October, 2003

The Devil's in the Details for Delusional Claims

Gerald Lebovits

Available at: https://works.bepress.com/gerald_lebovits/41/
Whiplash at any speed

Inside
Complex Litigation Rules
Third Party Coverage Rules
Ethnic Profiling Cases
No-Fault Insurance Abuses
The Devil’s in the Details
For Delusional Claims

BY GERALD LEBOVITS

Many courts have considered claims from distraught litigants. If you are a judge, how do you use the power of an opinion to adjudicate a peculiar claim? If you are an attorney, how do you face off against a disturbed self-represented adversary? Delusional claims are, regrettably, common enough that law-review articles have been written about them.2

The issue for the opinion writer, for whom the way something is said counts for as much as what is decided, is how to resolve these claims quickly — yet sympathetically and justly. For the attorney, the issue is how to combine integrity and decorum with effective advocacy.

Below are some examples of how opinion writers have treated delusional claims. Some approaches in these cases work. Some fail.

After discussing Stephen Vincent Benét’s classic short story “The Devil and Daniel Webster,” the court did the Devil’s work in United States ex rel Mayo v. Satan & His Staff3 by considering whether it had jurisdiction over the defendant, Satan. Satan & His Staff is the most famous case on the subject, and the most cited.

A plaintiff with a devilish name sued in I Am the Beast Six Six Six of the Lord of Hosts in Edmond Frank Macgillivray Jr Now. I Am the Beast Six Six Six of the Lord of Hosts Iefmijn. I Am the Beast Six Six Six of the Lord of Hosts. I Am the Beast Six Six Six Ottolohiefmijn. I Am the Beast Sssotloheimfijn. I Am the Beast Six Six Six. Beast Six Six Lord v. Michigan State Police. The court dismissed the plaintiff’s federal section 1983 claim on Eleventh Amendment grounds, but only after discussing his religion at some length and shortening the plaintiff’s name to “I am the Beast.”

In Kent v. Norman v. Reagan,6 a man with a copyrighted name sued President Reagan for causing “civil death” without legislation and to enjoin the “White Line Fevers from Mars,” a fruit company that shipped marijuana and cocaine in fruit boxes for Mother’s Day. After the court dismissed the case as frivolous, the Ninth Circuit reversed. In his second go-round, the district judge dismissed for want of prosecution. Before dismissing, however, he recited a poem the plaintiff wrote about birds, crickets, ants, and a butterfly and then explained, somewhat sardonically, “It is possible, of course, that [plaintiff’s poem] is not intended as a claim at all, but as a literary artifact. However it may be that, liberally construed, the references to the birds, crickets, ants, and butterfly could constitute a Bivens claim. See Bivens v. Six Unknown–Named Agents, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971).”

The petitioner in Collins v. Henman8 brought a federal habeas corpus proceeding to challenge a state conviction. He argued that his double-murder conviction and 175-year sentence were illegal because, among other things, “Petitioner is not Raymond Collins but the ‘Prophet Muhammed,’ and he was convicted under the wrong name.” The Prophet may have died in 632, but the court wrote: “it is true that, as plaintiff and appellant, the Prophet was the Prophet. As the court wrote, “it is not the place of a federal court to decide which is the true faith or who is a true prophet.”

The court then dismissed the action because the petitioner failed to exhaust state remedies.

A persecuted cyborg-woman sued Presidents Jimmy Carter and Bill Clinton, and others, for $5.6 billion in Tyler v. Carter.11 She claimed that the defendants reinstated slavery, played loud rock music, and used airplanes and helicopters to strafe her dorm room. In an extensive opinion, the court dismissed the suit, respectfully but firmly.

The court in Searight v. New Jersey dismissed a claim of a prisoner who heard voices after a prison physician injected his left eye with a radium electric beam. Before dismissing, the court speculated that “taking the facts as pleaded, and assuming them to be true, they show a case of presumably unlicensed radio communication, a matter which comes within the sole jurisdiction of the Federal Communications Commission, 47 U.S.C. § 151, et seq.” With sarcasm everyone but the plaintiff will detect, the court also suggested that the plaintiff block the broadcast to the antenna in his brain by grounding his antenna with a paperclip chain extending from his trousers to the floor. Searight is an example of humor at the expense of mentally ill litigant.

Without a sympathetic ear and a just heart, a grammatical mind is the Devil itself.

