

# HI-JINKS AT THE BALLPARK: COSTUMED MASCOTS IN THE MAJOR LEAGUES

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It is rare today to attend a major league baseball game without encountering a performer wearing a cartoonish outfit of oversized proportions. Indeed, during the past 30 years nearly every team has developed at least one larger-than-life character to help sell tickets, entertain fans, and promote goodwill and loyalty in the community.<sup>1</sup> Surprisingly, however, no in-depth study of

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<sup>1</sup> John Henderson, *Phantastic! Baseball Fans Are Being Entertained by a Menagerie of Birds, Dinosaurs, Moose, Parrots . . .*, DENV. POST, Aug. 31, 1998, at D1. At one time, however, baseball mascots performed very different functions:

Whether it's a chicken, an elephant, a beagle, a bear or a Phanatic, mascots bring a festive spirit to the ballpark. These days, mascots are most often copyrighted, costumed cheerleaders, but that hasn't always been the case. Originally mascots were seen as a good-luck charm and a symbol for the team; they also helped out in the dugout much as batboys do today. Live animals have even made some memorable appearances as mascots. Baseball has always taken superstition seriously, and early mascots were no exception. Louis Van Zelst, a disabled boy who was the mascot of the Philadelphia Athletics in the 1900s, received almost as much credit as Connie Mack, the team's manager, for the A's three world titles in four years.

Today the mascots exist primarily to entertain the fans. Whether they are heckling the opposing team, dancing on the dugout or playing pranks on the ump, mascots keep things lively.

JOSH LEVENTHAL, TAKE ME OUT TO THE BALLPARK: AN ILLUSTRATED TOUR OF BASEBALL PARKS PAST AND PRESENT 23 (2000). For a further look at the history of baseball mascots, see PAUL DICKSON, THE NEW DICKSON BASEBALL DICTIONARY: A CYCLOPEDIA REFERENCE TO MORE THAN 7,000 WORDS, NAMES, PHRASES, AND SLANG EXPRESSIONS THAT DEFINE THE GAME, ITS HERITAGE, CULTURE AND VARIATIONS 319 (1999) (explaining how the French word "mascotte" entered the English language in 1880 and was first linked to baseball in print in 1884, when it was used in a

these creatures exists. As such, utilizing a team-by-team approach, this Article takes a look at costumed mascots in the major leagues.<sup>2</sup>

### ANAHEIM ANGELS

In April 1994, the Angels introduced two bear mascots named Ribbie and Southpaw.<sup>3</sup> The big-bellied duo quickly became famous for hugging kids, dancing on dugouts, and, during seventh inning stretches, leading the crowd in a rousing rendition of "Take Me Out to the Ballgame."<sup>4</sup> Nevertheless, in May 1996, during the first homestand after the Walt Disney Company purchased the Angels from Gene Autry, Ribbie and Southpaw were banished to the stadium's parking lot for "pregame meet and greet" sessions.<sup>5</sup> From there, it was an exceedingly short trip to mascot obscurity.

The franchise was not mascot-less for long, but folks expecting the likes of Donald Duck, Goofy, and Mickey Mouse were disappointed. In June 1997, Disney replaced Ribbie and Southpaw with two new bears dubbed Clutch (an adult) and Scoop

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story describing a run of good luck being enjoyed by a team in Boston); *see also* Mark Fainaru-Wada, *Game Gets Lost in Fun: Ballpark Entertainment Just Too Much, Especially for Purists*, MILWAUKEE J.-SENT., May 31, 1998, at 9 (Sports) (pointing out that while some fans object to the proliferating use of costumed mascots, in-game entertainment has been a part of baseball since at least the 1880s). For a general history of costumed mascots, *see* Kris Burns & Traci Weinstein, *Brief History: From Art to Reality*, at <http://www.gameops.com/extras/essay1.htm> (last visited Jan. 6, 2002).

<sup>2</sup> Because this article is concerned only with costumed mascots, other types of baseball mascots, such as those that appear on caps, patches, pins, programs, promotional items, scoreboards, and uniforms, are excluded. Readers interested in such mascots should consult JOHN M. FULGARO, *SPORTS LOGO GUIDE* 19-47 (3d ed. 1997), and *Chris Creamer's Sports Logos*, at <http://www.chriscreamers.com> (last updated Mar. 27, 2002). Similarly, although many minor league baseball teams have costumed mascots, only incidental mention of them is made in this article. Readers interested in these mascots should see the individual team pages found at *The Official Website of Minor League Baseball*, at <http://www.minorleaguebaseball.com> (last visited Apr. 20, 2002), as well as Steve Wulf & Chris Anderson, *Our Man in the Manatee*, at <http://www.lifemag.com/Life/essay/mascot/manatee01.html> (last visited Aug. 12, 2001) (day-in-the-life story about Hugh Manatee, the mascot of the Brevard County Manatees, a Class A affiliate of the Florida Marlins).

<sup>3</sup> Randy Youngman, *Hit or Miss, Bo Has Been the Real Show in This Homestand*, ORANGE COUNTY (CAL.) REG., Apr. 18, 1994, at C2, 1994 WL 4345216.

<sup>4</sup> Tom Berg, *Southpaw, Ribbie Are Out at Home: Angels Relegate Bear Mascots to the Parking Lot*, ORANGE COUNTY (CAL.) REG., May 27, 1996, at A1, 1996 WL 7029937. Not everyone, however, appreciated their antics. When the players went out on strike in August 1994, for example, one observer rejoiced at the prospect of "No more Ribbie and Southpaw." Randy Youngman, *Angels Fans Have Plenty of Reason to Celebrate Strike*, ORANGE COUNTY (CAL.) REG., Aug. 11, 1994, at D2, 1994 WL 4318938.

<sup>5</sup> *See* Berg, *supra* note 4.

(a kid).<sup>6</sup> Once again, the mascots failed to live up to corporate expectations and were retired following the 2000 season.<sup>7</sup>

### ARIZONA DIAMONDBACKS

When they began playing in 1998, the Diamondbacks put off picking a mascot because none of the contestants in a nationwide talent search were deemed special enough.<sup>8</sup> Finally, in June 2000, D. Baxter the Bobcat was introduced as the franchise's mascot.<sup>9</sup> Unfortunately, initial reaction was overwhelmingly negative. In one survey, 57 percent of respondents said they "hated" Baxter,<sup>10</sup> while in another poll fewer than a third thought he was a good choice.<sup>11</sup>

The idea for Baxter came from five-year-old Brantley Bell, son of Diamondbacks second baseman Jay Bell, who suggested a bobcat because the club plays in Bank One Ballpark, better known as the BOB.<sup>12</sup> Despite this explanation, many fans remained perplexed that the club's mascot was not a serpent (the team, however, never considered such a character because of its inability to shake hands and worries it would scare off small children).<sup>13</sup> Others complained Baxter looked too much like Wilbur the Wildcat, the University of Arizona's mascot.<sup>14</sup> A third objection stemmed from the fact that Baxter did not seem to do much during

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<sup>6</sup> Bill Shaikin, *Angels to Face Valenzuela*, ORANGE COUNTY (CAL.) REG., June 13, 1997, at D3, 1997 WL 7427831; Nellene Teubner, *Hidden Treasures Divine Discovery*, ORANGE COUNTY (CAL.) REG., July 1, 2000, at F6, 2000 WL 4839081. For pictures of Clutch and Scoop, see *Angels Mascots Index*, at <http://www.futureangels.com/images/a/angelsmascots.html> (last visited Jan. 6, 2002); <http://www.crittersbythebay.com/yippee/jc-clutch.JPG> (last visited Jan. 6, 2002); <http://www.crittersbythebay.com/yippee/jc-scoop.JPG> (last visited Jan. 6, 2002); <http://www.mascotspot.com/pics/anaheim-angels.jpg> (last visited Jan. 6, 2002). To view them as plush toys, see <http://www.flamingobeans.com/displ/displ08.html> (last visited Jan. 6, 2002).

<sup>7</sup> Gordon Edes, *Williams Matter Raises Questions*, BOSTON GLOBE, Apr. 22, 2001, at F13, 2001 WL 3930288; Randy Youngman, *Shaq Working on His Master's in Missed FTs*, ORANGE COUNTY (CAL.) REG., Dec. 21, 2000, at TV, 2000 WL 29974251.

<sup>8</sup> Thomas Ropp, *D-Backs Dig for Mascot: Hunt Goes on for 'Plush' That Has Talent, Creativity*, ARIZ. REPUB., Mar. 10, 1998, at A1, 1998 WL 7765567.

<sup>9</sup> Dan Nieto, *Say Hey to D. 'Baxter,' D-Backs' New Mascot*, ARIZ. REPUB., June 24, 2000, at B1, 2000 WL 8045014.

<sup>10</sup> *But Could They Beat the Saints?*, ARIZ. REPUB., June 30, 2000, at C2, 2000 WL 8046533.

<sup>11</sup> *New Mascot*, BUS. J. PHOENIX, Aug. 25, 2000, at 54, 2000 WL 16810003.

<sup>12</sup> Nieto, *supra* note 9.

<sup>13</sup> David Casstevens, *D-Backs New Mascot Fits Right in at BOB*, ARIZ. REPUB., July 7, 2000, at A2, 2000 WL 8048116.

<sup>14</sup> Richard Ruelas, *D-Backs Mascot Sheds Criticism*, ARIZ. REPUB., Apr. 2, 2001, at B1, 2001 WL 8528654.

games.<sup>15</sup>

During the off-season, the Diamondbacks sought to address these shortcomings while giving the beleaguered mascot a contract "for all nine of his lives."<sup>16</sup> Thus, while Baxter is still a furry cat with pointy ears, squinty eyes, and a smirky grin,<sup>17</sup> he now mingles regularly with the crowd and performs more animated routines.<sup>18</sup>

### ATLANTA BRAVES

In May 1986, after a month-long contest that drew 6,000 entries from 41 states, Rhubarb was chosen as the name for the Braves' first mascot.<sup>19</sup> This was quickly changed to Rally, however, after it was discovered the moniker already was being used by the Chicago White Sox.<sup>20</sup>

A huge red creature of uncertain origin with a blue mohawk and a potbelly,<sup>21</sup> Rally was joined in April 1987 by a second mascot known as Homer the Brave.<sup>22</sup> Originally a caricature of the team's warrior logo,<sup>23</sup> Homer's head subsequently underwent a makeover and now looks like a giant baseball.<sup>24</sup>

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> For pictures of Baxter, see [http://diamondbacks.mlb.com/NASApp/mlb/ari/team/ari\\_team\\_coachesstaff.jsp](http://diamondbacks.mlb.com/NASApp/mlb/ari/team/ari_team_coachesstaff.jsp) (last visited Apr. 21, 2002); <http://personal.clt.bellsouth.net/clt/n/c/nchatwal/baseball/tour.html> (last visited Aug. 13, 2001); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 13, 2001); *The New Mascot for the Arizona Diamondbacks (D. Baxter, the BOBCat)*, at <http://www.westgroupresearch.com/releases/baxter.html> (last visited Apr. 21, 2002).

<sup>18</sup> Ruelas, *supra* note 14.

<sup>19</sup> Terence Moore, *Was Silly Nickname 'Rally' the Best Braves Could Do?*, ATLANTA J. & CONST., June 8, 1986, at B4, 1986 WL 2832932.

<sup>20</sup> Chris Mortensen, *Simmons' Pitching Effective Because He Was Deceptively Slow*, ATLANTA J. & CONST., May 31, 1986, at D2, 1986 WL 2827676.

<sup>21</sup> Lewis Grizzard, *New Braves Mascot, Rally, is a Major League Mistake*, ATLANTA CONST., June 23, 1986, at A2, 1986 WL 2836439 (describing Rally as "a giant pimple with big feet"); *People in Sports*, HOUS. CHRON., June 12, 1990 (Sports), at 8, 1990 WL 6629090 (noting fans in the cheap seats refer to Rally as "The Blood Clot"). For pictures of Rally, see *Carol's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/rich.jpg> (last visited Apr. 21, 2002); *Dinger and All His Friends*, at [http://206.99.232.2/jobby/all\\_star.htm](http://206.99.232.2/jobby/all_star.htm) (last visited Jan. 8, 2002) (third row, second from the right); *Fink About Mascots*, at <http://members.aol.com/homerfink/mascots.html> (last visited Jan. 8, 2002); *Scott's Page*, at <http://members.northrock.bm/~wsg/Scott'sPage.html> (last visited Apr. 22, 2002).

<sup>22</sup> Lewis Grizzard, *New Uniforms Not Enough to Improve Braves*, ATLANTA J. & CONST., Apr. 1, 1987, at A8, 1987 WL 5276594.

<sup>23</sup> Rachel Blount, *Braves vs. Phillies: Rally, Rally, Rally, Who?*, ATLANTA J., Apr. 8, 1987, at E4, 1987 WL 5278223. For a picture of this Homer, see *Dinger and All His Friends*, *supra* note 21 (top row, extreme right).

<sup>24</sup> For current pictures of Homer, see *Bill's Web Page: Pictures of the Atlanta Braves*, at <http://faculty.une.edu/cas/tkucznow/students/102sp99/Pearce/brvpics.htm> (last visited Jan. 8, 2002); *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/homerb.jpg>

In their early years, Homer and Rally were verbally and even physically abused while roaming around the stadium.<sup>25</sup> Fearing for their safety, the Braves relocated them to the Kids Corner, where they have proven to be a big hit.<sup>26</sup>

### BALTIMORE ORIOLES

The Orioles use three different people to portray their mascot, a feathery black-and-orange figure known as the Oriole Bird who first appeared in 1979.<sup>27</sup> The need for more than one performer is due both to the physical demands of being a mascot<sup>28</sup> and the Bird's enormous popularity.<sup>29</sup>

The actors who have played the Bird have been a particularly litigation-prone group: John Krownapple won \$60,000 in damages from Louis Vitagliano, a fan who shoved him off a wall at a May 1999 game against the Chicago White Sox;<sup>30</sup> Jeff Gartner currently

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(last visited Jan. 8, 2002); *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/homerc.jpg> (last visited Jan. 8, 2002); *Fink About Mascots*, *supra* note 21; <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 13, 2001).

<sup>25</sup> J.J. Cooper, *Flingin' in the Rain*, ATLANTA J. & CONST., Aug. 22, 1992, at D6, 1992 WL 4616061.

<sup>26</sup> *Id.*

<sup>27</sup> William Glanz, *Battered Wings: Orioles Bird is Actually 3 Tough Guys*, WASH. TIMES, Aug. 3, 2001, at B8, 2001 WL 4159080. For pictures of the Bird, see *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/bird.jpg> (last visited Apr. 22, 2002); *Dave's Team Mascot Photos*, at <http://www.travelin-tigers.com/zdave/mascot2.htm> (Sept. 1997); *Debbie M's Web Page*, at <http://community-2.webtv.net/smurf019/DebbieMsWebPage> (last visited Apr. 22, 2002); *Dinger and All His Friends*, *supra* note 21 (third row, extreme right); Fiberworks, Inc., *The Bird*, at <http://www.fiberworksinc.com/pages/oriole.html> (last visited Apr. 22, 2002); <http://personal.clt.bellsouth.Net/clt/n/c/nchatwal/baseball/tour.html> (last visited Aug. 13, 2001). For a picture of the Bird as a plush toy backpack, see <http://shop.mlb.com> (last visited Apr. 22, 2002).

<sup>28</sup> At a May 2001 meeting of the American College of Sports Medicine in Baltimore, Dr. Edward G. McFarland of Johns Hopkins University reported on the results of a survey of 48 professional sports mascots. As a group, these performers had suffered 179 injuries (of which 22 required surgery), a rate of 2.7 per 1,000 appearances. Heat exhaustion (58 percent) was the most common ailment (owing to the fact costumes typically weigh between 20 and 80 pounds), followed by chronic back pain (44 percent) and injuries to knees (17 percent), hands (14 percent), and ankles (13 percent). Anita Manning, *Pro Mascots Play with Danger*, USA TODAY, May 31, 2001, at D11, 2001 WL 5463724; Paul Owens, *Mascot Injuries Common; Many Suffer from Heat, Survey Finds*, HOUS. CHRON., June 3, 2001, at 13, 2001 WL 3025371; Kristin Reed, *It's a Dog's Life... or a Bird's*, MILWAUKEE J.-SENT., June 3, 2001, at 2C, 2001 WL 9359903; Michael Stroh, *Mascots Play Hurt, Too*, BALT. SUN, May 31, 2001, at 1A, 2001 WL 6160880; George Vecsey, *Discovering Pain of Team Mascots*, N.Y. TIMES, June 3, 2001, § 8, at 7.

<sup>29</sup> According to the team, the Bird makes more than 450 personal appearances each year, visiting communities from Virginia to Pennsylvania. See [http://orioles.mlb.com/NASApp/mlb/bal/community/bal\\_community\\_programs.jsp](http://orioles.mlb.com/NASApp/mlb/bal/community/bal_community_programs.jsp) (last visited Apr. 22, 2002).

