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EDITORIAL

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The Lawyers Paradox: when client satisfaction doesn't equal client retention

"Your most unhappy customers are your greatest source of learning"- Bill Gates.

This quote from Bill Gates is probably true for most part, but insights that hide in plain sight are even better sources of learning. Here is one such learning from my legal career.

The not-so-easy task of client acquisition, given the ban on advertisement and solicitation for Indian advocates, is nothing compared to the completely shocking reality of poor client retention despite great work. Advocates have always played the variable income game. There is no way to know to extrapolate the past month's earnings to the next. **Indian households do not ever keep any amount earmarked for legal expenses in a year**. I understand the emergency funds are broken into when needed, but we, as a nation, are not wired for paying for legal services until it arises as a non-negotiable and unavoidable circumstance.

While expenses for running a basic law firm may include recurring expenses in terms of rent, electricity, stationery, office help, associate and junior salary, there is no way one can predict the recurrence of client demand for legal services. On the one hand, law firms with big reputations are giving astronomical salaries for their advocates backed by strong clientele and big paydays and on the other, there are advocates having a tough time borrowing funds from friends and family to run the month, hoping a new client will show up.

Corporates need lawyers on a regular basis given their profile of work and complex regulatory requirements. **Almost 4000 companies listed on the stock market have paid legal expenses of close to 7.54 billion dollars in the financial year ending March 2023, according to statistics from ET Intelligence Group**. The problem with this eye-boggling number is that the majority of these fees never percolated to a large volume of lawyers. The buck stops at the big law firms where client affordability is quite assured, and the work gets done. Corporates are not interested to take chances and engaging independent lawyers or smaller law firms, given the wrong perception of uncertainty in delivering results. Credibility and reputation bring in the big money in the legal landscape.

A common citizen may probably need a lawyer in his or her life in 10 odd circumstances. It could include property purchase or sale, will drafting, getting caught in a tax payment issue, divorce and custodial battle, property theft, notary needs, etc. The most honest truth is a major part of legal services don't favour client retention and high fees. The fact that you successfully won a case for a client probably makes you the logical choice for resolving their next legal issue or that they refer new clients who may or may not convert into paying clients is true. Young lawyers must not get carried away by temporary phases of recurring clients. It is mostly rotational as it is still demand meets supply in law law land.

It is always best to remember that even the best lawyer is useless when there is no legal dispute to resolve or once the legal dispute is resolved.

LEGAL CRISPS

Appropriate stamp duty for rectification deed

-Sowmiya R K

The Kerala High Court has clarified the stamp duty fee for rectification deeds in the case of ***Rajesh Kumar K. T vs State Of Kerala (W.P.(C) No.9649 of 2023)***. The Court addressed the interplay between the Registration Act, 1908 and the Kerala Stamp Act, 1959. The judgment sets a precedent for treating minor corrections in property documents, potentially reducing costs for property owners to rectify errors in registered deeds.

The court emphasized that Table 1(s) under Section 78 of the Registration Act, 1908 refers to rectification deeds and sets a maximum fee of Rs.500/- and ruled that when a rectification deed does not create, transfer, limit, extend, extinguish, or record any new rights, it should be treated as a simple rectification attracting this minimal fee.

The judgment cited previous cases, including ***Baburaj P.K. and Others v. State of Kerala and Others (2019 (2) KHC 628)*** and ***Vannathi Valatpil Mahmood v. State of Kerala and Others (2019 (2) KHC 736),*** which supported this interpretation of rectification deeds.

In its final order, the court set aside the District Registrar's decision and directed the Sub Registrar to register the rectification deed by levying only the fee applicable to the registration of a rectification deed, not full stamp duty.

தமிழ்

National recognition of Thirukkural

- Seethala B

Case Name: M. Selva Kumar v Union of India.
Citation: W.P.(MD) No.19007 of 2024

The Madras High Court on 7th August 2024 rejected a petition seeking to officially designate Thirukkural, the renowned Tamil text authored by Holy Saint Thiruvalluvar, as the ‘National Book of High Values and Virtue of India' or 'the National Literature of Virtue with Ethics of India’. The petition was filed by Mr. Selva Kumar, who also sought the translation of Thirukkural into all Indian languages, its inclusion in the curriculum of educational institutions across the country and the nationalization of all Sangam period literature as a national property.

