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IN THE CIRCUIT COURT OF MARVEL COUNTY, ARKANSAS

J. WELLINGTON WIMPY, d/b/a WIMPY'S
WIGWAMS

PLAINTIFF

V. NO. 96--0001

BLUTO'S WIDGET FACTORY, OLIVE OYL,
d/b/a OLIVE'S WIDGET EMPORIUM,
POPEYE'S PRETTY SPEEDY SHIPPING
COMPANY, INTERNATIONAL BROTHERHOOD
AND SISTERHOOD OF WIDGET WORKERS,
LOCAL 292, SCABS R US, and THE SWEET HAVEN
MILITIA

DEFENDANTS

JURY TRIAL

BE IT REMEMBERED, that on the First day of July, 1996, before the
HONORABLE N. DECISIVE, the above styled matter came on for trial by jury with
counsel appearing as follows:

MR. RONALD MCDONALD, Esq., on behalf of Plaintiff J. Wellington Wimpy

MR. LUKE SKYWALKER, Esq., on behalf of Olive Oyl

MS. JACQUELINE HYDE, Esq., on behalf of Popeye's Pretty Speedy Shipping
Service

MR. KERMIT theFROG, Esq., on behalf of Bluto's Widget Factory.

PROCEEDINGS

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THE COURT: Good Morning Ladies and Gentlemen, are we ready to proceed?

MR. MCDONALD: Your Honor, we have a couple of motions in limine.

THE COURT: I remember, about your expert.

MR. MCDONALD: Yes. As the Court knows, mopery is an inflammatory subject today, with the Bananaberry case in the news and all that, but it doesn't have a thing to do with this case. Our expert, Professor O.G. Wottasnozzle, is very active in the anti-mopery movement. Mr. Skywalker and Ms. Hyde questioned him extensively during his deposition about his anti-mopery activities, and we feel that the only purpose for that is to bring up this highly emotional and inflammatory issue. It's inappropriate.

THE COURT: Mr. Skywalker, Ms. Hyde, what does mopery have to do with whether and why widgets leaked.

MR. SKYWALKER: I think we're entitled to show that Professor Wottasnozzle has lunatic fringe ideas on the subject of mopery. It goes to his credibility.

THE COURT: You'll have to do better than that.

MS. HYDE: The anti-mopery movement has financial ties to a number of organizations, including the labor movement.

THE COURT: But first, the union's out of the case, and second, this union doesn't have any involvement in the mopery dispute. The affidavit shows Local 292 had specifically taken a neutral stance on this issue. I'm going to grant the motion.

MR. MCDONALD: Your Honor, there's also the matter of the explosion. We don't think that had anything to do with this case.

1 MS. HYDE: That's different. We have evidence that the explosion at the
2 university was caused by mishandling of flubber, which, as you know by now,
3 is one of the primary ingredients used to manufacture these widgets.

4 THE COURT: Well, we'll just have to see how the evidence develops on that
5 one. Who else had a motion in limine?

6 MS. HYDE: We have one. Mr. Geezil, our driver, had his drivers license
7 suspended for speeding after this accident. It has no relevance to this
8 accident.

9 THE COURT: I'm inclined to deny that motion.

10 MS. HYDE: It's not relevant to anything. It doesn't show he was speeding on
11 this occasion, and even if you could stretch one speeding ticket into
12 negligence in hiring or retaining an employee, it happened after the delivery
13 in question.

14 THE COURT: It's still some evidence for the jury to consider along with all
15 the other evidence.

16 MS. HYDE: Do I understand that my motion is denied. THE COURT: Yes, it's
17 denied.

18

1 THE COURT: Mr. McDonald, we're ready to resume, you may call your next
2 witness.

3 MR. MCDONALD: I call Professor O.G. Wottasnozzle. DIRECT EXAMINATION OF
4 PROFESSOR WOTTASNOZZLE

5 BY MR. MCDONALD

6 Q. Can you state your name, please.

7 A. I'm Professor O. G. Wottasnozzle.

8 Q. What do you do for a living, Professor

9 A. I am a world-renowned expert on widgets, and I am assistant chairman of
10 the Widget Science department and I teach advanced widget science at the
11 University of Arkansas at Sweet Haven.

12 Q. How big is the widget department over there?

13 A. We have about twenty professors.

14 Q. Have you ever published any writings on widgets?

15 A. I have written three books, Introduction to Widgets, which is a beginner's
16 level introduction to widget science, The Joy of widgets, written to inform
17 the educated layperson about widgets, and Modern Industrial uses of Flubber,
18 a reference for people in the industry. I have also written thirty-five
19 articles about widget science for various magazines.

