

## WHO IS THE REAL JOHN DOE?

John Doe, Jane Doe, Richard Roe, Mary Roe, John Q. Public, Mr. and Mrs. America, as well as Tom, Dick and Harry, are stellar examples of a unique body of well-known fictitious personages who have been granted perpetuity through folk art, literature, and word-of-mouth communication. John Doe is perhaps the most renowned of the names, but who is this man of ubiquity? His origin is in law, although today he plays a meaningful role in psychiatry, advertising, and literature as well. He is defined generally as an anonymous, undistinguished, or average man,<sup>1-4</sup> e.g., “. . . the authors of those remarks are now so many John Does,”<sup>5</sup> or “. . . brilliant educators and plain John Does.”<sup>6</sup> Despite such anonymity, John Doe and his kin have colorful antecedents and an intriguing history worth examination.

*Roman and British Law*

The first recorded use of names for fictitious parties in legal proceedings appears to be early Roman law. As illustrative protagonists and antagonists for implementation of, as well as instruction in, the common law, barristers of the day used several different names. In cases involving disputed land ownership, fictional characters were created to facilitate the adjudication. Men were called Titius, Lucius Titius, Gaius, Sempronius, Maevius, Seius (Sejus), and Cornelius. Women were called Titia, Gaia, Sempronia, Maevia, Seia, and Cornelia. In disputes over the ownership of slaves, fictional persons were called Stichus or Pamphilus. In legal proceedings of a more general nature, the plaintiff often was named Aulus Agerius and the defendant Numerius Negidius.<sup>7-10</sup>

As the centuries passed, the names of fictitious persons in law changed somewhat. British lawyers adopted the name John, the most common English male name. Although variant spellings yielded John, Iohn, and Ion, the name form was retained. As its use increased, it seems that it was viewed as too common and that some additional identification was needed. The logical next step was to provide a second name for John. Medieval custom dictated that second names be descriptive, e.g., Harold Bigear, John Longnose, etc. The law's single-named protagonist was re-named in keeping with this custom. Early in English law practice he was called John at Stile, and became a popular straw man often referred to as J at S, J.S., or I.S.<sup>8,11</sup> Such *John-a-*sobriquets were popular at this juncture in history (e.g., John-a-dogs, John-a-land, John-a-farms, etc.) so that it was natural that the lawyers also enlist the service of a second fictitious party, John-a-nokes, also known as John-a-Noke, John at Noke, John of Nokys, John of Nokes, and J. atte Noke.<sup>8,12</sup>

The name John Doe was introduced to British law by Chief Justice Rolle in the reign of Edward III (1327-1377) in conjunction with legal *actions of ejectment*. These supposititious cases were efforts to preserve certain niceties of the law. Originally, a plaintiff who claimed title to land had to proceed through a *real action* which was costly and complex. Ejectment was available only for a lessee. Through the framing of the imaginary lawsuit between fictitious persons, the plaintiff who claimed title was saved the expensive procedure of a *real action* against the wrongful possessor of an estate and could sue through the simple *action of ejection*. The plaintiff established a lease to John Doe and an ejection of John Doe by Richard Roe, another fictitious litigant, under whom the defendant held title. Only on the condition that he admit the existence of the fictitious lease and ouster was the defendant permitted to protect his title. Thus, the action was one of ejection.<sup>9</sup>

In keeping with Elizabethan custom that a name should have substance to it and that nicknames were potential vehicles of social criticism, satire, or sexual commentary, lawyers of the day provided colorful contenders for John Doe. Such *dramatis personae* as John Makepeace, Henry Woodbegood, Lawrence Lovelittle, and John Hoar appeared on the scene. Although John Doe was renowned, the fictions of ejectment yielded a constellation of additional litigants with intriguing, descriptive names — Fairclaim, Shamtitle, Peaceable, Troublesome, Goodright, Vice, Goodtitle, and Thrustout.<sup>8,9</sup>

*Contemporary Law*

The use of fictitious parties in legal proceedings and for instruction continues today. John Doe, Jane Doe, Richard Roe, Mary Roe, John Stiles, and Richard Miles are the fictitious litigants who seem to have survived the ages of court battles.<sup>4, 8, 10, 13, 14</sup> Today, the name John Doe still is used most frequently as the fictitious litigant. He appears in grand jury investigations as an alias when the name of the party under investigation is not known,<sup>1</sup> and with the alliterative Richard Roe as the complementary signatory to a legal agreement.<sup>3</sup> John Doe is named the first party when two or more persons are unknown in a legal action; similarly, Richard Roe is named the second party, John Stiles is named the third party, and Richard Miles is named the fourth party. When the proceeding involves women, Jane Doe is named the first party and Mary Roe generally is named the second party.<sup>4</sup> The law also provides a John Doe action, a John Doe warrant, and a John Doe summons.<sup>13</sup> Thus, through legal history, fictitious parties have been created and have been afforded a colorful anonymous identity; most often the identity has been as John Doe, described as

