaries' Word of the Year*, WASH. POST (Nov. 17, 2015), <https://www.washingtonpost.com/news/morning-mix/wp/2015/11/17/for-first-time-ever-an-emoji-is-crowned-oxford-dictionaries-word-of-the-year/> [https://perma.cc/BB9P-U7C4]; Manas Mitul, *Oxford Dictionaries' Word of the Year 2015 is Not Even a Word, it's an Emoji*, FIRSTPOST (Nov. 17, 2015, 16:16:35 IST), <https://www.firstpost.com/living/oxford-dictionaries-word-of-the-year-2015-is-not-even-a-word-its-an-emoji-2510130.html> [https://perma.cc/L562-UAYG].

¹² See *supra* note 4. By mid-2015 half of all comments on Instagram included an emoji and only 7% of people using the peach emoji use it to mean fruit. *Id.*

¹³ See generally *id.*

¹⁴ *Id.*

¹⁵ Leslie Y. Garfield Tenzer, *A Period Emoji Fail*, 41 COLUM. J. OF GENDER & L. (2021); *Drop of Blood*, EMOJIPEDIA, <https://emojipedia.org/drop-of-blood/> [https://perma.cc/9A98-7KN7].

¹⁶ *Snowflake*, EMOJIPEDIA, <https://emojipedia.org/snowflake/> [https://perma.cc/2NBZ-9UGL]; Abi Travis, *What Do All the Snowflake Emojis Mean on TikTok?*, DISTRACTIFY (Sept. 9, 2020), <https://www.distractify.com/p/what-does-the-snowflake-emoji-mean-on-tiktok> [https://perma.cc/AUM3-PYY8].

¹⁷ See EMOJIPEDIA, <https://emojipedia.org> [https://perma.cc/75DF-V85K].

2017 to 2020.¹⁸ This rise in the relevance of emoji testimony has left courts little time to synthesize their hidden meanings or subtexts. This next Part will explore the difficulties courts have in interpreting the subtext of relevant emoji evidence.

II. JUDICIAL INTERPRETATION OF EMOJIS

In as early as 2004, legal issues concerning emoticons appeared at the appellate level.¹⁹ Emoticons are considered an earlier generation of emojis and “are a series of symbols put together by the user to create facial expressions.”²⁰ As technology progressed, smart phone companies adopted more sophisticated “cartoon-like representations of people, places, and objects,”²¹ which they dubbed emojis. The first reference to emojis in a U.S. court was in 2014.²² Parties to a trial and judges who decide them use the terms often interchangeably, but emojis are increasingly replacing emoticons and are more widespread in digital communication.²³

In 2015, a legal dispute over the relevance of a smiley face emoji became the first “emoji issue” to receive national attention. That year, the federal government charged Ross Ulbricht with crimes relating to running an online black-market.²⁴ During an evidentiary hearing, a Manhattan federal prosecutor submitted to the court the words of a text message from Mr. Ulbricht but omitted the smiley face emoji that

¹⁸ Eric Goldman, *Emoji Law Year-in-Review for 2020*, TECH. & MKTG. L. BLOG (Jan. 20, 2021), <https://blog.ericgoldman.org/archives/2021/01/emoji-law-year-in-review-for-2020.htm> [https://perma.cc/JD9P-VUYS].

¹⁹ *MicroStrategy Inc. v. Bus. Objects, S.A.*, 331 F. Supp. 2d 396, 404 (E.D. Va. 2004) (interpreting the meaning of the word spy to be “playful” when followed by a smiley emoticon).

²⁰ Kristen A. Foltz & Juliana Fray, *Emoji Goes to Court: An Analysis of Emoji in Court Proceedings and Implications for Legal Practice*, 20 COMM. L. REV. 109, 110. (2020), https://commlawreview.org/Archives/CLRv20/Emoji_Goes_to_Court.PDF [https://perma.cc/S58Q-7GXP].

²¹ *Id.*

²² *See, e.g., Mobile Telecomm. Techs., LLC v. Blackberry Corp.*, No. 3:12-CV-1652-M-BK, 2015 WL 12698062 (N.D. Tex. 2015).

²³ Agnese Sampietro, *Emojis and the Performance of Humour in Electronic-Mediated Everyday Conversation: A Study of a Corpus of WhatsApp Chats*, 4 INTERNET PRAGMATICS 87 (2021) [https://perma.cc/U3RJ-9YTZ].

