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# 'Tis But a Lawsuit!

*How Monty Python has crept into the legal system.*

BY JOHN G. BROWNING



When my local PBS station announced that it was broadcasting a Monty Python marathon, it brought back fond memories of dead parrots, the Ministry of Silly Walks, cross-dressing lumberjacks, and other favorite sketches from the satiric comedy troupe. As I set my digital video recorder, it struck me that many people out there came of age spouting lines from the groundbreaking *Monty Python's Flying Circus* television show or cult classic movies like *Monty Python and the Holy Grail*. Surely this British comedic invasion had not only swept through pop culture but had seeped into our legal system as well?

As it turns out, my suspicions were correct. The veteran funny men have left their mark on the legal system and vice versa. When they challenged the extreme editing of their episodes by ABC, it resulted in a landmark decision upholding an artist's right to protect the "moral integrity" of his or her work.<sup>1</sup> And after the members of the group were hit with a multimillion-dollar verdict in favor of a former manager seeking a share of profits from the musical *Spamalot* (adapted from *Monty Python and the Holy Grail*), John Cleese, Eric Idle, and company announced plans for a live reunion

series that they cheekily said was done to pay their lawyers.

But what about judicial opinions? A number of jurists have been content to vent their frustrations with absurd arguments or fact scenarios by characterizing them as being Pythonesque. Holding that a prosecutor's justification for a peremptory strike of a Hispanic panelist was wildly illogical, one California court said that it was "like something out of Monty Python."<sup>2</sup> Similarly, in considering a defendant's fraudulent receipt of workers compensation benefits following a staged robbery at the hotel where she worked, a Connecticut trial court commented that it seemed "like the robbery was staged by the Monty Python people."<sup>3</sup> And one Australian judge was so astonished at how badly various law enforcement agencies had bungled a fraud investigation that she asked, "Are you sure this isn't Monty Python?"<sup>4</sup>

For many judges, however, a particularly memorable sketch has been the source of inspiration. Construing a state law against unwanted commercial email, the Washington Supreme Court explained that spam as Internet jargon "arose out of a skit by the British comedy troupe Monty Python, in which a waitress can offer a patron no single menu item that does not

include spam: 'Well, there's spam, egg, sausage, and spam. That's not got *much* spam in it.'"<sup>5</sup> A New York judge bemoaning a law on home warranty protection for construction-related defects called it "a prime example of a law drafted by the New York equivalent of Monty Python's 'Ministry of Well-Intentioned But Ineffective Legislation.'"<sup>6</sup> In rejecting a high attorney's fee demand in a Fair Labor Standards Act case, a federal judge in New York reasoned that there was no need to incentivize attorneys to bring such cases given the challenging legal market, stating, "As Monty Python noted, 'Nobody expects the Spanish Inquisition,' and nobody expected the collapse in the legal market that began in 2008, and continues today."<sup>7</sup> In ruling that a pregnancy discrimination plaintiff hadn't mounted an adequate opposition to a summary judgment but rather merely contradicted it, the U.S. Court of Appeals for the 1st Circuit cited the group's bit "The Argument Sketch" as authority for the fact that "bare contradiction is plainly insufficient as an argument."<sup>8</sup>

The "Dead Parrot" sketch (also known as the "Pet Shop")—in which a frustrated customer tries to return a dead parrot to a pet shop owner who steadfastly refuses to believe that the

bird is in fact dead—is another perennial favorite of judges. A California appellate court testily rejected a particularly persistent probate litigant's attempts to rely on an earlier tentative opinion by pointing out that it was, "as the name indicates, tentative" and had later been withdrawn. The court said, "The tentative opinion has thus, in the words of John Cleese, ceased to be."<sup>9</sup> And Texas's own Judge Lynn Hughes of the Southern District channeled his inner John Cleese when he rejected a party's attempt to revive a long-expired obligation over oil leases:

Like the parrot in a *Monty Python* sketch, the interest has "passed on! ... is no more! It has ceased to be! It's expired and gone to meet its maker! This is a late [interest]. It's a stiff! Bereft of life, it rests in peace! ... It's run down the curtain and joined the choir invisible! This is an ex-[interest]!"<sup>10</sup>

Of course, while *Monty Python's* hilarious television incarnation clearly influenced judges, the movie *Monty Python and the Holy Grail*, an irreverent look at Arthurian legend, left an indelible mark as well. Commenting on the majority's interpretation that the statute of limitations in a medical malpractice wrongful death case could begin to run before death itself, former Justice Oliver Diaz of the Supreme Court of Mississippi referenced the classic scene where a peasant beseeches a traveling mortician to take away his dying relative.<sup>11</sup> Comparing the peasant's entreaties while the dying man insists "I'm getting better!" to wrongful death beneficiaries having to "drag their dying loved ones into court to squabble with the trial judge over the inconvenience of the victim's persistent pulse," Diaz wrote that "such absurd discussions" should be left "to the work of British comedy troupes and not to the courts of this state."<sup>12</sup> And when pro bono counsel Sandy D'Alemberte went to the Florida Supreme Court on behalf of a blind client receiving food stamps to challenge Gov. Rick Scott's claim to