<sup>30</sup> Caitlin Francke, *Judge Orders Man Who Pushed Oriole Bird to Pay \$60,000; Mascot*

is the target of a multi-million dollar lawsuit filed by Vincent Minervini, who claims he was assaulted while watching a May 1997 game against the New York Mets;<sup>31</sup> and Bromley Lowe had \$500 worth of damage done to his costume by William Bilello, an intoxicated off-duty cop visiting from Long Island, during an August 1995 game against the Toronto Blue Jays.<sup>32</sup>

The group also has had a number of accidents. In May 2000, Lowe lost the tip of a finger on his right hand during a game against the Boston Red Sox;<sup>33</sup> in August 1999, Krownapple had his costume's headpiece knocked off while engaging in a mock fight with Detroit Tigers first base coach Juan Samuel;<sup>34</sup> and in May 1986, Dan Senft injured his right leg when he fell from a dugout roof celebrating a victory over the Kansas City Royals.<sup>35</sup> Additionally, the mascot dressing room at Camden Yards is named for Jamie Parker, an Oriole Bird who was killed in a November 1991 car crash.<sup>36</sup>

### BOSTON RED SOX

In April 1997, the Red Sox introduced Wally the Green Monster,<sup>37</sup> a furry creature named after Fenway Park's infamous left field wall.<sup>38</sup> To help boost awareness of their new mascot, the

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*Was Injured When He Fell 15 Feet Into Right Field*, BALT. SUN, Mar. 25, 2000, at 5B, 2000 WL 4862003. Several months earlier, Vitagliano had been found guilty of second-degree assault and reckless endangerment and given a suspended sentence, community service, and probation. *See id.*

<sup>31</sup> *Man's Lawsuit Says Mascot Roughed Him Up . . .*, WASH. TIMES, Sept. 7, 1999, at C3, 1999 WL 3093708.

<sup>32</sup> Peter Hermann, *N.Y. Officer Beat Orioles' Mascot, Police Say*, BALT. SUN, Aug. 5, 1995, at 1B, 1995 WL 2456865. At the Orioles' next home game, Lowe came out wearing boxing gloves and white surgical tape and shadow-boxed with a ball girl. *Id.*

<sup>33</sup> Manning, *supra* note 28; Owens, *supra* note 28; E-mail from Bromley Lowe to Professor Phyllis Coleman, Nova Southeastern University (Aug. 19, 2001) (on file with the authors).

<sup>34</sup> Danny Knobler, *Mlicki Outduels Mussina, Snaps Skid*, GRAND RAPIDS (MICH.) PRESS, Aug. 7, 1999, at C4, 1999 WL 22961709; Jim White, *Is it a Bird? Is it a Pain?: Jim White Explores the Wider World of Sport*, GUARDIAN (LONDON), Apr. 1, 2000, 2000 WL 18729151.

<sup>35</sup> *Aches and Pains in Baltimore*, ATLANTA J. & CONST., May 11, 1986, at B20, 1986 WL 2823330.

<sup>36</sup> Glanz, *supra* note 27; Jim Henneman, *Orioles Notebook*, BALT. SUN, Oct. 3, 1992, at 6C, 1992 WL 9539795.

<sup>37</sup> Bill Ballou, *Wally's Welcome Is Weak: Fans Boo Team's Monster Mascot*, WORCESTER (MASS.) TELEGRAM & GAZETTE, Apr. 14, 1997, at D3, 1997 WL 3704721; Michael Gee, *Fans Scare Off the Monster*, BOSTON HERALD, Apr. 14, 1997, at 86, 1997 WL 5397935; Peter May, *Fenway Park Fright: Green Monster Wally*, FORT LAUDERDALE SUN-SENT., Apr. 15, 1997, at 6C, 1997 WL 3099031.

<sup>38</sup> For pictures of Wally, see <http://personal.clt.bellsouth.net/clt/n/c/nchatwal/baseball/>

club simultaneously released a children's book describing his origins.<sup>39</sup> More recently, Wally has participated in the team's literacy program,<sup>40</sup> contributed his recipe for "Wally Chow" to a Red Sox wives' charity cookbook,<sup>41</sup> appeared on the front cover of a cereal box celebrating Fenway Park's history,<sup>42</sup> and been given his own card in the Red Sox-version of the board game Monopoly.<sup>43</sup>

For all these efforts, Wally remains a fairly unpopular mascot.<sup>44</sup> Nevertheless, in 2000 a Red Sox fan named P.J. Reilly developed a story about Wally serving as the presidential candidate of the Mascot Party.<sup>45</sup> Visitors to the campaign's elaborate web site were treated to Wally's views on such issues as radar gun control and baseball's luxury tax, profiles of possible running mates (including fellow major league mascots Bernie Brewer, Mr. Met, and the Philly Phanatic), and an interview in which Wally made it clear tennis superstar Anna Kournikova and he were just good friends.<sup>46</sup>

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tour.html (last visited Aug. 13, 2001); [http://redsox.mlb.com/NASApp/mlb/bos/team/bos\\_team\\_coachesstaff.jsp?club\\_context=bos](http://redsox.mlb.com/NASApp/mlb/bos/team/bos_team_coachesstaff.jsp?club_context=bos) (last visited Apr. 22, 2002); David Nevard & Nicholas Neu, at <http://www.ultranet.com/~kuras/wally.htm> (reviewing MAXWELL M. CAREY, *THE LEGEND OF THE GREEN MONSTER* (1997)) (last visited Aug. 13, 2001); *Wally the Green Monster Chat Transcript*, at <http://216.167.43.162/club/chat/transcripts/wallychat.html> (last visited Jan. 8, 2002). For a picture of Wally as a plush doll, see <http://shop.mlb.com> (last visited Jan. 8, 2002).

<sup>39</sup> MAXWELL M. CAREY, *THE LEGEND OF WALLY THE GREEN MONSTER* (1997).

<sup>40</sup> Diana Brown, *Children's Author Clubs a Home Run*, BOSTON GLOBE, July 1, 2001 (Northwest Weekly), at 2, 2001 WL 3941097.

<sup>41</sup> Jane Dornbusch, *Take Me Out to the Kitchen: Players' Favorite Recipes Fill Fund-Raising Cookbook by Red Sox Wives*, BOSTON HERALD, July 2, 2001, at 41, 2001 WL 3805050.

<sup>42</sup> Arnold Bailey, *Collectors Corner—As Pols Fiddle About New Fenway, a Cereal Box Enshrines the Old Park*, PROVIDENCE (R.I.) J., June 11, 2000, at D28, 2000 WL 21733846. For a picture of the box, see <http://www.famousfixins.com> (last visited Apr. 22, 2002).

<sup>43</sup> Beth Carney & Jim Sullivan, *'Cats' Runs Out of Lives on Broadway*, BOSTON GLOBE, Feb. 21, 2000, at E2, 2000 WL 3313991.

<sup>44</sup> Tom Mashberg, *Hope, As Usual, Springs Eternal*, BOSTON HERALD, Apr. 7, 2001, at 1, 2001 WL 3797710 ("Under the stands, Wally the Green Monster—never a popular mascot with the fans—was posing for free snapshots in an effort to burnish his beleaguered reputation. 'Wally—I hate Wally,' said Frank White of Wakefield, looking with scorn at the fuzzy green creature."); see also John Gearan, *Wally's World a Dark One: He's Just Another Red Sox Failure*, WORCESTER (MASS.) TELEGRAM & GAZETTE, May 30, 1997, at D1, 1997 WL 3709785; George Kimball, *Over the Wally*, BOSTON HERALD, May 4, 1998, at 96, 1998 WL 7344515. However, when the Red Sox held a Wally the Bean Bag Buddy Day in September 1999, fans could not wait to get their hands on the free toy. Jill Radsken, *Just Wild About Wally: Sox's Bean Bag Buddy Scores with Fans as He Keeps Things Light; As a Bean Bag, Wally Scores*, BOSTON HERALD, Sept. 29, 1999, at 59, 1999 WL 3408897. For a picture of Wally as a bean bag, see <http://tracysbeans.safeshopper.com/548/2023.htm?230> (last visited Apr. 22, 2002).

<sup>45</sup> *Wally for President*, at <http://www.concentric.net/~pjreilly/wally/wally.htm> (last visited Apr. 22, 2002).

<sup>46</sup> *Id.*

## CHICAGO CUBS

Although they have considered the idea, the Cubs never have had a costumed mascot.<sup>47</sup> In 1981, however, a fan named James Kopf began appearing as Cubby during the team's annual trek to Mesa, Arizona for spring training.<sup>48</sup> Kopf's antics lasted until 1989, when the stadium's operator banned him "due to the potential liability Cubby presents and other considerations."<sup>49</sup> Despite a petition containing thousands of signatures and a rally led by the Gorilla (the costumed mascot of the NBA's Phoenix Suns), Cubby was not allowed to return.<sup>50</sup>

## CHICAGO WHITE SOX

In 1981, White Sox owners Eddie Einhorn and Jerry Reinsdorf hired Harrison/Erickson Inc. to develop a mascot that would help tone down old Comiskey Park's rowdy image.<sup>51</sup> Three years earlier, Bonnie Erickson, a former design director for the Muppets, had created an enormously successful character for the Philadelphia Phillies.<sup>52</sup>

As it turned out, what the White Sox got were two of the most unpopular mascots in all of professional sports: Ribbie, an elephant, and Roobarb, "whose ancestry was unknown even to himself."<sup>53</sup> An observer later claimed "[o]ne looked like the dim-witted son of Oscar the Grouch, the other like a chartreuse anteater with a genetic flaw."<sup>54</sup>

Antipathy to Ribbie and Roobarb was "complete and

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<sup>47</sup> Alan Solomon, *Fans Polled on Wrigley Field*, CHI. TRIB., Sept. 11, 1990 (Sports), at 11, 1990 WL 2865124 (reporting on a 1990 team questionnaire that asked fans if a mascot should become part of the entertainment at Wrigley Field).

<sup>48</sup> Dave Roos, *Fur Flies When Mascots Go to Bat*, LOUISVILLE (KY.) COURIER-J., Mar. 18, 1989, at 2B, 1989 WL 3871620.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Robert Markus, *What's All the Roobarb? Not All Fans Take a Fancy to Team Mascots*, CHI. TRIB., Oct. 20, 1992 (Sports), at 1, 1992 WL 4531187.

<sup>52</sup> *Id.*

<sup>53</sup> Marcia Hammond, *Mascots a Blessing in Many Disguises; Entertainment Benefits Pro Teams, Fans, Actors*, ARIZ. REPUB., May 21, 1994, at D1, 1994 WL 6408716.

<sup>54</sup> Bruce Buursma, *After Long Slump, Sox Become Marketing Hit*, CHI. TRIB., June 3, 1990 (Bus.), at 1, 1990 WL 2837597. For a picture of Ribbie and Roobarb, see *Acme Mascots, Inc.*, at <http://www.acmemascots.com> (last visited Apr. 22, 2002) (under heading "Acme Creations").



immediate,” and even children delighted in attacking them.<sup>55</sup> As a result, the two were retired shortly before the start of the 1989 season.<sup>56</sup> Nevertheless, when new Comiskey Park opened in April 1991, it was discovered the contractor, unaware of the pair’s demise, had gone ahead and given them their own dressing room.<sup>57</sup>

### CINCINNATI REDS

Mr. Red, who wears a Cincinnati home uniform with the number 27 on it and has a head that looks like a baseball,<sup>58</sup> began life as a cartoon character, briefly appearing on the team’s jersey in 1956.<sup>59</sup> Several years later, as a promotional stunt during the 1961 World Series, local radio station WKRC had Ted McKay, a disk jockey who resembled Mr. Red, don a baseball uniform and pass out buttons at Crosley Field.<sup>60</sup>

From these humble beginnings Mr. Red evolved into a costumed mascot. Extremely popular during the reign of “The Big Red Machine” in the 1970s, Mr. Red’s act eventually grew stale and he was forced into retirement in 1982.<sup>61</sup> Continuing fan interest in the character, however, convinced the club to bring him back in April 1997.<sup>62</sup>

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<sup>55</sup> Hammond, *supra* note 53; Markus, *supra* note 51; see also Terry Armour, *Hispanic Leaders Question Access to World Cup Practices*, CHI. TRIB., Apr. 12, 1994 (Sports), at 7, 1994 WL 6522347 (“White Sox fans hated Ribbie and Roobarb, the embarrassing mascots who used to parade around old Comiskey Park.”). Even after the passage of nearly a decade, one reporter called on the team to hold a “Ribbie and Roobarb Demolition Night” so the crowd could “give those two furry scamps a proper sendoff.” Paul Sullivan, *Making Comiskey Fan-Friendly*, CHI. TRIB., Aug. 11, 1996 (Sports), at 18, 1996 WL 2697593.

<sup>56</sup> Dave van Dyck, *Pall’s Figures Hike Chances to Make Staff*, CHI. SUN-TIMES, Mar. 23, 1989, at 126, 1989 WL 5496626; Linda Kay & Mike Conklin, *Odds & INS.*, CHI. TRIB., Jan. 31, 1989 (Sports), at 2, 1989 WL 4559462.

<sup>57</sup> Alan Solomon et al., *For Torborg’s Pet, Dog Days Here Already*, CHI. TRIB., Apr. 19, 1991 (Sports), at 6, 1991 WL 9370940.

<sup>58</sup> For a picture of Mr. Red, see [http://reds.enquirer.com/img/photos/040297mrred\\_250x483.jpg](http://reds.enquirer.com/img/photos/040297mrred_250x483.jpg) (last visited Apr. 22, 2002).

<sup>59</sup> Tim Sullivan, *Mr. Red Unmasked—With Whiskers*, CIN. ENQUIRER, Dec. 22, 1999, at [http://enquirer.com/columns/sullivan/1999/12/22/ts\\_mr\\_red\\_unmasked\\_-.html](http://enquirer.com/columns/sullivan/1999/12/22/ts_mr_red_unmasked_-.html).

<sup>60</sup> *Id.*

<sup>61</sup> D.L. Stewart, *A Bun in a Gun*, DAYTON (OHIO) DAILY NEWS, June 6, 1999, at 1E, 1999 WL 19851316; Cliff Radel, *Mr. Red Could Give Baseball a Big Head*, CIN. ENQUIRER, Apr. 2, 1997, at [http://enquirer.com/columns/radel/1997/04/040297\\_cr.html](http://enquirer.com/columns/radel/1997/04/040297_cr.html).

<sup>62</sup> Radel, *supra* note 61.

## CLEVELAND INDIANS

While time has erased all traces of the Indians' first mascot (even team officials can no longer recall anything about it),<sup>63</sup> most Clevelanders still remember the Baseball Bug, a late 1970s addition to Municipal Stadium that was so unpopular the crowds habitually pelted the furry red blob with garbage.<sup>64</sup> Happily, the club has had much better luck with its current mascot, Slider, a furry fuchsia creature with yellow polka dots who made his debut in July 1990 between games of a doubleheader against the New York Yankees.<sup>65</sup>

Like other mascots, Slider has developed various routines to entertain the fans (the most popular of which is hurling hot dogs, called "Winging Weenies," into the grandstands with the aid of a slingshot).<sup>66</sup> He also makes hundreds of public appearances each year at schools, hospitals, nursing homes, businesses, and even bachelor parties and wedding receptions.<sup>67</sup>

In his time with the team, Slider has endured a number of painful missteps. During the 1995 American League Championship Series against the Seattle Mariners, for example, the performer inside Slider (who does not give out his name to enhance the illusion Slider is real) fell from the outfield wall and seriously injured his right knee.<sup>68</sup> On another occasion, Slider

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<sup>63</sup> Arnie Rosenberg, *Indians' Furry Mascot Slides Into Hearts of Baseball Fans: Five Years After Joining the Team, Slider Is Enjoying His Success, Too*, BEACON J. (OHIO) EXTRA, at <http://www.ohio.com/bj/sports/indians/xbiarch/9.16slider.html> (Sept. 16, 1995).

<sup>64</sup> Bob Verdi, *Indians' Long History of Ineptitude Stays Intact*, CHI. TRIB., Oct. 22, 1995 (Sports), at 1, 1995 WL 6258071. One observer has described the Baseball Bug as resembling "a duck-billed platypus." Jared Hoffman, *The Sporting News, Candlestick Park (San Francisco, 1960-99)*, at <http://www.sportingnews.com/archives/baseball/ballparks/candlestick-moments.html> (1999).

<sup>65</sup> See Paul Hoynes, *Farrell May Be Out Until September*, CLEV. PLAIN DEALER, July 30, 1990, 1990 WL 4618770; Rosenberg, *supra* note 63. For pictures of Slider, see *Dinger and All His Friends*, *supra* note 21 (bottom row, second from the left); *Fink About Mascots*, *supra* note 21; [http://indians.mlb.com/NASApp/mlb/cle/team/cle\\_team\\_coaches\\_staff.jsp](http://indians.mlb.com/NASApp/mlb/cle/team/cle_team_coaches_staff.jsp) (last visited Apr. 22, 2002); <http://personal.clt.bellsouth.net/clt/n/c/nchatwal/baseball/tour.html> (last visited Apr. 22, 2002); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 14, 2001); <http://www.mascotspot.com/pics/9.19slider.gif> (last visited Apr. 22, 2002); <http://www.mascotspot.com/pics/slider.jpg> (last visited Apr. 22, 2002); <http://www.ohio.com/bj/sports/indians/worldseries/1997/game03/22tribe01.JPEG> (last visited Jan. 8, 2002).

<sup>66</sup> Rosenberg, *supra* note 63.

<sup>67</sup> Jim Carney, *Slider's Ready to Play Ball; But Even After Rehab, Indians Furry Fan Favorite Won't Be at Full Strength*, BEACON J. (OHIO) EXTRA, at <http://www.ohio.com/bj/sports/indians/xbiarch/bi/3.30slider.html> (Mar. 30, 1996).

