

# NOTES ON THE STYLE OF THE LAW

## *On the naming of persons*

by

ELIJAH Z GRANET

9 July 2023; 1 Car III

≈ nomenclature ≈ defined terms ≈ forenames ≈  
surnames ≈ onomastics ≈ hypochoristics ≈  
honorifics ≈ nicknames ≈ shorthand ≈ dignity ≈  
propriety ≈ respect ≈



How should the various personages involved in the circumstances of a case be referred to by a judge? One approach was taken recently by HHJ Malek in *Wilson v Wilson*.<sup>1</sup> As the case name implies, the claimant and the two defendants share a surname. His Honour naturally avoided confusion by using party titles for them (the Claimant, the Defendants). The more interesting, and it is submitted, unfortunate choice, came from the choice to refer to other persons involved in the case solely by their first names.

There is no plausible reason for the judge to have done this. While the use of forenames is sometimes justifiable where a case involves many people in the same family, here the judge referred to a Ms Eileen Marchant as ‘Eileen’ despite the fact that no one else involved in the case has the surname ‘Marchant’.<sup>2</sup> The same is done for a Ms Trish Odell. Meanwhile, a member of the Wilson clan with a distinct surname, who is neither a claimant nor a defendant (Ms Tamarind Wilson-Flint) is also referred to by forename.

This has several detrimental effects. First, it is disrespectful to address people in the formal situation of court by their forenames. Courts should accord anyone mentioned in proceedings proper dignity and station, and that goes most of all in judgments. Very few people desire their names to be memorialised in the public records of the nation as an incidental participant in a

<sup>1</sup> [2023] EW Misc 5, CoCt

<sup>2</sup> *ibid*, para 2

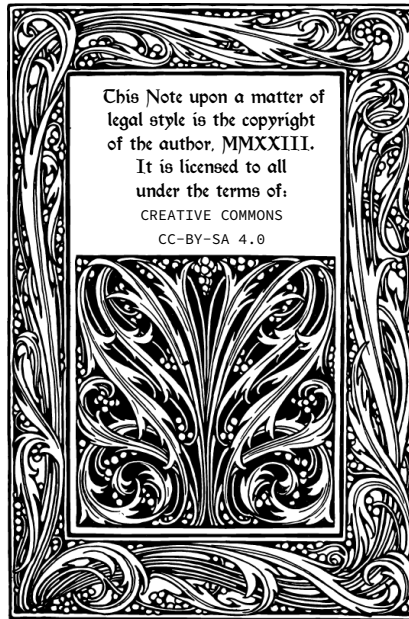
court case. If they must be so inscribed on the (now metaphorical) Rolls of the Realm, the least a court can do is provide courtesy and respect in that process.

It also creates the impression of familiarity and a more casual relationship between the judge and the personages. Needless to say, this impression is of course wrong, but even the appearance (however incorrect) of such things is detrimental to the position of the courts. It also is unfair to witnesses and parties. Clear boundaries separating and creating the space off the court and its power, very distinct to interpersonal interactions outside court precincts, are how the court establishes its authority and communicates expectations to participants.<sup>3</sup> The informal forename usage is confusing, giving participants a false suggestion of intimacy or friendship, when, in fact, all professional parties to the case (solicitors, barristers, the judge) are required to maintain a professional distance from the case. Pretending otherwise does not work.

In the end, there is no justification, where surnames are distinct and do not risk confusion, for using forenames as shorthand. The honorifics before the surname indicate the respect and esteem the court accords to those who have the misfortune to be collateral parties in civil disputes, particularly unpleasant and sad ones as in the instant case. Omitting this mere courtesy is wrong, dangerous, and unnecessary. Formality is part of the thing that separates court procedure from the often venal and cruel world outside the court precincts. We should not discard it lightly.



<sup>3</sup> If you will forgive me for yet again citing this article, I recommend reading the opening sections of J Resnik 'Tiers' (1984) 57 So Cal L Rev 83 (discussing the rôle ritual and formality play in courts).



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