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Notes and Comments: A Law Review Article

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Abstract

This is the first sentence of a generic law review article. Just like the opinions, treatises, and other legal writings cited within it, it will be convoluted, confusing, long winded, and, worst, and, worst of all, excessively footnoted.

Notes and Comments: A Law Review Article

Patric M. Verrone*

I. INTRODUCTION: WHAT THIS ARTICLE IS ABOUT

This is the first sentence of a generic law review article.¹ Just like the opinions, treatises, and other legal writings cited within it,² it³ will be convoluted, confusing, long winded, and, worst of all, excessively footnoted.⁴

The argument to be presented in this article is as follows:⁵ A number of difficult cases have been erroneously decided by underpaid, overworked appeals court judges.⁶ The cumulative effect of these cases is a bad trend in the law which has caught the eye of a research junkie⁷ who is looking for tenure or an appointment to the bench.⁸ This "scholar,"⁹ who needs to get something published quick,¹⁰ argues that this bad trend is based on a bad standard of review, and proposes an alternative standard of review which will correct the trend.¹¹ Unfortunately, the article is never read,¹²

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1. This is the first footnote of said article.
2. "It" refers to Patric M. Verrone, *Notes and Comments: A Law Review Article*, 17 NOVA L. REV. 733 (1993).
3. *Id.*
4. See? Four footnotes already (*see supra* notes 1-4).
5. Made you look.
6. Actually, by underpaid, overworked *law clerks*.
7. *See supra* note *.
8. So that he can get some underpaid, overworked law clerks of his own, *see supra* note 5, and contribute to a new and equally bad trend in the law.
9. Quotes provided for the sarcasm impaired.
10. And what could be quicker than a series of paraphrased excerpts from someone else's writings edited and cite-checked in such detail that any original writing on the part of the author is reduced to the biographical note? *See supra* note *.
11. They might as well have just copied the dissenting opinions word-for-word and lay in one big, fat citation, followed by a bunch of *Ids.*
12. Don't even think that the footnotes get glanced at. If they were really important, they'd print them in regular sized type.

much less cited,¹³ and the tenure or the appointment will be denied anyway, because of race, gender or lack of country club contacts.

II. OUTLINE: WHAT YOU WILL BE READING BEFORE YOU READ IT

Having presented an overview of its thesis,¹⁴ this article will now present an overview of itself.¹⁵ Then an overview of the overview will be presented.¹⁶ Section II will be followed by Section III¹⁷ which will deal with the typical facts of the cases in question, and the opinions interpreting those facts.¹⁸ Then, in Section IV, the erroneous nature of those opinions will be presented in detail, along with snide, pseudo-intellectual remarks about the judges who wrote those opinions.¹⁹ Finally, Section V will conclude with a line-by-line reiteration of this section, only in past tense.²⁰

III. THE LAW IN QUESTION: THE CRUX OF THE ARTICLE

A. *A Brief Factual Detour From the Argument Just to Fill Space*

The trend in the law in question, hereinafter referred to as "The Trend," appears in cases, hereinafter referred to as "The Trend Cases," which have a similar fact pattern, hereinafter referred to as "The Similar Fact Pattern" or "Cap'n Bubba."²¹ The facts are simple:²² A client comes into a lawyer's office claiming he has been wronged.²³ After accepting a large

13. Cf. Patric M. Verrone, Note, *The Abscam Investigation: Use and Abuse of Entrapment and Due Process Defenses*, 25 B. C. L. REV. 351 (1984). I wrote the article. Now at least it will be cited somewhere. I'll have to remember to Shepardize it the next time I get some free Lexis time.

14. See *supra* notes 4-13 and the accompanying text (what you just read.)

15. See *supra* notes 14-20 and the accompanying text (what you're reading now.)

16. See *supra* notes 21-56 and accompanying text (what you will be reading next.)

17. Duh, I can count to three in Roman Numerals, George. Now can I play with the rabbits? See STEINBECK, *OF MICE AND MEN*, 28-33 (1937).

18. We're also planning a puppet show.

19. And maybe some dirt from their personal lives.

20. Don't worry. You'll never get that far.

21. No one really knows why.

22. As are the people who bring them to you.

23. Cf. Plaintiff v. Defendant, 123 Trial Report 45, 67 (1989).

retainer, the lawyer represents the client in a lawsuit against the alleged wronging party.²⁴ One party wins the lawsuit,²⁵ and the other party loses.²⁶ The losing party gets mad, fires his first lawyer²⁷ and hires a new lawyer to represent him on appeal.²⁸ The appeal goes on for years, costs millions of dollars, and no one is happy with the outcome²⁹—especially the taxpayers.³⁰ Over time, similar cases are heard in various circuits.³¹ Eventually, one case gets to the United States Supreme Court and there is a mad rush to influence the court's impartial decision-making process with articles like this.³²

B. Another Subsection to Justify Including Subsection III. A.

Having exhausted a discussion of "The Similar Fact Pattern" of "The Trend Cases," it will now be necessary to describe a variation on the facts.³³ These facts³⁴ are derived from the case of *Finnegan v. Riverrun Funeral Home*.³⁵

Someguy, master's son—Homecoming . . . Seize [his] best Fred, aiding and abedding Mrs. Someguy. (Mid-wifing.) Wifespeaks,

24. *Id.*

25. *Id.*

26. *Id.*

27. Client v. Attorney, 123 Malpractice Reports 45, 67 (1989). Aren't you glad I didn't say "*Id.*" again?

28. Appellant v. Appellee, 22 Cal. Ripkn. 2165, 2166 (1991).

29. I take that back. People who publish case reporters might get a kick out of it.

30. Noted tax protester Howard Jarvis said, "All lawsuits are frivolous. I know people who will sue if someone looks at them funny." Jarvis v. Someone Who Looked at Him Funny, 123 U.S. 45, 67 (1989).

