What Do Kim Kardashian and Lance Armstrong Have in Common?: Celebrity Complaints in the Classroom

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Every day brings a report of a celebrity suing or being sued. The complaints initiating these suits are available online within hours. Regardless of the merits or outcomes of these complaints by or against celebrities, celebrity complaints are a rich source of samples for the law school classroom. As supplements to course materials in civil procedure or legal writing, celebrity complaints are likely to generate discussion for several reasons. First, they show a range of strategies and persuasive writing techniques. Second, they engage students because they are real world documents, and because they have a pop culture setting. Third, they are easy for faculty to find, excerpt, and introduce, even briefly, in class. This Article presents six celebrity complaints involving Kirstie Alley, Lance Armstrong, Sasha Baron Cohen, Kim Kardashian, football player Michael Myers, and some cast members of “Modern Family.” The Article’s analysis of celebrity complaints emphasizes four topics: introducing the case, presenting legal claims, telling plaintiff’s story, and gaining admissions and remedies. Along the way, the Article points out opportunities to discuss procedural rules and writing techniques helpful to law students. The Article also introduces some theories behind effective complaint drafting, applied legal storytelling, and successful use of pop culture in the law school classroom.

“[P]leadings filed in the United States District Courts are not press releases, internet blogs, or pieces of investigative journalism. All parties, and their lawyers, are expected to comply with the rules of this Court, and face potential sanctions if they do not.”

“The story behind the lawsuit is that, although the current contracts of the cast run through 2016, the cast has been trying to cut new deals that would include

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significant raises. Such negotiations are not unusual in the television business, especially for a hit show, but it is rare that talks go to the courtroom.  

Complaints filed by or against celebrities may appear to be staged media events. Alternatively, celebrity complaints may seem to be rare disruptions in Hollywood’s business culture, like the complaint filed by some “Modern Family” cast members after unsuccessful salary negotiations. Whatever their underlying purpose or ultimate success, celebrity complaints are useful supplements for a number of law school courses, including Civil Procedure, Remedies, and Legal Writing. Using examples from celebrity complaints, class discussion can reinforce principles of both procedural law and effective legal writing.

Celebrity complaints offer the following advantages over other available samples. First, celebrity complaints show a wide range of complaint drafting techniques, from the most basic mechanics to potentially controversial word choices. Second, celebrity complaints are easy to find and easy to use in the classroom, requiring little set-up and lending themselves to active learning exercises. Third, the pop culture setting of celebrity complaints engages students. Relatedly and finally, celebrity complaints offer law students exposure to “real world” examples of the legal writing they will produce as lawyers.

This Article presents some recent celebrity complaints as tools for illustrating topics in a law school course. In Part I, the Article reviews three matters as background: criteria for evaluating complaints in general, some benefits of using celebrity complaints in law school classrooms, and resources for finding current celebrity complaints. Part II(A) discusses how celebrity complaints introduce their cases. Part II(B) discusses different techniques for presenting legal counts in celebrity complaints. Part II(C) discusses storytelling techniques seen in some celebrity complaints. Finally, Part II(D) discusses two tactical considerations in complaint drafting: gaining admissions and requesting remedies.

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3 See generally Samuel A. Terilli et al., Lowering the Bar: Privileged Court Filings as Substitutes for Press Releases in the Court of Public Opinion, 12 COMM. L. & POLICY 143 (2007).

4 See infra text accompanying notes 36 to 38.

5 “Providing students only with samples that are created solely for educational purposes creates a synthetic learning environment.” Anna Hemingway, Making Effective Use of Practitioners’ Briefs in the Law School Curriculum, 22 ST. THOMAS L. REV. 417, 423 (2009-2010); cf. Judith B. Tracy, “I See and I Remember; I Do and I Understand”: Teaching Fundamental Structure in Legal Writing through the Use of Samples, 21 TOURO L. REV. 297, 307-09 (2005) (listing benefits of sharing samples of office memoranda with first-year law students).

6 The complaints included in this Article were chosen for how they illustrate complaint drafting techniques. This Article does not comment on the celebrities themselves or the likely success of the complaints’ claims. There are no empirical claims in this Article about how particular types of allegations correlate with, for example, settlement outcomes. Furthermore, celebrity complaints involving traumatic topics, such as wrongful death or sexual assault, were avoided. One rationale for using celebrity complaints—to more fully engage students—would be defeated by topics likely to cause some students to revisit personal traumas.
Part III concludes, suggesting faculty think broadly about the possibilities of using celebrity complaints in the classroom. Celebrity complaints fit naturally into a legal writing course, where samples are ideal for reinforcing writing techniques. However, clinics, seminars, and even larger-enrollment courses about particular legal subject areas (Civil Procedure, Remedies, Entertainment Law, or Torts) may find time for a discussion of celebrity complaints.

I. Background

A. Criteria for evaluating complaints

A discussion of celebrity complaints should be grounded in civil procedure as well as legal writing. Several legal writing texts include chapters about how to draft complaints. In addition, a recent article about narrative techniques in complaint drafting would prepare students to evaluate celebrity complaints with a critical eye.

First, a complaint must be able to survive a motion to dismiss under Rule 12. This criterion leads to many opportunities for students to apply civil procedure lessons, such as the effect of recent United States Supreme Court decisions interpreting Rule 8 of the Federal Rules of Civil Procedure. At the same time, a well-drafted complaint must be thorough. It must raise all of the plaintiff’s possible claims under both federal and state law, and under contract and tort theories.

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7 The federal rules require “short and plain statement[s]” of the court’s jurisdiction and the plaintiff’s claim, and “a demand for the relief sought.” Fed. R. Civ. P. 8(a).
10 Bridges & Schiess, supra note 7, at 30.
11 Id. at 34 (discussing Bell Atlantic v. Twombly, 550 U.S. 544 (2007) and pointing out that the “interpretation [of Federal Rule of Civil Procedure 8] is currently in transition”); see also Patricia W. Hatamyar, The Tao of Pleading: Do Twombly and Iqbal Matter Empirically, 59 Am. U. L. Rev. 553, 569-83 (2010); Robert L. Rothman, Drafting Complaints in a post-Iqbal World, 36 Litigation 8, 10 (Summer 2010).
12 Fajans et al., Writing for Law Practice, supra note 7, at 54 (citing Fed. R. Civ. P. 8(e)(2)) (advising complaint drafters to include “all legal theories,” even when that means “alleging inconsistent causes of action”).
13 Ray & Cox, supra note 7, at 249 (“Thoroughness is necessary to present your client’s cause of action fully. You must include all causes of action you want to raise . . . .”); id. at 254 (discussing “tactical considerations” in “what legal theories to allege”).
A second criterion for evaluating a complaint is how likely it is to gain admissions. Each allegation must be drafted precisely, one thought per sentence. A defendant can in good faith deny allegations that are vague or compound. If gaining admissions is a goal for the drafters of a complaint, then the complaint’s allegations should be precise and should minimize extraneous information. Some qualifiers may be needed, such as “on or about December 31” or “upon information and belief.” However, a well-drafted complaint uses these qualifiers only as needed, for strategic reasons.

Third, complaints are storytelling opportunities. “Complaints don’t just do things (e.g., provoke settlement, narrow or broaden discovery, force admissions, gain tactical advantage by withholding facts). They also say things; they tell stories.” In some disputes, the complaint may serve no other function: it lets the plaintiff tell his or her story. The primary audience—the court—most likely will not read the complaint for a while. Instead, secondary audiences read plaintiff’s story first—opposing counsel, insurance providers, and the media. Storytelling

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14 Fajans & Falk, Untold Stories, supra note 8, at 12.

Your tactical aim is to draft allegations that will focus discovery where you want it and elicit the maximum number of significant admissions from defendant. Admissions are desirable not only because they reduce your work in discovery and your proof at trial, but also because they are the last word on the subject: unlike trial evidence, which the fact-finder may believe or reject, admissions, once made, will be accepted as true for the remainder of the proceedings.

15 Id. at 59 (“Each paragraph should ideally contain just one allegation stated in just one sentence so that defendant is forced to give a clear answer.”).

16 Id. at 59 & 76-80 (discussing the role of pleading rules in defendant’s ability to deny an allegation in whole or in part); Child, supra note 7, at 34-35 (cautioning that “general and vague language . . . is easy for defendants to deny generally” and “[c]ompound sentences are generally dangerous”).

17 Drafters of complaints may not have admissions in mind, at least not initially. See Armstrong Order, supra note 1; Terilli, supra note 3, at 147-49 (summarizing incentives for and limitations on using pleadings as press releases).

18 Fajans & Falk, Untold Stories, supra note 8, at 12.

19 Id. at 60 (“[A] complaint in which everything is alleged ‘on information and belief’ . . . suggests lack of inquiry . . . on the part of counsel.”).

20 Fajans et al., Writing for Law Practice, supra note 7, at 40 (quantifying how few civil complaints survive to trial, let alone trial before a jury).

21 Fajans et al., supra note 7, at 40 (“In modern pleading practice, the complaint is the first and the last opportunity for the plaintiff to tell his story directly to the defendant . . . .”).

22 Bridges & Schiess, supra note 7, at 37 (“S]ome judges will read new complaints filed in their court, while others won’t look at a case until action is required. (And even then, that action might not include reading the complaint.’); Fajans et al., Writing for Law Practice, supra note 7, at 40 (quantifying how few civil complaints survive to trial, let alone trial before a jury).

23 Bridges & Schiess, supra note 7, at 35-40 (listing several “strategic considerations” in filing a complaint, among them “seeking favorable media attention” and “satisfying your client’s desire to tell its story”).
techniques in legal writing have long been an established field of study. Writing or critiquing a complaint is one way to apply those techniques.

Finally, complaints differ from other legal documents in many of their mechanics. A complaint’s components are introduction, jurisdiction and venue, factual allegations, legal claims, prayer for relief, and signature blocks and verification. The prayer for relief is a required component that forces a complaint drafter to identify appropriate remedies for the client. The introduction, while not required to be a separate section, frames the case, going far beyond archaic recitations of the parties and their counsel. Throughout a complaint, there are few citations to legal authority, particularly compared to other litigation documents.

Certainly all of these criteria can be reinforced by discussing the samples available in legal writing texts. However, celebrity complaints offer additional and more detailed examples. Furthermore, celebrity complaints may engage students in different ways.