20 Q. Have you ever served on any national science panels?

21 A. Yes, I was appointed by President Clinton to serve on
22 the National Flubber Advisory Board.

23 Q. And Professor Wottasnozzle, do you also advise private
24 entrepreneurs on widget science and widget related
25 matters?

26 A. Yes, I do.

27 Q. And in that capacity, were you contacted by Mr. Wimpy.

28 A. Yes, I was.

29 Q. What did Mr. Wimpy ask you to do?

1 A. He wanted me to inspect some widgets.

2 Q. Did you inspect the widgets?

3 A. Yes. I went out to Wimpy's Wigwams and inspected a
4 number of wigwams which leaked. It appeared to me that
5 the wigwams were leaky because the widgets were not
6 waterproof.

7 Q. Did you perform an investigation?

8 A. I did. I removed some of the widgets and took them to
9 my laboratory for inspection. I determined that the widgets were manufactured
10 with flubber which was
11 porous. Porous flubber is ordinarily a result of improper heating of the
12 flubber. But that was not all. The widgets showed signs of stress and signs
13 of radioactive contamination.

14 Q. What are the consequences if widgets are porous?

15 A. They leak.

16 Q. And what about signs of stress?

17 A. The signs of stress that I found showed that the widgets had been
18 exposed to forces in excess of that permitted by their ratings. These widgets
19 should not have been exposed to forces in excess of 5 g's.

20 Q. And were they?

21 A. Allow me to illustrate. This is a print out of the test.

22 MR. theFROG: Objection, Your Honor. May we approach the bench?

23 THE COURT: Yes.

24 (At bench conference)

25 MR. theFROG: We were not provided a copy of this printout. We specifically
26 asked for all documents which Defendant planned to use at trial, whether as
27 an exhibit, for purposes of illustration, or for any other purpose. This
28 document was not provided. We object to its use in any form whatsoever.

1 MR. MCDONALD: I did not plan to introduce it into evidence, I just wanted
2 Professor Wottasnozzle to use it to show the jury what he found.

3 MR. theFROG: Your Honor, this is specifically why we asked for this. My
4 expert, is not going to be prepared to rebut this information. This
5 illustration, as he calls it, is huge. It was obviously prepared for trial.
6 It could have been provided.

7 THE COURT: I can see that this comes as somewhat of a surprise. He may use it
8 for illustration only, not introduce it into evidence.

9 (Direct examination continuing)

10 Q. Professor, again, could you show us what you found?

11 A. These white lines indicate radioactive waves. ordinarily, you would
12 expect to find only a few in a sample this size, but you can see how many
13 there are here. Now from here to here, you see these yellow and red spots.
14 These indicate the frequency of stray molecules of plutonium. There shouldn't
15 be any of these present, but look how many there are. These indicate that the
16 widgets were actually directly exposed to an unshielded source of plutonium.

17 Q. And Professor, what about these blue waves.

18 A. These indicate the chemical composition. These are what I used to tell
19 that the flubber had at some point in the manufacturing process been
20 improperly heated.

21 Q. What, in your professional opinion, was the cause of these widgets
22 leaking?

23 A. This picture tells the whole story. They were negligently exposed to
24 heat.

25 MR. theFROG: Objection.

26 THE COURT: What is your objection.

27 MR. theFROG: I object to his reference to "negligently," That goes to the
28 ultimate issue for the jury to decide. THE COURT: Oh yes, one of those
29 Grambling v. Jennings issues, that was where the court said there was a

1 difference between giving an opinion on the ultimate issue and giving an
2 opinion that in essence tells the jury what result to reach.

3 MR. theFROG: Yes, Your Honor, that's the case.

4 THE COURT: Very well, let's move on.

5 MR. MCDONALD: Again, Professor, why were the widgets water soluble.

6 THE WITNESS: Like I said, this printout says it all. There was a heat
7 exposure in manufacture, followed by two post manufacture developments,
8 exposure to forces in excess of 5 g's and exposure to plutonium. The end
9 result was water soluble widgets.

10 MR. MCDONALD: That's all I have from this witness. THE COURT: You may cross-
11 examine, Mr. Skywalker MR. SKYWALKER: May we approach the bench.

12 THE COURT: Yes.

13 (At bench conference) .

