



EX ANTE

OUR MISTAKES

We are grateful for this correction-of-a-correction by admirably and irritatingly attentive reader Cattleya Concepcion:

Although I find them amusing, it's not that I'm trying to find mistakes in the *Bag*'s corrections of mistakes. I note them because I believe that the *Bag* can be perfect, or at least try to be. So here's another one for you: In the Winter 2012 issue, the *Bag* corrected a typo in Professor David E. Bernstein's *Brandeis Brief Myths*, 15 GREEN BAG 2D 9 (2012). *See Our Mistakes*, 15 GREEN BAG 2D 117 (2012). The correction indicated that the typo appeared on page 9, but it actually appeared on page 11. A minor mistake, but a mistake nonetheless.

So be it. We stand corrected again. We are accustomed to this sort of thing (although we are not going to point out examples). It is our own fault.

THE BAD PATERNO

The language of the law has for some time suffered from an unfortunate symmetry. In some jurisdictions, so-called "Good Samaritan" laws limit tort liability for people who try to do the right thing by helping others who are in distress. *E.g., Murray v. TransCare Maryland, Inc.*, 203 Md. App. 172 (2012). Confusingly, converse laws that impose tort or criminal liability on those who do the wrong thing by withholding help from people in distress are also

Ex Ante

called “Good Samaritan” laws (*e.g., Earle v. State*, 180 Vt. 284 (2006)) – probably for lack of a suitable antonym. Before he died earlier this year, Joe Paterno positioned himself to solve this problem. Paterno, for many years the famous head coach of the Penn State University football team, resolutely – and with awful effectiveness – withheld help from the children who were being molested by his assistant Jerry Sandusky. “Bad Paterno,” then, would be a sensible antonym for “Good Samaritan,” at least for the purpose of distinguishing between laws that impose liability on bad non-doers and laws that limit liability for do-gooders. It would be not only a useful legal term but also an appropriate legacy. *Compare LUKE 10:25-37 (the lawyer and the parable of the good Samaritan), with Freeh Sporkin & Sullivan, LLP, Report of the Special Investigative Counsel Regarding the Actions of The Pennsylvania State University Related to the Child Sexual Abuse Committed by Gerald A. Sandusky, July 12, 2012, at 14-17.*

MR. JUSTICE PRECEDENT

Eward Gordon passed along the following entertaining supplement to his article about the murals painted by Boardman Robinson for the U.S. Department of Justice. *The Art of Justice or Queen for a Day*, 15 GREEN BAG 2D 149 (2012). Commenting on our treatment of Robinson’s work, Gordon told us:

The [mural] showing the portrait of John Marshall is cropped and doesn’t show it, but in it Robinson painted a male bust set on a table. According to the *Washington Post* (Nov. 11, 1937), “The figure has a very sour face, mouth drooping at the corner and a pair of eyes radiating acid. . . . ‘That,’ said Robinson with a lusty laugh, ‘is the venerable Mr. Justice Precedent.’”