B. Pop culture in the law school classroom

Celebrity complaints introduce pop culture into the classroom. Occasional pop culture in teaching works. Law faculty describe “the infusion of interest” when “students feel like they are solving real-world legal problems that could actually arise.” Like humor in the classroom, pop culture references bring professor and students closer together, creating immediacy and drawing on shared knowledge. Humor and pop culture references also help students relax as

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24 See infra notes 111-112.
25 “[W]e believe that one way to ease the task of the practitioner, student, and teacher is to pay closer attention to the inherently narrative nature of pleading and to apply narrative theory and narrative drafting techniques in an attempt to reconcile the instrumental and rhetorical aspects of pleading.” Fajans & Falk, Untold Stories, supra note 8, at 14.
26 BRIDGES & SCHIESS, supra note 7, at 31-35 (listing components); FAJANS ET AL., WRITING FOR LAW PRACTICE, supra note 7, at 41-44 (same).
27 See infra text accompanying notes 47-65.
28 See CHILD, supra note 7, at 41 (“When you [use exact language from a statute or case], you do not need to use quotation marks or cite your authority in the complaint.”); see also infra text accompanying notes 85-111.
29 BRIDGES & SCHIESS, supra note 7, at 160-63 (full sample of a complaint alleging employment law claims); CALLEROS, supra note 7, at 401-07 (three variations on a complaint alleging employment law claims); CHILD, supra note 7, at 19-24 (annotated sample of a complaint about possession of a car); FAJANS ET AL., WRITING FOR LAW PRACTICE, supra note 7, at 45-48 (full sample of a complaint about academic tenure and promotion); see also Fajans & Falk, Untold Stories, supra note 8, at 55-65 (two complaints alleging slip-and-fall claims, and one alleging age discrimination).
30 Louis N. Schulze, Jr., Homer Simpson Meets the Rule Against Perpetuities: The Controversial Use of Pop Culture in Legal Writing Pedagogy, 15 PERSPECTIVES 1, 3 (Fall 2006) (describing use of pop culture in legal writing assignments).
31 Lance Askildson, Effects of Humor in the Language Classroom: Humor as a Pedagogical Tool in Theory and Practice, 12 ARIZONA WORKING PAPERS IN SLAT 45, 47 (2005) (“The most significant framework used by education and psychology researchers has focused on humor as a componental element of a larger set of affective behaviors impacting learning in the classroom that are generally referred to as immediacy behaviors, [i.e.,] communication behaviors—humor among them—that improve the physical or psychological closeness and interaction of two or more individuals.”).
32 Relaxation is a key explanation for humor’s pedagogical merits.
they engage with the material. Pop culture references can succeed because of the immediacy and efficiency of connecting with stories already familiar to students. “Once the [pop culture] reference taps into the [students’] learning schema, it quickly conveys complex fact patterns that would be difficult to explain on their own.”

Another scholar explains (as well as demonstrates) the phenomenon this way:

Under shared knowledge theory, it is much easier to convey a new idea to someone if you can first relate it to something with which the listener is already familiar (e.g., “What do frog legs taste like?” The answer, “Chicken.”).

There are some risks to using a pop culture reference, such as students’ lack of familiarity with the reference, or over-familiarity with it, as well as the risk of students not taking the material seriously enough. However, as occasional supplements, pop culture references are engaging, effective, and efficient.

C. Sources of and exercises with celebrity complaints

The best sources for celebrity complaints are legal news websites with a focus on Hollywood. Courthouse News Services covers entertainment law (as well as environmental and securities law). Its entertainment law digest is worth checking periodically. Another up-to-the-minute source is the “THR-Esq.” page on The Hollywood Reporter website. THR-Esq. offers updates about lawsuits and deals in the entertainment industry. In addition, the websites for particular law firms also may cover newly filed, high profile cases. For example, the blog at LawLawLand

Indeed, the vast majority of pedagogical humor research would appear to confirm the tension reducing, anxiety lessening, and relaxation/comfort inducing effects of humor in the classroom. Thus, humor’s evident ability to lower the affective filter makes a strong argument in and of itself for explicit inclusion of humor in a language educational context.

Askildson, supra note 31, at 49. High stress environments for students, law school classrooms sometimes resemble classrooms where second languages are taught. “Not only must the learner attempt to communicate in a new and unfamiliar language, but also do so among and in front of his/her peers.” Id.

Victoria S. Salzmann, Here’s Hulu: How Popular Culture Helps Teach the New Generation of Lawyers, 42 MCGEORGE L. REV. 297, 307 (2011). Professor Salzmann’s article offers numerous examples of pop culture references relevant to a wide range of law school courses, as well as several theories for why pop culture works in the classroom. Id. at 301-12.

Michael J. Higdon, Using DVD Covers to Teach Weight of Authority, 15 PERSPECTIVES: TEACHING LEGAL RESEARCH & WRITING 8, 8 (describing why pop culture worked in a legal research exercise).

Salzmann, supra note 33, at 313-18.

Blogs and listservs for law professors occasionally mention celebrity complaints, in passing, for amusement, and with some lag time from when the complaints are filed. Obviously, law professors’ blogs do not aim to cover celebrity cases, and, perhaps just as obviously, law professors are not the target audience for the attorneys who file those complaints.

covers many topics in entertainment law. These sources often link to scanned images of the complaints themselves.

Like other samples of legal drafting, celebrity complaints lend themselves to active learning exercises, such as breaking students into small groups and having each group review one complaint for how it illustrates principles already covered in class. Each group then presents its review to the larger group.

In-class exercises require logistical preparation as well as class time. Small group presentations are more effective if every student has a copy of every complaint, including the complaints they are not responsible for reviewing. Therefore, copies of the complaints should be distributed or posted online in advance. The students’ preparation can take place entirely during class or some days beforehand. In my experience, students prepare well to present in front of each other, even without the incentive of grade consequences, and their classmates pay attention to the student-presented “lessons.”

In sum, “real world” complaint drafting techniques could be shown with complaints filed in environmental, employment, or securities cases. However, in a course not primarily about any of those topics, celebrity complaints provide more suitable examples. An excerpt from a celebrity complaint is easy to present—little set-up or background explanation is required to understand the allegations. Remembering the celebrity’s work, students connect with celebrity complaints and contribute to the discussion. The discussion can then focus on how the complaints illustrate the procedural law and writing techniques already covered in the course.

II. The Celebrity Complaints

This Article organizes a sampling of celebrity complaints around four topics: (1) Introducing the Case, (2) Presenting the Legal Claims, (3) Telling Plaintiff’s Story, and (4) Gaining Admissions and Requesting Remedies. Along the way, the Article points out sentence-level techniques, such as archaisms, quotations, lists, and loaded language. The complaints excerpted here are a libel

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39 Some courses do not lend themselves to presentation or hands-on exercises. The excerpts in this Article may lend themselves to slides and handouts for larger group discussion.

40 See Tracy, supra note 5, at 317 (emphasizing the need to “actively engage students with each sample, discussing and dissecting the structure identified in the document”); Patricia Grande Montana, Meeting Students’ Demand for Models of Good Legal Writing, 18 PERSPECTIVES: TEACHING LEGAL RESEARCH AND WRITING 154, 156 (2010) (offering techniques to “meaningfully integrate the models into their classroom instruction and dialogue”). Alternatively, students could be asked to compare and contrast one or more celebrity complaints with complaints in non-celebrity cases, such as the three complaints reproduced in the appendix to Fajans & Falk, Untold Stories, supra note 8.

41 See generally Christine N. Coughlin, Lisa T. McElroy, and Sandy C. Patrick, See One, Do One, Teach One: Dissecting the Use of Medical Education’s Signature Pedagogy in the Law School Curriculum, 26 GA. ST. U. L. REV. 361 (2009-2010) (discussing the benefits of samples, peer teaching, and other active learning techniques across the law school curriculum).
claim against Sasha Baron Cohen,\(^{42}\) Lance Armstrong’s complaints against the U.S. Anti-Doping Agency,\(^{43}\) former football player Michael Myers’s suit against the National Football League,\(^{44}\) Kim Kardashian’s suit against some retailers,\(^{45}\) a QVC shopper’s suit against Kirstie Alley,\(^{46}\) and the “Modern Family” suit over actors’ contracts.\(^{47}\)

### A. Introducing the Case

Not long ago, and perhaps still on many form complaints, the first paragraphs after the case caption read something like this:

COME NOW, before this Honorable Court your plaintiff in the above-captioned cause, AYMAN ABU AITA, by and through his undersigned attorneys and counselors, \textit{viz.}, Joseph Drennan and Sam W. Burgan, respectfully, to lodge his \textit{Complaint for Damages and for Injunctive Relief}, by showing unto this Honorable Court as follows, \textit{viz.}:

. . .

That your plaintiff, \textit{viz.}, AYMAN ABU AITA, is a natural adult person, of Palestinian nationality, whom, at all times relevant herein, has been, and is presently domiciled in the village of Beit Sahour, West Bank, in the territory known as Palestine, supporting his wife and four children as a grocer, and is also a Board member, as well as the treasurer, of the Holy Land Trust, a charitable organization committed to promoting peace and reconciliation among Israelis and Palestinians, of all religious faiths, with your plaintiff being a Christian and member of congregant of the Greek Orthodox Church;

. . . \(^{48}\)

This complaint, filed against actor Sasha Baron Cohen, introduces Mr. Abu Aita as the plaintiff and begins his story as a peaceful grocer in Palestine whom, he later alleges, was libeled when the movie “Brüno” called him a terrorist.\(^{49}\) The tone is formal, even archaic. Abu Aita is


\(^{48}\) \textit{Abu-Aita Complaint, supra} note 42, at 2-3.

\(^{49}\) \textit{Id.} at 12.
referred to as “your plaintiff” rather than Plaintiff. He does not file his complaint; he “lodge[s]” it. The entire fourteen-page complaint is one sentence, each paragraph beginning with the word “that” and ending with a semi-colon. In the excerpt above, one paragraph—itself a sub-part of one sentence—is 98 words long. Paragraphs are full of interruptions like “respectfully,” Latin abbreviations like “viz.,” and couplets like “attorneys and counsellors.” Multiple typefaces appear in the same paragraph, such as all-caps and italics.

The Abu Aita Complaint succeeds in two ways: it initiates a lawsuit, and it recognizes the formality of court proceedings. It is not attempting to be conversational, and it does not rely on any obvious storytelling techniques. In these last two respects, the Abu Aita Complaint runs counter to current advice on complaint drafting for courts in the United States. More commonly, complaints begin with a simple introductory sentence. Celebrity complaints in particular often start with a section that resembles an opening statement in a televised trial. For example:

Plaintiff Michael Myers files this his Original Complaint against Defendant The National Football League, and for cause of action respectfully shows this Court as follows:

...  
1. The National Football League (“NFL” or “the League”) is America’s most successful and popular sports league... [T]he NFL is and always has been eager to avoid negative publicity...  
2. Football is a tough, aggressive, physically demanding sport... [T]he NFL... created the Mild Traumatic Brain Injury (“MTBI”) Committee in 1994 to research and presumably attempt to mitigate what was already a tremendous problem in the league—concussions.

The following Latin words and abbreviations appear throughout the Abu Aita Complaint:

- “qua” as in “SACHA BARON COHEN (hereinafter referenced qua “COHEN”) (Abu Aita Complaint, supra note 42, at 3);  
- “inter alia” as in “[Defendant David Letterman] hosts, inter alia, “Late Show with David Letterman... which show is broadcast over the CBS Television Network” (id. at 3);  
- “inter loci” as in “all of which media were deliberately and intentionally published and or [sic] republished in, inter loci, the District of Columbia, by your defendants” (id. at 4);  
- “haec verba” as in “as evinced by the following selective sampling of excerpts from the colloquy between COHEN & LETTERMAN, set forth, haec verba, thusly:...” (id. at 8);  
- “supra” as in “as adverted to supra, the “Brüno” Movie was released nationwide on 10 July 2009” (id. at 9); and  
- “id est” as in “on even date, id est, 17 November 2009, COHEN and CHARLES appeared as guests on Terry Gross’ respected radio show on National Public Radio” (id. at 9).

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- “id est” as in “on even date, id est, 17 November 2009, COHEN and CHARLES appeared as guests on Terry Gross’ respected radio show on National Public Radio” (id. at 9).

