

University of Louisville

From the Selected Works of Kurt X. Metzmeier

December, 2019

Researching the Legal History of Santa Claus

Kurt X. Metzmeier



Available at: https://works.bepress.com/kurt_metzmeier/32/

Researching the Legal History of Santa Claus

Kurt X. Metzmeier

For most lawyers, the figure of Santa Claus in the law is an unpleasant memory of an establishment clause essay question on a Constitutional Law exam where they had to decide what combination of Christmas trees, electric menorahs and inflatable Santas a city-owned mall could display without being reprimanded by the U.S. Supreme Court.

Alas, *Lynch v. Donnelly* (1984) and *Allegheny County v. Greater Pittsburgh ACLU* (1989) have been a lump of coal in the fall semester grades stocking of many a law student.

But the white-bearded one made his first appearance in the law reports a hundred years before Justice Black erected “a wall of separation between church and State” in *Everson v. Board of Education* (1947).

Indeed, Santa Claus has featured in cases ranging in subject from IP law to maritime law to the law of personal injury. And a Westlaw or Lexis keyword search shows him joining the Easter Bunny and Tooth Fairy as symbols of naïve incredulity.

The Life of Claus

Despite his claims of antiquity, Santa Claus joins Bruce Springsteen in being “born in the USA.”

True, he can count Saint Nicholas of Myra, the Byzantine bishop from what is now Demre, Turkey, as a distant ancestor, but like the first Springsteen to enter the records of North America, Johannes Springsteen (ca. 1660), Santa Claus must point to the Netherlands for his immediate origins.

The entry for “Santa Claus” in the *Oxford English Dictionary*, 2d finds him an Americanized version of Sinterklaas or Sint Klaas. From the early published mentions of Santa Claus collected by the OED, it seems clear that he was born in New York (formerly New Amsterdam) in the early 1800s, out of the same marriage of Dutch culture and New York commerce that brought us Wall Street (called Da Wal Street on early maps).

Thus, it is not surprising that the first mention of the jolly elf in Louisville papers (in 1845) was in advertisements for “Santa Claus presents,” the small gifts associated with Christmas given children along with nuts and oranges in their stockings.

Santa in the Law Books

The first legal notice of the name Santa Claus was in a federal admiralty case in 1846. Two vessels had collided, one of them the steamship *Santa Claus*. The ship had run into another boat, which was traveling with only one light burning although testimony indicated that it could be seen. (There is no evidence that the light was “so bright it could guide a sleigh” or steamboat that night). Sadly, in a decision that has gone down in history, the court ruled against the *Santa Claus*.

The facts and the actual legal claim in another early case is obscure, due to the extreme spoliation of the court record which was so egregiously mutilated that we have no idea what it was about. However, the case name may explain the problem: *Santa Claus v. Santa Claus of Santa Claus* (Ind. 1939). Clearly that much Santa Claus in one place warped the universe sending the court papers into a parallel dimension.



Who Owns Santa Claus?

The use of the merry fat man’s image in commerce takes up much of the North Pole’s legal work.

Typical is *Santa’s Workshop Inc. v. Sterling*, (N.Y., 1956), which pitted a Christmas-themed entertainment attraction against a nearby private zoo/fur farm in the Adirondack region. Each attraction advertised to potential visitors via billboards.

The trouble started when the defendant decided to abandon his marketing theme “Nature’s Magnificent Killers” for a more family-friendly one based on that of the plaintiff’s advertising of his holiday park featuring Santa’s workshop at the North Pole. The new ad campaign included “large cutouts of Santa Claus” that bore a “marked resemblance to the plaintiff’s Santa Claus advertising.”

Now, while this seems like the plot of an Adam Sandler movie, no campaign of increasingly elaborate pranks followed, only a lawsuit, which Santa’s Workshop won on the state law tort of unfair competition. (Presumably, the defendant returned to his “death-dealing animals” advertising strategy).

