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CASE LAW

The law is about people

Tracey I. Batt

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I recently completed my first semester as a law school adjunct professor, teaching Entertainment Law. It was a great experience, and I am looking forward to doing it again next year.

One of the most difficult things about law school is learning to associate principles of law with case names that have no meaning for you in the "real world." How do you associate *Erie Railroad Co. v. Tompkins* with the notion that federal courts sitting in diversity must apply state substantive law, whether it be statutory or common law? The only way is rote memorization or some clever mnemonic – Ernie Rarely Comprehends Tomatoes, perhaps. If you're lucky, that will stick with you (at least through your Civil Procedure exam).

What you will never be able to keep in your head is what this principle of law has to do with poor Harry Tompkins, who was walking home along the railroad tracks in the middle of the night, got whacked by something protruding from a passing train, fell, and had his arm crushed beneath the train's wheels. What *Erie Railroad Co. v. Tompkins* really says is that poor Harry Tompkins doesn't get a penny from the Erie Railroad Co.

My point is that seminal decisions like *Erie Railroad Co. v. Tompkins* don't just appear on the books. It's not like naming



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hurricanes. Justice Brandeis did not say, "I think we need to make a rule about the law to be applied by federal courts sitting in diversity. Let's call it 'Tompkins.'" It is very easy to forget that every case in every book in every law library (OK, in the electronic databases) is the result of something that happened in the real world to real people and real companies.

I went to great lengths to get across this notion to my students. If the next generation of lawyers is going to learn this lesson, then Entertainment Law is the best place for this to happen. Why? Because the people whose names appear in Entertainment Law cases are famous people whose names we recognize. That recognition can make cases come to life.

The Stewart in *Stewart v. Abend*? It's Jimmy Stewart, and the movie in question is the classic "Rear Window." There's something on which to hang your memory's hat when you're trying to remember the rule about assignment of the renewal right in a pre-1978 copyright. *Buchwald v. Paramount Pictures*? That's Art Buchwald, and whether or not he should have gotten credit for the idea behind the popular Eddie Murphy vehicle "Coming to America." *Main Line Pictures, Inc. v. Basinger*? That's about Kim Basinger's withdrawal from the ill-fated movie "Boxing Helena." Not only did these things happen to real people, but you know who these people are.

My favorites always involved discussing music-related decisions. Any time a student talked in class about a particular music case, after he or she gave the name of the case, I insisted that he or she hum a few bars of the song in question. From the front of the class, I would see students nod and smile as their eyes lit up in recognition. They would remember the song "Pretty Woman" more easily than they would remember *Campbell v. Acuff-Rose Music, Inc.* If a student cited to the "Pretty Woman Case," he or she would get full marks.

In [past articles](#), I have talked at length about how much I like working with the next generation of lawyers as a mentor and a supervisor, how it keeps me young and gives me a chance to discuss popular culture with interested folks. I have, however, indulged in a bit of hubris, assuming that the fact that I have an encyclopedic knowledge of decades of music, movies, and television hogging up all my available brain cells means that my students interested in Entertainment Law will have the same breadth and depth of knowledge. It is not always so.

For example, to encourage class participation, I assigned students to brief cases in advance and present them to the class. One student started his description of the 1976 2nd Circuit decision in *Gilliam v. ABC* involving editing that constituted mutilation of a television show as follows: "Apparently, this Gilliam fellow was an American member of a British comedy troupe in the 1970s." I stopped him in disbelief. He had to be joking, right? As it turned out, he was not. I told him not to return until he had watched "Monty Python and the Holy Grail" and "Time Bandits."

I am not *that* much older than the students in my class, am I? In both my position as an Entertainment Law professor and as executive director of an organization that provides pro bono legal services to the state's arts community, I cannot afford to be out of touch with popular culture. That student should have known who Terry Gilliam and Monty Python were, shouldn't he?

Do you know how I found out, much to my chagrin, that I really am older than I am willing to admit to myself? I realized as I enjoyed the current Broadway revival of "Hair" that I knew every word to every song in the show, and I knew them all before a single member of the cast was born.

Tracey I. Batt, Esq., is the Executive Director of New Jersey Volunteer Lawyers for the Arts, Inc., and an Adjunct Professor at Rutgers School of Law – Camden. Before joining NJVLA, she was the Associate Director and Legal Services Manager of Philadelphia Volunteer Lawyers for the Arts as well as an associate at Weil, Gotshal & Manges LLP in New York, where she practiced copyright and music licensing law for seven years.

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