31. Thanks to the principles of *stare decisis*, and the uniform rule of law, the circuits come up with contradictory rulings.

32. Not to mention with angry protesters screaming at each other and wielding unnecessarily nasty caricatures of recently appointed justices. I guess placard painters would be happy right about now, too.

33. Because these variant facts are potentially hazardous to the author's overall thesis, they will be presented in a confused, garbled, and unintelligibly obtuse way so that no one could understand them, much less use them in a counter-argument. Pretty shrewd, eh?

34. The reader should know up front that these facts are distinguishable from the earlier facts.

35. 123 Dub. Ltrs. 45, 67 (1939). I told you they would be confusing.

sass, "Oh oh, big mouth's here. Now the whole neighborhood will know."³⁶

Clearly, these are distinguishable facts from "The Similar Fact Pattern" and should not be considered in a discussion of "The Trend."³⁷ In every one of "The Trend Cases," the higher court either affirmed or reversed the trial court verdict. This astonishing pattern was based on a standard of review which will be examined in the next section.

IV. BAD HEARINGS: WHY I'M SMARTER THAN THE SUPREME COURT

In the last section, an astonishing pattern of review based on a typical fact pattern was examined. Having discussed the typical fact pattern,³⁸ stating superfluously that the fact pattern was, in fact, discussed,³⁹ and then reiterating that statement a third time for comic effect,⁴⁰ it is evident that the courts have applied a standard of review in these cases. For years, this standard of review has been the "Burden of Proof" standard.⁴¹ This standard states that the standard brought to bear is the standard that a reasonable man would bring to bear if a reasonable man could bear to bring the standard to bear.⁴² The courts have called this old standard "The Old Standard." Unfortunately, "The Old Standard" violates an older standard of common law known as *lex principus latinus bogus*.⁴³ Accordingly, it is unacceptable for numerous,⁴⁴ profound⁴⁵ reasons.

A new standard of review is warranted. This new standard will be called "The New Standard."⁴⁶ Interestingly, commentators⁴⁷ and several

36. Apologies to James Joyce and Jake La Motta.

37. The reader is inclined to believe this otherwise absurd assertion for several reasons: a) It is the second time it was asserted (*see supra* note 34), b) it began with the word "clearly" so it must be true, and c) believing it means getting to the end of the article faster.

38. *See infra* note 39.

39. *See supra* note 38.

40. Weren't we supposed to have a puppet show somewhere in here?

41. *Placard Printers v. Case Reporter Publishers*, 123 U.S. 45, 67 (1989).

42. *But see* "The Woodchuck Standard" in *Woodchuck Local 385 v. Packard Saw Mill*, 123 U.S. 45, 67 (1989).

43. Look, George, I can *speak* Roman, too. Now can I play with the rabbits?

44. Too numerous, in fact, to mention.

45. Also, too profound to mention.

46. Aside from everything else, this standard makes the "Reasonable Man" a "Reasonable Person" and is, therefore, politically correct.

47. *See Dick*.

1993]

lower courts⁴⁸ have espoused this so-called "new" standard for some time⁴⁹ making it, in effect, an "old" standard. Nevertheless, the old "new" standard is still superior to the new "old" standard.⁵⁰ Furthermore, it fulfills the classic three-pronged test for adoption of a new standard.⁵¹ Accordingly, it behooves courts to reject "The Old Standard" in favor of "The New Standard."⁵²

V. CONCLUSION: FINAL THOUGHTS

Having previewed, overviewed, viewed, and reviewed the relevant facts, laws, and standards, it is evident⁵³ that the thesis of this article has been proven.⁵⁴ Accordingly, a conclusive paragraph would seem in order. Welcome to that paragraph. Can I offer you a drink? Perhaps some No-Doz? No? How about a quote from a notable Supreme Court Justice's famous dissenting opinion? Alright . . . In conclusion, courts reviewing "The Similar Fact Pattern" in "The Trend Cases" must buck "The Trend" and abandon "The Old Standard" in favor of "The New Standard" and, in so doing, adopt the words of the immortal⁵⁵ Justice Pierce Butler, "The judgment of the lower court is reversed. Now, when do we get the rabbits, George?"⁵⁶

48. See *Dick Run*.

49. *Run, Dick, Run*.

50. The new old standard is found in *Old Newsstands v. Standard News*, 123 U.S. 45, 67 (1989) and is not to be confused with Learned Hand's Handstand Standard in *Grandstand v. American Bandstand*, 19 N.Y. Met. 69, 86 (1926), or those old standards, "Mr. Sandman" and "Stand By Your Man" in *Chordettes v. Wynette*, 1 K.C. Kasem 40 (1989).

51. See AMERICAN LAW INSTITUTE, REPORT ON THE ADOPTION ON NEW STANDARDS 929 (1959). The three prongs are 1) it's new, 2) it's a standard, and 3) it fulfills the three-pronged test.

52. Cf. *Baby v. Bathwater*, 123 U.S. 45, 67 (1989).

53. Nay, indisputable.

54. And even if it hasn't, isn't it nice to see a page where there's more text than footnotes?

55. Actually, he died in 1939.

56. *Jenny Small Estate v. George Milton*, 123 U.S. 45, 67 (1937).



"We're hopelessly deadlocked—six of us grew up on 'Perry Mason' and six of us grew up on 'L.A. Law.'"

* CHARLES M. SEVILLA, *DISORDER IN THE COURT* 242 (1987) (Illustration by Lee Lorenz).