See e.g., FAJANS ET AL., WRITING FOR LAW PRACTICE, supra note 7, at 41 “The introductory sentence is still too often expressed in archaic language... These formulations contain no legal ‘magic dust’...”). Legalese has been compared to “wearing a fedora or spats”—not as impressive as it once was. Robert W. Benson, Plain English Comes to Court, 13 LITIGATION 21, 21 (Fall 1986), quoted in CHILD, supra note 7, at 39.
3. The issue of head injuries is not a new problem at all; indeed the League’s players have been plagued by devastating effects of concussions for decades.

4. Despite overwhelming medical evidence that on-field concussions have led directly to brain injuries and tragic repercussions for its retired players, the NFL not only failed to take effective action to try to protect its other players from suffering a similar fate, but also failed to even inform its players of the true risks associated with concussions. Instead, the NFL has consistently misrepresented and concealed medical evidence.

5. The bottom line is that the NFL has put its profits ahead of the health of its players. The NFL has purposefully attempted to side-step and obfuscate the concussion problem, and has consistently disputed the very real connection between concussions and brain injury. This has raised the ire of Congress, which has blasted the NFL’s handling of the issue on multiple occasions, as well as unbiased expert neurologists who know the truth. The unfortunate reality is that in the 17 years since its formation, the MTBI has served as nothing but a roadblock to any real attempt to protect NFL players.

6. At the end of the day, the NFL has failed to satisfy its duty.

This complaint has a direct, conversational feel. These six introductory paragraphs serve as an executive summary of the rest of the allegations. The complaint uses modern American idioms, such as “[t]he bottom line is” and “[a]t the end of the day,” to signal direction at the beginning of a paragraph. Word choices draw sympathy for the athletes, who have been “plagued” with injuries and “tragic repercussions,” who were not “protect[ed]” from their “fate,” and for whom “the concussion problem”—“a tremendous problem”—has been an “unfortunate reality.” Similarly, word choices cast the NFL and its agents as villains. They have only “presumably attempt[ed]” to find solutions. They have “side-step[ped],” “obfuscate[d],” and “conceal[ed].” They amount to “a roadblock” and a target of Congress’s “ire.”

More than the suffering of any particular individual, the emphasis is on the heartlessness of the NFL. The NFL is the “star” of the first paragraph after the introductory sentence, and this powerful character appears in the story before Mr. Myers and his fellow players. Throughout this introductory section, word choices preview the elements of the legal tests set forth in the complaint’s legal counts: “purposefully,” “misrepresented,” “concealed,” and finally, “failed to satisfy . . . duty.”

In other examples, Lance Armstrong’s original and amended complaints against the United States Anti-Doping Agency show a “before” and “after” approach to this executive summary at the beginning of a complaint. The “Nature of Action” section of the Original Armstrong

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52 Myers Complaint, supra note 44, at 1-3.
Complaint is ten paragraphs long. The first paragraph introduces the protagonist, the antagonist, and the need for fast action:

4. Mr. Armstrong brings this Complaint against USADA and its CEO, Travis Tygart, to prevent imminent violations of Mr. Armstrong’s Constitutional and common law due process rights, by which the Defendants would strip Mr. Armstrong of his livelihood, his seven Tour de France titles, and the many other honors he was won in his world-renowned cycling career.

At sixty-two words, this one sentence is longer than some writing experts recommend. However, it begins and ends with its hero, who is “world-renowned.” Important matters are at stake: “rights,” “livelihood,” and “honors.” The word “imminent” emphasizes urgency, as do the harsh consonants of the one-syllable “strip.”

Subsequent paragraphs in the Original Armstrong Complaint read like the opening statements in a courtroom drama. They preview the opponents’ opening statements: “Defendants will no doubt tell this Court it has no power . . . .” They introduce hearsay: “One federal judge even inquired of [the investigative techniques of the defendants’ agent], ‘Whatever happened to the Fourth Amendment? Was it repealed somehow?’” “Obsession” and “zeal” —two words that imply unhealthy and excessive behavior—characterize the USADA’s investigations of Mr. Armstrong. The Original Armstrong Complaint alleges that the USADA “rigged” its process, placed itself “above the law,” and now wants to subject Mr. Armstrong to a “kangaroo court proceeding.”

The crescendo of the Original Armstrong Complaint’s introduction summarizes the argument this way:

In a real adversary process, in front of neutral and independent factfinders, Defendants’ misconduct would be exposed and remedied, and USADA’s charges against Mr. Armstrong would be revealed as unfounded. But the process Defendants seek to force upon Mr. Armstrong is not a fair process and truth is not

54 Id. at 2.
55 ANNE ENQUIST & LAUREL CURRIE OATES, JUST WRITING: GRAMMAR, PUNCTUATION, AND STYLE FOR THE LEGAL WRITER 85 (2005) (estimating that an average sentence length of approximately 22 words is appropriate when a document’s audience is a judge or other lawyer); id. at 89 (“[S]hort sentences can energize writing.”); see also BRYAN GARNER, THE REDBOOK: A MANUAL ON LEGAL STYLE 322 (2d ed. 2006) (“Challenge yourself to cut each sentence by 25%.”).
56 Original Armstrong Complaint, supra note 43, ¶ 5.
57 Id. ¶ 6.
58 Id. ¶ 7.
59 Id. ¶ 8.
60 Id. ¶ 9.
61 Id. (using this phrase at the very end of a paragraph—a place of emphasis).
62 Original Armstrong Complaint, supra note 43, ¶ 10 (using this phrase at the beginning of a paragraph—another place of emphasis).
its goal. Defendants have presented Mr. Armstrong with an impossible and unlawful choice: either accept a lifetime ban and the loss of his competitive achievements, or endure a rigged process where he would be certain to lose and suffer the same outcome. This “choice” offends the law, offends due process, and offends fundamental fairness. This Court has the authority to prevent such a miscarriage of justice.63

This paragraph is full of dramatic ideals and poetic rhythms. The verb “offends” is repeated three times. Armstrong is being “force[d]”; he must “endure”; and he may “suffer.” “Fair[ness],” “truth,” and “justice” are at stake in this “impossible and unlawful choice.” Now the court must be the hero, with the “authority” to “expose[]” and “remed[y].”

After a reprimand from the Court for playing to the media,64 the complaint was re-filed.65 The Amended Armstrong Complaint has a “Nature of Action” section trimmed down to one paragraph:

USADA has notified Mr. Armstrong that unless he initiates an arbitration proceeding with USADA under USADA’s rules by 5:00 p.m. on Saturday, July 14, 2012, USADA will strip Armstrong of his seven Tour de France titles and all other cycling victories and accomplishments and impose a lifetime ban on further competition, including banning Mr. Armstrong from competing in certain triathlon competitions in which he now earns a living. Mr. Armstrong contends USADA does not have the right to charge and sanction him and strip him of his titles. Armstrong also contends USADA does not have the right to force him to arbitrate those charges without a valid, enforceable legal agreement to do so. Mr. Armstrong contends USADA’s activity also violates his constitutional rights and tortiously interferes with his contract with Union Cycliste Internationale (“UCI”), the governing body with which he has an agreement. Mr. Armstrong is asking this Court for temporary, preliminary and permanent relief from USADA’s actions against him, declaratory relief, and damages against USADA with respect to his claim for tortious interference with contract.66

63 Id. ¶ 11.
64 “Armstrong’s complaint is far from short, spanning eighty pages and containing 261 numbered paragraphs, many of which have multiple subparts. Worse, the bulk of these paragraphs contain ‘allegations’ that are wholly irrelevant to Armstrong’s claims and which, the Court must presume, were included solely to increase media coverage of this case, and to incite public opinion against Defendants.” Armstrong Order, supra note 1, at 2.
65 The Original Armstrong Complaint was filed on July 9, 2012. That same day, Judge Sam Sparks filed his order dismissing the complaint without prejudice at 2:45 p.m. On July 10, 2012, the Amended Armstrong Complaint was filed.
Urgency is conveyed not with adjectives but with the particular time and date of a deadline. Mr. Armstrong’s “constitutional rights” and the way “he now earns a living” are still at stake, and the vivid word “strip” remains. However, the comparatively dry language of business law dominates this paragraph. Mr. Armstrong’s case is now about “arbitrat[ion],” a lack of a “valid, enforceable legal agreement,” “tortious interference with contract,” “declaratory relief,” “damages,” and injunctive relief—“temporary, preliminary and permanent.”

These three examples of celebrity complaints’ introductions show different ways to use the space at the beginning of the document, where the reader’s attention is likely to be at its maximum. Old-fashioned introductions emphasize formality. Executive summaries preview themes. The same case can be opened with either grand themes or the dry detachment of a law school case brief. Students’ responses as readers may vary, and class discussion may not reach consensus on which technique is most effective. However, students will learn that a complaint’s introduction is not a fill-in-the-blank exercise but instead demands careful polishing.

B. Presenting the Legal Claims

The federal rules require at a minimum a “short and plain statement” of at least one claim. Celebrity complaints show several techniques for how to do this. These complaint drafting techniques may be unfamiliar to law students and worth reinforcing. Overall, there are many opportunities in a discussion of celebrity complaints for students to apply what they have learned in other classes, from the basics of civil procedure, to research strategy, to persuasive handling of counter-argument.

Here, the Kardashian Complaint shows a straight-forward presentation of distinct legal counts, federal and state, statutory and common law. Next, the Modern Family Complaint and others show how rarely complaints cite to legal authority. Finally, a complaint filed against Kirstie Alley and a complaint filed against the National Football League show how the complaint drafters nonetheless incorporate language from legal tests into their allegations.

1. Covering the Basics: The Kardashian Complaint

Complaints in right of publicity cases offer fairly short examples of how to allege a legal count for each basis of relief—federal and state, statutory and common law. Kim Kardashian’s complaint against The Gap and other defendants alleges that they “launched a multimedia advertising campaign to sell their products, including apparel and fashion accessories, using the likeness, identity and persona of Plaintiff for commercial purposes without her consent.” 67 The

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67 Kardashian Complaint, supra note 45, ¶ 25. Note that this allegation includes the exact language of the legal test for a right of publicity violation: “likeness, identity and persona,” “for commercial purposes,” and “without her consent.” For discussion of this technique, see infra text accompanying notes 84-110.
Kardashian Complaint alleges a claim under the federal Lanham Act, a claim under California’s common law right of publicity, and a claim under California’s statutory right of publicity.\(^68\)

For a quick refresher of civil procedure, students could be asked a hypothetical question: what would the consequences have been if the complaint had failed to include its count under the Lanham Act? Would federal court still have been available to Ms. Kardashian? Would Ms. Kardashian’s counsel have been allowed to amend the complaint? At what reputational cost, and with what explanation to the client? Does California allow right of publicity plaintiffs to pursue both common law and statutory claims simultaneously? What are the differences between the statutory right and the common law right? At this point in the litigation, how do those differences matter? From a remedies perspective, what does each count (federal statutory, state common law, and state statutory) potentially offer a plaintiff?

As an illustration of a complaint’s mechanics, the Kardashian Complaint shows important organizational and signaling techniques specific to complaints. First, each count stands discrete under its own two-part heading.\(^69\) Within a count, each paragraph represents one element of the legal test. Second, each heading quickly describes the legal basis for the count.\(^70\) Third, the first paragraph in each count incorporates factual allegations by reference, using formulaic language\(^71\) and requiring proofreading of paragraph numbers. The following example illustrates all three of these conventions:

**THIRD CLAIM FOR RELIEF**

(Violation of the California Statutory Right of Publicity; Civil Code § 3344)

51. Plaintiff incorporates by reference paragraphs 1 through 41 as though fully set forth herein.
52. In doing the acts alleged herein, Defendants have knowingly, willfully, and unlawfully used and misappropriated Plaintiff’s name and likeness in connection with the Infringing Ads for their own commercial purposes.
53. Defendants’ misappropriation of Plaintiff’s name and likeness for their own commercial purposes is a violation of California Civil Code §3344.

