



Attorneys are often compared to radiation, that is, attorneys are colorless, odorless, yet malignant to anything they come in contact with. While this perception is not without a basis in fact, there are some light-hearted examples of both attorneys and judges trying to put some levity into the dark, mysterious and hollow chambers of the law.

One of my favorites is the complaint in *Saber v. Hershey Food Corp.*, which plaintiff ate contaminated Hershey's chocolate bar. The complaint was drafted in rhyme and began:

"Twas 1983, on Halloween night;  
Ghosts and goblins, everywhere in sight.  
But the sickest apparition  
Deborah ever would see, was  
inside of the Hershey's Candy."

One of the defendants, known as "Duckwal/Alco," found itself up to the challenge. In an answer and motion to dismiss, the defendant countered

"All Material Charges lack sub-

stance and pride; as related to Duckwal/Alco - are hereby denied. She failed to allege any damage ensured; merely that she has a weakness for food ..."

Another "goodie" is a complaint filed in Riverside County entitled *Gilbert V. Wendy's International*. This complaint, also in rhyme, was based upon the allegations that the plaintiff ate a contaminated hamburger. As the complaint alleged:

"Some like pickles, some like relish,  
some say 'hold them please', but  
the plaintiff never, ever said, 'I'd  
like some mousy', and some cheese.  
Yes, it was mouse meat, broiled  
and ground, which the plaintiff's  
tummy did surround."

And we thought our local McDonald's Scandal was bad. Judges are are not be outdone by the attorneys appearing in the front of them. In one appeal from a criminal proceeding, the court appointed appeal attorney, after reviewing the trial transcripts and exhibits and funding that there was nothing that he could argue to set aside the judgment, filed what is called and "Anders" brief (named after the United States Supreme Court decision in *Anders v California*). This is a brief filed with the Court of Appeals by a Court Appointed Lawyer describing the facts of applicable law, and Conceding that the attorney cannot find any issue which

could meritoriously be presented to the Court of Appeal as a ground for reversal.

This requires the Court of Appeal to review the record and either concur with the court-appointed attorney that there is no basis for continuing the appeal or finding an issue on its own and instructing counsel to brief the issue found by the court.

In one particular case called *United States v. Rosado*, the appellate attorney found no basis for reversal, but put his index of the statement of facts to rhyme. The Court of Appeal, not to be outdone, agreed that there was basis for a new trial and commended the appellate attorney with the following opinion:

"And now, to wit, this April day,  
Counsel having had his say,  
Anders, Californ-i-ay. Would seem  
to say 'new trial, no way.' Forth-  
right counsel I commend, for bring-  
ing this appeal to an end. He has  
served his client well; a worthless  
issue would not sell. Dropping his  
quixotic quest serves his client's  
interest best. To press a cause of  
frank frivolity would not fill this  
court with jollity. Though counsel  
was a courtroom terror. He could  
not seed the case with error; so  
nothing now could be much gran-  
der than to witnessing his post-trial  
candor. Lawyers tend to look  
facetious, pressing issues merely

specious. Frank condor sure beats  
false bravado, defending Elliott  
Rosado. This is how I see the mor-  
al: instead of never-ending quarrel,  
a broken record, crying 'foul', it's

sometimes best to throw the towel,  
Thus, before the bar of court this  
defendant must report, he shall  
have to do this time, for punish-  
ment must fit the crime. And that

will have to end this rhyme.”

Copyright © 1996 by Bear Valley Voice