

Legal Lessons From WILLY WONKA

WRITTEN BY JOHN G. BROWNING

MOVIES, AT LEAST ON ONE LEVEL, ARE ABOUT ESCAPIST ENTERTAINMENT. And although I've been a film buff my whole life, like many of you, law school warped my brain in various ways. You know what I'm talking about: While the rest of the theater audience watching the horror film was inwardly screaming at the on-screen heroine, "Don't go down those stairs," I was pondering, "As long as that portal to hell in the basement isn't a known premises defect, the owner/occupier of the property should get off scot-free." I didn't realize just how badly law school and 33 years of practice in civil litigation had ruined me until I decided to introduce my grandsons to a beloved childhood favorite of mine, *Willy Wonka & the Chocolate Factory*. I'm talking about the original, mind you, not the creepy Johnny Depp reboot of *Willy Wonka*—that nightmarish version can clear out a room faster than you can say "restraining order."

Yet not long after we had hunkered down to enjoy Gene Wilder and the Oompa Loompas in all their early '70s glory, my "lawyer brain" began to ruin the experience for me. My sense of childlike wonder was gone, only to be replaced by musings like, "You know, that wall-sized liability waiver that Charlie signed won't cut it. Any court is going to find a contract signed by a minor to be voidable." As my grandsons marveled at the sight of Augustus Gloop falling into the chocolate river and getting sucked up the tube, all I could think was "Definite lawsuit coming your way, Wonka. Would a railing have been too tough to install?" And when I see "chocolate river," I think "attractive nuisance." Every time a disaster would befall one of the children—like Violet turning, well, violet or Veruca falling down the chute in the Nut-Sorting

Room—I was running the litigator's calculus in my head and thinking how I could convince a jury to pin 60% fault on the kids who deliberately circumvented reasonable safeguards while being aided and abetted by parents who were supposed to be supervising them.

Even the delightful singing and dancing Oompa Loompas were ruined for me. I imagined a different, but no less haunting refrain:

Oompa Loompa doopity dare
The court finds you breached your
duty of care.
Oompa Loompa doopity disk
That's what the courts call
"assumption of risk."

And speaking of Oompa Loompas, the fact that Wonka is paying them in cocoa beans (their favorite food) brought out my inner employment lawyer. Does Wonka not have an HR department? Is he just begging for an FLSA lawsuit or what? Good luck explaining that whole "I pay them in cocoa beans, and they live at my factory" defense when the wage-and-hour violation lawsuits and the Department of Labor investigation begins, Wonka. By the way, with children getting sucked up tubes, turned into giant blueberries, and falling into the nut-sorting chutes, expect a visit from OSHA while we're at it.

I will give Willy Wonka some lawyerly credit, however. The fact that he's worried about Augustus Gloop contaminating the chocolate supply by falling in tells me he's seen at least *one* legal memo about contaminated food/e-Coli lawsuits. A jury will hit you with punitive damages faster than you can say, "Here's some chocolate infused with a heaping dose of sweaty fat German kid. Enjoy!" And the fact that Wonka is concerned about his competitors (Slugworth, Prodnose, and Fickelgruber) getting their grubby hands on one of his everlasting gobstoppers or other proprietary candies is a sure sign that he's consulted with his trade secret/intellectual property lawyers. That insanely long, legalese-filled contract with the ever-shrinking print definitely

cries out "nondisclosure agreement," with a likely binding arbitration provision thrown in for good measure.

But that doesn't mean Wonka's legal exposure ends there. I mean, the man imported an entire workforce from somewhere named "Loompaland"—you better have one heck of an immigration lawyer with an armful of H-1B visas handy. Sure, you may have saved the Oompa Loompas from the fearsome Hornswogglers, Whangdoodles, and Snozzwangers, but just wait until something just as terrifying knocks on your door—ICE. And how about this whole "Golden Ticket" thing? I'll bet you an everlasting gobstopper that there's a lot of our favorite lawyer verbiage missing, like "void where prohibited," "no purchase necessary," and all of those wonderful, varies-by-jurisdiction rules that separate legal contests and promotions from the illegal lotteries.

Now, just because rewatching the movie as an adult who's spent WAAAY too much time in courtrooms made me spot more issues than you'd see on a first-year torts exam doesn't mean that I ruined my grandsons' viewing experience. I remembered how much I enjoyed hearing Willy Wonka burst into song, particularly "Pure Imagination." Of course, now I imagine it with somewhat different lyrics:

Come with me / and you'll be / in a
world of litigation . . .
Take a look / and you'll see / lots of
negligent violations . . .
We'll begin / with a spin / through a
clause with no exculpation . . .

Next time, I think we'll stick with a Pixar movie. **TBJ**



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