



BAR ASSOCIATION OF
THE FIFTH CIRCUIT
BRIEF WRITING



Two roads diverged in a yellow wood,
And sorry I could not travel both
And be one traveler, long I stood
And looked down one as far as I could
To where it bent in the undergrowth;

Then took the other, as just as fair,
And having perhaps the better claim,
Because it was grassy and wanted wear;
Though as for that the passing there
Had worn them really about the same,

And both that morning equally lay
In leaves no step had trodden black.
Oh, I kept the first for another day!
Yet knowing how way leads on to way,
I doubted if I should ever come back.

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less traveled by,
And that has made all the difference.

Shall I compare thee to a summer's day?
Thou art more lovely and more temperate.
Rough winds do shake the darling buds of May,
And summer's lease hath all too short a date.

To be, or not to be – that is the question:
Whether 'tis nobler in the mind to suffer
The slings and arrows of outrageous fortune
Or to take arms against a sea of troubles
And by opposing, end them

.

Our revels now are ended: these, our actors,
As I foretold you, were all spirits and
Are melted into air, into thin air;
And, like the baseless fabric of this vision,
The cloud-capped tow'rs, the gorgeous palaces,
The solemn temples, the great globe itself
Yea, all which it inherit, shall dissolve,
And like this insubstantial pageant faded,
Leave not a rack behind. We are such stuff
As dreams are made on, and our little life
Is rounded with a sleep

Know all men by these present, that the undersigned, the Party of the First Part, for and in consideration of the sum of FIVE THOUSAND DOLLARS (\$5,000.00) this day in hand paid by the Party of the Second Part, the receipt of which is hereby acknowledged, that being of lawful age, the Party of the First Part for myself, and for my heirs, administrators, executors, successors and assigns, hereby release, acquit and forever discharge the Party of the Second Part, and each of its heirs, executors, administrators, successors and assigns and any and all other persons, partnerships, associations, and/or corporations, whether herein named or referred to or not, of and from any and every claim, demand, right or cause of action of whatever kind and nature, either in law or equity, especially liability arising from the incident made the basis of the claims pending in the instant litigation for which the Party of the First Part has claimed that the Party of the Second Part is legally liable, but this release shall not be construed as an admission of liability.



A MEMORABLE THEME

Brown v. Board of Education

(Speaking of “Separate, but Equal Schools”)

These infant appellants are asserting the most important secular claims that can be put forward by children, the claim to their full measure of the chance to learn and grow, and the inseparably connected but even more important claim to be treated as entire citizens of the society into which they have been born. We have discovered no case in which such rights, once established, have been postponed by a cautious calculation of conveniences.

Gideon v. Wainwright

(speaking of the right to counsel in criminal cases)

An accused person cannot effectively defend himself. The assistance of counsel is necessary to “due process” and to a fair trial. Without counsel, the accused cannot possibly evaluate the lawfulness of his arrest, the validity of the indictment or information, whether preliminary motions should be filed, whether a search or seizure has been lawful, whether a confession is admissible. He cannot determine whether he is responsible for the crime as charged or to a lesser offense. He cannot discuss the possibilities or pleading to a lesser offense. He cannot evaluate the grand or petit jury. At the trial, he cannot interpose objections to evidence or cross-examining witnesses. He is at a loss in the sentencing procedure.

Pentagon Papers

(speaking of efforts to ban the publication of Presidential Papers)

A prior restraint therefore stops more speech more effectively.
A criminal statute chills. The prior restraint freezes.



A STORY IN SIX WORDS

For Sale. Baby Shoes. Never Worn.

Fell in Love. Married Someone Else.

Painfully, he changed “is” to “was”.

You're not a good artist, Adolf.

