

Procedural Delaying Maneuvers

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A forum for the expression of readers' views on:

MORALITY IN LEGAL PRACTICE

This section, although inaugurated only recently in *THE CATHOLIC LAWYER*,¹ has already provoked much enthusiastic reader response.

In each issue a factual problem is set forth dealing with some phase of law familiar to most practitioners and posing moral as well as legal issues. Readers are requested to comment upon the proper course of action to be taken in resolving such issues and to forward their comments to the editors. A subsequent issue will contain a compilation of such observations coupled with tentative solutions offered by qualified experts.

The second problem in this series is set forth below with an appropriate title denoting the general area of law it concerns.

PROCEDURAL DELAYING MANEUVERS

You are counsel for the Cola Corporation. Of the active litigation files presently on your desk, File A contains a complaint in negligence and breach of warranty for injuries caused by a defective bottle allegedly purchased by plaintiff from your Corporation. Your investigation establishes that no bottle was ever purchased by plaintiff. File B involves basically the same type of complaint except that your investigation establishes that a defective bottle was purchased but only minor injuries were incurred as compared to the major injuries claimed. File C contains the record of a case which you have recently tried, involving facts similar to those in File A. The jury decided however that the bottle had been purchased by plaintiff and awarded substantial damages against your Corporation. File A and C contain no legal evidence to rebut plaintiff's claim of purchase since the sole basis of your information is a Military Investigation Report which is confidential and inadmissible. A similar record is the sole basis of your information in File B.

Upon the facts as set forth are you ethically and morally justified in utilizing all the legal tactics available (such as attacking validity of service, jurisdiction, pleadings, etc., plus notice of appeal following trial), with the sole object of forcing a settlement or discontinuance?

¹ 3 *CATHOLIC LAWYER* 175 (April 1957).