²⁴ *See Benjamin Weiser, At Silk Road Trial, Lawyers Fight to Include Evidence They Call Vital: Emoji*, N.Y. TIMES (Jan. 28, 2015), <https://www.nytimes.com/2015/01/29/nyregion/trial-silk-road-online-black-market-debating-emojis.html> [https://perma.cc/9JQ8-P8NP] [hereinafter *Silk Road*].

followed.²⁵ Mr. Ulbricht’s attorneys objected to the omission, arguing the emoji was integral to the text’s context.²⁶

The trial judge agreed with the defendant and instructed the jury to consider the emoji along with the text.²⁷ The judge reasoned that emojis and other symbols were “part of the evidence of the document.”²⁸ Reporting on the case for the *New York Times*, Benjamin Weiser wrote, “how chats and other messages and their symbols should be presented in court—and the larger question of how jurors should be educated about unfamiliar terms in a case steeped in web culture—has become a running subplot in the case.”²⁹

While most prevalent in criminal law, parties to lawsuits have offered emoji testimony across a broad array of cases.³⁰ Such testimony frequently appears in opinions dealing with conversation transcripts and evidence gathered from computer and cellphones.³¹ Naturally, the introduced documents or transcripts present thorny

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *See id.*; cf. *Elonis v. United States*, 575 U.S. 723 (2015) (interpreting whether the following statement contributed to making an illegal threat: “Tell Riley he should dress up as Matricide for Halloween. I don’t know what his costume would entail though. Maybe your head on a stick?”); *United States v. Elonis*, 841 F.3d 589, 593 (3d Cir. 2016).

²⁹ *See Silk Road*, *supra* note 24; *see also Elonis*, 575 U.S. at 552–53 (Anthony Elonis threatened his estranged wife with violent lyrics and other postings on his Facebook account. One such message conveyed the suggestion that their son’s Halloween costume should include her head impaled on a stick. Part of Elonis’ defense was that this message, which had been followed by the tongue-out emoticon “:-P,” was posted in jest. The Supreme Court briefly noted that the rise of social media use has made such domestic violence tactics more commonplace, and reversed Elonis’ conviction on an erroneous jury instruction on the requisite mens rea.).

³⁰ *See* Skyler Gray, *Emojis & The Law: An Interview with Professor Eric Goldman*, CAL. YOUNG LAWS. ASS’N (Aug. 28, 2020), <https://calawyers.org/california-young-lawyers-association/emojis-the-law-an-interview-with-professor-eric-goldman/> [<https://perma.cc/DQL8-53Q7>] (stating “[t]he most common emoji case involves sexual predation of children. Other common cases include murder, discrimination, and harassment. Emojis tend to appear in opinions dealing with online conversation transcripts as evidence. For example, sexual predation prosecutions often include an online conversation between the victim and the defendant as part of the grooming process. Emojis crop up in these conversations.”); *see also* *People v. Kelso*, No. A147691, 2018 WL 1830494, at *1 (Cal. Ct. App. Apr. 17, 2018).

³¹ *Id.*; *State v. Harris*, 162 N.E.3d 879, 883 (Ohio Ct. App. 2020) (“Det. Malainy also identified Ms. Harris’ Instagram page and the text and Instagram messages between Ms. Harris and the victim, translating for the jury commonly used emojis and messaging ‘slang’ terminology such as ‘scoop,’ which means to pick someone up with a ‘whip,’ or vehicle.”); *see also supra* note 24.

issues for those who are unfamiliar with emoji usage. An emoji can have more than one meaning, and so the party introducing it must ensure that fact-finders ascribe the meaning that is in a party's best interest. Context also matters when it comes to emojis. Failure to understand a texter's intended definition of a particular emoji can prove fatal to one's case.

