

# Lawsuit Abuse Fortnightly



January 2009 (Volume 8, No. 1)

Real examples of how predatory trial lawyers profit by depriving victims of justice and undermining the Rule of Law in the United States.

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## Dead Weight

A pig sitter in Wisconsin is going to trial in March on criminal animal neglect charges for letting the potbellied pig she cared for gain 100 pounds. The pig, Alaina, gained so much weight her collar had to be removed surgically and the pig later died. The defendant will have a jury trial and call 11 witnesses.

*Source: Kevin Behr, "Pig sitter trial set for March," LaCrosse Tribune, December 16, 2008, via [overlawyered.com](http://overlawyered.com)*

## A Little Birdie Told on Him

So, is a "Tweety Bird" ornament dangling from an auto's rearview mirror legal or not? Don't ask the Sixth Circuit Court of Appeals, which seems to be having difficulty deciding in a Michigan case.

The case concerns a Michigan law stating, "A person shall not drive a motor vehicle with ... [a] dangling ornament or other suspended object that obstructs the vision of the driver of the vehicle." Police stopped a man driving near Detroit with a four-inch-tall "Tweety Bird" air freshener dangling from the car's rearview mirror on a 3-inch string for allegedly violating this statute. After searching his car, they found an open container of liquor, a stun gun, 24 grams of crack cocaine, and a loaded pistol. The man challenged the admissibility of these fruits of the search, arguing the officer did not have probable cause to believe "Tweety Bird" was obstructing the driver's vision and thus no grounds to make the stop.

The district court ruled the evidence was admissible, but the Sixth Circuit on December 19, 2008 ruled the statute was unconstitutional because it was vague and did not provide enough guidance regarding prohibited objects. The Circuit Court ruled, however, that the ruling would not impact the traffic stop at issue, because the officer believed the statute was constitutional. Going forward, however, the statute could not be enforced. Then, on December 31, 2008, the Circuit Court withdrew this opinion. It is unclear if another opinion will be issued.

So, for the time being, it's probably a bad idea to drive a car with a "Tweety Bird" air freshener hanging from the rearview mirror.

*Source: Orin Kerr, "Sixth Circuit Panel, Acting Sua*

*Sponte, Strikes Down Statute Prohibiting Driving When Driver's Vision Is Obstructed by Dangling or Suspended Objects," The Volokh Conspiracy, December 29, 30, 31, 2008*

## Gimme an 'N'

In case you were wondering, cheerleading is not a "contact sport," at least not in Wisconsin, where a Court of Appeals ruled a cheerleader who fell during a cheerleading stunt can sue for negligence the spotter who failed to catch her.

A Wisconsin law says a participant "in a recreational activity that includes physical contact between persons in a sport involving amateur teams" can be liable only for acting "recklessly or with intent to cause injury." The court ruled this law applies only to "physical contact between opponents" and that the cheerleader's negligence claim can therefore go forward.

*Source: Dan Slater, "Athletic, Maybe, But Cheerleading Not a Contact Sport, Court Rules," Wall Street Journal Law Blog, December 29, 2008*

## Racket Bawl

A Pennsylvania adoption agency is being sued under federal racketeering laws after the adoption of a Guatemalan child by a Michigan couple fell through. The couple spent \$20,000 in trying to finalize the adoption. "It's a bait and switch," the couple's lawyer said. "They've absolutely given their heart to this child, they get told it's a match, then, it's the same excuses over and over again."

But the adoption agency directors say it's not the agency's fault. The child's birth mother now wants to keep the child and has hired a lawyer in Guatemala to fight the adoption. Adoptions from foreign countries, particularly from Guatemala, are complicated and risky, adoption agency officials say, involving dealing with local "facilitators," foreign courts, and foreign child welfare laws. "This is a wild, wild West," one director said of Guatemala, which has enacted new laws discouraging adoption.

*Source: Megha Satyanarayana, "Lawsuit accuses adoption agency of racketeering, fraud," Detroit Free Press, December 28, 2008, via [overlawyered.com](http://overlawyered.com)*

## Bad Bet

A gambling addict is suing a Melbourne, Australia casino for \$50 million in damages, alleging the casino lured him into a gambling binge in which he lost \$37 million at baccarat. The addict alleges he was banned from gambling in every casino in Australia at the time of his losses. He alleges he wore a concealed wire and recorded casino managers inviting him to their baccarat tables.

*Source: Rob Taylor, "Gambler sues casino over \$900 million Binge," Reuters, December 12, 2008*

## The Woman Who Would Be Queen

A Sacramento State University student is suing the university for failing to select her as homecoming queen.

She said she solicited donations, which count toward the selection, and that she therefore had the most points. Others said grade point averages, an essay, and extracurricular activities count more toward selection.

The woman, who is 48 years old and has had 10 back surgeries, is undeterred. She thinks she would have been an "embarrassment" as queen, but that isn't stopping her. "I am not a sore loser; it's just the principle of everything," she said.

*Source: Elyce Kirchner, "Woman Sues Sac State Over Homecoming Queen Bid," CBS-TV 13*

*Sacramento, December 18, 2008, via [iamlawsuitabuse.org](http://iamlawsuitabuse.org), a project of the U.S. Chamber of Commerce Institute for Legal Reform*

## Trailer Suit Trashed

The federal district court for the Eastern District of Louisiana refused to certify as a class-action lawsuit a case brought by thousands of Hurricanes Katrina and Rita victims alleging there were harmful levels of formaldehyde in emergency housing trailers provided to them by the federal government.

The judge ruled that the suit, which named the government and dozens of manufacturers, involved differing state laws and too many factual scenarios having to do with trailer types and formaldehyde levels to be resolved in class-action format. That format is an abbreviated proceeding permitted only when common questions of law and fact predominate.

The trailer manufacturers contend formaldehyde is lawful as a preservative for building materials and that the plaintiffs failed to follow instructions that came with the trailer to air the units out frequently.

*Source: Paulo Prada, "Class-Action Status Denied In Hurricane-Housing Suits, Judge Says Complaints Are Too Varied to Allow Single Case Over Toxins in Homes Government Supplied After 2005 Storms," Wall Street Journal, December 30, 2008*

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Published by The Heartland Institute, a nonprofit 501(c)3 organization founded in 1984. Phone 312/377-4000, fax 312/377-5000. Back issues are available online at [www.heartland.org](http://www.heartland.org). Publisher: Joseph L. Bast. Editors: Maureen Martin, Diane Carol Bast

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