<sup>68</sup> *Id.*

found himself under attack by a broom-wielding woman who did not know what he was or why he was in her neighbor's house (he had been invited in for a glass of lemonade during a parade).<sup>69</sup>

On the whole, however, Slider has had a good life as the Indians mascot. In July 1997, for example, the team feted him by having the scoreboard show Marilyn Monroe singing "Happy Birthday." Overcome with appreciation, Slider fainted while watching from right field.<sup>70</sup>

### COLORADO ROCKIES

Since April 1994, the Rockies mascot has been Dinger, a three-horned purple dinosaur chosen because herds of plant-eating triceratops once grazed in the area around hitter-friendly Coors Field.<sup>71</sup> As has become increasingly common, the club's promotions department has given Dinger an elaborate biography, parts of which include his weight (one Dyno-ton), favorite food (bullpen shrubs and infield grass), and fondest Christmas memory (meeting Santasaurus).<sup>72</sup>

Despite these efforts, Dinger's career has been plagued with problems. In August 1994, he got into a fist fight with Jeff Kingery, the Rockies radio announcer, during a game against the Los Angeles Dodgers.<sup>73</sup> In May 1996, he was reprimanded by General Manager Bob Gebhard for taunting the St. Louis Cardinals with a broom during a series sweep.<sup>74</sup> In July 1997, a poll conducted by the *Denver Post* found 91 percent of those

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<sup>69</sup> Rosenberg, *supra* note 63.

<sup>70</sup> Paul Hoynes, *Anderson Begins His Comeback*, CLEV. PLAIN DEALER, July 31, 1997, at 5D, 1997 WL 6606170.

<sup>71</sup> J.R. Moehringer, *No, It's Not Barney—It's Dinger! Pale Purple Dinosaur Newest Member of the Rockies*, ROCKY MTN. (DENV.) NEWS, Apr. 17, 1994, at 5A, 1994 WL 6703883; Mike Patty, *Dinosaur Fossils Found at Golf Course; Triceratops Roamed Site 65 Million Ago*, ROCKY MTN. (DENV.) NEWS, Feb. 9, 1999, at 5A, 1999 WL 6639072; *Colorado Rockies from the Ballplayers, 1993-*, at <http://www.sportslive.com/u/baseball/bol/teampages/rockies/hist.htm> (last visited Aug. 16, 2001). For pictures of Dinger, see *Dinger the Dinosaur—Photo Gallery*, at [http://206.99.232.2/jobby/ding\\_gal.htm](http://206.99.232.2/jobby/ding_gal.htm) (last visited Jan. 8, 2002); [http://rockies.mlb.com/NASApp/mlb/col/team/col\\_team\\_coachesstaff.jsp](http://rockies.mlb.com/NASApp/mlb/col/team/col_team_coachesstaff.jsp) (last visited Jan. 8, 2002); <http://www.mascotspot.com/pics/colorado-dinger.gif> (last visited Apr. 22, 2002).

<sup>72</sup> *Dinger the Dinosaur*, FRESNO (CAL.) BEE, June 26, 1999, at E1; *Hot Off the Presses for \$7.95: Rockies' History of Dinger*, DENV. POST, Jan. 29, 1995, at G2, 1995 WL 6561822; Rebecca Jones, *Genderwise, Our Mascots Are Mysteries*, ROCKY MTN. (DENV.) NEWS, Dec. 20, 1996, at 2D, 1996 WL 12361886.

<sup>73</sup> Joseph A. Reaves, *This Brouhaha's a Humdinger: Rockies' Mascot, Broadcaster Go at It*, CHI. TRIB., Aug. 14, 1994 (Sports), at 5, 1994 WL 6494616.

<sup>74</sup> John Henderson, *Rockies' Purple People Leader*, DENV. POST, Aug. 31, 1998, at D7, 1998 WL 18523100.

voting thought he should be replaced.<sup>75</sup> And in August 1997, with the club hosting the Seattle Mariners, a crazed fan attacked Dinger as he cavorted with a child.<sup>76</sup>

The greatest threat to Dinger's continued existence, however, came in January 1996, when Akmad, a small marketing firm in Aurora, Colorado, claimed it had come up with the idea of a dinosaur mascot.<sup>77</sup> Although the team denied the allegations, in October 1996 it settled the suit for an undisclosed amount.<sup>78</sup>

### DETROIT TIGERS

When the Tigers decided to have a mascot, they went looking for someone who was "18 or older," "between 5-foot-7 and 6-1," and had "[m]ascot and theater experience."<sup>79</sup> Like many teams, the Tigers hoped to improve the game day experience.<sup>80</sup>

As might be expected, PAWS, who debuted in May 1995, is a large (his black spikes are a size 22) tiger.<sup>81</sup> A hit from the very beginning, PAWS has won several awards (including 1995's Rookie Mascot of the Year), been named to Major League Baseball's Mascot All-Star Team, and is a perennial participant in the Mascot Olympic Games.<sup>82</sup>

Although PAWS's "greatest wish is to be able to meet every single Tigers fan,"<sup>83</sup> he undoubtedly regrets his encounter with Stephen Madaffer, who suffered injuries to his neck and jaw when a foul ball hit him in the face during a July 1995 game against the

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<sup>75</sup> Paul Sullivan, *Baylor and Alou Go at It Once Again*, CHI. TRIB., Aug. 3, 1997 (Sports), at 8, 1997 WL 3574540.

<sup>76</sup> Henderson, *supra* note 1.

<sup>77</sup> George Lane, *Rockies' Mascot Idea Stolen, Suit Claims*, DENV. POST, Jan. 3, 1996, at A1, 1996 WL 6681512.

<sup>78</sup> *Rockies, Partnership Settle Over Dinger Idea*, DENV. POST, Oct. 19, 1996, at B3, 1996 WL 12634267.

<sup>79</sup> *Mascot Tryouts*, DET. NEWS, Feb. 23, 1995, at D6, 1995 WL 7231943.

<sup>80</sup> Tom Gage, *[Detroit—They Still Need Pitching]*, GANNETT NEWS SERV., Dec. 4, 1992, 1992 WL 9655566.

<sup>81</sup> See *Give a Roar for PAWS*, at <http://www.spaghetti.com/mascot/paws.html> (last visited Apr. 22, 2002); E-mail from Erin Blank, Detroit Tigers mascot coordinator, to Professor Robert M. Jarvis, Nova Southeastern University (Sept. 2, 2001) (on file with the authors) (advising the correct spelling of PAWS' "name is with all capitals"). For pictures of PAWS, see *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/paws.jpg> (last visited Apr. 22, 2002); <http://personal.clt.bellsouth.net/clt/n/c/nchatwal/baseball/tour.html> (last visited Aug. 16, 2001); [http://tigers.mlb.com/NASApp/mlb/det/team/det\\_team\\_coachesstaff.jsp](http://tigers.mlb.com/NASApp/mlb/det/team/det_team_coachesstaff.jsp) (last visited Apr. 22, 2002); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 16, 2001); <http://www.mascotspot.com/pics/paws.jpg> (last visited Apr. 22, 2002).

<sup>82</sup> *Give a Roar for PAWS*, *supra* note 81.

<sup>83</sup> *Id.*

Seattle Mariners.<sup>84</sup> Claiming he was hurt because he had been paying attention to PAWS instead of the game, Madaffer sued the Tigers.<sup>85</sup> A mediation panel recommended the case be settled for \$45,000, but the club's attorney opted to go to trial.<sup>86</sup> After just three minutes of deliberation, the jury found in favor of the team, rejecting Madaffer's argument "that Paws [sic] was a 'purposeful distraction' . . . ."<sup>87</sup> Adding insult to injury, in November 1997 Wayne County Circuit Court Judge William Giovan ordered Madaffer to pay the Tigers \$8,650 in attorneys' fees and costs.<sup>88</sup>

### FLORIDA MARLINS

At Billy the Marlin's debut in February 1993, manager Rene Lachemann remarked, "I didn't know you were going to be so ugly."<sup>89</sup> The large silver-and-teal fish "responded by whacking Lachemann with his pointed bill."<sup>90</sup>

The name Billy was chosen through a fan contest and reflects the fact that a marlin is a bill fish.<sup>91</sup> According to the team, Billy was born in the Atlantic Ocean, stands eight feet tall "from the tip of his toes to the top of his fin," weighs "250 pounds, in bare fins," attended Atlantis University (where he earned "straight A's in marine biology"), and enjoys watching his favorite movies (*A Fish Called Wanda* and *The Little Mermaid*) while sitting in an extra

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<sup>84</sup> Telephone Interview with Rodney M. Brown, Esq., attorney for Stephen Madaffer (Sept. 4, 2001).

<sup>85</sup> Fred Girard, *Metro Arenas Shell Out Millions for Fans Hurt by Hidden Dangers*, DET. NEWS, Jan. 29, 1998, at A1, 1998 WL 3812466.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* For an identical lawsuit involving the Class A Cucamonga Quakes and their dinosaur mascot Tremor, see *Lowe v. Cal. League of Prof. Baseball*, 65 Cal. Rptr. 2d 105 (Ct. App. 1997). For pictures of Tremor, see *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/tremor.jpg> (last visited Apr. 22, 2002); *Tremor (Rancho Cucamonga Quakes) Index*, at <http://www.futureangels.com/images/t/tremor.html> (last visited Aug. 16, 2001); *Tremor's Corner*, at <http://www.rcquakes.com/tstory.html> (last visited Jan. 8, 2002).

<sup>89</sup> Bob Queenan, *Mascot Mayhem: Madcap Jokes Sometimes Draw Pokes*, CIN. POST, Feb. 7, 1995, at 1D, 1995 WL 6922550.

<sup>90</sup> *Id.* For pictures of Billy, see *Dinger and All His Friends*, *supra* note 21 (bottom row, extreme left); *Fink About Mascots*, *supra* note 21; [http://marlins.mlb.com/NASApp/mlb/fla/team/fla\\_team\\_coachesstaff.jsp?club\\_context=fla](http://marlins.mlb.com/NASApp/mlb/fla/team/fla_team_coachesstaff.jsp?club_context=fla) (last visited Apr. 22, 2002); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 17, 2001); <http://www.mascotspot.com/pics/FloridaMarlins-billy.jpg> (last visited Apr. 22, 2002). For a picture of Billy with his mother Betty, see *Kids Stuff: Billy the Marlin*, at <http://www.sportsline.com/u/baseball/flamarlins/kids/billyhome.htm> (last visited Apr. 22, 2002).

<sup>91</sup> *Hey, Step Up and Meet 'Billy Marlin'*, ST. PETERSBURG (FLA.) TIMES, Apr. 3, 1993, at 5C, 1993 WL 3844054.

wide leather chair shaped like a baseball glove, which he received as a gift from a local hospital.<sup>92</sup>

Named the “in” mascot by *Baseball Weekly* in 1994,<sup>93</sup> Billy has appeared in an ESPN commercial (playing a jealous lover),<sup>94</sup> taped a comedy segment for a *Sports Illustrated for Kids* television show,<sup>95</sup> and popularized a South Florida dance called “The Fish.”<sup>96</sup> Nevertheless, as a fish out of water, Billy has had his share of misadventures. On visits to the state capital, for example, he has had his fin slapped by Governor Lawton Chiles (for setting off an alarm) and been escorted out of the House of Representatives (for fooling around too much).<sup>97</sup>

Another debacle took place on Opening Day 1997, when a skydiver dressed as Billy jumped from a plane intending to land on the field at Pro Player Stadium.<sup>98</sup> Due to a strong wind, the costume’s head was blown off and the parachutist, not wanting to shock the crowd, redirected himself to the parking lot.<sup>99</sup> After two months of searching, the head finally was found sitting on a highway retaining wall several miles from the stadium.<sup>100</sup>

By far, however, the most serious mishap occurred in July 2000. During a game against the Atlanta Braves, Billy, using a bazooka-like launcher to shoot wadded-up t-shirts into the crowd, accidentally hit senior citizen Saul Shechter in the left eye, knocking him unconscious and allegedly causing a partial loss of sight.<sup>101</sup> In January 2001, Shechter responded by filing a lawsuit in

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<sup>92</sup> *Kids Stuff: Billy the Marlin*, *supra* note 90; see also Sarah Duran, *Billy’s Big Chair Fits Like a Glove*, FORT LAUDERDALE SUN-SENT., Nov. 20, 1998, at 1E, 1998 WL 12842184.

<sup>93</sup> See Tim Trepany, *Offbeat Dashing Dachshunds Make Run for Glory*, L.A. DAILY NEWS, July 6, 1994, at S2, 1994 WL 5114087.

<sup>94</sup> Henderson, *supra* note 1.

<sup>95</sup> Sandra Frederick, *Billy the Marlin Makes a Difference*, at [http://www.huddlin.com/\\_97/97\\_12/marlin.htm](http://www.huddlin.com/_97/97_12/marlin.htm) (last visited Aug. 17, 2001).

<sup>96</sup> Karla Schuster, *Fanning the Fever: Shake, Rattle, Wiggle and a Little Goofy*, FORT LAUDERDALE SUN-SENT., Oct. 25, 1997, at 1A, 1997 WL 11409893.

<sup>97</sup> Frederick, *supra* note 95.

<sup>98</sup> Timothy McQuay et al., *Inside Pitch*, BASEBALL WKLY., Apr. 9, 1997, at 3, 1997 WL 6227320.

<sup>99</sup> *Id.*

<sup>100</sup> *Guerrero Ejected, Confesses He Knew Bat Contained Cork*, ARIZ. REPUB., June 2, 1997, at D5, 1997 WL 8367561.

<sup>101</sup> Jeff Shields, *Lawsuit: Flying T-Shirt Injured WWII Veteran at Marlins Game*, FORT LAUDERDALE SUN-SENT., Jan. 23, 2001, at 1B, 2001 WL 2654582. Powered by carbon dioxide, costing as much as \$7,000, and able to send caps, coupons, hot dogs, t-shirts, and even slices of pizza flying up to 350 feet, launchers were first used in the major leagues by the Philadelphia Phillies and now are a common item among team mascots. Stewart, *supra* note 61; *Get ‘Em While They’re Hot*, at <http://www.giantjersey.com/launchers/hdl.html> (last visited Aug. 17, 2001); *Specs & Prices*, at <http://www.giantjersey.com/launchers/prices.html> (last visited Aug. 17, 2001).

state court.<sup>102</sup>

### HOUSTON ASTROS

Few teams have had as many mascots as the Astros.<sup>103</sup> So when it came time for a change in the late 1980s, the franchise did not want to simply entertain fans. Joining forces with the FBI, the club hoped its next mascot would encourage young children to stay in school and off drugs.<sup>104</sup>

More than 10,000 kids sent in suggestions for the new mascot's look, and from their ideas was born Orbit, a paunchy, lime-green, outer space creature whose unveiling came at a Houston elementary school in January 1990.<sup>105</sup> When asked about Orbit's gender, a team spokeswoman replied, "'He's a space alien. I don't think aliens are male or female.'" <sup>106</sup>

From the start, Orbit's days were unhappy ones as fans failed to take to the character.<sup>107</sup> Indeed, his ratings dropped so low that

<sup>102</sup> Shields, *supra* note 101. Although commenced in Fort Lauderdale, the case was moved to Miami after the Marlins raised objections to venue. Telephone Interview with Peter J. Bober, Esq., attorney for Saul Shechter (Mar. 27, 2001).

<sup>103</sup> Ken Hoffman, *Amusement Awaiteth Lords 'n' Ladies in Plantersville*, HOUS. CHRON., Apr. 25, 1999 (Zest), at 7, 1999 WL 3985938 (recalling such past mascots as Astro Jack and Chester Charge).

<sup>104</sup> Foss Farrar, *Astros' Orbit More than Just Another Major League Mascot*, HOUS. CHRON., Mar. 4, 1990, at 1W, 1990 WL 6605049.

<sup>105</sup> *Id.* For pictures of Orbit, see *Dinger and All His Friends*, *supra* note 21 (third row, second from the left); *Manic Xpression—Photo*, at <http://www.slickst.com/manicx/intimate/photos/photos.htm> (last visited Jan. 8, 2002) (under heading "Family Photos"); Amelia Steadman, *My Last Trip to the Dome*, at <http://members.tripod.com/LimaFan/newpics.html> (last visited Apr. 22, 2002).

<sup>106</sup> Ken Hoffman, *Raising Cain Over Her Lofty Springsteen Seats*, HOUS. CHRON., Mar. 12, 2000 (Zest), at 7, 2000 WL 4285440 (quoting Astros media relations representative Desta Kimmel).

<sup>107</sup> In a letter to the editor, for example, one reader opined:

With the baseball season quickly coming to a close, Astros management is faced with the prospect of making off-season decisions concerning team personnel. None should be more quickly addressed than the future of the team mascot, Orbit.

Although it appeared that the Astros had hit rock bottom in their selection of team mascots with Astro Jack and Astro Dillo . . . in retrospect these two now seem to have been comic geniuses compared to our present clown prince. If pelvic thrusts are your idea of high comedy, then come on out to the ballpark and laugh yourself woozy.

I usually find that along about the third inning, I'm hoping that Orbit catches a foul ball in the sternum.