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\(^68\) Kardashian Complaint, *supra* note 45, ¶¶ 42-54. Similar claims were brought against General Motors Company in connection with its use of Albert Einstein’s image in an advertising campaign. Complaint, *The Hebrew University v. General Motors Co.*, ¶¶ 30-56 (C.D. Cal. May 19, 2010) (Case No. CV10-3790). Some professors may prefer to use the Einstein litigation over the Kardashian litigation; others may have time to compare the two complaints.

\(^69\) CALLEROS, *supra* note 7, at 396 (“Separation of the statements of different claims for relief into separate counts may be permissible or required, depending on the circumstances.”).

\(^70\) FAJANS ET AL., *WRITING FOR LAW PRACTICE*, *supra* note 7, at 43 (recommending “reader-friendly” headings for the “causes of action” in a complaint).

\(^71\) BRIDGES & SCHIESS, *supra* note 7, at 35 (providing sample language); FAJANS ET AL., *WRITING FOR LAW PRACTICE*, *supra* note 7, at 43 (same).
54. As a result of Defendants’ actions, Plaintiff has suffered, and will continue to suffer, damages in an amount to be proven at trial.\textsuperscript{72}

The Kardashian Complaint is only ten pages long. Its organization follows a sequence familiar to the legally trained reader. The sequence—parties, jurisdiction and venue, factual allegations, legal counts, prayer for relief, and jury request—reminds students of all the necessary components.\textsuperscript{73} The Kardashian Complaint’s factual allegations concern a celebrity who currently has international fame,\textsuperscript{74} making the complaint a useful example for non-U.S. lawyers and law students. Finally, the Kardashian Complaint’s legal counts are succinct and can be grasped with little or no prior research into right of publicity torts.

2. Citing Authority: The Modern Family Complaint

The norm in litigation-oriented legal writing is to cite authority after every sentence, sometimes after every clause.\textsuperscript{75} In a trial motion or appellate brief, an attorney would never state a legal test without citing authority. However, in a complaint, the convention is to take a more minimalist approach.\textsuperscript{76}

Most often, legal counts will either cite no authority, or a perhaps cite a statute without elaboration. For example, the Myers Complaint alleges negligence, fraud, and other counts without referring to a single case for these common law claims.\textsuperscript{77} The headings in the Kardashian Complaint’s three counts cite one federal statute and one state statute, and refer to “the California Common Law Right of Publicity.”\textsuperscript{78} Students new to legal research could be asked how they would start researching the strength of the Kardashian Complaint’s claims if they were opposing counsel. The Kardashian Complaint’s count under state common law does not give opposing counsel a citation to begin her research but at least signals that she should begin her search with case digests.

In contrast, two allegations in the Modern Family Complaint include citations to case law, with quotes that quickly preview how those cases might be relevant. The citation in a factual allegation suggests that the Seven-Year Rule at the heart of the cast members’ argument dates back to the 1940s and thus is firmly established in Hollywood:

Modern Family has been a breakout critical and financial success. That success, however, has been built upon a collection of illegal contracts: the Modern Family

\textsuperscript{72} Kardashian Complaint, supra note 45, ¶¶ 51-54.
\textsuperscript{73} There is no executive summary after the introductory sentence, probably because the complaint is so short.
\textsuperscript{74} Kardashian Complaint, supra note 45, ¶¶ 11-24 (describing, among other matters, Ms. Kardashian’s television career and her popularity in print, broadcast, and social media).
\textsuperscript{75} THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION 4-5 (19th ed. 2010); see also ASSOCIATION OF LEGAL WRITING DIRECTORS, ALWD CITATION MANUAL: A PROFESSIONAL SYSTEM OF CITATION 363-60 (4th ed. 2010) (Rule 43).
\textsuperscript{76} CALLEROS, supra note 7, at 388 (stating that a complaint drafter “need not cite to supporting legal authority”).
\textsuperscript{77} Myers Complaint, supra note 44, ¶¶ 81–123.
\textsuperscript{78} Kardashian Complaint, supra note 45, ¶¶ 42-54.
cast’s employment agreements with Twentieth Century Fox Television (“Fox”) . . . violate the Seven-Year Rule under California Labor Code Section 2855(a). That provision dictates that contracts to render personal service “may not be enforced beyond seven years from the commencement of service under it.” Cal. Labor Code § 2855(a); see also De Haviland v. Warner Brothers Pictures, 67 Cal. App. 2d 225, 235 (1944) (“Seven years of time is fixed as the maximum time for which [employees] may contract for their services without the right to change employers or occupations.”). 79

The final paragraph before the prayer for relief cites cases to support the complaint’s fairly uncontroversial proposition: contracts that violate the law are void.

Plaintiffs seek a declaration . . . that the Agreements violate the Seven-Year Rule under California Labor Code section 2855(a), and therefore are illegal and wholly void. See Cal. Labor Code § 2855(a) (personal service contracts are barred from having terms beyond seven years); Downey Venture v. LMI Ins. Co., 66 Cal. App. 4th 478, 511 (1998) (“An illegal contract is void; it cannot be estopped to deny its validity”); Homami v. Iранzadi, 211 Cal. App. 3d 1104, 1109-10 (1989) (“The general principle is well established that a contract founded on an illegal consideration, or which is made for the purpose of furthering any matter or thing prohibited by statute, or to aid or assist any party therein, is void. This rule applies to every contract which is founded on a transaction malum in se, or which is prohibited by a statute on the ground of public policy.”). 80

Here, the Modern Family Complaint paraphrases the statute and quotes directly from the cases. 81 The opposite approach—quote the statute but paraphrase the cases—is more common in legal

79 Modern Family Complaint, supra note 47, ¶ 16.
80 Id. ¶ 82.
81 The Modern Family Complaint quotes a fragment of the first sentence in the relevant statute. Modern Family Complaint, supra note 47, ¶ 16 (quoting Cal. Labor Code § 2855(a)). The full three sentences of that statute, Section 2855(a) of the California Labor Code, read as follows:

(a)Except as otherwise provided in subdivision (b), a contract to render personal service, other than a contract of apprenticeship as provided in Chapter 4 (commencing with Section 3070), may not be enforced against the employee beyond seven years from the commencement of service under it. Any contract, otherwise valid, to perform or render service of a special, unique, unusual, extraordinary, or intellectual character, which gives it peculiar value and the loss of which cannot be reasonably or adequately compensated in damages in an action at law, may nevertheless be enforced against the person contracting to render the service, for a term not to exceed seven years from the commencement of service under it. If the employee voluntarily continues to serve under it beyond that time, the contract may be referred to as affording a presumptive measure of the compensation.

The exception in Section 2855(b) deals with contracts for “phonorecords.”

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In general, the writer’s choice between quoting and paraphrasing is worth discussing with law students. Quoting is easier, requiring only a simple cut and paste from the original text, with no analytical demands on the writer. In terms of persuasive effect, a quote may be the better choice when a court’s language is compelling, or when the writer’s legal proposition is novel. On the other hand, paraphrasing shows command of the material and tightens up the sentence. A discussion of quoting or paraphrasing is one way to link a lesson on complaints to lessons about writing other legal documents, where the writer always must consider the most effective ways to present authority.

3. Emphasizing the Legal Test: The Complaint against Kirstie Alley, and the Myers Complaint

A complaint most likely will not cite to legal authority, but it often will emphasize key terms in the legal test in other ways. For example, a class action complaint against actor Kirstie Alley emphasizes each element in the test for allowing a class action to proceed. The Abramyan Complaint alleges that Ms. Alley was involved in the “false and misleading advertising” of “purported weight loss supplements” that were marketed as part of an “Organic Liaison Weight Loss Program.”

Defendants’ prominent and repeated use of Defendant Kirstie Alley’s weight loss as ‘proof’ that the Organic Weight Loss Program works and the products are ‘proven’ is nothing more than a healthy deception.

In peddling the Organic Liaison Program, Ms. Alley attributes her weight loss to the program, but in reality, Ms. Alley’s weight loss is due to nothing more than the tried and true concept of diet and exercise. It is commonly known, and indeed a scientific fact, that if you are increasing exercise while decreasing caloric intake, you will lose weight. There is no magic pill or supplement that causes weight loss.

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83 CALLEROS, supra note 7, at 333-34 (discussing quotations in memoranda and briefs).
84 GARNER, supra note 55, at 407 (discussing quotations in appellate briefs).
85 Abramyan Complaint, supra note 46, ¶¶ 45-56.
86 Id. ¶ 1.
87 Id. ¶ 2.
88 Id. ¶ 1-2.
89 Id. ¶ 4.
90 Abramyan Complaint, supra note 46, ¶ 39.
Despite this common knowledge, a class of people allegedly exists who were deceived, according to the Abramyan Complaint, into buying “elixir[s],” “blend[s],” and “formula[s]” to help them lose weight. Each element of the test for class certification is a heading, in grammatically parallel form, set off with bold typeface and underlining. The “Class Action Allegations” section of the complaint has one well-signaled paragraph each for “Ascertainability,” “Numerosity,” “Well-defined Community of Interest,” “Typicality,” “Adequacy of Representation,” and “Superiority.”

The Abramyan Complaint offers another refresher on civil procedure. Its allegations show some of the hurdles all plaintiffs face before litigation allows for discovery. For example, “ascertainability” turns on the fact that “all purchasers can be easily identified by Defendants from their own records. . . . Individual identification is possible from Defendants’ shipping records. . . .” Three times under “numerosity,” Plaintiff Abramyan emphasizes that she does not know how many class members there might be. A familiar qualifier—upon information and belief—begins one of these allegations:

Upon information and belief, Plaintiff believes hundreds, if not thousands, of California residents purchased the Organic Liaison Weight Loss Program, either through the Organic Liaison website or through QVC.

In contrast, the “typicality” allegations express more certainty:

Since the Organic Weight Loss Program is not available at retail . . . by definition, Plaintiff and every class member were exposed to the same uniform false and misleading weight loss claims.

The final paragraphs of the class action allegations resolve anticipated counter-arguments, without affirmatively stating those counter-arguments.

Individual litigation . . . would increase delay and expense to all parties and the court system. . . . The prosecution of separate actions . . . would create the risk of inconsistent or varying adjudications . . . that would establish incompatible
standards of conduct for Defendants. . . . Absent a class action, Defendants likely will retain the benefits of their wrongdoing . . . . [F]ew, if any, Class members could afford to seek legal redress . . . . 104

This language may not be unique among class action complaints, but it illustrates a persuasive legal writing technique: dealing with a skeptical reader’s objections and at the same time avoiding a defensive tone. In opening trial motions and appellate briefs, the recommended practice is to avoid stating the opponent’s arguments. 105 This practice is critical in a complaint, the opening move to the entire litigation.

The Abramyan Complaint never states the legal test for class certification and never cites legal authority for any of the elements in the test. However, it is organized around those elements, with the bold headings making this organization as obvious to the reader as possible.