14 MR. SKYWALKER: I believe they've opened the door for the
15 flubber explosion we talked about at lunch.

16 MR. MCDONALD: We have not. I specifically avoided those areas you said at
17 lunch would open the door.

18 THE COURT: It's pretty inflammatory, and I don't think anything has been said
19 yet that really brings it into play.

20 CROSS EXAMINATION, BY MR. SKYWALKER:

21 Q. Professor, I note in your curriculum vitae--that's
22 Latin for resume, isn't it-

23 A. Yes. I'm sorry, what's the question?

24 Q. I notice in your curriculum vitae that you have written
25 articles on flubber in a wide variety of magazines.

26 A. Yes, I have.

27 Q. One in *Popular Mechanics*?

28 A. Yes.

29 Q. One in *Cosmopolitan*.

1 A. Yes.

2 Q. And one in *Playboy*.

3 A. Three in *Playboy*.

4 Q. And is this one of the copies of *Playboy* in which one
5 of your articles appeared?

6 A. Yes.

7 Q. I'd like to make this Exhibit 11 for Olive's Widget
8 Emporium.

9 MR. MCDONALD: I object. There is no reason to put that
10 article or that magazine into evidence. It's done solely for emotional
11 impact.

12 THE COURT: Is that an objection.

13 MR. MCDONALD: Yes, Your Honor, Rule 403 if nothing else.

14 THE COURT: Why do you want to introduce the entire magazine, Mr. Skywalker,
15 can't we just use the article?

16 MR. SKYWALKER: I want the jury to see the kind of magazine their so called
17 expert is willing to publish in.

18 THE COURT: I think they've all heard of *Playboy* There's no use to clutter the
19 record with that.

20 JUROR NO. SEVEN: Judge, I think that would help us develop an interest in
21 this case.

22 THE COURT: No, I'm sorry. You're just going to have to do without it.

23 Q. And Professor, isn't it true that this so-called printout that tells it
24 all, wasn't even provided to us until today.

25 A. I have no idea.

26 Q. When did you first give it to your lawyer?

27 A. My lawyer?

28 Q. You know what I mean, Mr. McDonald.

29 A. I don't honestly remember the date.

1 Q. Was it a while ago?

2 A. Well, yes, a while ago.

3 DIRECT EXAMINATION OF DR. LUDWIG ZAMENHOF BY MR. MCDONALD

4 Q. Dr. Zamenhof, could you tell us your full name.

5 A. Dr. Lazarus Ludwig Zamenhof. I go by Ludwig.

6 Q. And you are a medical doctor.

7 A. I am.

8 Q. And you treated Mr. Wimpy after a fall he suffered while inspecting

9 wigwams which had leaked.

10 A. I did.

11 Q. Did you first see him on May 23, 1995?

12 A. Let me check my notes. Yes, that's right.

13 Q. And at that time did he tell you that he had slipped on water which had

14 leaked into wigwams which he was trying to rent to tourists during the

15 tourist season?

16 MS. HYDE: Just a minute, Your Honor, I object to leading.

17 THE COURT: Sustained.

18 Q. And what did you find?

19 A. Mr. Wimpy suffered a severe strain and sprain to his back.

20 Q. And what did you do for him.

21 A. I prescribed Motrin. It's over the counter now, but back then I think

22 it was still prescription. I don't really remember.

23 Q. What is Motrin.

24 A. It is a pain reliever.

25 Q. Did you take him off work.

26 A. Well, he owns his own business, but I told him to stay home for 5 days.

27 Q. When did you see him again?

28 A. June 1. His pain was worse. I gave him a muscle relaxer.

29 Q. Did you continue the Motrin?

1 A. Yes. But I let him get back to his business. He was very worried about
2 it.

3 Q. Then what happened.

4 A. This is my nurse's writing on the 16th. Then he came in on the 23rd. He
5 was better. I released him and told him to come back if he needed me.

6 Q. Dr. Zamenhof, I note that you have been referring to a document.

7 A. Yes. This is just my office note.

8 Q. Is that note a document kept in the regular course of your business.

9 A. Yes. I make them on every patient.

10 Q. And is that note made by persons with knowledge, at or near the time it
11 is made?

12 A. Yes.

13 Q. I'd like for you to look at a document I'm handing you. May I approach
14 the witness, your Honor?

15 THE COURT: You may.

16 Q. I am showing you a document that has been marked for identification
17 only as Plaintiff's No. 23. Is that a copy of the office note to which you
18 have referred.

19 A. Yes.

20 MR. McDONALD: I move that Plaintiff's No. 23 be admitted into evidence.

21 MS. HYDE: I object, it's illegible.

22 THE COURT: Overruled. All doctors' notes are illegible.

23 MS. HYDE: Note my exceptions.

24 THE COURT: So noted.

25 WHEREUPON Plaintiff's Exhibit 23 was admitted into evidence. Said exhibit is
26 appended to the pleadings file in this matter for reference.