

Richard A. Courtney, CELA
Certified Elder Law Attorney
4400 Old Canton Road, Suite 220
Jackson, Mississippi 39211
601-987-3000 or 1-866-ELDERLAW
For more Articles, go to:
www.elderlawms.com

Mid-Month Musings

“Musing” (*noun*) – a calm, lengthy, intent consideration

Unlike our first-Tuesday e-newsletter, this monthly essay will not focus on practical legal cases and planning issues. The “Mid-Month Musings” will hopefully inform, inspire and provoke thought about many topics. We hope you enjoy it – and let us know what you think!

Now, Here’s a Real Problem.

“Which came first, the chicken or the egg?” you may ask. My response to you will depend on the context in which we are talking. For instance, if I had just asked you a knock-knock joke, then I might think you are asking me a humorous riddle in return. So my answer might be: “Neither – the soup always comes before the entrée.” But if we are studying together in a genetics class, my answer would be more serious (and would probably be “Don’t know, because I was out last night and didn’t get to read that chapter.”) And this same common riddle/question has been used rhetorically in political and military speeches to make the point that it doesn’t matter which circumstance before us came first, we must take some action to address the situation.

By the way, I recently heard and read that some British researchers have solved the question “Which came first, the chicken or the egg?” It seems they discovered a protein in the shell of a chicken’s egg that could only be produced by a chicken. Thus, the chicken had to come first. (I wonder what that first chicken thought when the first egg popped out?) Now that science settled it and took the fun away, we will have to find another riddle to replace it.

What is the difference between a riddle, a rhetorical question, and a problem that begs for a solution? We have long been entertained by humorous riddles: “How much wood could a woodchuck chuck if a woodchuck could chuck wood?” We have been intrigued by rhetorical questions: “If not now, when. If not us, who?” (Asked by Mitt Romney to the Michigan legislature in 1963 as he proposed the controversial flat tax plan.) And we have been challenged by problems such as “If I drive faster than the speed of light, would my headlights do anything?” (Well, that last one was really a joke from Stephen Wright, one of my favorite comedians, but you DO see the scientific problem in it, don’t you?)

Over many years of teaching pretrial litigation practice to law students, I presented each new class with an ancient problem from the legal world that piqued their interest. This old conundrum tested their logical reasoning abilities and challenged any idea that there is a neat, clean answer to many legal problems. This (riddle? rhetorical question? problem?) seemed to always stimulate logical thinking and efforts at persuasion among the class. I share it here with

you, in case you want to stimulate a few brain neurons (they say that helps ward off dementia). Let me know if you find a solution, and how. (And to Wes and Will, my extremely intelligent engineer son-in-law and 5-year-old grandson – I'm taking bets on which one of you finds a right answer first!)

Protagoras was an ancient Greek philosopher and teacher, the first of the Sophists of Athens in the fifth century, B.C. He posed the following legal problem:

A law professor made a contract with a pupil on a contingency fee basis. The professor was not to be paid until his pupil won his first case as a lawyer. When the professor thought he had taught the pupil enough, he asked for his fee, but the pupil refused because he had not won his first case. The shrewd professor sued the pupil, since the professor thought he could not lose. If the professor won he would get a judgment against the pupil and thus be awarded his fee, whereas if he lost the pupil would have won his first case and the professor would be entitled to be paid under the terms of the contract. [Sounds like a slam-dunk for the professor, huh? Read on.]

At the trial, the pupil, in his first case ever, moved that the case be dismissed. The pupil explained that he could not lose because if he won the case he would have defeated the professor's claim and would not have to pay the professor, whereas if he lost he would not have won his first case and therefore would not have to pay, under the terms of the contract.

Who should win the lawsuit, and why?

Think about it, and let me know what you come up with.

For more articles and information, please visit our website at www.elderlawms.com