A California intermediate appellate court in Lodi v. Lodi pondered the claim of a man who sued himself for raiding his own trust fund and who then represented both sides on appeal. Not surprisingly, Mr. Lodi prevailed below and on appeal. Not surprisingly, he also lost below and on appeal. After it affirmed the lower-court’s dismissal, the court wrote:

In the circumstances, this result cannot be unfair to Mr. Lodi. Although it is true that, as plaintiff and appellant, he loses, it is equally true that, CONTINUED ON PAGE 60
as defendant and respondent, he wins! It is hard to imagine a more even handed application of justice. Truly, it would appear that Oreste Lodi is that rare litigant who is assured of both victory and defeat regardless of which side triumphs. The court closed with a costly assessment: "[E]ach party will bear his own costs.

The Second Circuit in Miller v. Silverstein affirmed a 28-page order that rejected a Vietnam veteran’s claim for $49 million from President Clinton and others for conspiring to commit dozens of assassinations, for paying off the New York Police Department to distribute heroin, and for laundering the profits through Goldfingers International, a company that provides nude dancers for dance clubs.

In Gordon v. Secretary of State of New Jersey, a prisoner charged that he was denied the presidency of the United States because of his illegal incarceration. The court wrote that “nothing prevented Gordon from seeking to gain the votes of enough electors to have been elected President of the United States. The classic example is that of Mayor Curley of Boston, who was re-elected while in jail. Eugene V. Debs ran for President four times and was a candidate while in jail. Gordon was free to do the same.”

Another case, Peek v. Ciccone, concerned a prisoner’s suit to be allowed to tell the Pope that he is Christos, the spirit of the reincarnated Christ. The prisoner prevailed:

The court dismissed the suit with these remarks:

This Court is quite sure that, if the villagers who heard the boy cry “wolff” one time too many had some form of reassurance that the boy’s last cry was sincere, they would have responded appropriately and he would be alive instead of being dinner for the ravenous canine. If anything, that story teaches that repetitious tomfoolery can result in disaster for the knave. This Court will not turn a deaf ear to Plaintiff’s future cries. However, it will require Plaintiff to structure his pleas for help in a more sincere manner so that the energies of the villagers are not wasted on the repeated runs up the grassy hill atop which the mischievous boy sits laughing.

The plaintiff-appellant in Schlesinger v. Salimess was told the following: “If your meal is not tasty, you do not throw a tantrum, upset the other diners, and then sue the mayor of the town where the restaurant is located. Perhaps the dispute about the bill was meat for small-claims court in Wisconsin; it was nothing to make a federal case about.”

The following is the entire opinion, other than the decretal paragraph, in Jones v. God. In what purports to be a civil rights action, the only defendants identified by name are God and Jesus. The complaint simply states “Treating Inhuman Sex.” The papers were accompanied by a petition to proceed in forma pauperis and it would appear that plaintiff qualifies to do so. Nevertheless, the complaint must be dismissed because quite apart from the question of service on the principal defendants, there is no factual basis for the exercise of this court’s subject matter jurisdiction. Fed. R. Civ. P. 12(b)(3).

The defendant in Trustees of Columbia University v. Jacobsen was sued for not paying tuition. He counterclaimed because he was not taught wisdom. Defendant lost, with these words:

We note, in passing, that he has cited no legal authority whatsoever for his position. Instead, he has submitted a dictionary definition of “wisdom” and quotations from such works as the Bhagavad-Gita, the Mundaka Upanishad, the Analges of Confucius and the Koran; excerpts from Euripides, Plato and Menander; and references to the Bible. Interesting though these may be, they do not support defendant’s indictment of Columbia. If his pleadings, affidavit and exhibits demonstrate anything, it is indeed the validity of what Pope said in his Moral Essays:

A little learning is a dangerous thing:

Drink deep, or taste not the Pierian spring . . . .

A little learning is also a dangerous thing for judges and advocates who make merry at the plight of the mentally disturbed. One ought never laugh at or make fun of delusional claims or claimants. Don’t delude yourself: Doing so is unproductive and brushtish. Without a sympathetic ear and a just heart, a grammatical mind is the Devil itself.

GERALD LEBOVITS is a judge of the New York City Civil Court, Housing Part, in Manhattan. An adjunct professor at New York Law School, he has written Advanced Judicial Opinion Writing, a handbook for New York’s trial and appellate courts, from which this column is adapted. His e-mail address is GLebovits@aol.com
A safe and ethical policy in Housing Court, where I work, is to ask the court to appoint a guardian ad litem for the disturbed self-represented adversary.


See id. at *2 n.1.


Id. at 477.


Id. at 176.

151 F.R.D. 537 (S.D.N.Y. 1993) (Haight, J.), aff’d, 41 F.3d 1500 (2d Cir. 1994) (table).


Id. at 632, 219 Cal. Rptr. at 119.


Id. at 1027 (footnote omitted).