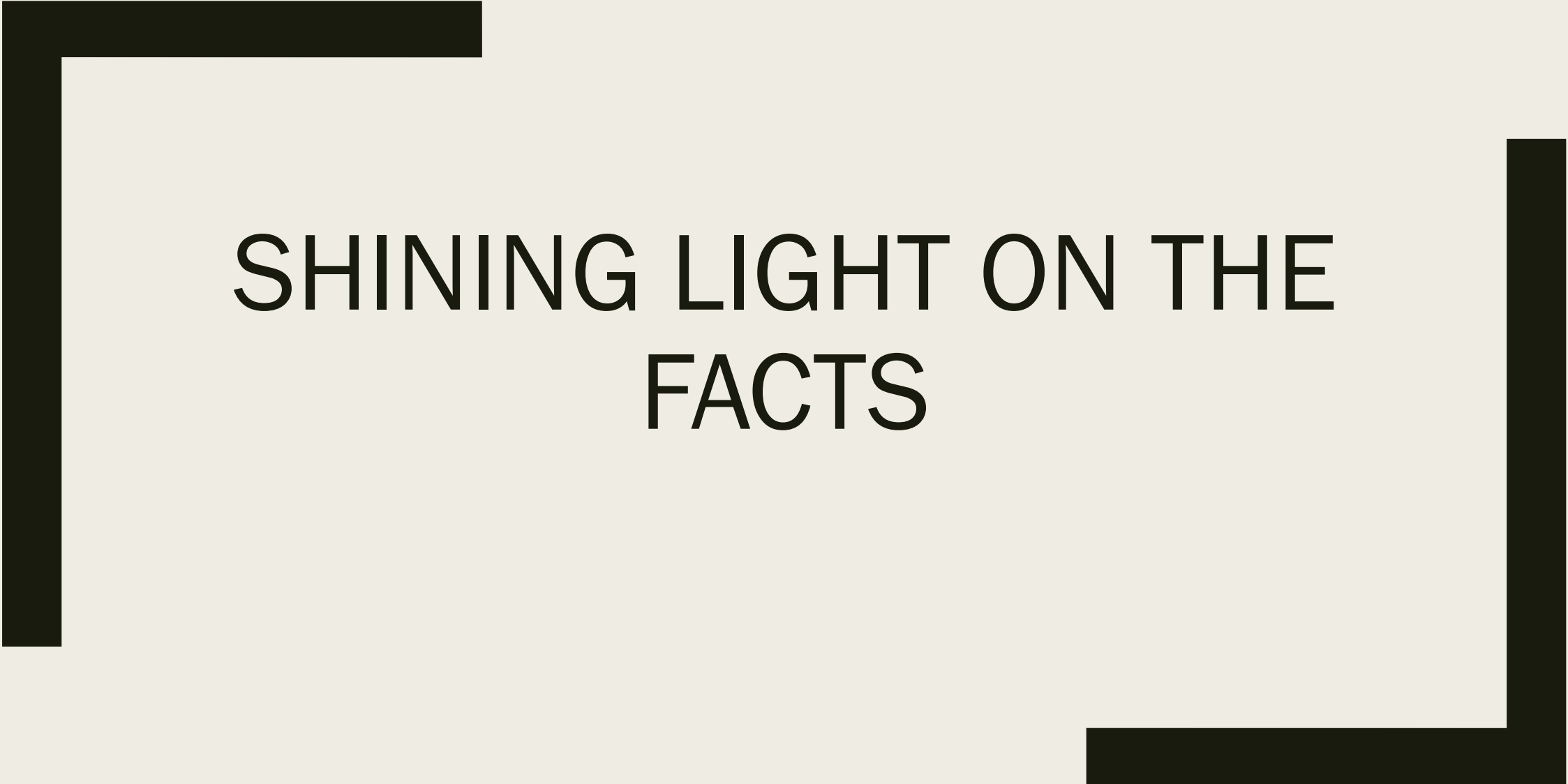
The image features two large, thick black L-shaped brackets. One is positioned in the top-left corner, and the other is in the bottom-right corner. They are oriented towards each other, framing the central text.

STATING THE ISSUE

Should Texas law allow a claim against a drug manufacturer for product design when the product passed stringent federal guidelines and carries express warnings regarding potential side effects?

Texas law does not allow a claim for negligent drug design when the adverse side effect at issue is extremely uncommon and the drug provides a significant benefit for thousands of ailing people.