For example, in *In re L.F.*, a California court grappled with whether laughing and clapping hands emojis following tweeted threats supported the defendant's contention that the tweets were just jokes.³² During a school day, the defendant tweeted several times, each of which included emojis:

"If I get a gun it's fact I'm spraying [five laughing emojis] everybody better duck or get wet"³³; "I'm leaving school early and going to get my cousin gun now [three laughing emojis and two clapping hands emojis]"³⁴; "I really wanna challenge shooting at running kids not fun [laughing emoji]"³⁵; and "Mfs don't really know me [two laughing emojis] I have touched a gun pointed one. . . Bitch I know how to aim."³⁶

At trial, L.F.'s best friend and sister both testified that the emojis served as proof that she made her tweets in jest. The juvenile court rejected the argument and found the defendant responsible for felony criminal threat.³⁷ The minor appealed.³⁸

On appeal, the California First District Court of Appeal determined whether the minor's tweets met the four elements required to establish a criminal threat.³⁹ One of the key elements discussed was whether the minor had the "specific intent that her tweets be taken as a threat."⁴⁰ The court considered the context of the messages⁴¹ and

³² *In re L.F.*, No. A142296, 2015 WL 3500616 at *1, *2 (Cal. Ct. App. June 3, 2015).

³³ *Id.* at *1.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* at *8.

³⁸ *Id.* at *1.

³⁹ *Id.* at *3.

⁴⁰ *Id.*

⁴¹ *Id.* at *2.

disagreed that “symbols of laughing faces” and “the terms such as ‘jk’ or ‘Lmao,’ . . . show [defendant’s] statements were meant as a joke,” due to the surrounding circumstances and specific nature of the threats.⁴² Ultimately, the court supported upholding the wardship conviction.⁴³

Similarly, in *Commonwealth v. Castano*, the court allowed the prosecution to submit to evidence that the defendant had sent an emoji with X’s for eyes.⁴⁴ At trial, the defendant argued he shot and killed his friend accidentally.⁴⁵ However, the defendant’s previous text to another friend—an emoji face with X’s for eyes accompanied by the victim’s name—failed to corroborate his claim.⁴⁶ The prosecution argued this meant a fatal shooting had occurred.⁴⁷ X’s for eyes can indicate death, X-rated content, or embarrassment.⁴⁸ After careful consideration, the trial court admitted the emojis into evidence and the jury concluded that the shooting was not accidental.⁴⁹ The conviction and sentence were affirmed partly on the ground that the text message was “irreconcilable with an accidental shooting.”⁵⁰ The Supreme Judicial Court of Massachusetts, in reviewing the case, took care to define the emojis in their own terms and upheld the jury’s verdict, finding it was based, in part, on the jury’s determination that the shooter used an emoji with X’s for eyes to connote death.⁵¹

Furthermore, a United States District Court, in *United States v. Loethen*, relied on the government’s definition of a tree emoji, which appeared in a text exchange between Loethen and his co-defendant Jerome Rainey. This text exchange was

⁴² *Id.* at *4.

⁴³ *Id.* at *9.

⁴⁴ See *Commonwealth v. Castano*, 82 N.E.3d 974, 978 (Mass. 2017).

⁴⁵ *Id.* at 980.

⁴⁶ *Id.* at 978.

⁴⁷ *Id.* at 981.

⁴⁸ See *Dizzy Face Emoji*, EMOJI DICTIONARY, https://emojidictionary.emoji.foundation.com/dizzy_face [<https://perma.cc/49JQ-ETSW>] (stating the “dizzy face” emoji can mean shocked, dizzy, or dead).

⁴⁹ *Castano*, 82 N.E.3d at 976.

⁵⁰ *Id.* at 982.

⁵¹ *Id.* at 986 n.2–3 (defining and depicting an emoji).



intercepted by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).⁵² Among the unfavorable evidence was a text exchange that read:

“Loethen: Shit whats up with you. Fixing to get out and about I suppose. You gonna be around this evening
Rainey: Yep
Rainey: Got [tree emoji]
Rainey: Hello u ok
Loethen: Got funny pages. Man you say you got or you askin. I got carried away in the garage really some landscaping shrubs would be awesome. . . .”⁵³

The government submitted the transcript as proof of defendant’s drug purchase.⁵⁴ Agents interpreting the discussion asserted that the defendant knew the tree emoji referred to marijuana and argued that the statements regarding four landscaping shrubs was code for purchasing four ounces of marijuana.⁵⁵ In ruling on whether to suppress evidence of the text messages, the court accepted the agent’s definition of trees as a symbol for marijuana and denied the defendant’s claim.⁵⁶

III. EMOJI LEGAL DICTIONARY*

To better understand emojis, and in turn, assist in providing a fair administration of justice, we offer an emoji legal dictionary, which identifies many emojis and the definition courts have ascribed them.

⁵² United States v. Loethen, No. 19-04035-07-CR-C-SRB, 2019 WL 6467828 at *2 (W.D. Mo. Dec. 2, 2019).




