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Publish or Perish: Judging an Article by its Cover

LEONARD B. MANDELL*

It is an old adage that those who can, do, and those who can't, teach. However, those who teach must publish a few law review articles, or they are banished back to the trenches of client warfare and the long hours therein. Alas, survival in the challenging world of tenure means getting it in writing, i.e., publish or perish; getting it published is the Holy Grail.

The key to unlocking a publisher's door is simple: a catchy title. The title should be clever, cute, sexy, or witty. It may contain double entendres, plays on words or names, and, as a last resort, alliteration. A boring title may, at best, discourage readers; at worst, it may end up homeless. In short, it's got to have a gimmick.¹

A few examples are in order. Titles are often too serious, too long, and too confusing. Try this on for size--*The Persistence of Power and the Struggle for Dialogic Standards in Postmodern Constitution Jurisprudence: Michelman, Habermas, and Civic Republicanism*.² What? Perhaps you try the obscure--*The Obscure Object of Desire: Hermeneutics and the Autonomous Legal Text*.³ What is this all about? Or, to complicate matters, *Retroactive Application of Illinois Statute Eliminating Opportunity for Annual Parole Hearings Violates Ex Post Facto Prohibitions*.⁴ That's a mouthful of legal terms with a Latin flavor!

On the lighter side, clever ideas abound--*If the Postman Always "Stings" Twice, Who is the Next Target? An Examination of the Entrapment Theory*;⁵ *Native American Inmates and Prison Grooming Regulations: Today's Justified Scalps*;⁶ *Can the Government Get Into Your Genes?: A*

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1. Gypsy Rose Lee.

2. Citation omitted so as not to incur a lawsuit from the author. Also, my apologies to any author who might not appreciate my compliments by the use of their title; however, being cited in another law review article is always good.

3. *Id.*

4. *Id.*

5. Michael O. Zabriskie, Comment, *If the Postman Always "Stings" Twice, Who is the Next Target? An Examination of the Entrapment Theory*, 19 J. CONTEMP. L. 217 (1993).

6. William Norman, *Native American Inmates and Prison Grooming Regulations: Today's Justified Scalps: Iron Eyes v. Henry*, 18 AM. INDIAN L. REV. 191 (1993).

*Proposed New York Statute for the Use of Genetic Identification to Establish Probable Cause;*⁷ *The Fourth Amendment Takes a Back Seat to the Drug War* (a bus search case).⁸ Even admiralty can be fun--*That Sinking Feeling - A Boatowner's Liability in the Aftermath of a Hurricane*.⁹ And lawyer bashing is always a fruitful source--*They Shoot Lawyers Don't They?: Law in the Third Reich and the Global Threat to the Independence of the Judiciary*.¹⁰

Case names can be cute and helpful too--*Stray Katz: Is Shredded Trash Private?*;¹¹ *Inflicting Payne on Oklahoma: The Use of Victim Impact Evidence During the Sentencing Phase of Capital Cases*.¹² Alter the name of the defendant and you have *Illinois Makes A Payneful Decision*.¹³ Also, variations on a word can be useful--*Police Attack Dogs: A Dogmatic Approach to Crime Control*;¹⁴ *The Harmful Extension of the Harmless Error Doctrine*.¹⁵ Add a scatological bent to a play on words and the result is *Urine or You're Out: Student Athlete's Right of Privacy Stripped In Hill v. NCAA*.¹⁶

Of course, sex sells--*Richard Posner's Just-So Stories: The Phallacies of Sex and Reason*,¹⁷ and *Sexual Harassment and the Swedish Bikini Team: A Reevaluation of the "Hostile" Environment Doctrine*.¹⁸ Add alliteration

7. James G. Cavoli, Comment, *Can the Government Get Into Your Genes?: A Proposed New York Statute for the Use of Genetic Identification to Establish Probable Cause*, 55 ALB. L. REV. 1355 (1992).

8. Michael J. Reed, Jr., Comment, *Florida v. Bostick: The Fourth Amendment Takes a Back Seat to the Drug War*, 27 NEW ENG. L. REV. 825 (1993).

9. James E. Mercante, *That Sinking Feeling - A Boatowner's Liability in the Aftermath of a Hurricane*, 17 NOVA L. REV. 1053 (1993).

10. Matthew Lippman, *They Shoot Lawyers Don't They?: Law in the Third Reich and the Global Threat to the Independence of the Judiciary*, 23 CAL. W. INT'L L.J. 257 (1993).

