

The Judge's Daughter: **BEASTLY FUN**

WRITTEN BY PAMELA BUCHMEYER

WEST PUBLISHING ONCE CONDUCTED A POLL OF JUDGES AND LAW PROFESSORS asking for their all-time favorite published opinion. With a howl of joy, the case of Blackie the Talking Cat won. *Miles v. City Council of Augusta, Georgia*, 710 F.2d 1542 (1983).

Blackie was a live feline who purred real words in exchange for cash donations on the streets of Augusta, Georgia, to the delight of many and to the consternation of a few old cranky pants. The legal issue was whether Blackie owed the city a \$50 license fee as a local regulated business [yes].

My father so loved the Blackie case that he always kept a copy of the 710 F.2d volume within easy reach of his desk. "You just never know," he said, "when I might need to prove that Blackie actually purred 'I love you' to the district judge." That happened prior to the case and some hissed that the judge should have recused himself.

Dad was, of course, the late Judge Jerry Buchmeyer, who for 28 years wrote a humor column for the *Texas Bar Journal*, and I'm delighted to honor his legacy. See below for more tidbits about Blackie and other beastly fun.

Black robes, black cats, and black letter law—so much to cover this month. Feel free to send me your nomination for all-time strangest published case at pambuchmeyer@gmail.com.

JUDGE JERRY L. BUCHMEYER (1933-2009) grew up in Overton and served as a federal judge in the Northern District of Texas after being nominated in 1979 by President Jimmy Carter. His monthly legal humor column ran in the *Texas Bar Journal* from 1980 to 2008.

Blackie and the 11th Circuit

The favorite cases collected by West Publishing proved so popular that they were published in a hefty volume *Blackie the Talking Cat and Other Favorite Judicial Opinions*. Here are a few more choice tidbits from the namesake case:

"Blackie catapulted into public prominence when he spoke, for a fee, on radio and on television shows such as *That's Incredible* . . . [but] Sadly Blackie's cataclysmic rise to fame crested and began to subside."

"After receiving complaints from several of Augusta's ailurophobes [those with irrational fears of cats] . . . the Augusta police . . . doggedly insisted that appellants . . . purchase a business license." Upon threat of incarceration, Blackie's owners acquiesced, then sued and lost at district court, judgment affirmed.

Blackie didn't receive mere "contributions," his "elocutionary endeavors were entirely intended for pecuniary enrichment and were indubitably commercial." Undisputed evidence showed that "Blackie would become catatonic and refuse to speak whenever his audience neglected to . . ." pay cash.

Blackie the Cat's right to free speech was not infringed because he was not a person and there was no need for his owners to assert his right *ius tertii* because "Blackie can clearly speak for himself."

And there you have it, a legendary case that still keeps the fur flying.

But What About Snakes? And Goats, Please

Continuing with our beastly Halloween theme, a few runner-up cases in the favorite opinion contest featuring snakes and goats:

Snakes: The landlord of an apartment building on Main Street in Clarksville failed in efforts to evict his tenants until he unleashed an ingenious and fiendish trick. He tied signs to his truck that read, "exterminating service," then drove to the locale to post flyers and announce over a loudspeaker.

Landlord: Due to mice on the premises, I'm releasing a load of poisonous snakes. [The tenants beat a hasty retreat.]

That the landlord's threat was an empty threat, completely without fangs, did not save the man from a conviction for making a terroristic threat. Judgment affirmed. *Redfearn v. State*, 738 S.W.2d 28 (1987).

Goats: The defendant kept two goats and a pony that she insisted she kept indoors as companion animals and thus did not violate a local ordinance banning livestock and animals other than "house pets." *Town of Atlantic Beach v. Young*, 293 S.E.2d 821 (1982). Dueling motions for summary judgment were filed and appealed to an unimpressed court.

"Plaintiff commenced this action for the purpose of getting defendant's goats. Defendant's obtaining a summary judgment against plaintiff may, instead, get plaintiff's goat."

It was a billy goat gruff standoff. Judgment for Ms. Young and her unusual house pets affirmed.

A Motley Crew of Characters

Here's a collection of frightfully funny testimony from witnesses who might give you a few ideas for Halloween costumes. From a legal support professional in Midland in a case where the witness might have been a ghost:

Q: How long were you the manager of this place in Longview?

A: One week.

Q: What happened after that? Where did you go?

A: *I quit my job and went nowhere and stayed there ever since [The Beatles' "Nowhere Man"].*

From a paralegal in a personal injury case in Dallas:

Q: Why were you in Dallas that day?

A: To see Catherine the Great.

Q: *Is she a friend of yours?*

A: She's Russian. It was the museum—

Opposing Counsel: *Catherine the Great.*

Q: [wisely] Oh.

Another spooky deposition in Dallas where a very thorough attorney demonstrated how to leave no stone, or tombstone

for that matter, unturned.

Q: You weren't dead in November of 1992, were you?

A: That's right.

This final contribution might just make you sick, either way, happy haunting. A law firm's demand letter read thusly:

“ . . . unless our firm receives the funds demanded by the given date, we will have no choice but to proceed to court in this matter. If a lawsuit is filed, we will seek actual and *purgative damages* . . . [plus also reasonable attorneys' and Pepto Bismol fees]. **TBJ**



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