

Home / Columns / The legal dilemma of 'The Wizard of Oz'

LAW IN POPULAR CULTURE

The legal dilemma of 'The Wizard of Oz'

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“I’ll get you, my pretty, and your little dog, too!” One of my favorite movies is *The Wizard of Oz*. I rewatched the film recently, and this time, I focused on a scene with great legal significance (<https://www.youtube.com/watch?v=AldxVQ8z5FQ>).

That mean neighbor, Miss Almira Gulch, goes to Auntie Em and Uncle Henry’s house to take Dorothy’s dog Toto to the sheriff to have him destroyed. Apparently, Toto bit Gulch on the leg, resulting in her going to the sheriff and getting an order to put him to sleep (Toto, not the sheriff).

Dorothy is beside herself, and she exclaims, “Uncle Henry, you won’t let her, will you?”

Uncle Henry replies confidently, “Of course we won’t.”

Then Gulch suddenly whips out the “sheriff’s order,” authorizing her to confiscate Toto.

An argument ensues when, predictably, Dorothy refuses to hand over the prisoner. Gulch admonishes the family that they had better hand over Toto forthwith, “unless you want to go against the law.”

Uncle Henry scans the order for about two seconds, and he nods stoically. He reluctantly hands Toto to Gulch, who carts him away in a basket fastened to her bicycle.



Marcel Strigberger.

After this sequence, I did some thinking. Orders made without notice to the affected party scare me—almost as much as barking dogs.

It occurred to me that surely there must have been some provision in the laws of Kansas to set aside this order from the sheriff. I guess the movie people did not concern themselves with these legal implications. However, had the screenplay been penned by a lawyer, the film might have had a sequence dealing with a special motion to right the wrong, as follows:

Ozzie J: This is a motion by Dorothy Gale to set aside the order obtained without notice, by the respondent Almira Gulch from Twister County Sheriff Charlie Farley.

The order was obtained pursuant to the provisions of the Dogs That Annoy Fine Folks Act.

Miss Gulch, the complainant, alleges that Dorothy's dog Toto frequently used to enter her garden and harass her. When she recently politely asked Dorothy to remove Toto, the dog lunged at her, biting Miss Gulch on the shin.

The learned sheriff, after hearing the evidence of Miss Gulch, orders the accused removed from the Gale residence and brought before him an order to be put down.

Dorothy alleges in an affidavit that Toto is a fine dog, really. She denies that Toto ever entered the garden and pleads that the complainant startled both her and Toto as they passed by, suddenly jumping in front of them with her broom and cackling.

An affidavit sworn by Emma Gale (aka Auntie Em) alleges Almira Gulch feels that she owns the entire county and that for 23 years she has wanted to tell Almira Gulch a few things, but being a Christian woman, she couldn't say them.

After reviewing all the evidence, I find that Toto did indeed take a nibble of Almira Gulch's shin. Not only did the complainant suffer physical pain, but she was also forced to endure emotional trauma afterward when Dorothy started singing.

The question now, however, is whether this order should have been sought with notice to Dorothy. And to Toto, too.

Section 4 of the act provides as follows:

4. The sheriff may issue the order without notice if:
- a) The dog or owner cannot be readily located;
 - b) There is a likelihood that upon receiving such notice the dog or owner might abscond from the jurisdiction;
 - c) There is likelihood that upon receiving such notice the dog or owner might bite the sheriff.

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There is no doubt that the original application fails to meet the first leg, so to speak, of the test. Both Dorothy and Toto could readily be found at the Gale residence talking to the farm animals.

There is some skimpy evidence with respect to subsection “b” applying. Almira Gulch insists that had they received notice, both Toto and Dorothy would have been out of here like a tornado. She claims that Dorothy was always singing to herself a weird song about being off to see the wizard.

Gulch argues that there was furthermore good reason to believe that provision “c” was a likely contingency.

I disagree. The evidence of Uncle Henry is that the sheriff often came over to the Gale farm to pitch horseshoes with Uncle Henry. When they were done, Toto then used to engage Charlie in a vigorous game of checkers over a plate of Auntie Em’s chocolate fudge. I cannot see how Toto would have bitten the sheriff had he attended to serve him papers. Perhaps he would have licked his hand. But that’s it.

I find that the order of the sheriff should not have issued without notice, and I set it aside. I award legal costs of the motion to Dorothy; and to Toto, too.

As lawyers, I’m sure the legal significance of this order without fair notice to Dorothy et. al. did not escape us. And as lawyers, we must sometimes be the wizards to let what’s right prevail. At least justice was achieved, as Toto jumped out of the basket en route to his

expected demise. I trust next time any of us revisit the movie, we'll view this scene with a different lens and appreciate the equitable outcome.

*Marcel Strigberger, after 40-plus years of practicing civil litigation in the Toronto area, closed his law office and decided to continue to pursue his humor writing and speaking passions. His just-launched book is *Boomers, Zoomers, and Other Oomers: A Boomer-biased Irreverent Perspective on Aging* (<https://marcelshumour.com/books>). For more information, visit *Marcel'sHumour.com* and follow him at *@Marcel'sHumour* on Twitter.*

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