... a figure of constitutional significance ... an irrepressibly litigious Janus — patsy and knave for the law professor's bagful of hypothetical calamities — sued and suing, insulting and defamed, reasonable and unreasonable, married and divorced. Wherever an anonymity is needed, the legal mind turns to John Doe.<sup>8</sup>

*Contemporary Psychiatry*

An additional use of the name John Doe is to provide an identity for real people whose true name is unknown. The most common use of the name in psychiatry is exemplified by one administrative policy of the Los Angeles County — University of Southern California Medical Center:<sup>15</sup> “John Doe” and “Jane Doe” provide a temporary identification for hundreds of psychiatric patients whose personal identity is unknown at admission to the psychiatric section of the hospital. Most such patients eventually identify themselves or during their hospitalization are identified by family, friends, or public social service personnel. A small number of these patients never is identified during hospitalization, and, in addition to their being named John Doe #\_\_\_ or Jane Doe #\_\_\_ at admission and during treatment, they are discharged as John Doe #\_\_\_ or Jane Doe #\_\_\_.

In capsular terms, the psychiatric John Doe whose true identity remains unknown is a 35-year-old man who generally is brought to the hospital by the city police after having been found disoriented, uncommunicative, and wandering aimlessly on city streets. He offers little resistance to the officers, is diagnosed as chronically schizophrenic, remains hospitalized for nearly five days, and, on discharge from the hospital, is evaluated as having been treated (with psychotherapy and medication) and as not having improved. He is discharged to a state hospital and eventually is identified within five years.<sup>16</sup> Also in capsular terms, the psychiatric Jane Doe is a 28-year-old woman who generally is brought to the hospital by the city police after having been found disoriented, uncommunicative, and wandering aimlessly in public facilities. She offers little resistance to the officers, is diagnosed as chronically schizophrenic, remains hospitalized for slightly more than three days, and, on discharge from the hospital, is evaluated as having been treated (with psychotherapy and medication) and as not having improved. She is discharged to a state hospital and is identified within four years.<sup>16</sup>

*Literature*

The name John Doe also has been used to anonymize a known identity. John Doe has been adopted as the *nom de plume* for George Cavendish Bentinck (“Barefaced Impostors: A Farce in One Act”),<sup>17–19</sup> Francis Reginald Roe (*Bridge Conventions* and *The Auction Bridge Manual*),<sup>17, 20</sup> Victor Sampson (*Desires: Poems of Main Things* and *The Kingfisher and Other Poems*),<sup>17, 21</sup> and Tiffany Thayer (*Eye-witness*).<sup>17</sup> John Doe also has been the focus of two literary works — *John Doe, Bottle Collector*<sup>22</sup> and *John Doe*.<sup>23, 24</sup>

*Advertising*

An additional use of the name John Doe is as the named referent, signatory, or addressee in advertising which appears in the form of specimen banking checks, envelope addresses, book platemarks, travel tickets, identification labels, application forms, bill explanations, or return-address labels, etc. Supposedly, the commonness of the name allows universal identification on the part of potential buyers and offends no one.

*Demography*

Although the name John Doe has been used for centuries in law and literature, and more recently in psychiatry and advertising, there appears to be no report of the frequency of the name in the general population. In this regard, the most common fictional names, as described above (John Doe, Jane Doe, Richard Roe, and Mary Roe), have been reviewed for their frequency of occurrence in the United States. Inasmuch as the Bureau of the Census does not maintain such records for individual names, the telephone directories of the nation's ten largest metropolitan centers<sup>25</sup> (both central city and suburban listings), have been examined. The following table depicts how often the names are found in this particular sampling, which constitutes approximately 11 percent of the American population.

Table. Frequency of occurrence of the names John Doe, Jane Doe, Richard Roe, and Mary Roe in the telephone directories of the nation's ten largest metropolitan centers.

Metropolitan Center	Directory Population <sup>a</sup>	Number of Persons			
		John Doe	Jane Doe	Richard Roe	Mary Roe
New York	5,100,000	2 (1) <sup>b</sup>	0 (1)	1	0 (1)
Los Angeles	3,930,000	0	0	6	1
Chicago	3,200,000	1	0	3	2 (1)
Philadelphia	2,280,000	1	0	0	0
Detroit	2,080,000	0	0	0	0 (1)
San Francisco	1,480,000	0	0	1 (2)	0 (3)
Boston	1,440,000	1	0	0	0 (1)
Washington, D.C.	1,200,000	1	0	0 (1)	1 (2)
Pittsburgh	1,080,000	0	0	0	0
St. Louis	1,070,000	0	0	0	0
Total	22,860,000	6 (1)	0 (1)	11 (3)	4 (9)

<sup>a</sup> Estimated directory population based on figures provided by the Pacific Telephone and Telegraph Company and the General Telephone Company of California.