"supreme executive power" over rule-making by state agencies, his brief cited the conversation in *Holy Grail* between Arthur, King of the Britons, and Dennis the constitutional peasant. Mocking Arthur's claim to the throne (based on the mystical Lady of the Lake handing him Excalibur), the filthy but erudite peasant responds, "Supreme executive power derives from a mandate from the masses, not from some farcical aquatic ceremony ... You can't expect to wield supreme executive power because some watery tart threw a sword at you."<sup>13</sup> (Gov. Scott's lawyers were not amused by what they saw as a "caricature" of their position.) And a bankruptcy judge in Colorado was so singularly unimpressed by the faulty reasoning used to justify an evidentiary hearing that he called it "reminiscent of reasoning used to determine if a woman is a witch in Monte [sic] Python's movie 'The Holy Grail,'" and he proceeded to quote the entire scene in a lengthy footnote.<sup>14</sup>

Nothing has inspired weary judges quite like the Black Knight, who unsuccessfully battles King Arthur, shouting, "Just a flesh wound" and refusing to give up as limb after limb is hacked off. Judges all over the country saw the hapless knight's modern counterparts in parties who persisted long after exhausting every legal avenue, like Dunes Hotel Associates, a Chapter 11 debtor-in-possession trying through multiple appeals and motions to avoid a lease of its hotel property.<sup>15</sup> The South Carolina federal court finally brought the "unrelenting quest for the Holy Grail of avoidance" to an end, observing that "there are flesh wounds and there are flesh wounds."<sup>16</sup> Similarly, a Montana state court judge happily put an end to one plaintiff's lengthy efforts to keep his case alive after an arbitration award, two judgments, and five appeals to the Montana Supreme Court.<sup>17</sup> Judge Gregory Todd observed, "Despite the numerous orders and opinions that had severed nearly all of Wallace's and Wirick's legal limbs, they still had not had enough, just like the Black Knight as he stood on

his last leg and continued to mock King Arthur ... Wallace and Wirick have run out of legal arms and legs to chop off, yet they continue to bleed and bite and refuse to accept defeat. Enough is enough."<sup>18</sup>

Dead parrots, a Ministry of Silly Walks, and limbless knights—the *Monty Python* ensemble has entertained millions with its endless parade of delightful nonsense. It's hardly surprising to witness its influence on judges—who are no strangers to the absurdities that the legal system has to offer. **TBJ**

## Notes

- Gilliam v. American Broadcasting Companies, Inc., 538 F.2d 14 (2nd Cir. 1976).
- People v. Gomez, 111 Cal.Rptr.2d 546, 592 (Cal. App. 4th 1 2001).
- State of Connecticut v. Mungroo, 299 Conn. 667, 11 A.3d 132 (2011).
- Eloise Keating, *Melbourne lawyer pleads guilty to \$4.8 million fraud after "Monty Python-esque" investigation*, SmartCompany, Feb. 6, 2015.
- State of Washington v. Heckel, 143 Wash.2d 824, 24 P.3d 404 (2001).
- Cabrera v. Feiwus, 30 Misc.3d 1213 (A), 924 N.Y.S.2d 308 (2011).
- Fawzy v. Gendy, 2013 WL 5537128 (E.D.N.Y. 2013).
- Martinez-Burgos v. Guyama Corp., 656 F.3d 7 (1st Cir. 2011). In that memorable skit, a man pays at the clinic for an argument only to receive a series of contradictory, "No, it's not" responses—prompting discussion about the distinction between the two.
- Estate of Don Mauzey v. Mauzey, et al., 2007 WL 4128018 (Cal. App.—4th Dist. 2007).
- Ballard v. Devon Louisiana Corp., 2010 WL 2521391 (S.D. Tex. 2010).
- Caves v. Yarbrough, 991 So.2d 142 (Miss. 2008).
- Id.*
- Catherine Whittenburg, *Blind woman invoked Monty Python in lawsuit against Rick Scott*, The Tampa Tribune, June 20, 2011.
- In re: Crossover Financial I LLC, Case No.: 11-24257-SBB (U.S. Bankruptcy Ct. D. Col. March 4, 2014), Order Denying Request of Ross Reineke for Evidentiary Hearing (Doc. #406), fn.3. Evidently, Judge Brooks was particularly tickled with the tortured reasoning of Dark Ages witch hunts, i.e., if the accused witch weighs the same as a duck, she's innocent.
- Dunes Hotel Associates v. Hyatt Corp., 245 B.R. 492 (D.S.C. 2000).
- Id.*
- Wallace v. Hayes, No. DV 01-0882 (Mont. 13th Jud. Dist. Ct. Yellowstone County, Jan. 30, 2013).
- Id.*

This article is dedicated to the memory of my late father, Walter W. Browning Jr., who introduced me to the world of *Monty Python* and who remained a *Python* fan to the end.



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