

"Don't fear the law, fear the judge."

--Alexander Solzhenitsyn
from: *The Gulag Archipelago*

In the Eye of the Judicial Storm

THE LITIGATION VORTEX

Linda L. Kennedy

When you voluntarily go into court, you will find that many times you will lose, even though the law is clearly on your side. Then, because of your sense of right and wrong, you begin to file lawsuits or complaints against judges, you appeal decisions, and you invest time and resources thinking of other legal strategies for seeking recourse. In essence, everyone is asking the judges to find themselves corrupt, and this logically will just not happen. Even worse, they become occupied for years on a course that costs them money and keeps them busy with very little to show for it, except perhaps high blood pressure. Most likely, they will wind up more broken than when they innocently started on their path many years before. Simply stated, this is what I call the "Litigation Vortex," where nothing is as it appears, and where the plaintiff is never to be seen again — with money.

You are a hard working man, hardly ever missed a day of work in your life. One day, you find yourself in the legal system, where your grade school teacher taught you justice would be served. You learn to research your case, and you try to make everyone understand your facts and why justice would be served by finding in your favor. Initially, everyone seems to understand. The judge, and sometimes even the opposing attorney, appears to want to understand and arrive at justice. The clerk was so pleasant. You know she saw that you were an honest man. The legal "[holodeck](#)" stage has now been set.

Having no reason not to believe what you heard in school was true, you spend your money on court filings, legal advice (if an attorney will not take the case), or legal fees, if an attorney will take it. You may even "count yourself blessed" that you have found an attorney who is willing to help you — or so you think. You know your case is a slam-dunk win. And thus, the curtain of the court-holodeck opens, and the process of bait-and-switch begins.

"Surely the first couple of rulings must have been a misunderstanding," you think. "I have to do more legal research and write more clearly," you tell yourself. "They will certainly see that I have been wronged." So you continue to spend your money and your time. You even start missing work because you are in this thing to right a wrong, just as your grade school teacher taught you. You certainly can't turn around now. You've come too far, and you're just getting the hang of legal research.

You may still cry when the National Anthem is sung, and you certainly place your hand over your heart like any good American. Perhaps you even fought to defend our freedom as did so many other honorable men and women just like you. However, by now, they have you in the grip of the "Double B." "What is the Double B," you ask? "Busy and Broke!" And, as a result of the bait-and-switch maneuver, you have now become the defendant, even though you are listed as the plaintiff. The last act of the dog-and-pony show now arrives, in final preparation for your day in court on the holodeck stage. Implementation of the "Triple C" is waiting in the wings.

You now become increasingly busy and broke trying to answer the defense's frivolous motions and repeatedly having to show that it is they who have lied, and not you, as they have accused you. You spend day and night trying to explain yourself to the court. You answer their accusations by explaining, for example, that you did not claim your wife on your income tax form because she did not work; that you injured your back 10 years ago in a legitimate worker's compensation claim; and that you and your wife went to a marriage counselor 15 years ago after your youngest son died.

Here, the Triple C is implemented against you, right on schedule. Again you ask, "What is the Triple C?" That is when good citizens, whose only crime is that they naïvely asked the courts to rule justly, are made into: (1) Criminals [Who would believe him; he is a criminal tax-evader], and/or (2) Con-men [Who would believe him; he lied on his tax return and was a malingerer from work], and/or (3) Crazy [Who would believe him; he went to a shrink and is a paranoid delusional].

"Quick!" yells the defense attorney from back stage, "Get this psycho diagnosed. Get him an I.M.E. (Independent Medical Exam), and call this doctor (who needs our repeat business)." The Double B and Triple C are now in full swing.

You are not only exhausted, but you now have to worry about your reputation, the IRS audit that is bound to happen because of the allegations made, and the insurance investigation of the allegation that you were fraudulent in that worker's compensation injury so long ago. As the labyrinth of the Litigation Vortex sucks you ever further down into its depths, you can no longer see any path by which to exit. You think, "What have I gotten myself into, and how did I get here?" Your friends start to express doubts, and they appear concerned that perhaps you are a little too obsessed about your case.

As soon as the dust settles for a moment, you begin to realize that maybe your grade school teacher missed something. But by then you are thoroughly engulfed in the Litigation Vortex, and the only way out is to ask: "If it pleases the court, may I be excused from the case?" The judge then rules that you are dropping the case, and he slams down his gavel. You then learn that you are indeed a money maker — for the defendant, that is. The judge rules that you must pay the other side's legal fees for filing such a frivolous lawsuit in the first place. This is usually known as displaying "vexatious conduct." Confused, and with a cold, tightly knotted anger in the pit of your stomach, you quietly and sadly bend your knee and humbly go back to picking your master's cotton.

And so it goes with the Litigation Vortex, on the stage of the holodeck court, where nothing is as it appears, and where a plaintiff is never to be seen again — with money.



Judges Extracting the Last Measure of Worth From Their Victims
(Adapted from a Buddhist depiction of hell)

This description, of course, is just the beginning, because now you decide you are going to file an appeal, file a complaint against the judge, and continue asking the judges to find themselves corrupt. Although you now know that your grade school teacher was wrong, there is still something in you that cannot accept it. So you continue to labor in the Vortex. I liken such appellants to the compulsive gambler, who only wants to win his money back. His biggest problem is that he doesn't realize that the odds are against him and the deck has been stacked. You must not be like that gambler who refuses to accept reality. You must recognize that, in dealing with Holodeck Law, the odds are against you, and in the Litigation Vortex, the deck is stacked.

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The Author: Linda L. Kennedy is an Attorney at Law, practicing in Portsmouth, Virginia. This commentary is part of a series that first appeared in the February 22, 2002 issue of the J.A.I.L. News Journal and is reprinted here by permission of the author. J.A.I.L. stands for Judicial Accountability & Integrity Legislation, a proposed [amendment](#) to state constitutions that would provide for special grand juries that would have the power to investigate complaints against judges and, where appropriate, fine or remove them from the bench (see: www.jail4judges.org).

Kennedy's active role in exposing judicial corruption led to her disbarment in July, 2002. Her judicial reform writings were used as evidence of her "unfitness." The loss of her license was [appealed](#).

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**Censure
Judge
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