<sup>b</sup> In cases where no first name is provided but where the correct initial is given, the number of such cases is indicated in parentheses.

*Summary*

The serious use of fictitious names for non-existent people derives from the practices of early Roman law. Through the centuries and countless etymologic mutations, we are left with a small cast of fictional characters, headed by John Doe, who appear in various disciplines. Contemporary law's John Doe is a courtroom anonymity and legal straw man, psychiatry's John Doe reflects the temporary identity given to a real person whose true identity is unknown, literature's John Doe mirrors the need for some authors to anonymize their identity, and advertising's John Doe is the common man, with whom supposedly the greatest number of potential buyers can identify. It is interesting that the popular fictional names, which have derived in large part from their commonness, occur so infrequently in the general population.

## References and Footnotes

1. Jobes, G. *Dictionary of Mythology Folklore and Symbols*. New York: The Scarecrow Press, Inc., 1962, p. 455.
2. *The Lincoln Book of Essential Information*. Buffalo: The Frontier Press Company, 1934, p. 2064.
3. Partridge, E. *Name into Word*. New York: The Macmillan Company, 1950, p. 232.
4. *Webster's Third New International Dictionary of the English Language*. Springfield, Massachusetts: G. & C. Merriam Company, 1961, p. 1218.
5. Norman Cousins, quoted in 4.
6. K. D. Wells, quoted in 4.
7. Berger, A. *Encyclopedic Dictionary of Roman Law* (in) *Transactions of the American Philosophical Society*. Philadelphia: American Philosophical Society, 1953, p. 596.
8. Mellinkoff, D. "Who is 'John Doe'?" *U.C.L.A. Law Review*, 12, 79–87, (Nov.) 1964.
9. Walsh, W. S. *Handbook of Literary Curiosities*. Philadelphia: S. B. Lippincott Company, 1925, pp. 977–978.
10. Black, H. C. *Black's Law Dictionary*. St. Paul: West Publishing Co., 1968, p. 1655.
11. *The Oxford English Dictionary* states that originally this was John atte Stile, i.e., John (who dwells) at the stile.
12. *The Oxford English Dictionary* states that originally this was John atten Oke, i.e., John (who dwells) at the oak.
13. Ballantine, J. A. *Ballantine's Law Dictionary*. Rochester, New York: The Lawyers' Cooperative Publishing Company, 1969, p. 674.
14. As reported by Mellinkoff (8), recent additions to the list of fictitious parties include Paul Poe, Pauline Poe, and Baby Girl Doe.
15. Men are named John Doe #\_\_ and women are named Jane Doe #\_\_ at the Los Angeles County – University of Southern California Medical Center whenever the true name is unknown. The use of these names to provide temporary identity for the patients is not official policy. Rather, there appears to have been a *pro forma* understanding among the hospital's registrars that this system of naming unidentified patients will be adopted.
16. Felton, G. S. and Foreyt, J. P. "Will the real John Doe please stand up?" *The Psychiatric Quarterly*, 44, 500–501, (July) 1970.
17. *British Museum General Catalogue of Printed Books*. London: Balding and Mansell, 1960, pp. 158–159.
18. Cushing, W. *Initials and Pseudonyms: A Dictionary of Literary Disguises*. London: Sampson Low, Marston, Searle, & Rivington, 1886, p. 82.
19. Halkett, S. and Laing, J. *Dictionary of Anonyms and Pseudonyms in English Literature*. London: Oliver and Boyd, 1926, Vol. 1, p. 176.
20. *Ibid.*, Vol. 6, pp. 289, 298.
21. *Ibid.*, p. 329.
22. Tibbitts, J. C. *John Doe, Bottle Collector*. Sacramento, California: The Little Glass Shack, 1967.
23. Banim, J. *John Doe* [Vol. 3 of *Tales, by the O'Hara Family*]. London: W. Simpkin and R. Marshall, 1826.
24. An additional literary reference to fictionalized names occurs in Sir Philip Sidney's 1595 *An Apologie for Poetrie* – "Poets gyve names to men they write of, which argueth a conceite of an actuall truth, and so, not being true, prooves a falsehood. And doth the Lawyer lye then, when under the names of *John a Stile* and *John a noakes*, hee puts his case?"
25. *The New York Times Encyclopedic Almanac*. New York: The New York Times, 1971, p. 192.

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