

NOTES ON THE STYLE OF THE LAW

On the confusion of (barrister) names

by

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27 Feb 2023; 1 Car III

≈ onomastics ≈ nomenclature ≈ distinguishing ≈
barristers ≈ numbers ≈ peccadilloes ≈



WHAT'S IN A NAME? asked Juliet.¹ When it comes to counsels' names, there actually is quite a lot riding on it. A barrister trades on her reputation, which is made through recorded cases (and to a lesser extent through publications, or even web-logs).

Unfortunately, many people share names with another person, or have similar names, and this means that the ignominy associated with one barrister may be wrongly attributed to another. For example, in November of 2022, the Bar Standards Board (BSB) tweeted about a disciplinary finding against a barrister known as 'Jonathan Turner'. However, as reported by Mr Joshua Rozenberg KC (*hon*) at the time, there are many barristers named Jonathan Turner, and the other Messrs Jonathan Turners were rather disturbed that this announcement might lead people to wrongly make aspersions against their sterling character!²

This confusion is not merely a problem in disciplinary matters. In reported cases, the names of counsel are very valuable. For law reporters and commentators, they can add colour and context by illustrating the specific advocate and style present. For judges in future stages of the case, they allow the easy citation of argument, or the ability to contact counsel if a matter needs clarification. Finally, the names on reported cases provide clients a way of finding the leading practitioners in the field. Yet, it is often impossible to tell which barrister is which, given names are hared. For example, as Twitter users will know,³ there are two

¹ *Romeo & Juliet*, Act II, Scene II

² 'BSB under fire again', *A Lawyer Writes*, 1 December 2022

³ Twitter is a micro-blogging platform with some popularity in the legal community in the 2020s, where short messages may be exchanged and photos attached to such messages. For why I include an explanation about what Twitter is, see 'Social Media in Court Judgments', Note of 19 November 2022.

distinguished silks both named James Turner KC. This ambiguity of names is further compounded if courts use the Scottish practice of simply using surnames (*eg*, ‘Pursuer: Smith KC’) or the academic practice of using only initials (*eg*, ‘Mr J Smith KC for the defendant’).⁴

This problem of name confusion, however, can relatively easily be solved, by a simple change to the BSB website. The *Barristers’ Register*, available online,⁵ is an invaluable resource, because it contains the correct honorifics for each barrister (*ie*, it is the canonical reference for if a female barrister uses ‘Ms’, ‘Miss’, or ‘Mr’). If the *Register* were updated to include practising certificate numbers, it could quite easily provide a way to be absolutely sure which barrister was which. A number is less ambiguous than the date of call (especially because two people of the same name may easily be called at the same day) and analogous to the system already used in judgments in the United States. There, Bar numbers handily make clear which attorney is which. The following example, from a filing in the Supreme Court of California, illustrate how easily numbers can be added to legal documents without any distraction.

No. S268320

In the Supreme Court of the State of California

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff and Respondent,

v.

DUVAHN ANTHONY MCWILLIAMS,
Defendant-Appellant.

Sixth Appellate District, Case No. H045525
Santa Clara County Superior Court, Case No. C1754407
The Honorable David A. Cena, Judge

ANSWER TO AMICUS CURIAE BRIEFS

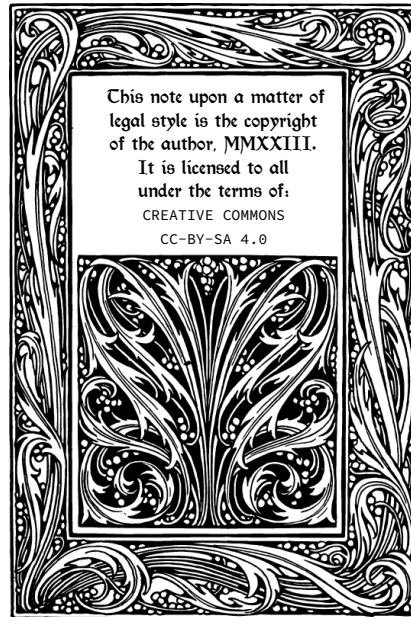
ROB BONTA (SBN 202668)
Attorney General of California
LANCE E. WINTERS (SBN 162357)
Chief Assistant Attorney General
JEFFREY M. LAURENCE (SBN 183595)
Senior Assistant Attorney General
SETH K. SCHALIT (SBN 150578)
Supervising Deputy Attorney General
*AMIT KURLEKAR (SBN 244230)
Deputy Attorney General

⁴ See, *eg*, the headnote of Michael Green J in *Re Petropavlovsk Plc* [2023] EWHC 264, Ch for a recent *in situ* example of this practice.

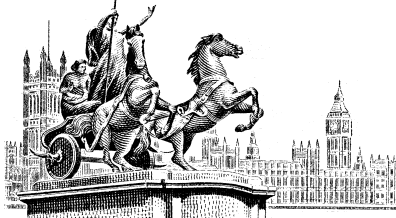
⁵ At this link

Publicly using such numbers is easy, costs nothing, and removes any name ambiguity because each number can quickly be resolved to a specific barrister's entry. Now, the task is ours to press the case for numbers with vigour! I, for one, shall be making every effort in public and private to advance this noble cause, but you, gentle Readers, must join me. In your specialist Bar associations, in your discussions with colleagues (be they at Chambers or Daly's), on various social media, demand numbers now!





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