11. Gordon J. MacDonald, Note, *Stray Katz: Is Shredded Trash Private?*, 79 CORNELL L. REV. 452 (1994).

12. Randall Coyne, *Inflicting Payne on Oklahoma: The Use of Victim Impact Evidence During the Sentencing Phase of Capital Cases*, 45 OKLA. L. REV. 589 (1992).

13. Leonard B. Mandell, *Illinois Makes A Payneful Decision*, 73 ILL. B.J. 86 (1984).

14. Louis P. Dell, Comment, *Police Attack Dogs: A Dogmatic Approach to Crime Control*, 13 WHITTIER L. REV. 515 (1992).

15. Jana J. Green, Comment, *Arizona v. Fulminante: The Harmful Extension of the Harmless Error Doctrine*, 17 OKLA. CITY U. L. REV. 755 (1992).

16. Karen E. Crummy, Note, *Urine or You're Out: Student Athlete's Right of Privacy Stripped In Hill v. NCAA*, 29 U.S.F. L. REV. 197 (1994).

17. Pamela S. Karlan, *Richard Posner's Just-So Stories: The Phallacies of Sex and Reason*, 1 VA. J. SOC. POL'Y L. 229 (1993) (reviewing RICHARD A. POSNER, *SEX AND REASON* (1992)).

18. Stacy J. Cooper, Comment, *Sexual Harassment and the Swedish Bikini Team: A Reevaluation of the "Hostile Environment" Doctrine*, 26 COLUM. J.L. & SOC. PROBS. 387

to the mix and voilà--*The Selling of the Perfect Breast: Silicone, Surgeons, and Strict Liability*.¹⁹ Borrow from a movie title and you have *Lex, Lies and Audiotape*.²⁰

The area of reproductive rights lends itself to fertile ground, pregnant with ideas--*What's Good for the Goose is Good for the Gander: Toward Recognition of Men's Reproductive Rights*;²¹ *Castration as an Alternative to Incarceration: An Impotent Approach to the Punishment of Sex Offenders*;²² and the ultimate oxymoron--*Pregnant Dads: The Crimes and Other Misconduct of Expectant Fathers*.²³

How does one decide on a title after a long labor is completed? It takes a sense of humor, a desire to be creative, and if possible, a key word on which to hang your idea. Suppose a motor home is searched without a warrant--*Is a Man's (Motor) Home His Castle?* Or, when the prosecution wants to extract a bullet from a defendant who was shot in the chest while fleeing from the police--*Surgical Search: A Scar Is Born*.

Recently, a Minneapolis police officer exceeded a *Terry* pat-down search and used his fingers to manipulate and to extract crack cocaine from the defendant's shirt pocket. Now that the Supreme Court has issued its decision, the possibilities for titles are mind-boggling. Surely these titles are coming to a Law Review in your neighborhood soon. For example, *The "Plain Feel" Exception--A Fourth Amendment Rendition of the Princess and the Pea*.²⁴ My suggestion is *Terry Revisited: Pat Me Down But Don't Feel Me Up*.²⁵

So, I wish you many published articles and remember, publish or perish, it's all in the title. After all, you read this article!²⁶

(1993).

19. Emily C. Ashinger, Note, *The Selling of the Perfect Breast: Silicone, Surgeons, and Strict Liability*, 61 U. MO. KAN. CITY L. REV. 399 (1992).

20. David R. Fine, *Lex, Lies and Audiotape*, 96 W. VA. L. REV. 449 (1993-94) (reviewing PETER IRONS & STEPHANIE GUITTON, *MAY IT PLEASE THE COURT* (1993)).

21. Mary A. Totz, *What's Good for the Goose is Good for the Gander: Toward Recognition of Men's Reproductive Rights*, 15 N. ILL. U. L. REV. 141 (1995).

22. Kari A. Vanderzyl, *Castration as an Alternative to Incarceration: An Impotent Approach to the Punishment of Sex Offenders*, 15 N. ILL. U. L. REV. 107 (1995).

23. Jeffrey A. Parness, *Pregnant Dads: The Crimes and Other Misconduct of Expectant Fathers*, 72 OR. L. REV. 901 (1993).

24. Mathew S. Parish, *The "Plain Feel" Exception -- A Fourth Amendment Rendition of the Princess and the Pea*, *State v. Dickerson*, 62 U. CIN. L. REV. 321 (1993).

25. There is no cite; it isn't published! However, one should always have at least twenty-five footnotes in a published article.

26. And you read this footnote?