Comparatively subtle reminders of the legal test are another option in a complaint. The introductory and factual allegations in the Myers Complaint are infused with word choices from tort and procedural law. Echoing the key terms of the relevant legal test may have tactical advantages. 106 For example:

The fact that it took the NFL 16 years to admit there was a problem and to take any real action to address the problem is willful and wanton and exhibits a reckless disregard for the safety of its players. 107

Another example concerns the NFL’s alleged reaction to Mr. Myers’ multiple concussions:

This lack of warnings was a substantial factor in causing his current injuries. 108

The Myers Complaint anticipates a statute of limitations argument:

The NFL was under a continuing duty to disclose the true character . . . of head injuries. Because of the NFL’s concealment of the true character . . . of these injuries, it is estopped from relying on any statute of limitations defense. 109

Words like “willful,” “wanton,” “reckless,” and “substantial factor” prepare the reader for the legal counts that follow. Words like “concealment,” “continuing duty,” and “estoppel” resolve procedural objections that might occur to the skeptical reader (and likely would be asserted by the NFL). The repeated use of the word “true” perhaps fits with the complaint’s allegations that

104 Abramyan Complaint, supra note 46, ¶¶ 53-55.
105 E.g., POLLMAN ET AL., supra note 82, at 229-34 (discussing how to anticipate counterarguments and present them “as part of your affirmative argument”).
106 CHILD, supra note 7, at 41 (discussing how to “track[]” operative language from statutes or cases and suggesting that this technique may gain key admissions).
107 Myers Complaint, supra note 44, ¶ 73.
108 Id. ¶ 75.
109 Id. ¶ 79.
the NFL lied to athletes, and perhaps fits with its theme of scientific discovery struggling to see the light of day.\textsuperscript{110}

Thus, unlike a motion or brief, a complaint can leave the legal test implicit.\textsuperscript{111} However, the complaint drafter has other ways to remind the reader of key parts of that test. Organizational choices ensure that every element is at least alleged. Word choices that echo or track the language of the legal test appear much earlier in the complaint than the separate legal counts.

C. Telling Plaintiff’s Story

Plaintiff’s complaint is the first story told in the litigation. If the litigation proceeds, plaintiff’s story is not the only story told, and it may not be the story that ultimately convinces a judge or jury. But even if the litigation does not proceed, the plaintiff may feel some psychological satisfaction just from how the complaint tells his or her story.

Applied legal storytelling\textsuperscript{112} is an established field of study,\textsuperscript{113} related to scholarship about law and narrative theory dating back until at least the 1980s.\textsuperscript{114} These scholars emphasize the persuasive value of presenting the client’s story as a narrative already familiar to the audience.\textsuperscript{115}

\textsuperscript{110} See infra text accompanying notes 165-178.
\textsuperscript{111} CALLEROS, supra note 7, at 388 (outlining how a legal syllogism’s major premise, the rule of law, is not alleged in a complaint).
\textsuperscript{112} “The term pertains to ideas of how everyday lawyers can utilize elements of mythology as a persuasive technique in stories told directly to judges—either via bench trials or via legal writing documents such as briefs—on behalf of an individual client in everyday litigation.” Ruth Anne Robbins, \textit{Harry Potter, Ruby Slippers and Merlin: Telling the Client’s Story Using the Characters and Paradigm of the Archetypal Hero’s Journey}, 29 \textit{SEATTLE L. REV.} \textbf{767}, 771 (2006).

As James Boyd White pointed out . . . storytelling lies at the heart of what lawyers do. Every legal case starts with a story—the client’s story—and it ends with a legal decision that, in effect, offers another version of that story, one cast into a legal framework.

\textsuperscript{115} Robbins, \textit{ supra} note 112, at 768-69.

Because people respond—instinctively and intuitively—to certain recurring story patterns and character archetypes, lawyers should systematically and deliberately integrate into their storytelling the larger picture of their clients’ goals by subtly portraying their individual clients as heroes on a particular life path. . . . The story is not a parlor trick used to draw attention away from the logic of law. It is part of the logic itself.
If the brief writer can successfully, but subtly, identify her client as the protagonist, and the opposing party or parties as antagonists, she will have created a reason for the court to want to rule in her client's favor. This is a major step toward persuading the court to actually rule in her client's favor.\textsuperscript{116}

The role of narrative technique in complaints has been studied only recently.\textsuperscript{117} Seeking to restore complaint drafting from “rote form-book pleading,”\textsuperscript{118} Professors Fajans and Falk emphasize that “complaints are always themselves narratives in which a client’s troubles are folded into a cognizable legal claim.”\textsuperscript{119} Three theories explain why an audience believes in one narrative over another.\textsuperscript{120} Narrative coherence, as applied to complaints, means that “the facts alleged must bear on, ‘go to,’ the elements of the claim.”\textsuperscript{121} Narrative correspondence means that the complaint’s allegations tap into “‘stock scripts,’” stories that are “socially normative” and “immediately recognizable” to the audience.\textsuperscript{122} Narrative fidelity in a complaint taps into the audience’s sense of justice and desire to right wrongs.\textsuperscript{123} Pulling these theories together,

A complaint that has narrative correspondence and coherence will be a competent, even effective pleading. But a complaint that achieves narrative fidelity is a far greater achievement in professional and human terms.\textsuperscript{124}

What makes something a “story” rather than an “argument” or a “recipe” may be difficult to define,\textsuperscript{125} but the two most basic parts of a narrative are characters and plot.\textsuperscript{126} The client is cast

\textit{Id. }"Legal reasoning is incomplete without the soil of narrative from which the reasoning grows and to which it will return.” Linda Holdeman Edwards, \textit{The Convergence of Analogical and Dialectic Imaginations in Legal Discourse}, 20 LEG. STUDIES FORUM 1, 50 (1996).

\textsuperscript{116}CHESTEK, \textit{The Plot Thickens}, supra note 113, at 144 (referring to the writer of an appellate brief).

\textsuperscript{117}See generally Fajans & Falk, \textit{Untold Stories}, supra note 8.

\textsuperscript{118}Id. at 9.

\textsuperscript{119}Id. at 14.

\textsuperscript{120}Id. at 20.

\textsuperscript{121}Id. “Narrative coherence requires a story to be both internally consistent . . . as well as complete.” \textit{Id.}


\textsuperscript{123}Id. at 22.

\textsuperscript{124}Id. at 22-23.

\textsuperscript{125}BERNER, \textit{Making Stories: Law, Literature, Life} 3-4 (2002), \textit{quoted in} Carolyn Grose, \textit{Storytelling Across the Curriculum: From Margin to Center, from Clinic to the Classroom}, 7 J. ASS‘N LEGAL WRITING DIRECTORS 37, 43 (2010); see also Fajans & Falk, \textit{Untold Stories}, supra note 8, at 17 (cautioning that simply “adding specific facts to a complaint . . . does not create a narrative” because “‘stories are not just recipes for stringing together a set of “hard facts”’”) (quoting ANTHONY AMSTERDAM & JEROME BRNER, \textit{Minding the Law 111} (2000)).

\textsuperscript{126}ROBBINS, supra note 112, at 770.

Within the legal framework, a story has a few key elements: character, point of view, conflict, resolution, organization, and description. The story must contain a cast of characters, and the
as some type of hero: “Heroes are those who transform themselves or their societies through a
search for identity and wholeness.”

The client’s opponent is cast as a villain or gatekeeper, with the simple opposition of a gatekeeper being more credible than the monstrosity of a villain. The plot moves from a static state to a state of conflict, and then ultimately a
resolution. A complaint’s factual allegations present the first three stages of this basic plot
structure.

Here, two complaints filed by professional athletes offer opportunities to show storytelling
techniques. In Lance Armstrong’s dispute with the United States Anti-Doping Agency, Mr.
Armstrong tests the limits of a hero-villain story. In contrast, Mr. Myers’s complaint against the
National Football League casts Science as the hero, roughly analogous to the archetypal Magic
or Divine Child struggling to make its way in the world.

The writing techniques in these two
author must choose to tell the story from someone’s point of view. Each character has needs and
goals. The author controls how much the audience knows about those needs and goals. The more
skilled lawyers understand, of course, that their client is the protagonist of the story and that the
story must be told from the protagonist’s point of view.

However, the audience may disconnect if the client-as-hero is portrayed as
perfect. Because the hero is the person in the story with whom the reader most closely identifies, the writer
must grant the hero universal qualities and emotions that most readers have either experienced or
understand. The hero is imperfect by definition, and audiences admire the hero all the more
for striving to overcome these flaws.

We have grown accustomed to a framework for the narrative; the story arc begins with a normal or
ordinary situation, which is interrupted by Trouble, followed by efforts by the characters to
address or resolve the Trouble, and culminating in a restoration of the old or the creation of a new
“canonical . . . steady state.”

“The complaint ends with the plea for redress—the ad damnum clause—because a complaint is in fact an
unfinished narrative, a half-told tale that awaits action by the court that will turn it into a comedy (if redress is
granted) or tragedy (leading to the sacrifice and isolation of the plaintiff) if it is denied.”

“Whether the goal is to safeguard a talisman or to

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Id. Robbins, supra note 112, at 775. However, the audience may disconnect if the client-as-hero is portrayed as
perfect.

Because the hero is the person in the story with whom the reader most closely identifies, the writer
must grant the hero universal qualities and emotions that most readers have either experienced or
understand. . . . The hero is imperfect by definition, and audiences admire the hero all the more
for striving to overcome these flaws.

Id. at 776. Robbins, supra note 112, at 787 (cautioning against portraying an opponent in excessive terms because “[p]art of
the lawyer’s ethos depends on that lawyer displaying good will in his or her advocacy demeanor”). “[A] more
credible role for a defendant/antagonist would be that of a Threshold Guardian (or Gatekeeper.) These types of
antagonists are not evil; they just have their own goals which conflict with those of the protagonist.” Kenneth D.
Chestek, Competing Stories: A Case Study of the Role of Narrative Reasoning in Judicial Decisions, 9 LEGAL

Linda L. Berger. The Lady, or the Tiger? A Field Guide to Metaphor and Narrative, 50 WASHBURN L.J. 275, 282
(2011).

Cf. Linda Edwards, Once Upon a Time in Law: Myth, Metaphor, and Authority, 77 TENN. L. REV. 883, 899
(2009-2010) (describing “rescue stories” in which “evil forces [are] bent on domination or destruction [but] [a] band
of the faithful-usually outnumbered and outgunned-resists.”). “Whether the goal is to safeguard a talisman or to
celebrity complaints include the repetition of phrases, extensive lists, highly loaded word choices, and tactical use of quotations.

