

Harmless Error

A TRULY MINORITY VIEW ON THE LAW

Santa Strikes Back

BY ANDREW J. McCLURG

Readers may recall that holiday cheer was dampened two years ago when the children of the world filed a class action against Santa Claus (See "Santa Suit," January 2000 *ABA Journal*, page 16). That action remains pending as judges who have received gifts from the defendant continue to recuse themselves.

Now, Mr. Claus is fighting back with his own class action:

Complaint

Plaintiff, Santa Claus, aka St. Nick, Kris Kringle and Father Christmas, sues John and Jane Does 1-3 billion and alleges:

1. This is an action for damages and equitable relief.
2. Plaintiff is a jolly old soul engaged in a complex enterprise of global commerce.
3. Defendants consist of the class of all kids in girl- and boyland who have received merchandise from plaintiff over the years without compensation.

4. **Rescission.** Throughout the fall, plaintiff and his entourage have met with defendants at various shopping malls and department stores to negotiate contracts for the delivery of goods. Each negotiating session is marked by grossly unequal bargaining power as defendants literally climb on top of plaintiff to dictate their unreasonable demands.

5. To persuade plaintiff to accede to their demands, defendants employ numerous forms of coercion and intimidation, including but not limited to pitiful pleas, doleful looks, drooling, beard pulling and high-pitched screams. Defendants frequently vomit on plaintiff to "seal the deal."

6. These sessions result in billions of unconscionable contracts requiring defendant to personally deliver trillions of packages on a single evening, to wit, Dec. 24, to every ZIP code in the world using a costly and inefficient shipping method.

7. **Labor law violations.** The

only consideration plaintiff receives for his extraordinary services is stale cookies and spoiled, lowfat milk. Although he is hundreds of years past retirement age, plaintiff has no 401k plan or other retirement security.

8. Whereas defendants used to be satisfied with little tin horns and little toy drums that go rooty-toot-toot and rummy-tum-tum, they now demand expensive electronic equipment and name-brand athletic apparel. As a result, plaintiff has been forced to lay off his unskilled workforce of elves and spend long overtime hours assembling PlayStations® and stitching Swoosh® marks.

9. **Reckless endangerment.** Contrary to popular belief, it is not fun to ride in an open sleigh. It is a terrifying experience, especially at high altitudes. Yet, rather than support reforms to improve plaintiff's working conditions, defendants show callous indifference by seeking to actually increase the hazards with repeated calls to "Let it snow, let it snow, let it snow."

10. **Fraud.** Every year, defendants induce plaintiff to deliver the subject goods by affirmatively misrepresenting their behavioral status, providing false assurances that they have been good when, in fact, they have often been rotten.

Upon information and belief, despite receiving ample notice that plaintiff is coming to town, defendants continue to pout, cry and shout.

WHEREFORE, plaintiff prays for damages, equitable relief, and that everyone have a merry little Christmas and happy holiday, despite the fact that he is a little ticked off right now.

(Dear readers: After more than four years, this is my last Harmless Error column. It's been fun! Thanks for all your support.)

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