Brian J. Bell, *A Few Suggestions*, HOUS. CHRON., Sept. 30, 1990 (Sports 2), at 30, 1990 WL 6620363. Another patron wrote:

My two sons and I went to an Astros game recently. All three of us had looked forward to it, but I don't think we'll make a return trip anytime soon.

when the NBA's Houston Rockets fired their mascot Turbo in July 1994, many people hoped the Astros would have him take Orbit's place.<sup>108</sup>

Adding to Orbit's problems was his uncanny ability to get into trouble. During a game against the Los Angeles Dodgers in July 1995, for example, he performed a mock karate routine in front of pitcher Hideo Nomo, a stunt that earned him a reprimand from the National League for cultural stereotyping.<sup>109</sup> Likewise, in August 1996, he was thrown out of a game by third base umpire Gary Darling for making faces at Montreal Expos pitcher Mark Leiter.<sup>110</sup> The end for Orbit finally came in April 2000, when the Astros moved from the Astrodome to Enron Field and the team announced "Orbit's contract was assigned to Houston's rookie league affiliate in Martinsville, Va., during spring training."<sup>111</sup>

To fill the hole left by Orbit's demotion, the club introduced Junction Jack, a jackrabbit who stands 5'11" or 6'10" (depending on whether his ears are up or down).<sup>112</sup> In keeping with the new stadium's train theme (the park is built on what had been the site of the city's Union station), he is dressed as a railroad engineer.<sup>113</sup>

#### KANSAS CITY ROYALS

Knowing an all-out effort would be needed to lure fans back to the ballpark following the 1994 players strike, the Royals put

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And that has nothing to do with the Astros' poor performance this season. The reason is a guy named Orbit.

Burke Watson, *Big Green Critter Turned Game Into Bad Memory*, HOUS. CHRON., July 7, 1990, at 11, 1990 WL 6607956.

<sup>108</sup> Bill Schey, *Morning Report*, TACOMA (WASH.) NEWS TRIB., July 8, 1994, at C2, 1994 WL 4622604.

<sup>109</sup> Bob Nightengale, *Just How Big Is Hideo Nomo?*, L.A. TIMES, Sept. 17, 1995 (Magazine), at 20, 1995 WL 9826910; Lawrence Rocca, *Nomo Getting Some Strange Welcomes; An Astros Mascot Performing Mock Martial Arts Is the Latest Stunt*, ORANGE COUNTY (CAL.) REG., July 26, 1995, at D3, 1995 WL 5861413.

<sup>110</sup> Bill Madden, *Broken-Down Record-Breakers*, N.Y. DAILY NEWS, Aug. 11, 1996, at 78.

<sup>111</sup> Ken Hoffman, *Rock Trivia Contender Suffers Serious 'Wipeout'*, HOUS. CHRON., July 2, 2000 (Zest), at 7, 2000 WL 4309045 (quoting Astros assistant communications manager Alyson Footer). For a picture of Orbit following his reassignment, see [http://www.martinsvilleastros.com/upload\\_images/orbit.jpg](http://www.martinsvilleastros.com/upload_images/orbit.jpg) (last visited Apr. 22, 2002).

<sup>112</sup> Hoffman, *supra* note 111.

<sup>113</sup> *Astros Go to Bat in New Home*, HOUS. CHRON., Mar. 30, 2000 (FRESHnews), at 7, 2000 WL 4289180. For pictures of Junction Jack, see Fiberworks, Inc., *Junction Jack*, at <http://www.fiberworksinc.com/pages/astros.html> (last visited Apr. 22, 2002); *Space City Aquatic Team*, at <http://www.goscat.com/Photos/Apr2000SCATatEnron.htm> (Apr. 8, 2000); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 17, 2001).



getting a mascot at the top of their "To Do" list.<sup>114</sup> Consequently, in April 1996, following a naming contest that attracted more than 5,700 entries, Sluggerrr, a large, muscular lion dressed in a Royals uniform and a crown, made his debut.<sup>115</sup>

In October 1996, Sluggerrr went on-line to join fans in the team's chat room.<sup>116</sup> He also holds court during the second inning of every home game in an area of the stadium's Fun Zone known as "Sluggerrr's Dugout,"<sup>117</sup> launches hot dogs into the stands following the third inning of each home game,<sup>118</sup> and makes more than 200 annual appearances at local businesses, hospitals, and schools.<sup>119</sup>

Although things generally have gone well for Sluggerrr, there is one cloud on the horizon. In February 2000, Michael Corbett, a former Royals employee, sued the team for allegedly patterning Sluggerrr after his copyrighted Leo the Royal Lion character.<sup>120</sup>

### LOS ANGELES DODGERS

Unlike most teams, the Dodgers have not fielded a costumed mascot. However, during 1998, the first season after media baron Rupert Murdoch purchased the club from the O'Malley family, a

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<sup>114</sup> See Dick Kaegel, *Mascot Coming to Kauffman Stadium*, K.C. STAR, Jan. 7, 1996, at C1, 1996 WL 2416480; Greg Hall, *Royals Fans Are the Last to Forgive Baseball for the 1994 Shutdown*, PITCH, Apr. 5, 2001, at <http://www.pitch.com/issues/2001-04-05/hall.html>.

<sup>115</sup> Dick Kaegel, *Royals Decide that Name is Winner-r-r; Kansas City's Lion Mascot Will Be Called Sluggerrr*, K.C. STAR, Mar. 25, 1996, at C7, 1996 WL 2424134. For pictures of Sluggerrr, see *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/sluggerr.jpg> (Aug. 1998); <http://usd230.k12.ks.us/usd230/ht/News/sluggerr.html> (last visited Aug. 17, 2001); <http://www.joplinglobe.com/1999/jan99/jan22/012299p.html> (last visited Apr. 22, 2002) (photo by Vince Rosati, *The Joplin Globe*); J.J. Kwashnek, *Is This Heaven? No, It's Iowa*, at <http://www.notduck.com/westrek/iowa99.html> (prepared and updated Aug. 7, 1999) (photo by Wes Backman); Mid-America Regional Council, *9-1-1 Day Pictures*, at <http://www.marc.org/911/911pictures.htm> (Sept. 9, 2000); *Pics from Vel's Trip to America*, at <http://www.angelfire.com/wa/DaniEliz/images/mascot.jpg> (last visited Apr. 22, 2002).

<sup>116</sup> Rich Sambol, *Heart Attack Can't Keep Ex-Royal from Triathlon*, K.C. STAR, Oct. 20, 1996, at C21, 1996 WL 2443993.

<sup>117</sup> In addition to being able to meet Sluggerrr, visitors to the Dugout can have their picture taken with him and buy his merchandise. See *Ballpark A to Z Guide: Sluggerrr's Dugout*, at [http://royals.mlb.com/NASApp/mlb/kc/ballpark/kc\\_ballpark\\_guide.jsp](http://royals.mlb.com/NASApp/mlb/kc/ballpark/kc_ballpark_guide.jsp) (last visited Jan. 8, 2002).

<sup>118</sup> Jan Landon, *Costly: Taking Family to Sporting Events Expensive*, TOPEKA CAP.-J., May 6, 2001, at F1, 2001 WL 18863660.

<sup>119</sup> Fans wanting to see Sluggerrr are able to check his upcoming schedule at *Sluggerrr's Appearances*, at [http://royals.mlb.com/NASApp/mlb/kc/community/kc\\_community\\_programs.jsp](http://royals.mlb.com/NASApp/mlb/kc/community/kc_community_programs.jsp) (last visited Apr. 22, 2002).

<sup>120</sup> Andrew Miller, *Let's Get Ready to Rum-ble...*, PITCH, Feb. 24, 2000, at <http://www.pitch.com/issues/2000-02-24/forks.html> (last visited Aug. 17, 2001).

3'0" robot attired in a blue Dodger shirt and hat greeted fans and answered their questions as they entered the ballpark.<sup>121</sup> Named 643DP for the way double plays that begin with the short stop are scored, the moniker also reminded patrons of R2D2, the robot from the movie *Star Wars*.<sup>122</sup>

### MILWAUKEE BREWERS

When the Seattle Pilots relocated to Milwaukee in 1970, few people seemed to care; by July, the apathy had become so palpable that Milt Mason put a trailer on top of the right field scoreboard and vowed to remain there until the team recorded its first sellout.<sup>123</sup> Forty nights later, when the goal was finally reached, the retired aviation engineer came down on a rope.<sup>124</sup> The crowd roared, Mason was dubbed "Bernie Brewer," and an icon was born.<sup>125</sup>

Originally a man dressed in lederhosen and a Bavarian hat, Bernie took up residence in a center field chalet, from where he would slide into a huge beer mug whenever a Brewer hit a home run.<sup>126</sup> Retired in 1984, Bernie returned as a costumed mascot in 1993 after a team poll found 94 percent of the respondents missed him.<sup>127</sup> Soon the revived character began turning up everywhere, including a television commercial in which viewers learned "in his quest to follow his favorite team during road games," Bernie "is finally getting cable television in his chalet at Milwaukee County Stadium."<sup>128</sup>

To prepare for the club's move to Miller Park in April 2001, Bernie "trimmed down, gr[ew] his mustache a little bigger and traded in his lederhosen for a Brewers uniform," or, as a team spokeswoman exclaimed, "He's buffed, he's tanned."<sup>129</sup> Bernie

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<sup>121</sup> See *First Pitch for Murdoch*, AGE, Apr. 9, 1998, at 7, 1998 WL 11796166; Tom Hoffarth, *The Writing On (and Off) the Wall*, L.A. DAILY NEWS, Apr. 6, 1998, at S2, 1998 WL 3855479.

<sup>122</sup> *First Pitch for Murdoch*, *supra* note 121.

<sup>123</sup> Mel Antonen, *Bernie Brewer Makes Comeback Splash*, USA TODAY, June 10, 1993, at 7C, 1993 WL 6711330.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> Rich Kirchen, *Bernie Gets Wired*, MILWAUKEE BUS. J., June 5, 2000, at <http://milwaukee.bcentral.com/milwaukee/stories/2000/06/05/tidbits.html>.

<sup>129</sup> Chris Colston & Steve DiMeglio, *Bernie Brewer's New Digs*, BASEBALL WKLY., Apr. 11, 2001, at 3, 2001 WL 6816364 (quoting Brewers vice president for community and government affairs Lynn Sprangers). For pictures of Bernie before the makeover, see Avagadro's Chamber Melt, Inc., *Avagadro's Chamber Melt Tribute to Milwaukee County*

also moved from center field to left field (so as to be more visible) and exchanged his chalet and beer mug for "Bernie's Dugout," where a much longer slide now empties into a pad shaped like home plate.<sup>130</sup>

Despite the changes, some fans continue to feel Bernie unwittingly promotes excessive alcohol consumption and the hooliganism that goes with it. Although aware of these feelings, the Brewers remain convinced of Bernie's value to the franchise: "[E]verybody here recognizes the tradition. . . . We love Bernie. Bernie will be here."<sup>131</sup>

### MINNESOTA TWINS

In April 2000, to celebrate their 40th season in Minnesota, the Twins introduced T.C. (for Twin Cities), a "goofy, agreeable bear with a few extra rolls in the bread basket."<sup>132</sup> Standing 6'4" and weighing 434 pounds, T.C. was signed as a free agent after "lead[ing] the Carnivore League in home runs, RBI's and batting average . . . [and] . . . most trout eaten in a single setting (12)."<sup>133</sup>

Because creating a mascot can cost as much as \$80,000,<sup>134</sup>

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*Stadium*, at <http://members.fortunecity.com/nulfis/avagadroschambermelt/id6.html> (last visited Apr. 22, 2002); *Dinger and All His Friends*, *supra* note 21 (third row, extreme left); <http://personal.clt.bellsouth.net/clt/n/c/nchatwal/baseball/tour.html> (last visited Aug. 17, 2001); <http://www.idcomm.com/milwaukeebrewers/bernie.html> (last visited Aug. 17, 2001); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Apr. 22, 2002). For pictures of Bernie after the makeover, see [http://brewers.mlb.com/NASApp/mlb/mil/team/mil\\_team\\_coachesstaff.jsp](http://brewers.mlb.com/NASApp/mlb/mil/team/mil_team_coachesstaff.jsp) (last visited Aug. 17, 2001); <http://www.jsonline.com/images/millerpark/firstgame10-0330.jpg> (last visited Apr. 22, 2002); *Miller Park: The Home Opener*, JSONLINE, at <http://www.jsonline.com/images/millerpark/opener24.jpg> (Apr. 6, 2001).

<sup>130</sup> Colston & DiMeglio, *supra* note 129; Tom Haudricourt, *No Beer for Bernie at New Stadium*, JSONLINE, at <http://www.jsonline.com/sports/brew/aug00/bernie15081400.asp> (last updated Aug. 14, 2000). For a picture of Bernie's Dugout, see *The Miller Park Scrapbook*, at <http://www.webmagination.com/millerpark/images/Photos/2001/2001%2004/mvc-221f.jpg> (last visited Apr. 22, 2002).

<sup>131</sup> Steve Jagler, *Bernie Brewer Will Be PC When He Moves to Miller Park*, MILWAUKEE BUS. J., Dec. 15, 1997, available at <http://milwaukee.bcentral.com/Milwaukee/stories/1997/12/15/tidbits.html> (quoting Brewers vice president of new ballpark development Mike Bucek).

<sup>132</sup> Aron Kahn, *Minnesota Baseball Team Introduces Cuddly Bear Mascot*, KNIGHT-RIDDER TRIB. (MINN.) BUS. NEWS, Mar. 31, 2000, 2000 WL 17762456.

<sup>133</sup> T.C., at [http://www.channel4000.com/sports/twins/meet\\_the\\_team/players/profiles/tcbear.html](http://www.channel4000.com/sports/twins/meet_the_team/players/profiles/tcbear.html) (last visited Aug. 18, 2001); T.C., at <http://www.kmtel.com/Specials/TCmascot/tcmascot.html> (last visited Aug. 18, 2001). In addition to these two sites, pictures of T.C. can be found at [http://twins.mlb.com/NASApp/mlb/min/team/min\\_team\\_coachesstaff.jsp](http://twins.mlb.com/NASApp/mlb/min/team/min_team_coachesstaff.jsp) (last visited Apr. 22, 2002); *The Great Major League Baseball Trip 2000*, at <http://web.csuchico.edu/~tklewin/mlbtrip2000/+twins/twinsgame10.htm> (July 5, 2000).

<sup>134</sup> Kahn, *supra* note 132.

teams typically entrust the task to one of just a handful of established companies. For T.C., the Twins called on Street Characters, Inc., a leading mascot designer in Alberta.<sup>135</sup> They also hired Ryan Satre, the former alter ego of the University of Minnesota's Goldy Gopher, to help find the right performer.<sup>136</sup> In describing the type of person needed, Satre told the Twins to look for someone "who can convey character, thoughts and ideas without speaking. . . . Physical stamina and being good with kids are also important. . . . Baseball knowledge is important, too. With runners on the corners, you don't want to distract fans when a double-steal may be coming up."<sup>137</sup>

T.C.'s appearance fills the gap left by the departure—apparently without much fan distress—of the "spindly-legged Twinkie the Loon, who stalked Met Stadium in 1980."<sup>138</sup> Like many failed mascots, Twinkie was waived because he "didn't do

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<sup>135</sup> *Id.* Besides Street Characters, <http://www.mascots.com> (last visited Apr. 22, 2002), other well-known firms include: About Face Mascots in Edmonton, <http://www.aboutface-mascots.com> (last visited Apr. 22, 2002); Acme Mascots Inc. in Brooklyn, New York, <http://www.acmemascots.com> (last visited Apr. 22, 2002); International Mascot Corporation in Edmonton, <http://www.imcmascots.com> (last visited Apr. 22, 2002); Mascots & Costumes in Minneapolis, <http://www.mascotsandcostumes.com> (last visited Apr. 22, 2002); and Sugar's Mascots.ca Inc. in Toronto, <http://www.sugarscostumes.com> (revised Dec. 27, 2000). For a further look at the work that goes into creating a costumed mascot, see Natasha Emmons, *Mascots as Brands: "Well Worth the Investment"*, AMUSEMENT BUS., June 4, 2001, at 24, 2001 WL 21586680.

<sup>136</sup> Kahn, *supra* note 132.

<sup>137</sup> *Id.* Erin Blank, another experienced performer, agrees with Satre:

There are three elements to building a good mascot program: The costume design, the performer, and the marketing behind the character. . . .

[One has to] find[] the right performer who understands comedy and how to work with the promotion department. They also need to have the correct skill set. . . . The performers also must be a fan of the team and enthusiastic about the team, since you really can't fake that. Finally the performer must understand the game and it's [sic] intricacies.

*Erin Blank Interview*, at <http://www.gameops.com/interviews/interview0900.htm> (Aug. 20, 2000). To help novice performers, Blank has created an exhaustive web site that examines such topics as how to become a mascot, why mascots never speak, proper costume maintenance, health and fitness, game operations, the importance of wranglers (the assistants who walk alongside mascots, helping them navigate), income potential as a mascot, injuries, lawsuits, and the Celebrity Mascot Games held each July in Orlando. *The Mascot Net!*, at <http://www.spaghetti.com/mascot/> (last visited Aug. 22, 2002); see also Mike Jackson, *Crowd Favorites Warm Up for Ball Season*, ST. PETERSBURG (FLA.) TIMES, Mar. 6, 1991, at 1B, 1991 WL 9126857 (recounting various issues discussed during a spring training workout of major league mascots, including what to wear under one's costume, techniques for going to the bathroom, and how to avoid frightening young children); Joby Giacalone, *Mascot Consulting*, at <http://206.99.232.2/joby/default.htm> (last visited Aug. 18, 2001) (web site of Joby Giacalone, who performed as the Colorado Rockies' Dinger in 1994-95 and now, in addition to serving as a consultant, runs camps at which he teaches others how to do the mascot "walk," make "the big entrance," give "the look," and deal with fans, umpires, and opposing teams).