In *Doran v. Sunset House Corp.*, (S.D. Cal., 1961), the case involved infringement of a copyrighted decoration, a printed plastic bag that when stuffed with paper created a 5’6” Santa Claus. The federal court ruled against the infringing party and ordered that all the offending figures of Santa Claus “must be destroyed.”

Bad Santas

“Santa Claus must be destroyed” might be the tagline for the next two cases. The first concerns a small 14-inch wooden Santa Claus figure, sold by Sam’s Club.

In November 1994 in the Kenner, Louisiana store, Mary Davis was shopping for the holidays. While crouching to view some goods, the three-pound figure fell from a shelf directly hitting her on the head, giving her a sizable knot. She continued to shop but later left and soon hired an attorney.

The trial court jury found against her, shocking the judge who set aside the verdict. Ultimately, the Louisiana Supreme Court in *Davis v. Wal-Mart Stores, Inc.* (2000) restored the jury verdict, leaving her with nothing more than an abiding dislike for Santa Claus and bayou juries.

The worst “bad Santa” case involves Jackie Onassis, the widow of the late president John F. Kennedy. A regal celebrity in the 1970s, she was tormented by one of the most notorious paparazzi photographers, Ronald Galella.

He ambushed her at many events, so often that her three Secret Service agents spent much of their time keeping him away. Finally, Galella was arrested. He then sued Onassis for false imprisonment but in the course of that trial the combative Galella was hit with a number of contempt and perjury allegations.

Among the matters discussed in *Galella v. Onassis* (S.D. N.Y., 1972) was an incident at the 21 Club in Manhattan. Onassis testified that “Santa Claus lunged up at me, trying to get next to me, pushing, scuffling and saying ‘Come on Jackie, be nice to Santa, won’t you. Come on, Jackie, snuggle up to Santa.’”

That “Santa” was Galella in costume and the court ultimately slapped him with multiple contempt fines and enjoined him from ever photographing Jackie O again. (The court was kinder to Galella than Marlon Brando who knocked out five of the photographer’s teeth).

In the Name of Claus

In two early 2000s cases, courts were asked to decide whether ordinary, non-elfin humans could change their name to Santa Claus. In 2001, Utah said yes.

However, in 2000, an Ohio court ruled firmly against the idea. In rejecting the name-change petition before it, the court summed up the cultural place of Santa Claus far better than I could:

“The petitioner is seeking more than a name change, he is seeking the identity of an individual that this culture has recognized throughout the world, for well over one hundred years. Thus, the public has a proprietary interest, a proprietary right in the identity of Santa Claus, both in the name and the persona. Santa Claus is really an icon of our culture; he exists in the minds of millions of children as well as adults. The history of Santa Claus—the North Pole, the elves, Mrs. Claus, reindeer—is a treasure that society passes on from generation to generation, and the petitioner seeks to take not only the name of Santa Claus, but also to take on the identity of Santa Claus. Although of people every year do take on the identity of Santa Claus around Christmas, the court believes it would be very misleading to the children in the community, particularly the children in the area that the petitioner lives, to approve the applicant’s name change petition. Therefore, for the foregoing reasons, the court finds that it would be against public policy to grant the application of the petitioner.” *In re Handley*, (2000).

Shipwrecked, fought over, sued, impersonated, arrested, dragged in and out of shopping malls and beloved, Santa Claus has trooped into American courts for almost 175 years. But the North Pole’s most famous resident remains jovial, distributing good cheer to all children, even those of lawyers.

So, in his famous, mostly non-denominational belly laugh (check the latest Con Law cases to be sure), I bid you a happy “ho ho ho” for the holidays!

Kurt X. Metzmeier is the associate director of the law library and professor of legal bibliography at the University of Louisville Brandeis School of Law. He is the author of *Writing the Legal Record: Law Reporters in Nineteenth-Century Kentucky*, a group biography of Kentucky’s earliest law reporters, who were leading members of antebellum Kentucky’s legal and political worlds. ■