⁵³ *Id.*

⁵⁴ *Id.*




⁵⁵ *Id.* at *3.




⁵⁶ *Id.* at *4.





* For printing reasons the emojis within the chart appear in black and white.




Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
	Baby	Future Children	<p>“A.L. stated that when she sent two baby emojis, it symbolized their two future children.”</p> <p>State v. Mason, No. E2019-00174-CCA-R3-CD, 2020 Tenn. Crim. App. LEXIS 582, at *42 (Tenn. Crim. Ct. App. Aug. 25, 2020).</p>
	Broken Heart	End of Romantic Relationship	<p>“The initial messages included emojis showing broken hearts, which were consistent with the defendant and A.T.’s recently ended long term romantic relationship.”</p> <p>State v. M.F., No. A-3602-15T2, 2018 N.J. Super. Unpub. LEXIS 41, at *13 (N.J. Super. Jan. 9, 2018).</p>
	Cloud	Drugs	<p>“For example, Special Agent Ross attested that, based on his experience investigating street gangs, firearms offenses, and narcotics trafficking, he believed that ‘cloud’ emojis referred to drugs.”</p> <p>United States v. Westley, No. 3:17-CR-171, 2018 U.S. Dist. LEXIS 118571, at *9 (D. Conn. July 17, 2018).</p>



⁵⁷ *Full Emoji List, v14.0*, UNICODE, <https://unicode.org/emoji/charts/full-emoji-list.html> [<https://perma.cc/KAC4-P4KH>]. The Unicode Chart does not include the short names for emoticons. *Id.*

Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
	Crown	Commercial sexual exploitation	<p>““down for yo crown” with a crown emoji.’ This phrase and emoji are ‘specific to commercial . . . sexual exploitation’: The crown signifies that the ‘pimp is king,’ asking ‘[a]re you ready to be down and support me as your king?’”</p> <p>People v. Jamerson, No. A153218, 2019 Cal. App. Unpub. LEXIS 940, at *6 (Cal. Dist. Ct. App. Feb. 6, 2019).</p>
	Crying Face	Lack of Consent	<p>“Her statements that it was ‘embarrassing,’ and her use of emojis to express her feelings about what happened were ‘clearly probative of her lack of consent’ to defendant’s conduct.”</p> <p>People v. Valenzuela, No. H045390, 2019 Cal. App. Unpub. LEXIS 6218, at *39–40 (Cal. Ct. App. Sept. 18, 2019).</p>
	Deciduous Tree	Marijuana	<p>“The tree emoji was interpreted as a reference to marijuana.”</p> <p>United States v. Loethen, No. 19-CR-04035-SRB-7, 2019 U.S. Dist. LEXIS 208748, at *7 (W.D. Mo. Dec. 2, 2019).</p>




Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
	Face Blowing a Kiss, Couple with Heart, Ring	Intent to Marry	<p>“The jury thus heard that the relationship was of such a nature that the victim wanted to marry the defendant.”</p> <p>Commonwealth v. Hunt, No. 18-P-106, 2019 Mass. App. Unpub. LEXIS 142, at *7 (Mass. App. Ct. Feb. 22, 2019).</p>
	Face Blowing a Kiss, Smiling face with Heart- Eyes, Dog Face, Red Heart	Romantic Attraction	<p>“He also sent her a number of emojis that can be read to indicate that Johnson was romantically attracted to plaintiff.”</p> <p>Harrison v. City of Tampa, No. 8:17-cv-01369-T-02CPT, 2019 U.S. Dist. LEXIS 93131, at *5 (M.D. Fla. June 4, 2019).</p>
	Face Filled with Tears of Joy, Shrug, Smiling Face with Horns, Zany Face, Red Heart	Sarcasm	<p>“[D]aughter sent text message ‘Imma fucking kill this bitch,’ but she prefaced her text with an emoji entitled ‘face with tears of joy,’ . . . given the vagueness of daughter’s statement that she wanted to kill her mother, and the other contextual indicators, daughter’s text message to her friend was not reasonably interpreted as a true threat.”</p> <p>“Combination of emojis conveyed an unmistakable message of sarcasm as opposed to serious intent to cause death or harm.”</p> <p>State v. D.R.C., 467 P.3d 994, 1002 (Wash. Ct. App. 2020).</p>




Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
	Fire	Some type of illicit drugs	<p>“[The] term fire . . . in and of itself is ambiguous; it could mean marijuana, it could mean heroin, or it could mean any other illicit drug, which is of especially high quality.”</p> <p>Johnson v. State, 225 A.3d 769, 775, 779 (Md. Ct. Spec. App. 2020).</p>
	Fire	Termination from Employment	<p>“[E]ven Nelson candidly acknowledged that the three ‘fire emojis’ he sent Plaintiff at the end of his text conversation could be read as him firing her.”</p> <p>Crawford v. Mangos Caribbean Rest., No. 1:18-CV-4450-JPB-JCF, 2020 U.S. Dist. LEXIS 256007, at *45 (N.D. Ga. July 30, 2020).</p>
	Frog	Snitch; Cooperating Witness; Government Informant	<p>“Testimony at trial established that in this context a ‘frog’ refers to a snitch or cooperating witness.”</p> <p>United States v. Ramirez, No. 15-cr-379 (PKC), 2021 U.S. Dist. LEXIS 116327 (S.D.N.Y. June 22, 2021).</p>
	Fuel Pump	Gang	<p>“Via wrote, ‘I’m Talking Bout Scope I Got A Trap For Him,’ to which Pervis replied, ‘I’m coming lil,’ with a ‘gas emoji’ that Special Agent Ross believed is a symbol for ‘gang.’”</p> <p>U.S. v. Westley, No. 3:17-CR-171, 2018 U.S. Dist. LEXIS 118571, at *14 (D. Conn. July 17, 2018).</p>

Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
	Ghost, Star	Affiliation with the street gang, Union Vice Lords, also known as the Ghost Mob	<p>“[The investigator] explained that the Ghost Mob . . . would ‘use the ghost emojis on text messages, [and] the five-point star.’”</p> <p>State v. Snipes, No. W2020-00916-CCA-R3-CD, 2021 Tenn. Crim. App. LEXIS 464 (Crim. App. Oct. 4, 2021).</p>
	Grimacing Face	Made in jest	<p>“The defense contends that the defendant followed up that text with a ‘grimacing’ emoji approximately four seconds later, and that the statement was made in jest.”</p> <p>People v. Addimando, 120 N.Y.S.3d. 596, 607 (Duchess Cnty. Ct. 2020).</p>
	Grinning Face	Joy	<p>“Isiah pointed to a ‘super happy face’ emoji to describe his desire to be adopted by Claude and Yvonne.”</p> <p>“Veronica used the happy face emoji to express her feelings about being adopted by Claude and Yvonne. When asked how she felt about being separated from her siblings, she again pointed to the happy face.”</p> <p>D.T. v. Ruben N., No. D075865, 2019 Cal. App. Unpub. LEXIS 7385 at *6–7 (Cal. Ct. App. Nov. 6, 2019).</p> <p>“Moir’s e-mail also contained a smiley face emoji. An ‘emoji’ is a symbol or image used in electronic communications to convey information about the writer’s emotions.”</p>


Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
			Moir v. Seattle Cent. Coll., No. 78362-9-I, 2019 Wash. App. LEXIS 2650, at *5 n.8 (Wash. App. Ct. Oct. 21, 2019).
	Grinning Face with Sweat, Pistol		“Owens fails to make a case on appeal that the emojis—specifically the smiling one with the bead of sweat and the gun directed at it—contain or express the truth of the matter being asserted. Thus, the emojis cannot be characterized as hearsay statements.” State v. Owens, 2021 Kan. LEXIS 106 (Oct. 15, 2021).
: -))	Happy Face Emoticon ⁵⁸	Happy	“The Court believes that the ‘emoticons,’ [: -))] attached to the emails of two Munich Re managers late in the day on which Plaintiff was terminated, are evidence that the decision makers at Munich Re were happy to be able to terminate Plaintiff.” Apatoff v. Munich Re AM. Servs., No. 11-7570, 2014 U.S. Dist. LEXIS 10665 at *35 (D.N.J. Aug. 1, 2014).
	Hundred Points	Loyalty	“The number 100 represents loyalty, and is a popular mark for tattoos, emojis, and Instagram posts in the sex trade culture.”


⁵⁸ Colon with two parentheses. This happy face emoticon is traditionally used with a singular parenthesis. *Tech Tips: Smiley Faces & Other Emoticons*, BASK (June 10, 2014), <https://www.bask.com/blog/tech-tips-smiley-faces-and-other-emoticons> [<https://perma.cc/2BCS-89TY>].




Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
			People v. Bentley, No. G058443, 2020 Cal. App. Unpub. LEXIS 8318 at *8 (Cal. App. Ct. Dec. 16, 2020).
	High-Heeled Shoe	Well Heeled Sex Worker	“Miller testified that . . . the high heels represented prostitutes wearing fancy shoes; and the money meant ‘wear your high heels to come make some money.’” People v. Jamerson, No. A153218, 2019 Cal. App. Unpub. LEXIS 940, at *6 (Cal. App. Ct. Feb. 6, 2019).
	Money Bag	Making Money	
	Money Bag	Band; \$1,000	“The incoming caller was identified as ‘Bands’ followed by. . . a bag marked with a dollar sign, and a dollar sign. Medina testified that in the prostitution industry, ‘Bands’ refers to a stack of bills adding up to a thousand dollars, and the bare feet emoji refers to a ‘prostitute walking track with her 10 toes on the ground earning money.’” People v. Webster, No. G055789, 2019 Cal. App. Unpub. LEXIS 4504, at *5–6 (Cal. Ct. App. July 2, 2019).
	Footprints	Sex Worker walking a track	
	Money Bag, Footprints, Down Arrow	Prostitution	“The account also displayed . . . several emojis, including a money bag and two feet with a downward-pointing arrow. According to Torrance Police Detective Andrew Lee, who testified as an expert, the feet and arrow emojis stood for ‘ten toes down,’ which is a coded reference to prostitution, indicating that the prostitute was working by a ‘blade.’ A ‘blade’ is slang for an area where

Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
			<p>prostitutes walk up and down the street seeking clients.”</p> <p>People v. Flores, No. B304177, 2020 Cal. App. Unpub. LEXIS 6912, at *1–2 (Cal. Ct. App. Oct. 22, 2020).</p>
XD	Laughing Emoticon ⁵⁹	Laughing out Loud	<p>“‘XD’ in electronic communications represents an ‘emoticon’ for ‘laughing out loud.’ The letter ‘X’ represents ‘the eyes all scrunched up’ and the letter ‘D’ represents a really big mouth that is laughing.”</p> <p>People v. JP (In re JP), 944 N.W.2d 422, 425 n.2 (Mich Ct. App. 2019).</p>
	Peanut	Crazy	<p>“As relevant here, the ‘peanuts’ emoji can be used to indicate ‘crazy.’”</p> <p>United States v. Sheppard, No. 20-3088, 2021 U.S. App. LEXIS 32722 (3d Cir. Nov. 3, 2021).</p>
	Person in Tuxedo, Red Heart, Person with Veil	Intent to Marry	<p>“A.L testified that when the Defendant sent emojis of a bride and groom they symbolized A.L. and the Defendant respectively.”</p> <p>State v. Mason, No. E2019-00174-CCA-R3-CD, 2020 Tenn. Crim. App. LEXIS 582, at *42 (Tenn. Crim. App. Aug. 25, 2020).</p>
	Pill	Illegal prescription pills	<p>“Foster posted ‘count it up’ next to a picture of him fanning large amounts of money and ‘15s around’ with three</p>



⁵⁹ Letters “X” and “D.”

Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
			<p>pill emojis next to a picture of a pile of white pills.”</p> <p>Commonwealth v. Foster, 214 A.3d 1240, 1243 n.2 (Pa. 2019).</p>
	Pistol	Gun	<p>“Postings on Griffis’s Facebook account shortly after midnight on March 25, 2016, including the words ‘Body for body’ and a tribute to Smith with a gun emoji suggesting an act of revenge, are evidence Griffis had knowledge of and participated in the crime.”</p> <p>People v. Griffis, No. B284781, 2019 Cal. App. Unpub. LEXIS 1249, at *21 (Cal. Ct. App. Feb. 21, 2019).</p> <hr/> <p>“Defendant has produced circumstantial evidence that provides overwhelming support for the fact that Baez had a gun and fired at officers. . . . Defendants note that the night before the shooting, Baez posted on Facebook, ‘Family and friends I love u if I see judgment day had enough of cops and hating ass bm,’ followed by a gun emoji.”</p> <p>Cabrera v. Camden County, No. 16-05653, 2019 U.S. Dist. LEXIS 134042, at *19 (D.N.J. Aug. 9, 2019).</p> <hr/> <p>“[W]e also disagree with the plaintiff’s argument that his statements and gestures were ambiguous and more properly interpreted as benign jokes or political hyperbole that are protected by the first amendment, including the</p>

Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
			<p>numerous innocent explanations that he proffers for them on a more granular basis, such as the existence of a gun emoji to justify his use of images of firearms and ammunition.”</p> <p>Haughwout v. Tordenti, 211 A.3d 1, 14 (Conn. 2019).</p> <hr/> <p>United States v. Wilson, No. 15-cr-00521, 2016 WL 3647327, at *7 (D.N.J. July 6, 2016).</p>
	Rat	Snitch	<p>“The jury could have reasonably concluded that . . . she was therefore a ‘rat’ or snitch whom members of the gang should kill to assure she did not testify against Washington at his trial.”</p> <p>People v. Smith, No. B284766, 2019 Cal. App. Unpub. LEXIS 1691, at *19 (Cal. Ct. App. Mar. 12, 2019).</p> <hr/> <p>“Douglas’s comments generally: (1) referred to his codefendant as the individual responsible for ‘sending [him] to prison,’ (2) directed others to publicize the codefendant’s cooperation with the government, and (3) reiterated that his codefendant was a ‘rat.’”</p> <p>United States v. Douglas, 784 F. App’x 676, 678 (11th Cir. 2019).</p>

Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
	Red Heart, Raised Fist	Celebrating success in a cause fought	<p>“[The juror] posted hours before the announced verdict in Stone’s case— hearts, a fist pump,⁶⁰ and fist raised (love, celebratory, and solidarity) emojis coupled with a link to Facebook, which demonstrates that, in her mind, she was putting up a fight and that she had succeeded in her quest to convict stone.”</p> <p>United States v. Stone, No. 19-0018, 2020 U.S. Dist. LEXIS 67359, at *18 (D.D.C. Apr. 16, 2020).</p>
	Smiley Face on Its Side with Tears	Rolling on the floor laughing	<p>“D.R.C. reiterated the joking nature of the exchange by accenting her message with an emoji entitled ‘rolling on the floor laughing.’”</p> <p>State v. D.R.C., 467 P.3d 994, 1001 (Wash. Ct. App. 2020).</p>
	Skull	Intent to kill	<p>“[A] few hours after the shooting, defendant sent a text message . . . followed by three skull emojis This circumstantial evidence would support a determination that defendant intended to kill the victim.”</p> <p>People v. Lopez, No. 341089, 2019 Mich. App. LEXIS 595, at *5 (Mich. Ct. App. Mar. 26, 2019).</p>


⁶⁰ The Unicode Chart does include the short name “fist pump” for an emoji. *See supra* note 57. Emojipedia states that the raised fist emoji is also known as a fist pump and “may be used as a celebratory gesture: the fist pump.” *See Raised Fist*, EMOJIPEDIA, <https://emojipedia.org/raised-fist/> [<https://perma.cc/7LSU-5TET>].



Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
	Sweat Droplets	Ejaculation	<p>“Brandon further alleged that Patrick has sent multiple texts to his daughters which concerned ‘inappropriate behavior’ including a text on December 3, when Patrick ‘sent a text message to his daughters containing an ejaculation emoji alluding to sexual activity.’”</p> <p>Amy E. v. Patrick D., Nos. A-20-127 through A-20-129, 2020 Neb. App. LEXIS 203, at *3 (Neb. Ct. App. July 7, 2020).</p>
:P	Sticking Tongue Out Emoticon ⁶¹	To denote a joke or sarcasm	<p>“This statement on its face cannot be taken seriously as asserting a fact. The use of the ‘:P’ emoticon makes it patently clear that the commenter was making a joke. As noted earlier, a ‘:P’ emoticon is used to represent a face with its tongue sticking out to denote a joke or sarcasm.”</p> <p>Ghanam v. Does, 845 N.W.2d 128, 133 (Mich. Ct. App. 2014).</p>
	Thumbs up	Agreement	<p>“At trial, Respondent displayed text messages, in which Petitioner responded with a ‘thumbs up’ emoji to Respondent’s statement that she had made it to the United States. Respondent maintained that the ‘thumbs up’ mean Petitioner was okay with JINC remaining in the United States. . . . This emoji and these text</p>

⁶¹ Colon and letter “P.”

Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
			<p>messaging neither (1) are ‘statement[s] with the requisite formality’ that demonstrate Petitioner’s acquiescence; nor (2) display a ‘consistent attitude of acquiescence over a significant period of time.’”</p> <p>Bardales v. Lamothe, 423 F. Supp. 3d 459, 472 (M.D. Tenn. 2019).</p>
☹️	Upside-Down Face	Irony, passive aggression, or frustrated resignation	<p>“The ‘upside-down smiley face’ emoji ‘indicate[s] silliness, sarcasm, irony, passive aggression, or frustrated resignation.’”</p> <p>B.L. v. Mahanoy Area Sch. Dist., 964 F.3d 170, 175 n.2 (3d. Cir. 2020).</p>
👊	Victory Hand	Not participating	<p>“Interpreted as her saying, ‘I’m Out,’ or that she would not be returning to work.”</p> <p>Crawford v. Mangos Caribbean Rest., Civil Action No. 1:18-CV-4450-JPB-JCF, 2020 U.S. Dist. LEXIS 256007 (N.D. Ga. July 30, 2020).</p>
;-)	Winking Emoticon ⁶²	Wink	<p>“The ;-) is an emoticon that is commonly understood to depict a ‘wink.’”</p> <p>State v. Harper, 254 So. 3d 479, 483 n.1 (Fla. Dist. Ct. App. 2018).</p> <hr/> <p>“The (‘ ;-) ’ symbol, according to Lenz, is a ‘winky’ emoticon which</p>

⁶² Semicolon with dash and parenthesis.

Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
			<p>signifies something along the lines of ‘just kidding.’”</p> <p>Lenz v. Universal Music Corp., No. C 07-3783 JF, 2010 U.S. Dist. LEXIS 16899, at *12 (N.D. Cal. Feb. 25, 2010).</p>
	Winking Face	Joking or kidding; Flirtatious	<p>“Even viewing this evidence in light most favorable to [the defendant], it is insufficient to convey words of infidelity and to find otherwise would require us to make an unsupported assumption of the emoji’s meaning.”</p> <p>State v. Shepherd, 81 N.E. 3d 1011, 1018 (Ohio Ct. App. 2017).</p> <hr/> <p>“Robbins texted Leyva about her physical appearance and here attractiveness. . . . Robbins: ‘I said, Salt Lake could you get a hold of west coast towing and tell their Secretary she’s pretty darn sexy and doesn’t need to lose any weight. . . . (winking emoji)’ . . . Some of Robbins test messages included sexual overtures and innuendos.”</p> <p>Leyva v. Robbins, 452 F. Supp. 3d 1230, 1236–37, 1241 n.162 (D. Utah 2020).</p> <hr/> <p>“Even if these conversations were not meant to be completely serious . . . referring to a wink emoji in the text messages.”</p> <p>Schram v. Zarak (In re E.Z.), No. 1:21-cv-06524-MKV, 2021 U.S. Dist.</p>

Emoji/ Emoticon	Unicode Emoji Short Name ⁵⁷	Courts Interpretation	Citation
			LEXIS 212008 (S.D.N.Y. Nov. 2, 2021)
 	Zipper-Mouth Face, Skull	Negative feelings	<p>“When N.J. would send inappropriate text messages to the mother, for example stating he loved Sommer ‘so much better than Daddy’ or sending a picture of Jeffrey’s fiancée with the following negative emoji [zipper-mouth face; skull]”</p> <p>In re Marriage of Jacobson, No. 17-1040, 2018 Iowa App. LEXIS 325, at *12 (Iowa Ct. App. Apr. 4, 2018).</p>

CONCLUSION

The subtext of an emoji can often stray far from its plain face meaning. One texting an eggplant emoji may be offering the eggplant emoji as a request for that night’s dinner or offering it to suggest sex later in the day. Context and emojis strung together can further confuse emoji meanings. Judges and triers of fact struggle to comprehend emoji testimony, which is a new language for many. In 2014, *New York Times* reporter Jessica Bennet observed that emojis now warrant their own dictionary.⁶³ Today they warrant their own legal dictionary as well.

⁶³ Jessica Bennett, *The Emoji Have Won the Battle of Words*, N.Y. TIMES (July 25, 2014), <https://www.nytimes.com/2014/07/27/fashion/emoji-have-won-the-battle-of-words.html> [<https://perma.cc/5T3Q-DK6U>].