<sup>138</sup> Kahn, *supra* note 132. It has been written that Twinkie looked like "a molting crow." Hoffman, *supra* note 64.

what [he] was intended to do.”<sup>139</sup>

### MONTREAL EXPOS

No team has worked harder at promoting its mascot than the Expos, who have turned Youppi!, a shaggy, pear-shaped, orange creature, into the club's biggest attraction.<sup>140</sup> In fact, the front office has done so much on Youppi!'s behalf that something of a backlash has developed among the club's coaches and players.<sup>141</sup>

Youppi!, whose name means “hurray” in French, was created in 1979 by master costume makers Bonnie Erickson and Wayne Harrison.<sup>142</sup> Similar to other mascots, he has his own line of merchandise (including an autographed \$10 phone card that recently turned up on an internet auction site selling for \$55<sup>143</sup>) and his own antics (a particular crowd pleaser occurs during the seventh inning stretch, as Youppi! uses a giant sling shot to launch t-shirts into the stands<sup>144</sup>).

Notwithstanding his favorable approval ratings, life has

<sup>139</sup> Kahn, *supra* note 132 (quoting former Twins owner Calvin Griffith's son Clark).

<sup>140</sup> For pictures of Youppi!, see *Carl's Mascot Index*, at <http://home.earthlink.net/~bfwd/mascots/youppi.jpg> (last visited Apr. 22, 2002); *Dinger and All His Friends*, *supra* note 21 (top row, extreme left); [http://expos.mlb.com/NASApp/mlb/mon/team/mon\\_team\\_coachesstaff.jsp](http://expos.mlb.com/NASApp/mlb/mon/team/mon_team_coachesstaff.jsp) (last visited Apr. 22, 2002); <http://members.nbci.com/bclairoux/EX49.jpeg> (last visited Aug. 19, 2001); <http://pages.infinit.net/lndb/youpin.html> (last visited Apr. 22, 2002); <http://personal.clt.bellsouth.net/clt/n/c/nchatwal/baseball/tour.html> (last visited Aug. 19, 2001); [http://www.acmemascots.com/creations/creations\\_mascots/youppi.html](http://www.acmemascots.com/creations/creations_mascots/youppi.html) (last visited Apr. 22, 2002); Brian Kendig, *The Great Experiment*, at <http://www.enchanter.net/florida/day13> (July 15, 2000); *Montreal Expos Home Opener*, at [http://members.tripod.com/expos/opener\\_page1.htm](http://members.tripod.com/expos/opener_page1.htm) (Apr. 8, 1999); *The Great Major League Baseball Trip 2000*, at <http://web.csuchico.edu/~tklewin/mlbtrip2000/+expos/olympicgame17.htm> (last visited Aug. 19, 2001).

<sup>141</sup> See Joe Giuliotti, *Baseball Notes: Lasorda Feelin' Blue Over Dodgers*, BOSTON HERALD, Aug. 8, 1999, at B12, 1999 WL 3405191 (“Montreal Expos manager Felipe Alou took a little shot at his front office, whose marketing department has been trumpeting the team mascot, Youppi, as the ‘biggest Expo.’ Said Alou: ‘If he was the best, we’ve [sic] have traded him by now.’”); Shawna Richer, *Guerrero Has Crowd Everywhere but Montreal*, DALLAS MORNING NEWS, July 20, 2000, at 11B, 2000 WL 24847456 (“‘The only one they promote is ‘Youppi,’ the mascot,’ [former Expos pitcher Pedro] Martinez said. ‘It seems like they want to keep players hidden. . . . They never promote the players. They don’t say, ‘Come see [right fielder] Vlady [Guerrero] and the Expos.’ They say, ‘Come see Youppi and the Expos.’”).

<sup>142</sup> See Michael Holley, *Olympic Stadium Is Fair Territory for Boston Fans*, BOSTON GLOBE, July 16, 2001, at D6, 2001 WL 3942429; Mike Tidwell, *Montreal, Expos'd*, WASH. POST, July 11, 1999, at E1, 1999 WL 17013455; *Acme Mascots Inc.*, at [http://www.acmemascots.com/creations/creations\\_mascots/youppi.html](http://www.acmemascots.com/creations/creations_mascots/youppi.html) (last visited Aug. 19, 2001).

<sup>143</sup> *Dan's Price List Reference*, at <http://www.total.net/~danboyer/pcards1.htm> (last visited Apr. 22, 2002) (heading “Reference No. B10021”).

<sup>144</sup> Jonathan Kay, *Build It and They Will Come*, FIN. POST, Oct. 7, 1998, at 13, 1998 WL 19929488.

thrown Youppi! a few curve balls. In August 1989, for example, with the Expos locked in a scoreless extra innings battle, Youppi! became the first mascot thrown out of a major league game when Los Angeles Dodgers manager Tommy Lasorda took exception to his dancing on top of the visitor's dugout.<sup>145</sup> More recently, in April 2001, a rumor the Expos had killed off Youppi! began circulating through the National League.<sup>146</sup> Similar to Mark Twain, the reports of Youppi!'s death turned out to be erroneous.<sup>147</sup>

### NEW YORK METS

The expansion 1962 Mets were so terrible manager Casey Stengel once asked, "Can't anybody here play this game?"<sup>148</sup> But the team did have one bona fide star: Mr. Met, a cartoon character whose head looked like a giant baseball.<sup>149</sup> Two years later, Mr. Met was brought to life as major league baseball's first costumed mascot.<sup>150</sup> In contrast to contemporary mascots, whose costumes are fashioned from top-grade materials and worn by experienced performers, the original Mr. Met had a plaster-of-paris head and was played by Dan Reilly, who was plucked from his job in the club's ticket office.<sup>151</sup>

Despite helping the Mets capture the 1969 World Series and the 1973 National League pennant, Mr. Met was retired in 1974.<sup>152</sup> In 1994, however, he returned as part of an effort to make Shea Stadium a more inviting place for families.<sup>153</sup> The new Mr. Met, who has "a 40-inch diameter baseball head [and] wears uniform

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<sup>145</sup> Pierre Deschesnes, *Youppi with the Expos*, at [http://www.hockeyzoneplus.com/msct03\\_e.htm](http://www.hockeyzoneplus.com/msct03_e.htm) (Aug. 1, 1999); Chuck Welch, *Say It Ain't So, Youppi!*, at <http://archives.emazing.com/archives/baseball/2000-01-04> (Jan. 4, 2000).

<sup>146</sup> Jeff Gordon, *Looking at Who's In and Who's Out in the World of Sports*, ST. LOUIS POST-DISPATCH, Apr. 30, 2001, at B2, 2001 WL 4458861.

<sup>147</sup> Jeff McDonald, *Sports on the Edge*, SAN ANGELO (TEX.) STANDARD-TIMES, May 4, 2001, available at <http://www.texaswest.com/archive/01/may/4/edge.html>.

<sup>148</sup> Joe Henderson, "Can't Anybody Here Play This Game?", TAMPA TRIB., June 10, 2001 (Sports), at 1, 2001 WL 5504581.

<sup>149</sup> Chris Franchino, *How You Doin'? Mr. Met Enjoys Welcoming Fans to the Big Apple*, at [http://cbs.sportsline.com/u/baseball/mlbcom/kids/features/mrmet\\_0906.htm](http://cbs.sportsline.com/u/baseball/mlbcom/kids/features/mrmet_0906.htm) (posted Sept. 6, 2000). For a picture showing Mr. Met as a cartoon, see <http://www.store.yahoo.com/distantreplays/mrmettshirt.html> (last visited Apr. 23, 2002).

<sup>150</sup> Franchino, *supra* note 149.

<sup>151</sup> John Freeman Gill, *The Amazin' Mr. Met Suits Up Again*, N.Y. TIMES, May 20, 2001, § 14, at 3.

<sup>152</sup> Steve Zipay, *Kiddie Park at Shea*, NEWSDAY, May 5, 1994, at A31, 1994 WL 7409557.

<sup>153</sup> *Id.*

00,”<sup>154</sup> is “7 feet tall with wiggly eyebrows . . . [and is] joined in the seventh inning by a troupe of dancing baseball gloves who perform Take Me Out to the Ballgame.”<sup>155</sup>

### NEW YORK YANKEES

Needing information for a story she was writing about local costumed mascots, *New York Times* reporter Erin St. John Kelly called the Yankees and asked whether the team had ever had one. Joseph M. Perillo, the club’s vice president for business development, said no.<sup>156</sup> So did Lonny Trost, the Yankees general counsel.<sup>157</sup> Both men learned otherwise when Ms. Kelly’s article appeared:

From 1982 to 1985, though, the Yankees had Dandy, a pinstriped character designed by Ms. Erickson.

Dandy was a failure. Mr. Harrison said that was because he wasn’t allowed out of the nosebleed areas in the stands. Nor did he do any outside appearances. According to Mr. Harrison, George Steinbrenner, the Yankees’ principal owner, was less than enthusiastic about the mascot after Lou Piniella, the Yankee outfielder, got so angry at the San Diego Chicken’s clowning that he threw his glove at the bird (not a Harrison/Erickson creation). Mr. Steinbrenner, through his spokesman Howard Rubenstein, said he had no recollection of the pinstriped mascot.<sup>158</sup>

Two months later, another reporter refreshed Steinbrenner’s memory:

Owner George Steinbrenner wasn’t a big fan, and sent Dandy off to stadium Siberia in the upper deck in 1981.

The strange thing was that Steinbrenner commissioned Erickson and Wade [sic] to make the mascot, and even invited them to sit with him at the game when Dandy premiered. They

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<sup>154</sup> *Id.*

<sup>155</sup> *It’s Time for Slime at Shea*, BASEBALL WKLY., Aug. 24, 1994, at 27, 1994 WL 3319616. For pictures of the new Mr. Met, see *Carl’s Mascots Photos*, at <http://home.earthlink.net/~bfwd/mascots/mrmet.jpg> (last visited Apr. 23, 2002); *Dinger and All His Friends*, *supra* note 21 (top row, second from the left); *Fink About Mascots*, *supra* note 21; <http://members.aol.com/rtrfile1/pictures/mrmet.gif> (last visited Aug. 19, 2001); [http://mets.mlb.com/NASApp/mlb/nym/team/nym\\_team\\_coachesstaff.jsp](http://mets.mlb.com/NASApp/mlb/nym/team/nym_team_coachesstaff.jsp) (last visited Apr. 23, 2002); Queens Tribune, *The Best People: Queens Angels*, at <http://queenstribune.com/archives/bestarchive/best2000/people-best2000.htm> (last visited Aug. 19, 2001).

<sup>156</sup> Erin St. John Kelly, *Mascots R Them*, N.Y. TIMES, Feb. 15, 1998, § 14, at 4.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

never saw the mascot with the unfurling mustache in action.

The problem was that a few weeks before, Yankee player Lou Piniella got into a tussle with the San Diego Chicken, and when Steinbrenner was asked by reporters about the incident, he responded that mascots didn't belong in the game.

"I said to myself, 'George, you idiot! In two weeks you're introducing yours,'" Harrison recalls. "He kept Dandy around for three years. I never understood why."<sup>159</sup>

### OAKLAND ATHLETICS

In 1901, New York Giants manager John McGraw dismissed Connie Mack's Philadelphia Athletics as "white elephants."<sup>160</sup> The club responded by adopting a pachyderm as its symbol<sup>161</sup> and, many years later, tapping Brent Finger to appear as a costumed mascot known as Trunk.<sup>162</sup> Befitting his sophisticated image, in May 1994 Trunk served as a guest conductor at the Berkeley Symphony.<sup>163</sup>

In April 1997, the A's introduced a new costumed mascot named Stomper.<sup>164</sup> Although still an elephant who wears jersey number 00, Stomper is both cuter and cuddlier than Trunk.<sup>165</sup> He

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<sup>159</sup> Ray Weiss, *N.Y. Woman's Creative Force Behind Many Good Mascots*, SEATTLE TIMES, Apr. 12, 1998, at D10, 1998 WL 3147997. For a picture of Dandy, see [http://www.acmemascots.com/creations/creations\\_mascots/dandy.html](http://www.acmemascots.com/creations/creations_mascots/dandy.html) (last visited Apr. 23, 2002).

<sup>160</sup> *A's Elephant Success Symbol Over the Years*, DALLAS MORNING NEWS, Oct. 16, 1989, at 4B, 1989 WL 6127070.

<sup>161</sup> *Id.*

<sup>162</sup> See Edvins Beitiks, *Barking Their Way Into Candlestick: Giants Weed Out the Undesirable Floppees Trying to Become Seal Mascot*, S.F. EXAMINER, Mar. 9, 1997, at C1, 1997 WL 4335394.

<sup>163</sup> Jesse Hamlin, *Queen Latifah Holds Court in TV Sitcom*, S.F. CHRON., May 3, 1994, at E2, 1994 WL 4054055.

<sup>164</sup> *Stomper #00*, at [http://athletics.mlb.com/NASApp/mlb/oak/community/oak\\_kids\\_stomper.jsp](http://athletics.mlb.com/NASApp/mlb/oak/community/oak_kids_stomper.jsp) (last visited Aug. 19, 2001).

<sup>165</sup> Compare *id.* (pictures of Stomper) with *Dinger and All His Friends*, *supra* note 21 (Trunk—second row, middle). For other pictures of Stomper, see . . . *Be Sure To Wear Some Flowers in Your Feathers*, at <http://www.notduck.com/westrek/sf99b.html> (Aug. 1999); *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/stomper.jpg> (last visited Apr. 23, 2002); [http://athletics.mlb.com/NASApp/mlb/oak/team/oak\\_team\\_coachesstaff.jsp](http://athletics.mlb.com/NASApp/mlb/oak/team/oak_team_coachesstaff.jsp) (last visited Apr. 23, 2002); <http://www.crittersbythebay.com/yippee/jc-stomper.jpg> (last visited Jan. 9, 2002); <http://www.crittersbythebay.com/yippee/lou-stomper.jpg> (last visited Jan. 9, 2002); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 19, 2001); *Read to Exceed in Action*, at <http://www.read-to-exceed.org/pictures.html> (last visited Jan. 9, 2002); *Spring Training Baseball: Cactus League, Arizona*, at <http://phoenix.about.com/library/blbaseball17.htm> (last visited Apr. 23, 2002) (photo by Judy Hedding). Stomper has a mother named Stella. See *Stomper #00*, *supra* note 164.



also is much more of a party animal. To make a grand entrance, Stomper once slid down an inclined 400-foot cable strung between center field and home plate.<sup>166</sup> Fans attending a game at the Oakland Coliseum are invited to spend time in the Stomper Fun Zone and regularly delight in watching him play air guitar and ride around in an all-terrain vehicle.<sup>167</sup> Even a 1999 television commercial took note of Stomper's wild side, showing him and outfielder Ben Grieve jumping around on a hotel bed like a couple of kids.<sup>168</sup>

Of course, all this fun sometimes gets out of hand. At his birthday party in April 2000, for example, Stomper and three of his guests—Dinger from the Colorado Rockies, Lou Seal from the San Francisco Giants, and the Swinging Friar from the San Diego Padres—made such a ruckus the elevator they were riding in stalled.<sup>169</sup> Workers called to the scene needed several innings to free the boisterous foursome.<sup>170</sup>

#### PHILADELPHIA PHILLIES

In the early 1970s, before they came up with the Phillie Phanatic, "the dean of all professional sports mascots,"<sup>171</sup> the Phillies had Phil and Phyllis, a pair of bell-shaped colonial figures whose outfits were so stiff and cumbersome the performers wearing them could barely move.<sup>172</sup> In contrast, the Phanatic—a furry green creature with a trumpet-like beak who stands 6'8" and has an 86" waist—is a veritable dancing machine.<sup>173</sup> He also is a

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<sup>166</sup> *Stomper #00*, *supra* note 164.

<sup>167</sup> *Id.*

<sup>168</sup> George Raine, *A's Hope Ad Campaign Plays Well*, S.F. EXAMINER, Apr. 4, 1999, at C1, 1999 WL 6871289.

<sup>169</sup> Jeff Horrigan, *Red Sox Notebook*, BOSTON HERALD, July 31, 2000, at 108, 2000 WL 4331445.

<sup>170</sup> *Id.*

<sup>171</sup> *Phillie Phanatic*, at [http://phillies.mlb.com/NASApp/mlb/phi/team/phi\\_team\\_coachesstaff.jsp](http://phillies.mlb.com/NASApp/mlb/phi/team/phi_team_coachesstaff.jsp) (last visited Apr. 23, 2002).

<sup>172</sup> Kelly, *supra* note 156. For a drawing of Phil and Phyllis, see <http://www.store.yahoo.com/distantreplays/philphilrint.html> (last visited Aug. 20, 2001).