1. Lance Armstrong—Man Against System

The allegations in the Original Armstrong Complaint describe in great detail a system that never allows the athlete to win.\textsuperscript{132} Mr. Armstrong is portrayed as a lone crusader whose refusal to go along with the system embarrassed officials and caused them to target him.\textsuperscript{133} He stands up for other athletes who allegedly lack the resources to fight.\textsuperscript{134} Even the complaint’s shorter allegations present Mr. Armstrong as sympathetic and the USADA as unreasonable:

On one occasion, a drug tester showed up as Mr. Armstrong and his wife were on their way to the hospital for the birth of one of their children.\textsuperscript{135}

This “single descriptive detail” has “enormous impact.”\textsuperscript{136} Three additional writing techniques stand out in the Original Armstrong Complaint: repetition of phrases, lists, and word choices. For example, “the athlete has no right” is repeated seven times in the thirteen paragraphs alleging that the USADA’s procedural rules are unfair to athletes.\textsuperscript{137}

\begin{itemize}
\item \textsuperscript{132} E.g., Original Armstrong Complaint, supra note 43, ¶ 89 (“Not content to stack the deck against athletes with respect to the substantive rules, Defendants and WADA conspired to create procedural rules and a hearing system in which (a) innocent athletes will rarely have a chance of winning and (b) the burden of participating in the adjudication process with such a low probability of success will discourage athletes from even asking for a hearing, without regard to the merits of their cases.”).
\item \textsuperscript{133} E.g., Original Armstrong Complaint, supra note 43, ¶ 129 (“Since the events of 2005 and 2006, WADA and the Defendants have been determined to damage the reputation of Mr. Armstrong, to discredit him, to suggest that he has used performance enhancing drugs, and to find a way to bring doping charges against him. Having told the world that they are certain that Mr. Armstrong has cheated, it has become an embarrassment for WADA and USADA that all the drug tests conducted on Mr. Armstrong including the biological passport testing of his blood, etc., have never yielded any basis for even claiming he had a positive test.”).
\item \textsuperscript{134} E.g., Original Armstrong Complaint, supra note 43, ¶ 101 (“Because the substantive rules are so unfair and the process so restrictive that innocent athletes cannot be vindicated, lawyers advising athletes charged by USADA had no reasonable alternative but to advise athletes they cannot win. Over time, few athletes who are charged, even when innocent, have been willing to challenge the claim that they doped because of the cost and futility of the process.”); see also id. ¶ 82 (describing “[t]he only small protection remaining for athletes” in laboratories’ drug testing procedures); id. ¶ 111 (alleging that “athletes . . . had been unwilling to criticize or challenge WADA . . . for fear that they would be identified as a drug cheat”); id. ¶ 173 (“Coercive threats and promises of benefits from USADA may have been simply too substantial for certain riders and others to withstand.”).
\item \textsuperscript{135} Original Armstrong Complaint, supra note 43, ¶ 52.
\item \textsuperscript{136} Fajans & Falk, Untold Stories, supra note 8, at 42.
\item \textsuperscript{137} Original Armstrong Complaint, supra note 43, ¶¶ 90(i)-(xii). Curiously, the last five allegations either omit this phrase or change it to “the athlete does not have a right.” Id. ¶¶ 90(x) & (xii). A shorter example of this rhythmic repetition focused on the word “right” appears earlier in the complaint. Id. ¶ 80 (“The athlete and his counsel would not have the right to interview . . . . The athlete would not have a right to the production of exculpatory evidence. . . .”).
\end{itemize}
The athlete has no right to a charging document . . . .  

[T]he athlete has no right to subpoena documents . . . .

The athlete has no right to disclosure of all agreements . . . .

The athlete has no right to compel witnesses . . . .

[T]he athlete has no right to compel production of [doping test] results . . . .

The athlete has no right to any preliminary hearing . . . .

The athlete has no right to receive prior drafts of the witness’s affidavit . . . .

The rhythmic repetition of “the athlete has no right” gives the list a cumulative force, “making it into a drumbeat [that] may help drive the point home.” Lists like this one extend the length of many paragraphs in the Original Armstrong Complaint. Taken cumulatively, the Original Armstrong Complaint’s lists represent a tradeoff: greater narrative force, at the expense of gaining admissions and perhaps maintaining the trust of at least one reader (the judge).

Here is one example of a multi-generation list in the Original Armstrong Complaint:

USADA contributed [to a multi-agency federal investigation], among other things, its ability to (a) conduct target testing and compel Mr. Armstrong to

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138 Original Armstrong Complaint, supra note 43, ¶ 90(i).
139 Id. ¶ 90(ii).
140 Id. ¶ 90(iii).
141 Id. ¶ 90(iv).
142 Id. ¶ 90(v).
143 Id. ¶ 90(vi).
144 Original Armstrong Complaint, supra note 43, ¶ 90(vii).
145 ROSS GUBERMAN, POINT MADE: HOW TO WRITE LIKE THE NATION’S TOP ADVOCATES 199 (2011); cf. id. at 187 (showing excerpts that use a “freight train technique”); id. 197-200 (illustrating the “quasi-literary effect” of “repeating a word several times”). Another allegation shows a comparable sense of rhythm in how a long dependent clause builds up to two abruptly dropping words:

Although alleging a long-running and wide-ranging conspiracy involving four different teams, USADA charged only one rider: Mr. Armstrong.

Original Armstrong Complaint, supra note 43, ¶ 194.

146 Fajans & Falk, Untold Stories, supra note 8, at 44.

The prevailing wisdom is that paragraphs should be quite short, for readability and in order to make denial harder. Certainly, as a “default” strategy, this makes sense, but a more individualized strategy that finds the rhythms of the particular story and varies the paragraph lengths to suit will produce a more readable and effective narrative.

Id. (citing Barbara Child as one expert who would agree that some “defendants will always find a way to deny allegations, no matter how short and precise”).

147 See Armstrong Order, supra note 1, at 3 (“Armstrong is advised, in the strongest possible terms, and on pain of Rule 11 sanctions, to omit any improper argument, rhetoric, or irrelevant material from his future pleadings.”).
provide his whereabouts at all times and to provide . . . a substantial number of biological samples without notice, and retest samples already taken, tested and determined to be negative, pursuant to its right to conduct out-of-competition testing, as part of an effort to prove the used of banned substances or methods by means of a positive test, (b) threaten all other cyclists with loss of a lifetime of athletic achievements, destruction of the athlete’s reputation, a lifetime ban from the athlete’s profession, and the adjudication of these claims in a forum in which athletes charged with doping spend hundreds of thousands or even millions of dollars and still have no chance of winning, and (c) offer other cyclists and others involved in the business and sport of cycling a combination of reduced sanctions, amnesty, absolution, and/or recognition as a hero who came forward to clean up the sport of cycling. ¹⁴８

This one paragraph has 186 words. At first glance, it appears to be a list of three items, each one beginning with a verb: “(a) conduct target testing . . . (b) threaten . . . other cyclists . . . and (c) offer other cyclists . . . .” But each item itself includes a second generation of listed items. For example, item (b) includes a list of nouns: “loss . . . destruction . . . ban . . . and adjudication.” Item (b) also includes the loaded allegation that “athletes . . . still have no chance of winning” in USADA adjudications. In a list with a different structure, the allegations become more specific to USADA’s correspondence with Mr. Armstrong in the month prior to the complaint’s filing.

USADA issued its charging decision on June 28, 2012. The haste in charging, the failure to follow its own USADA Protocol, the departure from disclosure of evidence, the failure to produce substantial evidence to support the charges, the willful disregard for whether the investigation and the undiscovered evidence that is the result of that investigation are the product of unlawful conduct, and the blind embrace of secret, perhaps intimidated and/or coerced witnesses, or witnesses unworthy of belief, led Mr. Armstrong to conclude that this was not, in fact, an investigation, but a vendetta that had nothing to do with learning the truth and everything to do with settling a score and garnering publicity at Mr. Armstrong’s expense. ¹⁴⁹

This paragraph consists of a short sentence and a long (108 words) sentence that begins with a list. The list has six items: (1) “haste,” (2) “failure to follow . . . Protocol,” (3) “departure,” (4) “failure to produce . . . evidence,” (5) “disregard,” and (6) an “embrace.” Legal writing texts

¹⁴⁸ Original Armstrong Complaint, supra note 43, ¶ 164. The agencies alleged to have participated in the investigation include the United States Department of Agriculture’s Food & Drug Administration, the FBI, and the United States Attorney’s Office. Id. ¶ 168.
¹⁴⁹ Id. ¶ 212.
often recommend placing a list at the end of a sentence to preserve a balance to the sentence.\textsuperscript{150} However, here the sentence begins with a long list (68 words) building up to a short verb (“led”) and language so loaded, it evokes organized crime (“vendetta” and “settling a score”).\textsuperscript{151}

In most litigation writing, every word choice presumably is deliberate and intended to persuade. “Often one word can set the tone of a complaint. Verbs are particularly useful. . . . Adjectives, though discouraged in many legal writing texts, can be put to good effect in a complaint.”\textsuperscript{152} Vivid words have a different persuasive effect than drier, more abstract words\textsuperscript{153} Interesting word choices begin in the introduction to the Original Armstrong Complaint (“obsession,”\textsuperscript{154} “zeal,”\textsuperscript{155} and “kangaroo court proceedings”\textsuperscript{156}). Throughout its allegations, the Original Armstrong Complaint provides memorable detail about both facts favorable to Mr. Armstrong and facts unfavorable to his opponents, facts that are omitted or presented in less detail in the Amended Armstrong Complaint. For example, the Original Armstrong Complaint has fourteen allegations about Mr. Armstrong’s career, including the following:

In 1996, Mr. Armstrong founded a public charity, the Mr. Armstrong Foundation. The Mr. Armstrong Foundation provides free services to cancer survivors with financial, emotional and practical challenges. The Armstrong Foundation is a leader in the global movement on behalf of 28 million people living with cancer today. Since its inception, the Armstrong Foundation has raised close to $500 million for the fight against cancer. Mr. Armstrong has been the Foundation’s largest individual donor, personally contributing over $6.5 million.\textsuperscript{157}

In contrast, the Amended Armstrong Complaint summarizes Mr. Armstrong’s career in one paragraph:

Mr. Armstrong is a professional triathlete and a retired professional road-racing cyclist. Mr. Armstrong has entered into contracts with the World Triathlon Corporation (“WTC”), by which WTC agrees to pay Mr. Armstrong and his foundation for Mr. Armstrong’s participation in its events.\textsuperscript{158}

\textsuperscript{150} RAY & COX, supra note 7, at 128 (discussing issue statements, also known as Questions Presented) (“Readability is increased when the longest element [in a sentence] is last.”).

\textsuperscript{151} “Vendetta” appears twice in the Original Armstrong Complaint, supra note 43, ¶¶ 128 & 212.

\textsuperscript{152} Fajans & Falk, Untold Stories, supra note 8 at 46 (discussing a false imprisonment complaint that used “‘paraded’” instead of “‘walked’” and a prisoners’ rights complaint that used the word “malodorous”). “Similarly, in [a] ‘forced disappearance’ complaint, one alleged terrorist ‘was stripped[] [and] diapered.’ His mortification is captured in the second verb.” Id.

\textsuperscript{153} “Language full of sensory appeal can make favorable facts memorable. Abstract language can shut down the reader’s brain as it passes over unfavorable facts.” CHILD, supra note 7 at 37.

\textsuperscript{154} Original Armstrong Complaint, supra note 43, ¶ 7.

\textsuperscript{155} Id. ¶ 8.

\textsuperscript{156} Id. ¶ 10. “Kangaroo court proceeding” was the sole allegation quoted by the judge dismissing the complaint without prejudice. Armstrong Order, supra note 1, at 2.

\textsuperscript{157} Original Armstrong Complaint, supra note 43, ¶ 34.