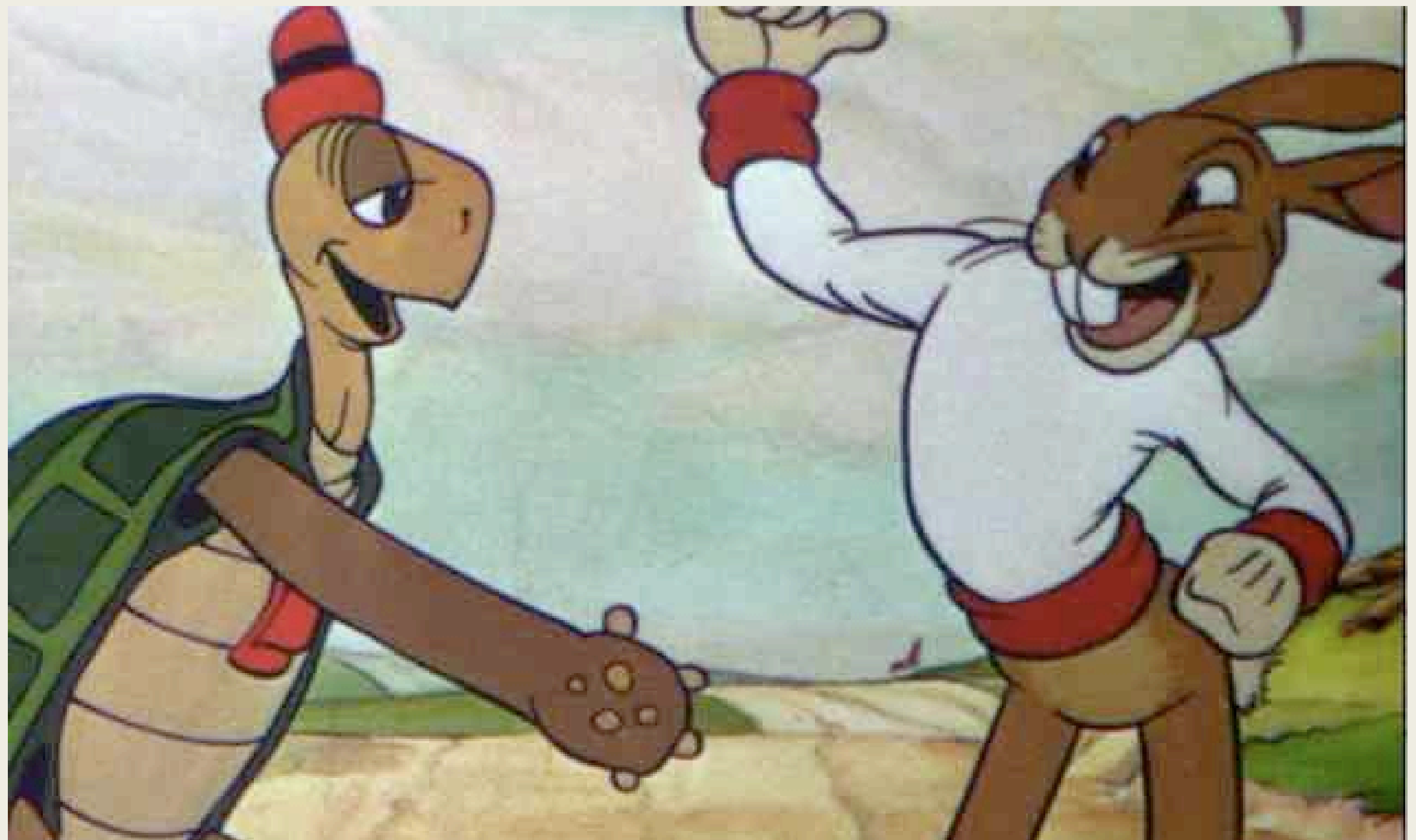
Texas law recognizes that manufacturers have a continuing duty to provide safe products to their consumers. The consumer in this case alleges that a prescription drug manufacturer was negligent because the manufacturer prioritized profit over safety in producing a particular formulation of a drug. Given the allegation, can a consumer assert a negligence claim against a prescription drug manufacturer when the drug in question is an overall beneficial product?