<sup>173</sup> Tom Burgoyne, *Mascot, Philadelphia Phillies*, in *IN THE BALLPARK: THE WORKING LIVES OF BASEBALL PEOPLE 15* (George Gmelch & J.J. Weiner eds., 1998); Thomas L. Flannery, *A New Sport for the Old Phanatic*, LANCASTER (PA.) INTELLIGENCER J., Apr. 28, 1994, at C1, 1994 WL 7041021. For pictures of the Phanatic, see *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/phan2.jpg> (last visited Apr. 23, 2002); *Delaware/Philly Trip, August 1, 1998*, at <http://www.teresco.org/pics/phillies-19980801/index.html> (Aug. 1, 1998); *Dinger and All His Friends*, *supra* note 21 (bottom row, second from the right); <http://personal.clt.bellsouth.net/clt/n/c/nchatwal/baseball/tour.html> (last visited Aug. 20, 2001); <http://rangers.siegler.net/images/misc/ymcaclaus.jpg> (last visited Apr. 23, 2002); [http://www.acmemascots.com/creations/creations\\_mascots/phanatic.html](http://www.acmemascots.com/creations/creations_mascots/phanatic.html)

Philadelphia institution, as much a part of the city of Brotherly Love as cheese steaks, the Liberty Bell, and Rocky Balboa.<sup>174</sup>

The idea for the Phanatic originated with Denny Lehman, the team's assistant public relations director, at a weekly meeting of the marketing department shortly after the end of the 1977 season.<sup>175</sup> Having seen the San Diego Chicken perform, Lehman believed the Phillies would benefit by having their own character.<sup>176</sup>

Lehman was opposed by Bill Giles, the club's business manager, who thought having a mascot "was a dumb idea."<sup>177</sup> When he finally capitulated, Wayde Harrison and Bonnie Erickson were paid \$3,900 to create what became the Phanatic.<sup>178</sup>

Having placed their order, the Phillies began looking for someone to wear the costume. Because Opening Day was fast approaching, they decided to offer the position on an interim basis to Dave Raymond, a University of Delaware senior who was working as a stockroom boy at Veterans Stadium.<sup>179</sup> Without knowing what the outfit would look like, he agreed because "it seemed like a pretty good gig."<sup>180</sup>

In April 1978, Raymond and the Phanatic made their first appearance at the Vet.<sup>181</sup> When the creature became an instant hit, Raymond had found his life's calling,<sup>182</sup> Harrison and Erickson gained a raft of new clients,<sup>183</sup> and Giles was forced to write a large

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(last visited Apr. 23, 2002); <http://www.angelman.org/Newsletters/Fall99NltrPics.htm> (last visited Aug. 20, 2001); <http://www.gophila.com/photos/images/large/IMG0073.jpg> (last visited Apr. 23, 2002); <http://www.mascotspot.com/pics/Philadelphia-phanatic.jpg> (last visited Apr. 23, 2002); <http://www.q102.com/main2.html> (last visited Apr. 23, 2002); Nando.net, *He's at It Again*, <http://archive.nandotimes.com/newsroom/ap/bbo/1995/mlb/phi/arts/022696/3412phi.html> (Feb. 26, 1996).

<sup>174</sup> Erik Brady, *After 20 Years, Phanatic Keeps 'Em Laughing*, SEATTLE TIMES, Sept. 14, 1997, at D7, 1997 WL 3253189.

<sup>175</sup> Valerie Helmbreck, *Life After Phanaticism*, GANNETT NEWS SERV., Feb. 24, 1994, 1994 WL 11261346; *Mascot Saga: From Mules to Chickens*, ST. LOUIS POST-DISPATCH, July 23, 1996, at 6C, 1996 WL 2781556.

<sup>176</sup> Helmbreck, *supra* note 175.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> Flannery, *supra* note 173.

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

<sup>182</sup> Raymond continued playing the Phanatic until 1993, when he turned the job over to Tom Burgoyne. See *id.* A short time later, Raymond joined Harrison/Erickson Inc. as a principal, the company's name was changed to Acme Mascots Inc. (after the novelty shop in the "Roadrunner" cartoons), and Raymond began working as Sport, Acme's all-purpose mascot. See *id.* For pictures of Sport, see <http://www.acmemascots.com> (last visited Apr. 23, 2002). In 2000, Raymond left Acme to start Raymond Entertainment Group, whose mascot is Reggy. See Raymond Entertainment Group, at <http://www.raymondeg.com> (last visited Apr. 23, 2002).

<sup>183</sup> Among the teams that hired Harrison and Erickson during this period were the

check as the cost of buying the character's copyright zoomed from the original \$1,100 (which he had refused to pay) to \$200,000.<sup>184</sup>

Today, despite a host of imitators, the Phanatic remains an original, so much so that when *Spy* magazine decided to have comedienne Joan Rivers appear on its December 1990 cover as a costumed mascot, the editors dressed her up as the Phanatic.<sup>185</sup> Likewise, when President George W. Bush visited Philadelphia in July 2001, he had his picture taken with the Phanatic.<sup>186</sup>

During his long career, the Phanatic has made some enemies. In August 1988, for example, Los Angeles Dodgers manager Tommy Lasorda got into a fist fight with the Phanatic following a routine in which a doll resembling Lasorda was used as a punching bag.<sup>187</sup> Similarly, in August 1999, agent Scott Boras accused the Phanatic of crossing the line "between entertainment and bad taste" after he put out bags of fake cash to mock St. Louis Cardinals outfielder J.D. Drew, a Boras client who had demanded more money while with the Phillies.<sup>188</sup>

The Phanatic also holds the dubious record as the most-sued mascot in the majors. Among the jury awards entered as a result of the Phanatic's miscues are: \$2.5 million to Charles Donoghue, who suffered back injuries from being hugged too hard at the May 1994 opening of a MAB paint store;<sup>189</sup> \$25,000 to Felicia J. Glick, a pregnant woman who was accidentally kicked in the stomach at an August 1993 game between the Phillies and the Cincinnati Reds;<sup>190</sup> and \$128,000 to Carl G. Seidel, a retired bus driver who was

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Chicago White Sox (for whom they created Ribbie and Roobarb), Montreal Expos (Youppi!), and New York Yankees (Dandy). See *supra* notes 51, 142, 158, and accompanying text.

<sup>184</sup> Helmbreck, *supra* note 175.

<sup>185</sup> *Thomas to Receive Friars Club Award*, L.A. DAILY NEWS, Nov. 10, 1990, at N24, 1990 WL 5501015.

<sup>186</sup> Linda K. Harris & Monica Yant Kinney, *For Bush, a Day of History, People, Even the Phanatic*, PHIL. INQUIRER, July 4, 2001, available at [http://inq.philly.com/content/inquirer/2001/07/04/local\\_news/04BUSH.htm](http://inq.philly.com/content/inquirer/2001/07/04/local_news/04BUSH.htm) (last visited Aug. 20, 2001). For pictures of the two together, see *id.*; *And a Good Week Was Had By All*, at <http://www.geocities.com/grendelthedog/pictures7-5.html> (July 5, 2001); <http://www.tribuneindia.com/20010706/world.htm> (last visited Aug. 20, 2001).

<sup>187</sup> *People in Sports*, HOUS. CHRON., Sept. 13, 1988 (Sports), at 3, 1988 WL 6375312. For a picture of an earlier routine in which the Phanatic mocked Lasorda's role as a pitchman for the diet drink Slim-Fast, see *He Needs to Ultra-Slim, and Fast!*, at <http://archive.nandotimes.com/newsroom/ap/bbo/1995/mlb/lad/arts/053096/3868lad.html> (May 30, 1996).

<sup>188</sup> *Phillies' Mascot Routine Not Exactly on the Money*, FORT LAUDERDALE SUN-SENT., Aug. 12, 1999, at 2C, 1999 WL 20275639.

<sup>189</sup> *A Phanatic Greeting*, HARRISBURG (PA.) PATRIOT, Aug. 7, 1998, at A2, 1998 WL 6475060.

<sup>190</sup> *Woman Wins Suit Against Phils, Mascot*, CIN. POST, Oct. 2, 1996, at 7C, 1996 WL 10562321.

knocked over at a May 1991 church carnival.<sup>191</sup>

Despite these setbacks, the Phillies' menagerie continues to grow, and today includes, in addition to the Phanatic, his mom Phoebe, his girlfriend Phyllis, and his cousin Phred.<sup>192</sup>

### PITTSBURGH PIRATES

Hatched before a capacity crowd of 36,141 at Three Rivers Stadium, the Pirate Parrot—a large green bird dressed in a Pirates shirt—has been entertaining fans since Opening Day 1979.<sup>193</sup>

Like so many other mascots, the Parrot has suffered a number of unfortunate incidents. The most serious occurred in June 1985, when Kevin Koch, who had originated the role of the Parrot, resigned after admitting he had helped procure cocaine for various Pirate players.<sup>194</sup> A witness later claimed to have seen Koch, dressed in his Parrot costume but with the head off, snorting cocaine in one of the stadium's bathroom stalls.<sup>195</sup>

Less sensational problems have included accidentally hitting a reporter with an airborne hot dog during a May 1997 game against the Atlanta Braves;<sup>196</sup> having the costume stolen in January 1990 from the trunk of a locked car;<sup>197</sup> and drawing a one-game suspension in April 1987 for throwing a Nerf™ ball at first base

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<sup>191</sup> *Phanatic Phound That He Went Too Phar*, SEATTLE POST-INTELLIGENCER, Nov. 29, 1995, at C2, 1995 WL 11978954; see also George Vecsey, *Liability Insurance for Mascots*, N.Y. TIMES, Dec. 3, 1995, § 8, at 9 (discussing how plaintiffs like Seidel are making it harder for teams to obtain reasonably-priced mascot insurance).

<sup>192</sup> See Don Bostrom, *Phillies Are Just Where They Didn't Want to Be When Schilling Returned*, ALLENTOWN (PA.) MORNING CALL, Apr. 30, 2000, at C8, 2000 WL 8193782; Flannery, *supra* note 173.

<sup>193</sup> *Tuckahoe Little League Teeball Pirates Info*, at <http://www.eteamz.com/TLLPirates/info> (last visited Apr. 23, 2002). For pictures of the Parrot, see *Dinger and All His Friends*, *supra* note 21 (bottom row, extreme right); <http://personal.clt.bellsouth.net/clt/n/c/nchatwal/baseball/tour.html> (last visited Aug. 20, 2001); [http://pirates.mlb.com/NASApp/mlb/pit/team/pit\\_team\\_coachesstaff.jsp](http://pirates.mlb.com/NASApp/mlb/pit/team/pit_team_coachesstaff.jsp) (last visited Apr. 23, 2002); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 20, 2001); Jana Salisbury, *Kids Celebrate Authors Week with Play About Pirate Parrot*, DOMINION POST (W. VA.), Feb. 10, 2001, available at <http://www.dominionpost.com/a/news/2001/02/10/ab> (photo by Ron Rittenhouse); *Tuckahoe Little League Teeball Pirates Info*, *supra*.

<sup>194</sup> Murray Chass & Michael Goodwin, *Cocaine: Baseball's Black Eye*, CHI. TRIB., Aug. 19, 1985 (Sports), at 1, 1985 WL 2538461; *Chiles Riled by Contract Settlement*, S.D. UNION-TRIB., Aug. 10, 1985, at D5, 1985 WL 2645638.

<sup>195</sup> Garth Woolsey, *'Twas the Night Before Christmas, a la Ken*, TORONTO STAR, Dec. 9, 1999, 1999 WL 24007804.

<sup>196</sup> I.J. Rosenberg, *Belle: 'New Beginning' with Media?*, ATLANTA J. & CONST., May 18, 1997, at F6, 1997 WL 3970971.

<sup>197</sup> Mel Antonen, *Baseball Notes: Brett Broods Over 'Lifetime' Contract*, USA TODAY, Jan. 31, 1990, at 3C, 1990 WL 7544575.

umpire Fred Brocklander after he blew a call during a game against the Los Angeles Dodgers.<sup>198</sup>

As it turns out, even kids, normally a mascot's biggest fans, have been a source of woe for the Parrot:

Generally, mascots never talk. Here's why: The Pirate Parrot once got assaulted at Three Rivers Stadium by a 7-year-old who pulled on, first, his beak, then his wing, then his back, then his hat. The Parrot hugged the child tighter, and he pulled on the beak again. Hard.

"I put my beak over his head and usually if you just whisper something to them, like, 'Hey, don't do that anymore,' they quit," said the Parrot, Jeff Deceder. "So I go, 'Hey, Bud. Please, don't do this.' I pull my beak off his head and everybody focuses on him. He's the center of attention. He yells, and it sounded so loud, like there was no other sound in the stadium: 'THE PARROT CURSED AT ME!' What do you say? I know personally I didn't curse. Here's this little kid who everyone in the world is going to believe.

"That's why you don't talk."<sup>199</sup>

### SAN DIEGO PADRES

In March 1974, San Diego radio station KGB hired college student Ted Giannoulas to dress up in a chicken suit and hand out Easter candy at the San Diego Zoo for \$2-an-hour.<sup>200</sup> The promotional stunt worked so well Giannoulas quickly became a national celebrity and continues to this day to earn his living by performing as the San Diego Chicken.<sup>201</sup>

During the late 1970s and early 1980s, the Chicken frequently

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<sup>198</sup> Randy Youngman, *Welch Stays Hot, LA Bats Thaw in Victory*, ORANGE COUNTY (CAL.) REG., Apr. 30, 1987, at D1, 1987 WL 3802382.

<sup>199</sup> Henderson, *supra* note 1.

<sup>200</sup> See *Lyons P'ship v. Giannoulas*, 14 F. Supp. 2d 947, 950 (N.D. Tex. 1998), *aff'd*, 179 F.3d 384 (5th Cir. 1999); *KGB, Inc. v. Giannoulas*, 161 Cal. Rptr. 583, 583, *vacated by* 164 Cal. Rptr. 571 (Ct. App. 1980); Paul Valencia, *The Chicken: Clucks and Yucks for Bucks*, COLUMBIAN, July 4, 2001, at B1, 2001 WL 21027358; Rob Mueller, *Radio Gig Turns into World of Fame for the Chicken*, AUGUSTA (GA.) CHRON., July 31, 2001, available at [http://www.augustachronicle.com/stories/073101/bas\\_chicken.shtml](http://www.augustachronicle.com/stories/073101/bas_chicken.shtml); Jeff Walker, *Famous Chicken Still Going Strong After 25 Years*, ARLENE (TEX.) REP.-NEWS, Aug. 4, 1999, available at <http://www.reporternews.com/1999/sports/notes0804.html>.

<sup>201</sup> For pictures of the Chicken, see *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/chicken.jpg> (last visited Apr. 23, 2002); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 21, 2001); <http://www.whitehouse.gov/news/releases/2001/05/images/tee-ball2.html> (last visited Jan. 9, 2002).

appeared at Padres games, where his antics helped sell tickets.<sup>202</sup> Phased out after Joan Kroc inherited the team in January 1984, the idea of having a mascot resurfaced when Tom Werner purchased the club in June 1990.<sup>203</sup> As such, in April 1992 the Padres unveiled a nameless blue creature with a baseball nose described as “neither animal, vegetable nor mineral. . . .”<sup>204</sup> Eventually dubbed Bluepper,<sup>205</sup> the character proved unable to make fans forget the Chicken and was let go during the 1995 season, just a few months after Werner sold the franchise to John Moores.<sup>206</sup>

Following the 1995 season, the team resumed using its “Swinging Friar” logo, which had been dropped following its trip to the 1984 World Series, and also decided to turn the logo into a costumed mascot.<sup>207</sup> Similar to the cartoon version, the “live” Friar is an overweight, balding, grinning figure dressed in sandals and a hooded habit that comes in a variety of colors, including “plum, blue and a Hawaiian print.”<sup>208</sup>

The 1995 Padres finished eight games out of first place.<sup>209</sup> In 1996, however, the team captured the NL West crown,<sup>210</sup> a feat it

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<sup>202</sup> See Greg Hansen, *The Times May Have Changed in Baseball but Chicken's Shtick Remains the Same*, ARIZ. DAILY STAR, June 18, 2000, at C1, 2000 WL 10243003.

<sup>203</sup> See *Fla. Real Estate King Wants to Land Padres*, NEWARK (N.J.) STAR-LEDGER, July 20, 1994, 1994 WL 7886608; *Owners Approve Padres Sale*, AUSTIN AM.-STATESMAN, June 14, 1990, at C5, 1990 WL 3051832.

<sup>204</sup> Peter Rowe, *Padres Don't Chicken Out, Take Another Swing at Team Mascot*, S.D. UNION-TRIB., Apr. 9, 1992, at C1, 1992 WL 4231789 (quoting Padres director of scoreboard operations Mark Guglielmo); see also Don Norcross, *Mystery Mascot: What Is It? Creature in Stands Is Neither Fish Nor Fowl*, S.D. UNION-TRIB., June 25, 1992, at E1, 1992 WL 4246012.

<sup>205</sup> Kevin Kernan, *Padres Overpower Pittsburgh*, S.D. UNION-TRIB., Aug. 29, 1992, at D1, 1992 WL 4747902; Tony Perry, *Bluepper Isn't the Chicken, and He May Be Around Awhile*, L.A. TIMES, Sept. 16, 1992, at B1, 1992 WL 2863949. For a picture of Bluepper, see *Dinger and All His Friends*, *supra* note 21 (second row, second from the right).

<sup>206</sup> See *Padres Sale Completed*, CHI. TRIB., Dec. 22, 1994 (Sports), at 2, 1994 WL 6555971; Bill Vance, *No Love Lost for Bluepper*, S.D. UNION-TRIB., Sept. 3, 1995, at C10, 1995 WL 5736659.

<sup>207</sup> Tom Krasovic, *Club Plans to Promote Rich Past, All the Way to PCL and Williams*, S.D. UNION-TRIB., Feb. 19, 1996, at D8, 1996 WL 2143187; Tom Krasovic, *The Murph Gets a New Angle in RF*, S.D. UNION-TRIB., Mar. 10, 1996, at C10, 1996 WL 2146996; Peggy Scott, *Friar, Padre Fans Swing Back Into Action*, S.D. UNION-TRIB. (Night & Day), Apr. 4, 1996, at 38, 1996 WL 2151586.

