

NOTES ON THE STYLE OF THE LAW

Styling family cases

by

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≈ styles ≈ case stylings ≈ naming ≈ anonymity ≈
pseudonyms ≈



FAMILY LAW must carry out a delicate balancing act to both ensure the privacy of the parties (particularly where a child is involved) and uphold the principle of open justice. One of the most basic steps to achieve this balance is to anonymise the parties. Often, this results in assigning the parties letter combinations such as ‘AB’, which are difficult to remember and result in all case stylings requiring explanatory parentheses—eg ‘AB v CD (*Fact Finding*)’.

Another approach is to entitle¹ the parties, such that the mother of the child is referred to as ‘Mother’ and the father is referred to as ‘Father’. This approach has many advantages. Unlike pseudonyms or letters, the names actually have meaning and inform the reader immediately as to the relational position of the parties. They fit into a pattern lawyers know well—because in law school when studying cases and doing problems it is normal to refer to people only by their relational title (eg, ‘Victim’).

However, a recent judgment by Lieven J highlights the limits of this approach: *The Mother v The Father*.² The definite articles which work so well *within* the case look awkward and stilted when put into a citation. It does not help that ‘The Father’ has a religious ring to it. Even worse, the use of the relational titles here makes the style as indistinguishable as the generic ‘AB v CD’ is. If all cases involving mothers and fathers were so styled, the result would be that all styles became useless, and thus could be completely ignored in favour of citations. This is, in practice, how many civil law countries cite cases.

However, stylings are useful. Human memory associates significance with people, places, images, not abstract numbers. This is why, since antiquity, the best technique of serial memorising has been to associate,

¹ This is I admit an odd usage of ‘entitle’—but it does work and has a good Anglo-Saxon feel compared to just borrowing the French *titulariser*.

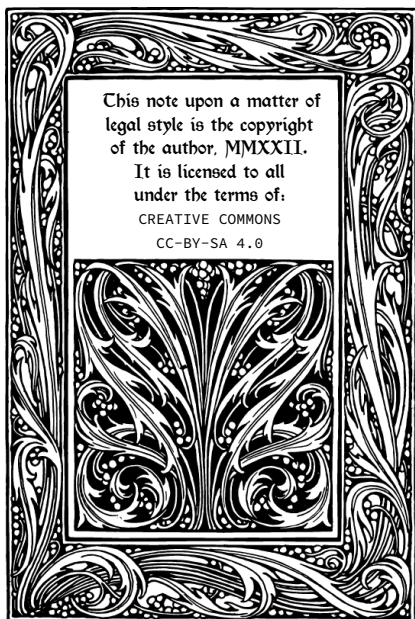
² [2022] EWHC 3107, Fam

say, abstract digits with real places; Cicero called this the ‘method of loci’. Styles let us distinguish cases, let us learn them, let us add them to our head so that we may draw on them for discerning the evolving fabric of the common law. Authorities can persuade, or inspire contrary argument, or provide useful guidance, or provide a template of what *not* to do, but they can do absolutely nothing if they are simply forgotten. Even in an era of search, when keywords can bring up any case ever decided,³ there is no substitute for knowing the cases, for feeling them, for having some to hand, because that instinct provides the *nous* to navigate the tsunami of precedents available at a click. Stylings have a purpose.

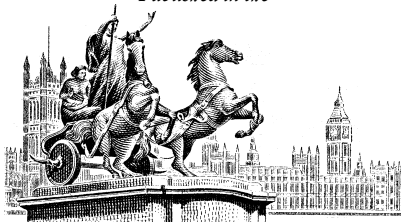
So, I present a modest proposal: pseudonyms. For each case, randomly generate (by a simple programme) names for each party, of the appropriate gender if necessary. The names need never be referred to in the judgment, but the combination of any two surnames in the stylings works to create a trick of memory to aid in indexing. For example, using an online programme, I just generated that this case could be called *Hebert v Ramsey*. That seems to me to be instantly far more memorable than ‘Mother v Father’. However, to avoid any confusion, it would be good practice to mark pseudonyms in case stylings, perhaps with by appending ‘ps’ (for ‘pseudonym’) after the names: *Hebert (ps) v Ramsey (ps)*. This balances truth and distinctiveness, and requires very little additional effort. However, this is merely a suggestion, not a solution, and as ever I invite criticism through any available channel.



³ Well, almost any case—there are still occasional lacuna.



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