\textsuperscript{158} Amended Armstrong Complaint, supra note 43, ¶ 10.
When it comes to the USADA, the Original Armstrong Complaint’s goes to extraordinary lengths. The details alleged throughout the complaint portray the USADA as more than just a large, powerful institution opposed by one brave man who was not looking for a fight. Extending this somewhat predictable narrative, the Original Armstrong Complaint describes the USADA with words often applied to totalitarian regimes. For example, one allegation conjures up some USSR leaders’ absurd and stubborn denial of reality:

[Certain test results] disappointed Defendants and WADA, because [they] suggested that their laboratories make mistakes (calling into question their rules that presume their laboratories never make mistakes). . . .”\(^{159}\)

Another allegation resembles Cold War rhetoric of “domino theory” and containment:

USADA will never be charged with drug testing or results management for MLB, the NBA, the NFL, or the NHL, and Congress will never force the professional leagues in the United States to contract with USADA. Nevertheless, USADA is still working in concert with WADA to try to force the United States Government to require United States sports leagues to subject themselves to the jurisdiction of WADA and USADA.\(^{160}\)

Other allegations describe coerced accusation and self-incrimination, reminiscent of Mao’s Cultural Revolution or George Orwell’s novel 1984. According to the complaint, the USADA created a system where “[a]ny athlete could destroy the career and reputation of any other athlete.”\(^{161}\) The system allegedly included the “extraordinary muzzling of dissident arbitrators.”\(^{162}\) With respect to Mr. Armstrong in particular, the USADA’s General Counsel allegedly made clear that the purpose of [a mandatory meeting] was not to discuss any allegations with respect to Mr. Armstrong, but rather to receive his confession—in [General Counsel’s] words, to “move forward to clean up cycling” and to “come clean.” Anything else would be viewed as a false statement.\(^{163}\)

Does this language go too far? As with all the complaints presented here, this Article takes no position on whether any allegation accurate or legally relevant. The goal of sharing these examples with students is a discussion of how well the complaint tells its story. The Original Armstrong Complaint attempts to persuade, both overtly and subtly. Students may disagree on

\(^{159}\) Original Armstrong Complaint, \textit{supra} note 43, ¶ 86.
\(^{160}\) \textit{Id.} ¶ 107.
\(^{161}\) \textit{Id.} ¶ 134.
\(^{162}\) \textit{Id.} ¶ 90(xii).
\(^{163}\) \textit{Id.} ¶ 183 (emphasis added).
how well it succeeds and can discuss, for example, whether it has narrative coherence.\textsuperscript{164} Does the complaint maintain its credibility, or does the theme of USADA-as-dictator go too far? Does the complaint keep the attention of its audience, or does it feel cumulative because of its length (and lengthy lists)? The full Original Armstrong Complaint is a hefty reading assignment, but students are likely to engage with the particular subjects (such as Mr. Armstrong and drug-testing in professional sports) and the more timeless stories (such as person fighting institution, and person standing up on behalf of the less powerful).

2. The Myers Complaint—Science as Hero

Another complaint filed by a professional athlete chooses a less predictable protagonist. Instead of focusing on one man, or on the other people he stands for, the Myers Complaint makes Science the hero. The Myers Complaint casts the National Football League as the oppressor of scientific truths, not just individual players. From a narrative theory perspective, the Myers Complaint does not choose the expected “stock story” of human suffering. From a complaint drafting perspective, it shows two noteworthy writing techniques: quotations and understatement.

Characters in the Myers Complaint develop through “[j]uxtaposition of quotations.”\textsuperscript{165} Using quotations in a complaint is a risk,\textsuperscript{166} a risk the drafters of the Myers Complaint apparently were willing to take. By using quotations, the Myers Complaint has scientists, Senators, and famous players present its most vivid and potentially loaded language, not Myers or his attorneys.

“Picture your brain as a hunk of Jell-O floating in a bowl . . . .”\textsuperscript{167}

“Physically, I have aches and pains, but that comes with playing the game. But if somebody tells you neurologically you could sustain some kind of brain damage

\textsuperscript{164} “[T]he pleader’s efforts to make the client sympathetic and the adversary dislikeable should respect the reader’s intelligence and capacity for empathy.” Fajans & Falk, Untold Stories, supra note 8, at 36.

\textsuperscript{165} Fajans & Falk, Untold Stories, supra note 8, at 33.

\textsuperscript{166} Two legal writing experts summarize the risks as follows:

[Q]outes should ordinarily be used judiciously in complaints—whether to establish character or for other purposes—and ideally, should be documented. Defendants will most usually deny uttering the precise words attributed to them. Moreover, since plaintiff’s specific allegations in a complaint will ordinarily be held to be admissions, quotations should be carefully vetted for unintended consequences. Finally, with the exception of claims that turn on words-libel, for example—no conscientious drafter would want to depend entirely on quotations to make out a claim. To do so could make proof of the claim depend on proof of the utterance. Yet despite these caveats, the drafter should not automatically rule out using quotations liberally to establish character. Only by careful analysis of the factual and legal specifics of the case, the nature of the audience, and the goals the drafter seeks to achieve with the complaint can the drafter determine whether or how to use quotes.

\textsuperscript{167} Myers Complaint, supra note 44, ¶ 19 (quoting “Dr. Wise Young, a neurosurgery professor at New York University, describ[ing] concussions).
that will go with you the rest of your life. If somebody had told me that a long
time ago, I don’t frankly think I would have [played].” 168

“I believe you [the NFL] are an $8 billion organization that has failed in your
responsibility to the players. . . .” 169

“[T]he NFL has . . . been dragging its feet on this issue until the past few years.
Why did it take 15 years?” 170

“You’re in charge of the brains of these players!” 171

The Myers Complaint does not tell the reader the source for any of these quotations. There are
no citations to news articles or legislative committee documents. The reader learns only as much
about the context for each quotation as the complaint drafters present. In addition, NFL
decisionmakers are quoted often in the Myers Complaint, sometimes with the implication that
the NFL’s own words will be used against it. The following example, read in isolation, actually
is favorable to the NFL:

NFL Commissioner Roger Goodell testified at the hearing. He stated that “[w]e
are fortunate to be the most popular spectator sport in America. In addition to our
millions of fans, more than three million youngsters aged 6-14 play tackle football
each year; more than one million high school players also do so and nearly
seventy five thousand collegiate players as well. We must act in their best
interests even if these young men never play professional football.” Goodell went
on to testify that “[i]n the past 15 years, the NFL has made significant invests
ments in medical and biomechanical research. All of that information has been made
public, subjected to thorough and on-going peer review, published in leading
journals, and distributed to the NFLPA and their medical consultants. We have
been open and transparent, and have invited dialogue throughout the medical
community.” 172

The statement is left to stand on its own, not yet paired with any suggestion that the NFL has not
“act[ed] in [the] best interests” of players of any age. 173 There is some arguably loaded language

168 Id. ¶ 65 (quoting “New York Giants Linebacker Harry Carson”) (alteration in original).
169 Id. ¶ 49 (quoting Representative Maxine Waters).
170 Myers Complaint, supra note 44, ¶ 59 (quoting Representative Linda Sanchez).
171 Id. ¶ 62 (quoting an “infuriated” Representative Anthony Weiner).
172 Id. ¶ 50.
173 In contrast, a different NFL statement is contradicted in the same paragraph here:

In December, 2009, an NFL spokesman stated that it was “quite obvious from the medical
research that’s been done that concussions can lead to long-term problems.” This fact has been
quite obvious to virtually every person involved in the study of concussions for more than a
decade with the exception of the NFL and its so called “experts.”
in the Myers Complaint, but the quotations allow the complaint drafters to make many of their points from a distance. Myers and his attorneys are removed one degree from any language comparable to the imagery of gangsters and dictators in the Original Armstrong Complaint.

The focus of the Myers Complaint is the long struggle between scientific truths and the NFL’s alleged suppression of those truths. Before presenting Mr. Myers’s own experiences, the complaint lets the human aspects of this story emerge in three understated paragraphs. Three players’ deaths are presented in simple sentences, with little to no emphasis on each man’s suffering. Instead, each allegation refers to how the player’s death contributed to the scientific evidence about how “multiple concussions sustained during an NFL player’s career cause severe cognitive problems such as depression and early-onset dementia” and how “Chronic Traumatic Encephalopathy (‘CTE’) is a progressive, degenerative disease of the brain found in athletes (and others) with a history of repetitive concussions.”

In November 2006, Dr. Omalu studied the brain of former NFL player Andre Waters, who had died of a self-inflicted gunshot wound. The analysis of Waters’ brain tissue conducted by Dr. Omalu showed signs of CTE.

On December 17, 2009 Cincinnati Bengals wide receiver Chris Henry, 26, died after falling from the back of a pickup truck. Doctors Omalu and Bailes performed a postmortem study on Henry’s brain and diagnosed Henry with CTE.

On February 17, 2011 former Chicago Bears and New York Giants player Dave Duerson committed suicide. Only 50 at the time of his death, Duerson had suffered months of headaches, blurred vision, and faltering memory. After his death, Boston University researchers determined that Duerson was suffering from CTE.

These allegations follow the same basic pattern: begin with a date, mention the player, and end with the acronym “CTE.” The team affiliations of two of the three players is mentioned, most likely to trigger the audience’s memories of them playing. The Myers Complaint also emphasizes the ages of these two players, putting “26” in an appositive, and beginning a sentence with a highlighting “only.” Only one of these allegations sketches the player’s symptoms before his death, “months of headaches, blurred vision, and faltering memory.” The players’ pain could have dominated several paragraphs to increase sympathy for football players

Myers Complaint, supra note 44, ¶ 55.
174 For example, the Myers Complaint alleges that “[Paul] Tagliabue appointed a puppet” to lead an NFL committee studying concussions. Id. ¶ 27. The Myers Complaint also accuses the NFL of “a decade and a half of burying its head in the sand.” Id. ¶ 72.
175 Myers Complaint, supra note 44, ¶ 21.
176 Id. ¶ 41.
177 Id. ¶ 55.
178 Id. ¶ 69.
generally and to add a sense of urgency. Instead, the Myers Complaint kept these allegations quietly focused on scientific discovery. Each allegation tolls like a bell, temporarily sounding above the surrounding noise of congressional hearings and NFL statements.

D. Gaining Admissions and Requesting Remedies

In addition to giving notice of plaintiff’s claims and telling plaintiff’s story, a complaint has two other goals. First, the complaint’s factual allegations can force the defendant to admit at least some facts, which then do not have to be proven at trial. Second, the complaint must end with a request for relief. Celebrity complaints are full of factual allegations unlikely to be admitted, but there are enough contrary examples to show the technique. Furthermore, the requested relief in celebrity complaints shows how thoroughly a complaint drafter must think about which remedies would resolve the conflict.

1. Gaining Admissions

Jurisdictional rules vary, but the answer to a complaint usually responds to each allegation in one of three ways: admit, deny, or disclaim sufficient knowledge to admit or deny. The defendant must answer in good faith. Legal allegations—the legal claims or counts themselves—are expected to be denied. However, precisely phrased factual allegations should be admitted—or so a student would expect from the advice in legal writing texts. The authors patiently demonstrate the pitfalls of compound allegations and pregnant negatives, even though one school of thought is that the defendant will always find a way to deny (or at least not admit) a complaint’s allegations. Still, as an exercise in precision, and in anticipating the “reader in bad faith,” using complaint allegations for a lesson in precision may be worth doing. Furthermore, a discussion about admissions is an opportunity for students to transfer what they already have learned about evidence and trial strategy.