<sup>208</sup> Heidi Hougham, *Making Mayhem—Mariner Moose, Swingin' Friar Add Mischief for Fans, Players*, in NORTHWEST VALLEY 1999 SPRING TRAINING GUIDE 16, <http://www.mascots.com/newsclips/clip-spring-99.html>. For pictures of the Swinging Friar, see [http://www.berkmanpr.com/images/photo\\_18.jpg](http://www.berkmanpr.com/images/photo_18.jpg) (last visited Apr. 23, 2002); [http://www.emptyg.com/misc/friar\\_n\\_me.jpg](http://www.emptyg.com/misc/friar_n_me.jpg) (last visited Apr. 23, 2002); Office of Traffic Safety, State of California, *Photo Gallery*, at <http://www.ots.org/talk/sportsmkting.html> (last visited Apr. 23, 2002).

<sup>209</sup> *1995 National League*, at [http://www.baseball-reference.com/leagues/NL\\_1995.shtml](http://www.baseball-reference.com/leagues/NL_1995.shtml) (last visited Apr. 23, 2002).

<sup>210</sup> *1996 National League*, at [http://www.baseball-reference.com/leagues/NL\\_1996.shtml](http://www.baseball-reference.com/leagues/NL_1996.shtml) (last visited Apr. 23, 2002).

topped in 1998 by winning the National League pennant.<sup>211</sup> In the opinion of many San Diegans, the club's miraculous about-face was due in no small part to the timely return of a certain baseball-loving monk.<sup>212</sup>

### SAN FRANCISCO GIANTS

Although his real name is Luigi Francisco (it's "si-seal-ian"), folks usually call the Giants' furry gray mascot Lou Seal, a moniker picked from among 1,500 fan entries (rejected suggestions included Barky, Cisco, Lefty, Mel Otter, Say Hey, and Shaquille O'Seal).<sup>213</sup> Introduced in April 1997, Lou Seal pays homage to the San Francisco Seals, the city's Pacific Coast League team from 1903 to 1957, and Seals Stadium, the ballpark used by the Giants during their first two seasons in California.<sup>214</sup>

Upon seeing him, some people felt Lou Seal looked more like a rat than a seal,<sup>215</sup> while others griped "the name Lou Seal is supposed to convey the old wharfside toughness . . . [but] it sounds like 'Lucille.' That's rugged?"<sup>216</sup> In response, the Giants gave Lou Seal a facelift and hired a more personable performer prior to the start of the 1998 season.<sup>217</sup>

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<sup>211</sup> 1998 *National League*, at [http://www.baseball-reference.com/leagues/NL\\_1998.shtml](http://www.baseball-reference.com/leagues/NL_1998.shtml) (last visited Apr. 23, 2002).

<sup>212</sup> Sandi Dolbee, *Friar Power: Mascot's Return to the Roster Has Coincided with Upswing in Souvenir Sales, On-Field Success*, S.D. UNION-TRIB., Oct. 4, 1996, at E1, 1996 WL 12568558; *Friar Gives Padres a Prayer*, TULSA (OKLA.) WORLD, Oct. 21, 1998 (Sports), at 2, 1998 WL 11156386.

<sup>213</sup> Edvins Beitiks, *'Lou Seal' Set to Make Debut*, S.F. EXAMINER, Apr. 5, 1997, at C5, 1997 WL 4337044. For pictures of Lou Seal, see [http://giants.mlb.com/NASApp/mlb/sf/team/sf\\_team\\_coachesstaff.jsp](http://giants.mlb.com/NASApp/mlb/sf/team/sf_team_coachesstaff.jsp) (last visited Apr. 23, 2002); <http://home.earthlink.net/~bfwd/mascots/captron.jpg> (last visited Apr. 23, 2002); <http://home.earthlink.net/~bfwd/mascots/louseal.jpg> (last visited Apr. 23, 2002); <http://www.crittersbythebay.com/yippee/jc-lou99.jpg> (last visited Jan. 8, 2002); <http://www.crittersbythebay.com/yippee/lou-bakersfield2.jpg> (last visited Jan. 8, 2002).

<sup>214</sup> Beitiks, *supra* note 213; Rich Rupprecht, *Giants Eagerly Look to Seal Mascot Deal*, SANTA ROSA (CAL.) PRESS DEMOCRAT, Feb. 28, 1997, at C2, 1997 WL 3434221.

<sup>215</sup> Rafael Hermoso, *Opposing Players Share a Desire to Return Home*, RECORD (N. N.J.), Apr. 6, 1997, at S5, 1997 WL 6883147; see also Bruce Jenkins, *The DH Stands for Dastardly Hoax*, S.F. CHRON., June 14, 1997, at B2, 1997 WL 6699406 ("Priceless moment from announcer Skip Caray, to a nationwide audience on TBS from a Giants-Braves game last weekend: 'And there's the Giants' mascot. Lucille the Rat. They claim it's a seal, but anyone can obviously see the rodent-like tendencies.'").

<sup>216</sup> Bruce Jenkins, *At Least Make It Fun Again, Warriors*, S.F. CHRON., May 3, 1997, at D2, 1997 WL 6696758.

<sup>217</sup> Mark Simon, *Giants Look for a New Lou Seal: Ballclub Says Mascot Needs More Personality*, S.F. CHRON., Feb. 24, 1998, at A15, 1998 WL 3907836. As a result of these changes, the Giants feel the mascot is on his way to becoming a star: "[Team owner Peter Magowan] approves. Hey, we love Lou Seal here. And so do our many thousands of fans

Even with these problems, Lou Seal's rookie year went considerably better than that of Crazy Crab, the Giants' original costumed mascot:

The '70s may have brought us bell bottoms and disco, but they also saw the beginnings of the mascot craze in professional baseball. In 1984, the Giants decided to try their hand at the mascot game, but with their own special twist: they created an "anti-mascot."

The creature they unleashed was the now-legendary (and infamous) Crazy Crab. The idea was to poke fun at traditional mascots, and television commercials depicted manager Frank Robinson having to be restrained from attacking the poor crustacean. Fans were encouraged to boo and hiss the phony mascot, who was portrayed by actor Wayne Doba.

The prodding worked all too well. With a 96-loss season soothing no souls, Crazy Crab became the object of hatred and abuse. The crowd would hurl all sorts of things at the beast, both verbally and literally, and even players got into the act, dumping drinks and other things into the suit. . . .

On the final day of the 1984 season, as he stood on the field in the suit before the game, Doba reportedly told a Giants executive, "I hope there's nobody up there with a gun."

The nightmare for the bug-eyed object of foam derision ended after just one season.<sup>218</sup>

### SEATTLE MARINERS

Like a number of other teams, the Mariners held a contest (open to youngsters 14 and under) to find their mascot.<sup>219</sup> More than 2,000 suggestions were received, with the winner coming from Ammon Spiller, a fifth grader who explained in adolescent

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and ticket holders. Lou Seal is part of our club, part of our operation. Lou Seal is here to stay." Robert Kerwin, *Lou Seal Ball*, S.F. EXAMINER, July 31, 2000, at A23, 2000 WL 6166513 (quoting Giants manager of in-game entertainment Bryan Srabian).

<sup>218</sup> 1984: *Love that Crazy Crab*, at [http://sanfranciscogiants.mlb.com/NASApp/mlb/sf/history/sf\\_history\\_timeline\\_article.jsp?article=31](http://sanfranciscogiants.mlb.com/NASApp/mlb/sf/history/sf_history_timeline_article.jsp?article=31) (last visited Apr. 23, 2002); see also Edvins Beitiks, *Crab Still Sealed with a Hiss; But Giants Are Trying Again with More Lovable Mascot*, S.F. EXAMINER, Mar. 7, 1997, at D4, 1997 WL 4335260; Bob Padecky, *Is Mascot a Good Idea? Ask the Crab*, SANTA ROSA (CAL.) PRESS DEMOCRAT, Mar. 11, 1997, at C1, 1997 WL 3434786 ("I was a pink hamburger with arms and legs," Doba said. "Yes, I was ridiculous-looking. I was ugly, horrible. And I was under a lot of restrictions by the Giants. But I could moon the audience.""). For pictures of Crazy Crab, see 1984: *Love that Crazy Crab*, *supra*; [http://rangers.siegler.net/images/ballparks/giants/giants\\_crazycrab\\_1984.jpg](http://rangers.siegler.net/images/ballparks/giants/giants_crazycrab_1984.jpg) (last visited Jan. 8, 2002).

<sup>219</sup> *Moose Call: M's Pick First Mascot*, SEATTLE TIMES, Feb. 22, 1990, at C1, 1990 WL 3198363.



English, "I choose the moose because no other team has a moose. . . . Mooses are funny, neat and friendly. Also, mooses are not sissies or chickens."<sup>220</sup> The contest's second place winner, Grant Weaver, proposed Seaward the Sea Monster.<sup>221</sup>

Known simply as the Mariner Moose, the large furry creature with the oversized antlers has been entertaining fans since Opening Night 1990.<sup>222</sup> In addition, he has helped them propose to their sweethearts,<sup>223</sup> shown up in a television commercial rooming with pitcher Jamie Moyer (due to the Moose's messy habits, Moyer is forced to divide the room with tape),<sup>224</sup> participated in Major League Mascot Day at St. Louis's Busch Stadium (where he handed out Mariners boxer shorts as gifts),<sup>225</sup> spent time on the disabled list due to a broken leg (sustained in Game 4 of the 1995 American League Division Series against the New York Yankees),<sup>226</sup> and taken Ken Griffey, Jr.'s place on the billboard outside Safeco Field following the trading of the popular slugger to the Cincinnati Reds in February 2000.<sup>227</sup>

The Moose also has the distinction of being part of the longest game in team history, a 19-inning victory over the Boston Red Sox in August 2000.<sup>228</sup> Although well past his bed time, the Moose stayed up for the entire game, changing into pajamas for the last four innings.<sup>229</sup> The next morning, the team praised the exhausted mascot but made it clear there would be no rest for the weary: "Nineteen innings of entertainment takes a lot out of a moose. Our hats are off to the Moose. We're proud of him. But he

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<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

<sup>222</sup> See *id.* For pictures of the Moose, see *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/moose.jpg> (last visited Apr. 23, 2002); *Dinger and All His Friends*, *supra* note 21 (second row, second from the left); [http://mariners.mlb.com/NASApp/mlb/sea/team/sea\\_team\\_coachesstaff.jsp](http://mariners.mlb.com/NASApp/mlb/sea/team/sea_team_coachesstaff.jsp) (last visited Apr. 23, 2002); <http://www.crittersbythebay.com/yippee/jc-moose.jpg> (last visited Aug. 22, 2001); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 22, 2001); *Moose is Loose*, at [http://www.dillonworks.com/fabrication/fsoft\\_2.html](http://www.dillonworks.com/fabrication/fsoft_2.html) (last visited Apr. 23, 2002); *The Great Experiment: Day 13, Part 1*, at <http://www.enchanter.net/florida/day13/> (July 15, 2000).

<sup>223</sup> Susan Gilmore, *Two of a Kind*, SEATTLE TIMES, July 16, 2001, at E1, 2001 WL 3515116.

<sup>224</sup> *Moose Mess*, ADVERTISING AGE, Mar. 27, 2000, at 74, 2000 WL 8173743.

<sup>225</sup> Jeff Gordon, *Hairballs: Kids Get That Fuzzy Feeling as Fur Flies at Busch*, ST. LOUIS POST-DISPATCH, Oct. 4, 1992, at 3F, 1992 WL 3558798.

<sup>226</sup> Craig Smith et al., *Where Are They Now?*, SEATTLE TIMES, Dec. 31, 1995, at C1, 1995 WL 11230179.

<sup>227</sup> See Mel Antonen, *Seattle Is Getting Over Griffey*, USA TODAY, Apr. 28, 2000, at 10C, 2000 WL 5776667.

<sup>228</sup> Larry Stone, *A Hard Day's Night*, SEATTLE TIMES, Aug. 3, 2000, at D1, 2000 WL 5547660.

<sup>229</sup> *Id.*

doesn't get a night off tonight."<sup>230</sup>

### ST. LOUIS CARDINALS

Fredbird, the Cardinals' feathery, fire-engine red mascot, has been popular ever since he was first conceived in the late 1970s by Bob Currie, an account executive at the advertising agency of D'Arcy Masius Benton & Bowles.<sup>231</sup> Just how popular is Fredbird? Consider the evidence: the team's 2000 ticket drive featured a television spot entitled "Fredbird";<sup>232</sup> fans J.P. and Nancy Hinson asked Fredbird to preside at their May 2000 wedding;<sup>233</sup> the city's NFL quarterback once complained Fredbird got more endorsements than he did;<sup>234</sup> a veteran sports photographer included a picture of Fredbird in his best-selling book about baseball;<sup>235</sup> and a letter written by Fredbird urging the Missouri legislature to declare March 21 "Bird Appreciation Day" reached the attention of the Senate committee considering the measure.<sup>236</sup>

Of course, this much fame comes with a price. In April 1986, Fredbird's head was stolen at a charity event.<sup>237</sup> Taking no chances, he showed up at the next home game (against the New

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<sup>230</sup> *Id.* (quoting Mariners promotions director Gregg Greene).

<sup>231</sup> Jeff Gordon, *Uncaged 'New' Fredbird is Free to Entertain*, ST. LOUIS POST-DISPATCH, Aug. 24, 1995, at 1D, 1995 WL 3339732. For pictures of Fredbird, see *Campus News*, RECORD (WASH. UNIV.), Sept. 2, 1999, <http://wupa.wustl.edu/record/archive/1999/09-02-99/news.html>; *Carl's Mascot Photos*, at <http://home.earthlink.net/~bfwd/mascots/fred.jpg> (last visited Apr. 23, 2002); *Dinger and All His Friends*, *supra* note 21 (second row, extreme left); *Edmonds, Cardinals Do in Mets Again*, at <http://detnews.com/2000/tigers/0009/04/sports-115332.htm> (Sept. 4, 2000); *Fred Bird*, at <http://www.fiberworksinc.com/pages/cardinal.html> (last visited Apr. 23, 2002); [http://cardinals.mlb.com/NASApp/mlb/stl/team/stl\\_team\\_coachesstaff.jsp](http://cardinals.mlb.com/NASApp/mlb/stl/team/stl_team_coachesstaff.jsp) (last visited Apr. 23, 2002); <http://www.kent.wednet.edu/staff/hbuchwal/kidsparents/baseballcards/mascots.html> (last visited Aug. 22, 2001); *September 1999 Special Guest—Fredbird*, <http://www.htc.net/~pack323/pm9909.htm> (Sept. 1999).

<sup>232</sup> Oscar Waters, *Waylon Ad Will Do Its Best to Help the Early Redbird Soar*, ST. LOUIS POST-DISPATCH, Jan. 17, 2000 (Bus. Plus), at 19, 2000 WL 3502553.

<sup>233</sup> Tom Verducci & David Sabino, *These Buds Are for You!*, SPORTS ILLUS., July 3, 2000, at 46, 2000 WL 9207752.

<sup>234</sup> Hammond, *supra* note 53 (quoting former St. Louis Cardinals quarterback Neil Lomax).

<sup>235</sup> RONALD C. MODRA, REFLECTIONS OF THE GAME: LIVES IN BASEBALL 104 (1998). The shot shows Fredbird "in full costume, fast-food cartons lying at his feet, sitting in a locker room and sipping a soft drink as he reads a paper spread out on the floor." David Markiewicz, *Book it: Crunch-Time Gift Ideas*, FORT WORTH STAR-TELEGRAM, Dec. 19, 1998 (Sports), at 2, LEXIS, News Library, Fort Worth Star-Telegram File.

<sup>236</sup> *Steelman Urges Tougher Standards for In-Home Care*, JEFFERSON CITY (MO.) NEWS TRIB., Jan. 24, 2001, at [http://www.newstribune.com/stories/012401/sta\\_0124010057.asp](http://www.newstribune.com/stories/012401/sta_0124010057.asp) (reporting on a bill submitted by Sen. Steve Stoll, D-Festus).

<sup>237</sup> John Freeman, *Reggie: He's Still King for Now*, S.D. UNION-TRIB., Apr. 25, 1986, at E2, 1986 WL 2787642.

York Mets) with a large padlock and chain around his noggin.<sup>238</sup> By the same token, sometimes even fame is not enough: when the Cardinals asked Ty, Inc. to design a beanie baby to look like Fredbird, the giant toy maker refused.<sup>239</sup>

### TAMPA BAY DEVIL RAYS

In June 1998, “[a]fter a three-month wait and endless speculation on what would be the new mascot for the Devil Rays, a decidedly furry and definitely rotund answer made his entrance on a roaring three-wheeler . . . at Tropicana Field.”<sup>240</sup> As fans now know, “Raymond is a 6-foot, 6-inch mass of blue fur. His snout (trunk? schnoz? nose?) and jowls are covered with flyaway, sky-blue fuzz; his head with yellow ill-kept strands and a Devil Rays cap. His middle is large enough to interfere with swinging a bat around.”<sup>241</sup> Bulkied up “by an unlimited supply of ballpark hot dogs,” team officials list Raymond’s weight at 304 pounds, his shoe size as 19, and his jersey number (07) as having no special significance.<sup>242</sup>

Of course, many people had expected the Devil Rays mascot to be some sort of “swimming critter with fins like wings and perhaps a barbed tail to intimidate umpires.”<sup>243</sup> That he instead is a fantasy character is due to mascot designer and performer Matt Marlowe, who wanted “something more creative, more mobile, more fun.”<sup>244</sup>

<sup>238</sup> *Id.*

<sup>239</sup> Richard Sandomir, *Maybe Valentino the Beanie Baby Can't Hit, But Who Cares?*, N.Y. TIMES, Aug. 11, 1998, at C3.