The Madurai bench, comprising Justice R. Subramanian and Justice Victoria Gowri, dismissed the petition, ruling that such a designation is a policy matter reserved for the government and not within the court's jurisdiction. The bench expressed that “**we are not restricting Thirukkural to Tamil Nadu alone, but at the same time, we do not want to open Pandora's box, which will lead to complete chaos. Hence, we are not entertaining the Writ Petition.**” The court also emphasized India’s linguistic diversity, noting that the petition, if allowed, could result in every High Court in the country passing orders for recognizing a particular text, an epic, or a book as a National Book of High Values and Virtues of India.

Mr. Selva Kumar’s petition also proposed establishing awards in the name of Thiruvalluvar, erecting his statue near the new Parliamentary building, declaring him ‘The Ethical and Spiritual Guru of India’, and celebrating his birthday as a national holiday like Gandhi Jayanthi. However, the court dismissed these requests, reiterating that such decisions are policy matters beyond the judiciary’s domain.

CASE CHRONICLE

Pune's Burger King Triumphs Over Burger King Corporation in Trademark Dispute

-Nithyaparvathy R G

Case name: Burger King Corporation v. Anahita Irani and Another
Citation: [REG. CIVIL SUIT NO.-02/2011 CNR NO. MHPU010018472011]

After over a decade of litigation, the Pune Court finally dismissed a trademark infringement complaint filed by US fast-food monster Burger King Corporation against a Pune-based burger company for using the renowned name 'Burger King'.

Burger King Corporation, which oversees a global network of 13,000 fast-food restaurants, has launched a suit against Anahita and Shapoor Irani, the business owners of Pune's Burger King outlets in Camp and Koregaon Park.

The Corporation, founded in 1954, entered the Indian market in 2014. After learning that a restaurant with an identical name had been serving residents since 2008, the Corporation filed a suit, saying that the Pune joint's use of its name caused irreparable damage to its brand reputation. The Corporation requested damages and a permanent injunction from the court to prevent the Pune-based restaurant from using the 'Burger King' trademark.

Judge Sunil Vedpathak ruled in favour of the Pune restaurant, pointing out that the city's Burger King has been using the name and brand since 1992, even before the US Corporation registered its trademark in India. **The Court underlined that, while the Corporation had not used the name in India for nearly 30 years, the Pune restaurant had consistently supplied its customers with the 'Burger King' brand, making its use of the term genuine and honest.**

"With respect to relief of perpetual injunction is concerned, admittedly the plaintiff has started to provide services through restaurant under its trademark Burger King in India, particularly in the year 2014 whereas since 1991-92 defendants are using the trademark Burger King to provide restaurant services. Even the plaintiff has not placed on record the registration certificate about the registration of its trademark in India under class 42 prior to 1991-92. Admittedly, the plaintiff has registered its trade mark Burger King under class 42 pertaining to restaurant services as of 06.10.2006. So, considering the fact that defendants are prior user of the trademark in question, I am of the opinion that the plaintiff has no cause of action to seek relief of perpetual injunction," the Court observed.

The Pune joint claimed ₹20 lakh compensation for suffering and harassment caused by the US Corporation's legal suit. However, the Court denied the application, stating that no adequate evidence was given to support claims for monetary relief.

BEYOND THE OBVIOUS

Phishing vs. Pharming

-Sri Sai Kamalini M S

Phishing and pharming are notorious cybercrimes that have affected many companies and communities. Phishing involves tricking users through fake emails, messages or websites to reveal information like passwords, credit card numbers, etc. Attackers send spoofed communications that appear to be from legitimate organizations to lure victims into clicking malicious links or attachments.

Pharming, in contrast, is a more complicated attack that redirects users to fraudulent websites without their knowledge or consent. **This is achieved by infecting DNS servers to reroute traffic to fake sites or installing malware on victims' devices to alter Domain Name System (DNS) settings.** This manipulation leads users to enter their credentials on these counterfeit websites. The Hackers simultaneously target large groups by manipulating the Domain Name System. Pharming is considered more dangerous as it doesn't require any user interaction to be effective.

In India, pharming and other cybercrime activities are punishable under the Information Technology Act 2000 (Act). Though there is no specific punishment intended for pharming, there are other punishments provided based on the impact, which include:

- Section 66 of the Act provides a punishment for Imprisonment of up to 3 years and/or a fine of up to ₹5 lakh for hacking a computer system or network.

- Section 66C of the Act provides an Imprisonment of up to 3 years and/or fine up to ₹1 lakh for identity theft.

- Section 66F of the Act provides a Imprisonment which may extend to imprisonment for life incase of cyber terrorism.

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