The Original Armstrong Complaint is full of allegations that would have been easy for defendants to dodge. For example, the following allegation would not have been admitted:

In addition, as a result of Mr. Armstrong’s cancer diagnosis in 1996, and his cancer treatment including surgery and chemotherapy, his physicians since that time have continued to monitor his physiology in general, and his blood in particular. Mr. Armstrong’s primary physician has stated that the measurements

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179 FAJANS ET AL., WRITING FOR LAW PRACTICE, supra note 7, at 58.
181 E.g., FAJANS ET AL., WRITING FOR LAW PRACTICE, supra note 7, at 77.
183 E.g., FAJANS ET AL., WRITING FOR LAW PRACTICE, supra note 7, at 58-59.
184 See supra note 145.
he saw from January 1997-October 2001 were within normal ranges and were not consistent with the use of EPO by Mr. Armstrong during that time period.\footnote{Original Armstrong Complaint, \textit{supra} note 43, ¶ 49.}

Defendants reasonably could claim not to know what Mr. Armstrong’s physicians have been saying or doing, or what “normal ranges” and “physiology in general” mean. No admission gained. In contrast, the following allegation in the same section of the Original Armstrong Complaint (“Comprehensive Drug Testing of Lance Armstrong”)\footnote{\textit{Id.} ¶¶ 41-61.} might be admitted:

Throughout his twenty-plus year professional career, Mr. Armstrong has been subjected to 500 to 600 drug tests without a single positive test. In the time period from the fall of 2008 through March 2009 alone, Mr. Armstrong was required to submit to 24 unannounced out-of-competition drug tests by anti-doping authorities. Each test was negative for performance-enhancing drugs.\footnote{Original Armstrong Complaint, \textit{supra} note 43, ¶ 42.}

A defendant might quibble about the meaning of “unannounced” or “anti-doping authorities.” But in general, the United States Anti-Doping Agency would be expected to know whether the facts alleged in this paragraph are true. In the Amended Armstrong Complaint, the allegation covers the same ground:

Throughout his twenty-plus year professional career, Mr. Armstrong has been subjected to 500 to 600 drug tests without a single positive test. Mr. Armstrong’s drug testing has included urine testing and blood testing. Those tests have been conducted by a variety of anti-doping agencies, including USADA. These agencies have tested for substance professional athletes are banned from using, including erythropoietin (“EPO”), anabolic steroids, and testosterone.\footnote{Amended Armstrong Complaint, \textit{supra} note 43, ¶ 16.}

The first sentence remains the same: Arabic numerals emphasize quantity, and “without a single positive test” retains its place of emphasis at the end of the sentence. The number of “unannounced” and “out-of-competition” tests is no longer alleged. Instead, there is more detail about which fluids were tested for which substances, and the United States Anti-Doping Agency is named.

Turning to the Myers Complaint, Myers would gain some leverage if the NFL admitted the following allegation:

By 1994, when the NFL’s committee was formed, scientists and neurologists alike were already convinced that all concussions—even seemingly mild ones—were serious injuries that permanently damage the brain, impair thinking ability
and memory, and hasten the onset of mental decay and senility, especially when they are inflicted frequently.\textsuperscript{189}

The NFL is more likely to admit the following allegation, although much depends on whether autopsy results on former players have been provided to the NFL:

To date, neuroanatomists have performed autopsies on 13 former NFL players who died after exhibiting signs of degenerative brain disease. Twelve of these players were found to have suffered from CTE.\textsuperscript{190}

In the Modern Family Complaint, the first allegation below would be admitted, but the second would be denied:

Each Plaintiff has an employment agreement with Fox, which has produced Modern Family since production of the show began in 2009. Fox sells Modern Family to ABC, which broadcasts the show to the public.\textsuperscript{191}

Plaintiffs’ employment agreements (the “Agreements”) are personal service contracts which bind Plaintiffs to work on Modern Family (and preclude them from other work) beyond seven years after the execution of the Agreements, which marked the commencement of Plaintiffs’ services under the Agreements.\textsuperscript{192}

The first allegation states simple facts which this defendant could be expected to know. There is no reason for the defendants to force the plaintiffs to establish these facts through discovery or at trial. Here an admission would work the way admissions should. In contrast, the second allegation above appears among the complaint’s factual allegations, but it is a series of legal conclusions: that the agreements are “personal service contracts,” that they “bind” and “preclude” for more than seven years, and that the “execution of the Agreements” started the relevant time period. If this allegation were admitted, the plaintiffs would have everything they need to win.

2. Requesting Remedies

The last section in the body of a complaint is the “prayer for relief,” also known as the “ad damnum clause.” Complaint drafters follow some conventions in this list of remedies: the paragraph numbering ends, the first word is “wherefore,” and the last item in the list is a catchall phrase like “such other relief as the Court deems proper.”\textsuperscript{193} Monetary damages often can be

\textsuperscript{189} Myers Complaint, supra note 44, ¶ 29.

\textsuperscript{190} Id. ¶ 23.

\textsuperscript{191} Modern Family Complaint, supra note 47, ¶ 16.

\textsuperscript{192} Id. ¶ 17.

\textsuperscript{193} E.g., Ray & Cox, supra note 7, at 265 (explaining that the “any other relief” catchall matters for default judgments).
proven later, but injunctive relief should be asked for with some specificity. There are no opportunities here for persuasion; the challenge is to think carefully about what the client wants.

The Abu Aita Complaint ends with a paragraph that reflects different conventions in complaint drafting.

**PRAYER AND AD DAMNA**

WHEREFORE, and for the foregoing reasons, your plaintiff ever prays: (i.) that he be awarded compensatory damages in an amount to be determined by the trier of fact or else the sum of Ten Million Dollars ($10,000,000), against your defendants, jointly and severally; (ii) exemplary damages in the sum of One Hundred Million Dollars ($100,000,000); reasonable attorneys’ fees, & costs to follow.; (iv) [i]n addition, your plaintiff hereby demands injunctive relief, both preliminarily as well as permanently, enjoining your defendants to withdraw the “Brüno” Movie from commercial distribution by whatever means.

This prayer for relief informs defendants and the court that plaintiff wants both monetary damages and injunctive relief. Students may have comments about the mechanics of the paragraph (why not list the items vertically? Why not include the catchall phrase at the end?). But the more interesting discussion would be about remedies. What research supports the requested dollar amounts? Is the injunctive relief requested realistic? If the court were inclined to grant a preliminary injunction along these lines, what questions would it have for the plaintiff? What other injunctive relief could the plaintiff have asked for? Some examples are a clarification or apology printed in local newspapers, or contributions to the plaintiff’s charity, the Holy Land Trust. Students may brainstorm many creative options that, even if never ordered by the court, may be worth requesting.

Turning to a second example, the Abramyan Complaint ends with a thorough prayer for relief, much like a checklist:

WHEREFORE, Plaintiff, on behalf of herself and on behalf of the members of the Class defined herein, prays for judgment and relief on all Causes of Action as follows:

A. An order certifying that the action may be maintained as a Class Action;

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194 CALLEROS, supra note 7, at 395 (“Consult local rules” about pleading dollar amounts); FAJANS ET AL., WRITING FOR LAW PRACTICE, supra note 7, at 43 (explaining that whether “specific amounts must be pleaded” depends on the jurisdiction); accord BRIDGES & SCHIESS, supra note 7, at 35 (“Little good can come of pinning your client down to a specific amount. Plead too low and you have capped your client’s recovery. Plead too high and the client looks greedy.”).

195 BRIDGES & SCHIESS, supra note 7, at 35.

196 Abu Aita Complaint, supra note 42, at 13.

197 Abu Aita Complaint, supra note 42, at 3.
B. An order enjoining Defendants from pursuing the policies, acts, and practices complained of herein and requiring Defendants to pay restitution to Plaintiff and all members of the Class;

C. Actual damages;

D. Punitive damages;

E. Pre-judgment interest from the date of filing this suit;

F. Reasonable attorneys’ fees;

G. Costs of this suit; and

H. Such other and further relief as the Court may deem necessary or appropriate.\textsuperscript{198}

This prayer for relief reinforces the mechanics of complaint drafting. The vertical list is user-friendly. It begins with the first hurdle in the case—certification of the class—and ends with the customary catch-all phrase. To reinforce lessons in remedies and research strategies, students could be asked about the legal basis for punitive damages.

Finally, the Original Armstrong Complaint is specific in its request for three different types of relief:

a. As to Counts I, II, and III, preliminary and permanent injunctive relief staying the asserted requirement that Mr. Armstrong elect, by July 14, 2012, or any other date, arbitration of the June 12, 2012 and June 28, 2012 charges, or accept the sanctions specified in those documents;

b. As to Counts I, II, and III, preliminary and permanent injunctive relief enjoining Defendants from imposing any sanction, or imposing any costs of fines on Mr. Armstrong, or taking any action with respect to disqualification of competitive results, awards, titles, medals, or prizes held by Mr. Armstrong, based on the allegations in the June 12, 2012 and June 28, 2012 letters;

c. As to Counts I, II, and III, preliminary and permanent injunctive relief enjoining Defendants from all other actions in furtherance of pursuing doping charges, imposing sanctions, or taking any action with respect to disqualification of competitive results, awards, titles, medals, or prizes held by Mr. Armstrong based on the allegations from the June 12, 2012 and June 28, 2012 letters . . . \textsuperscript{199}

\textsuperscript{198} Abramyan Complaint, \textit{supra} note 46, at 27.

\textsuperscript{199} Original Armstrong Complaint, \textit{supra} note 43, at 77-78.
If the relief were granted, Mr. Armstrong would gain three things. First, he would not have to submit to what he alleges is a Hobson’s choice. Second, he would not be at risk of sanctions or fines. Third, he would not be at risk of “other actions in furtherance of pursuing doping charges.” If there are “charges” or “allegations” other than those in the specified letters, then the USADA would be able to pursue them. In short, these requests for injunctive relief show organization and some specificity.

Thus, celebrity complaints show two tactical considerations. Factual allegations, if drafted precisely, may lead to admissions and make trial preparation more efficient. However, storytelling may trump that goal. The prayer for relief reinforces lessons in Remedies. On the surface, the prayer for relief seems to be a formulaic component. However, celebrity complaints show that organization helps the reader and brainstorming potentially helps the client.

III. CONCLUSION

Celebrity complaints are an untapped resource for the law school classroom. Supplementing other course materials, they offer as much or as little as needed. Samples in general, and celebrity-oriented samples in particular, engage students and lend themselves to discussions of a wide range of topics. They also are easy to find online, and easy to use either as simple handouts or for student presentations.

Furthermore, numerous courses could benefit from the inclusion of celebrity complaints; legal writing courses are not their only “home.” In addition to writing techniques, celebrity complaints reinforce lessons in civil procedure, remedies, and even legal research. More than the mechanics of complaint drafting are on display here: celebrity complaints can be used to show narrative theory.

Complaints not involving celebrities are, of course, available for those who are unwilling to give class time to, for example, Kim Kardashian. However, celebrity complaints may appeal to students as more “real-world” than the sample complaints in their books. At the same time, celebrity complaints are not so “real-world” that they require background knowledge like, for example, an environmental complaint, which requires knowledge of complex federal and state laws, as well as science. Celebrity complaints balance many pedagogical interests, and add a dash of Hollywood glamour (or schadenfreude) to boot.

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200 Id. ¶ 214.
201 In the Amended Armstrong Complaint, these three requests remain substantially the same. The “as to Counts I II & III” phrase is dropped from the beginning of each request and replaced with “Temporary,” as in “temporary, preliminary and permanent injunctive relief.” Amended Armstrong Complaint, supra note 43, at 23-24. Also, each request identifies the USADA and its CEO Travis Tygart by name. Id.