<sup>240</sup> Susan Aschoff, *A Show of Hams*, ST. PETERBURG (FLA.) TIMES, June 22, 1998, at 1D, 1998 WL 4270159.

<sup>241</sup> *Id.* For pictures of Raymond, see [http://devilrays.mlb.com/NASApp/mlb/tb/team/tb\\_team\\_coachesstaff.jsp](http://devilrays.mlb.com/NASApp/mlb/tb/team/tb_team_coachesstaff.jsp) (last visited Jan. 9, 2002); <http://personal.clt.bellsouth.net/clt/n/c/nchatwal/baseball/tour.html> (last visited Aug. 23, 2001); *Street Character Gallery: Fantasy Characters*, at <http://www.mascots.com/gallery-fantasy.html> (last visited Apr. 23, 2002); Aschoff, *supra* note 240, [http://www.sptimes.com/Floridian/62298/A\\_show\\_of\\_hams.html](http://www.sptimes.com/Floridian/62298/A_show_of_hams.html) (photo by Cherie Diez).

<sup>242</sup> Aschoff, *supra* note 240.

<sup>243</sup> *Id.* Indeed, in an article published several months before Raymond’s unveiling, the idea the mascot could be anything but a devil ray was dismissed out of hand: “Neither the ball club nor [Matt] Marlowe will say for certain what the mascot will be. Perhaps a ray . . . Most likely a ray . . . Can you say Mickey Manta? . . . Could Marlowe be anything else? It’s a new Ray in Tampa Bay.” Susan Aschoff, *He’ll Be a Devil of a Mascot*, ST. PETERSBURG (FLA.) TIMES, Feb. 24, 1998, at 1D, 1998 WL 4247789.

<sup>244</sup> Aschoff, *supra* note 240. Some fans continue to hold out hope Raymond eventually will be replaced by a more devilish creature:

Tampa Bay Devil Rays  
Current mascot: Raymond

Like other mascots, Raymond has teased opposing players such as Ken Griffey, Jr.;<sup>245</sup> been sidelined with various injuries;<sup>246</sup> and celebrated his birthday with parties at the ballpark attended by his fellow major league mascots.<sup>247</sup> He also has admitted to being a thief:

Q. What exactly are you, Raymond?

A. That's a question that hasn't been answered yet. We don't know. . . .

Q. What's your favorite thing to do during a game?

A. Steal cotton candy.

Q. From little tiny kids?

A. No! You steal it from the vendors and give it to kids. The vendors don't like it but Raymond does.<sup>248</sup>

### TEXAS RANGERS

In part because of the Dallas area's blistering heat, the Rangers do not have a costumed mascot.<sup>249</sup> But in the late 1970s

The problem: Putting aside the fact he has absolutely nothing to do with "Devil Rays," he's also a Phillie Phanatic rip-off.

Our suggestion: Satan

The look: Think old school, like medieval paintings or Darkness from the movie "Legend"—red skin, cloven hoofs, huge horns and yellow eyes. None of this Al Pacino in a business suit crap.

Gimmicks: Imagine, before each game, a video depicting the Lord of Darkness, the Adversary, ol' Lucifer himself, exploding animated mascots from other teams (Orioles, Tigers, Yankees, a pair of Red Sox) with laser "rays" shooting out of his eyes. No more Mr. Nice Guy.

Also, before the first pitch, the lights in Tropicana Field would dim and our Satanic Majesty would stride to the pitcher's mound and commence to blowing hellfire toward the opposing team's dugout. That should intimidate them into scoring only 5 runs, as opposed to the usual 10.

Potential problems: Certain conservative elements will not be amused.

Kevin Walker, *Mascot Makeovers*, TAMPA TRIB., Aug. 11, 2000 (Friday Extra!), at 18, 2000 WL 24594422.

<sup>245</sup> John Romano & Marc Topkin, *Flaherty to Sit Now, Play Later*, ST. PETERSBURG (FLA.) TIMES, Sept. 15, 1999, at 3C, 1999 WL 27317368.

<sup>246</sup> Joe Capozzi, *What's the Count?*, PALM BEACH (FLA.) POST, June 13, 1999, at 9C, 1999 WL 19552452 (strained muscle); Marc Topkin & John Romano, *Lopez is Ready for Stress-Free Spring Training*, ST. PETERSBURG (FLA.) TIMES, Feb. 19, 2001, at 3C, 2001 WL 6963259 (sore wrist).

<sup>247</sup> See Carter Gaddis, *Game Review*, TAMPA TRIB., June 27, 1999 (Sports), at 13, 1999 WL 21331197 ("Raymond the mascot's [first] birthday will be celebrated by a cast of major-league mascots, including Mr. Met, Billy the Marlin, the Pittsburgh Parrot and Stomper from the Oakland A's.").

<sup>248</sup> Susan H. Thompson, *5 Minutes with Raymond Devil Rays Mascot*, TAMPA TRIB., June 12, 2000 (Baylife), at 1, 2000 WL 5584911.

<sup>249</sup> Michael E. Young, *A New Pitch*, DALLAS MORNING NEWS, May 29, 1999, at 1A,

and early 1980s, Clayton Moore, the original Lone Ranger on television, was the team's unofficial mascot.<sup>250</sup> "About five times a year, he opened games by charging on horseback across the diamond, then rearing up his white horse at home plate. 'It was a standing ovation every time he did it.'"<sup>251</sup>

### TORONTO BLUE JAYS

When 20-year-old Kevin Shanahan decided what the Blue Jays really needed was a mascot, he created a character (an oversized blue jay named BJ Birdy), stitched together a costume, presented the idea to management, and convinced it to give him a one-game tryout in September 1979.<sup>252</sup> The audition turned out to be a huge success and Shanahan was hired.<sup>253</sup>

Over the years, BJ Birdy's look changed considerably: his humongous mouth was whittled down to a more bird-like beak, his sleepy expression became more alert, and his eyes grew wider.<sup>254</sup> One constant was his svelte figure, a trim 200 pounds on a 6'8" frame.<sup>255</sup>

BJ Birdy's tenure with the team came to a sudden end just before the last homestand of 1999, when the Blue Jays dropped him in favor of Ace and Diamond, two younger, hipper mascots modeled after Jim Carrey and Goldie Hawn.<sup>256</sup> Named by means

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1999 WL 4124361.

<sup>250</sup> Leslie Snyder, *Clayton Moore, 85, Dies*, DALLAS MORNING NEWS, Dec. 29, 1999, at 31A, 1999 WL 30758956. For pictures of Moore during this period, see *Clayton Photos*, at <http://www.outofthenight.com/cmglasses.html> (last visited Apr. 23, 2002).

<sup>251</sup> Snyder, *supra* note 250 (quoting Rangers broadcaster and former general manager Tom Grieve).

<sup>252</sup> *BJ Birdy Celebrates Twenty Years with the Blue Jays*, CANADA NEWSWIRE, Sept. 10, 1999, LEXIS, News Library, Canada NewsWire File.

<sup>253</sup> *Watch the Birdy*, TORONTO GLOBE & MAIL, Dec. 8, 1999, at A20, WESTLAW, Allnews Library, Globe and Mail File.

<sup>254</sup> Scott Frank, *BJ Birdy Appreciation Page*, at <http://www.geocities.com/Athens/Atlantis/2816/bluejays/bjbirdy.html> (last visited Apr. 23, 2002). For pictures of BJ Birdy, see *id.*; *Dinger and All His Friends*, *supra* note 21 (top row, second from the right); <http://personal.clt.bellsouth.net/clt/n/c/nchatwal/baseball/tour.html> (last visited Aug. 23, 2001); <http://www.mascotspot.com/pics/bjbirdy.jpg> (last visited Apr. 23, 2002).

<sup>255</sup> Frank, *supra* note 254.

<sup>256</sup> See Mike Berardino, *Will Anyone Pay King's Ransom for Griffey?*, FORT LAUDERDALE SUN-SENT., Dec. 12, 1999, at 9C, 1999 WL 29919324; Mary Ormsby, *Bye-bye Birdy: Jays Kick Mascot Out of Nest*, TORONTO STAR, Dec. 8, 1999, 1999 WL 24007579. Besides wanting to be more appealing to fans, the Blue Jays acted to gain greater control over their mascots. Whereas BJ Birdy is owned by Shanahan's production company (giving Shanahan the right to continue performing as the character so long as he makes no reference to the club), Ace and Diamond belong to the team. James Christie, *By the Bye, Birdy, Train Replacements: Mascot Creator Shocked at Way Blue Jays End Relationship After 20 Years*, TORONTO GLOBE & MAIL, Dec. 8, 1999, at S1, WESTLAW,

of a contest co-sponsored by the Blue Jays and the *Toronto Sun*, the pair made their first official appearance in March 2000 at a pre-season doubleheader against the Cleveland Indians.<sup>257</sup>

To engage fans, the team has given both birds detailed biographies. Diamond's mother, for example, is a choreographer on "Swan Lake," which helps explain Diamond's love of "danc[ing] and shak[ing] her feathers."<sup>258</sup> Her "father inspired the story of 'The Ugly Blue Jay' which was later re-named 'The Ugly Duckling' because Blue Jays are never ugly."<sup>259</sup> Having "left the nest early to root for her favorite team," Diamond can be found either "perched over the home team dugout" or "fluttering gracefully along the field."<sup>260</sup>

Like Diamond, Ace stands 6'0" and is "light as a feather" (as to Diamond's weight, the team advises one should "[n]ever ask a bird her weight").<sup>261</sup> He too has an interesting family tree. Ace's great grandfather co-wrote "Rockin' Robin," his mother works in the "fashion biz" as a goose down supplier," and his father "invented bird shadow stickers for office windows."<sup>262</sup> Besides enjoying people watching, "Ace is always hatching up a plan to foil the other team. He likes to playfully ruffle the feathers of the officials and players alike. His eagle eye helps him catch fly balls and spot opportunities for mischief."<sup>263</sup>

In designing Ace and Diamond, Sugar's Mascots<sup>264</sup> included a number of ingenious features. Both characters, for example, have loops under their wings where baseball gloves can be attached.<sup>265</sup> A novel halo system, installed in the head of each outfit, permits

Allnews Library, Globe and Mail File; Marty York, *BJ Birdy No Longer Has a Nest with Blue Jays*, TORONTO GLOBE & MAIL, Dec. 7, 1999, WESTLAW, Allnews Library, Globe and Mail File ("BJ did a good job, but we need to get into the community a little deeper," [Blue Jays' senior vice-president of marketing Terry] Zuk said. . . . "We also need to own our own trademark."").

<sup>257</sup> *Toronto Blue Jays Welcome Two New Team Mascots*, CANADA NEWSWIRE, Feb. 10, 2000, LEXIS, News Library, Canada NewsWire File. For pictures of Ace and Diamond, see *Marlins' Canuck Receives Tip O'Neal Award*, at <http://www.canadianbaseballnews.com/Ryan%20Dempster/Ryadem.html> (last visited Apr. 23, 2002); <http://www.geocities.com/Athens/Atlantis/2816/bluejays/diamace.jpg> (last visited Aug. 23, 2001); *Sugar's Mascot Costumes: Sports*, at <http://www.sugarscostumes.com/mascots/sports.htm> (last visited Apr. 23, 2002).

<sup>258</sup> *Ace and Diamond*, at [http://bluejays.mlb.com/NASApp/mlb/tor/community/tor\\_community\\_mascots.jsp](http://bluejays.mlb.com/NASApp/mlb/tor/community/tor_community_mascots.jsp) (May 31, 2001).

<sup>259</sup> *Id.*

<sup>260</sup> *Id.*

<sup>261</sup> *Id.*

<sup>262</sup> *Id.*

<sup>263</sup> *Id.*

<sup>264</sup> See *supra* note 135.

<sup>265</sup> *Toronto Blue Jays Welcome Two New Team Mascots*, *supra* note 257.

the performers to more easily execute acrobatic stunts.<sup>266</sup> And by virtue of advanced animatronics, Diamond is able to “beat her eyelashes and flirt with the best of them!”<sup>267</sup>

Notwithstanding these innovations, fans soon realized the two “could have used a little more spring training.”<sup>268</sup> During the first three weeks of the 2000 season, the pair failed to complete a promotion for a local lumber company in the allotted time (thereby causing Blue Jays pitcher Roy Halladay to lose his concentration and surrender two runs to the Kansas City Royals);<sup>269</sup> made obscene gestures at Keith Crozier, a fan who innocently asked about BJ Birdy while taking a break from watching the Seattle Mariners;<sup>270</sup> and did not notice their hot dog

<sup>266</sup> *Id.*

<sup>267</sup> *Id.*

<sup>268</sup> *Jays Survive Ill-Timed Raccoon Toss*, TORONTO STAR, Apr. 5, 2000 (Sports), at 3, 2000 WL 17771646.

<sup>269</sup> *Id.*

<sup>270</sup> Crozier was so shaken by the experience he wrote the team a letter:

When the Blue Jays tied the can on to BJ Birdie [sic] and created his-and-her replacement mascots, Diamond and Ace, they said they were looking for a new attitude.

Well, they've got attitude all right. And then some.

F&F [Fair and Foul, a twice-weekly newspaper column] reader Keith Crozier of Scarborough sent along a copy of a letter he has written to Gord Ash, the Blue Jays president:

“I am writing to you in concern of the behaviour of your new mascots. Let me begin by stating that I am a devoted Blue Jay fan who usually attends at least 20 games a year. The incident I am going to describe took place on Friday, April 14, 2000.

“On this evening, I was treated rudely by one of your new mascots. I know this may sound fictitious or amusing but I am very concerned. In the seventh inning of the game, my two friends and I decided to have a drink in the new lounge that overlooks the field on the 200 level. (Note: this was my only drink of the evening!) This is when the two new mascots made their way to the 200 level and were greeting patrons in the bar as well as kids outside of the lounge.

“When the mascots looked at us, I asked one of them where BJ Birdie was, being forgetful that he was replaced. The mascot (Diamond) [sic] responded by performing a rude gesture (the gesture where the arm is made in a curl and the other arm is horizontally placed over the curled arm). Diamond [sic] also bent over and lifted up his tail toward me. Following this, the mascots proceeded over into the bar and walked toward me in a play-fighting motion. I would have nothing to do with it and ignored them.

“My question to you is: Is this the proper behaviour and conduct you want your mascots to portray, especially in front of children? I was thoroughly embarrassed and upset and it ruined the evening for me and I am seriously debating ever to attend another game.”

ASH'S RESPONSE: F&F contacted Ash yesterday. Here's his reply: “I have written back to Keith as I would to any customer complaint, that any inappropriate behaviour by any of our staff is not acceptable. I have invited Keith to take in another game as our guest and forwarded a copy of Keith's letter to our mascot co-ordinator... for his follow-up with the mascots. Superior customer satisfaction is our goal.”

Garth Woolsey, *Blue Jays' New Mascots Need Help with Their Act*, TORONTO STAR, Apr.

launcher was malfunctioning during a game against the Anaheim Angels.<sup>271</sup>

Recognizing something had to be done, the team clipped Ace and Diamond's wings in the off-season. As a result, they now "spend their time in the areas of the stands more likely to be frequented by younger fans, such as the 500 level."<sup>272</sup> In other words, the nosebleed seats.<sup>273</sup>

### CONCLUSION

Despite some notable flops, costumed mascots have become as much a part of baseball as hot dogs, home runs, and heckling the umpire. And while they are meant to entertain children, few grown-ups fail to experience the pure joy that comes from being approached by an oversized creature wearing a perpetual grin, even when the home team is losing.

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20, 2000 (Sports), at 9, 2000 WL 19577859. Although the foregoing account omits the name of the visiting team, a check of the 2000 Blue Jays schedule reveals it was the Mariners. See *2000 Toronto Blue Jays Schedule (All Times Eastern)*, at <http://sportsillustrated.cnn.com/baseball/mlb/al/schedules/1999/sked.torysked.html> (posted Dec. 16, 1999).

<sup>271</sup> In describing the mayhem the next day, an eyewitness wrote:

Kennedy's bat alone looked like enough early when the only Jays firepower causing any damage was being dished out by their clueless mascots.

Ace and Diamond were turned loose on the SkyDome crowd of 13,825 after the second inning for a promotion that featured wrapped hot dogs being fired out of a launch-gun.

But the plan went astray at about the same time the hot-dog wrappers did. Fans were soon scrambling for cover from flying hot dog and bun debris while the seemingly oblivious, costumed Jay-birds kept blasting away.

Geoff Baker, *Another 'Dog' of a Game for Jays*, TORONTO STAR, Apr. 19, 2000 (Sports), at 9, 2000 WL 19577653.

<sup>272</sup> Jeff Blair, *New Owner Burned Up Over Hot Dog, So Jays to Offer 'Steamies'*, TORONTO GLOBE & MAIL, Feb. 26, 2001, at S1, WESTLAW, Allnews Library, Globe and Mail File.

<sup>273</sup> See *Skydome*, at [http://bluejays.mlb.com/NASApp/mlb/tor/ballpark/tor\\_ballpark\\_seating.jsp](http://bluejays.mlb.com/NASApp/mlb/tor/ballpark/tor_ballpark_seating.jsp) (last visited Apr. 23, 2002) (chart indicating the highest seats at the Skydome are on the 500 level).