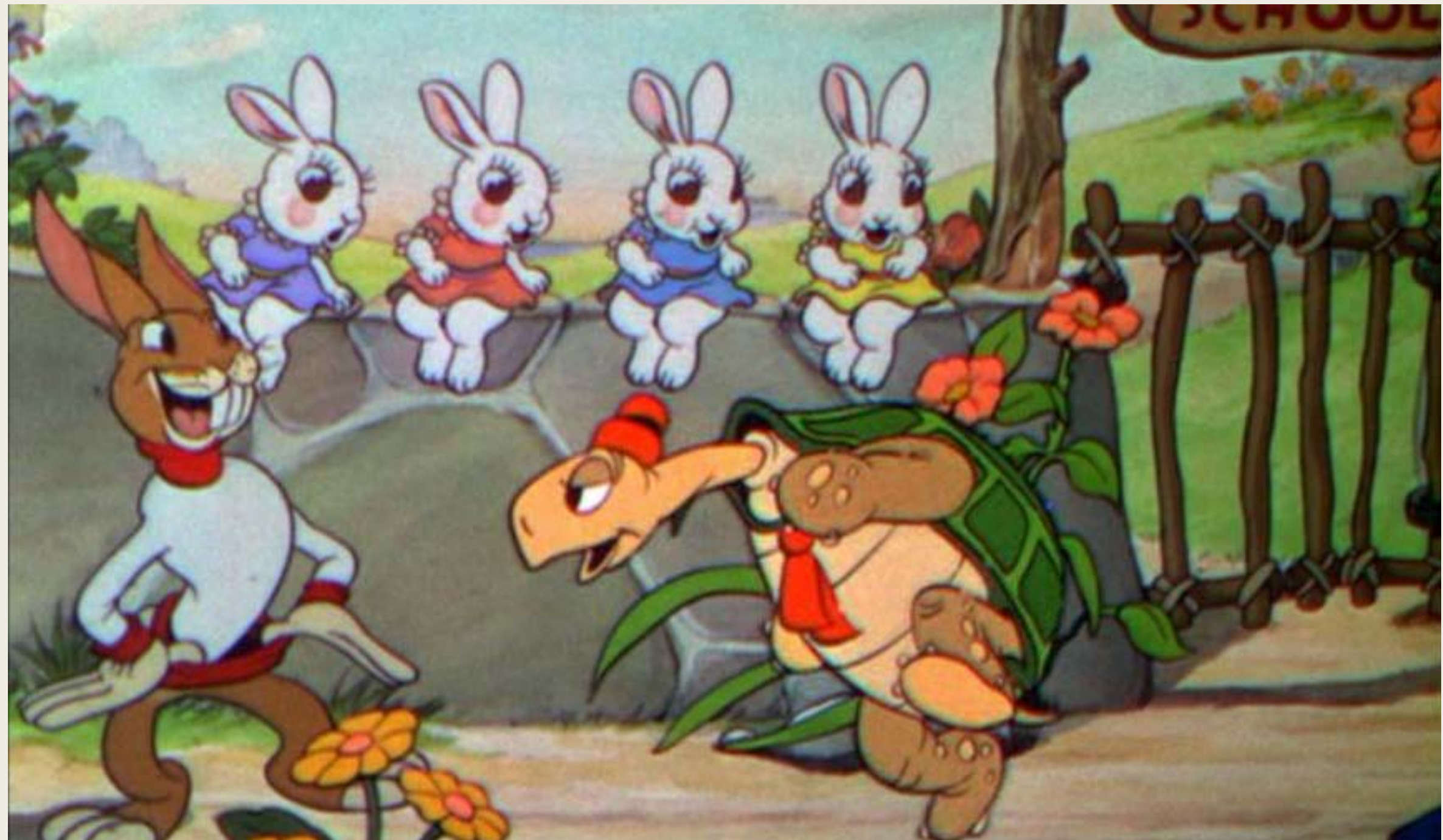
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SHINING LIGHT ON THE FACTS

and the HARE







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SUMMARY OF THE ARGUMENT

If any state action should respect racial equality, it is university admission. . . .
Strict scrutiny thus remains the rule, not the exception, when universities use race as a factor in admissions decisions.

To Petitioners, like most Americans, their homes are their castles.”

At the very seat of Texas government, between the Texas State Capitol and the Texas Supreme Court, is a large monument quoting a famous passage of religious scripture taken, almost verbatim, from the King James Bible.

For over four decades, a granite monument depicting the Ten Commandments has stood on the Texas Capitol Grounds. Defined by statute as a 'museum' and maintained by a professional curator, the Grounds feature seventeen different monuments to people, events, and ideals that have contributed to the diversity, culture, and history of Texas.

Government may pursue tax revenue and economic development, and corporations may pursue profits, but not at the expense of constitutional rights.