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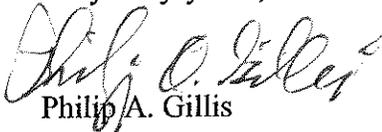
June 18, 2014

Clerk of the supreme court
PO Box 30052
Lansing, Michigan, 48909

Gentle person,

Enclosed is my comment to the proposed amendment of MCR 9.106.

Very truly yours,


Philip A. Gillis



Disambiguational ode to proposal to amend MCR 9.106. (May SBJ p. 64)

I.

Calling forfeiture restitution is dotty;
like saying a golf cart is a Maserati
The same goes for the word *fine*--and *penalty*, too.
None of these words belong in restitution's pew.

Restitution is a term of art quite legal.
Don't make it a snark; can't be found by an eagle.
Progeny of the old equitable action,
its unwise misuse is a Supreme's distraction.

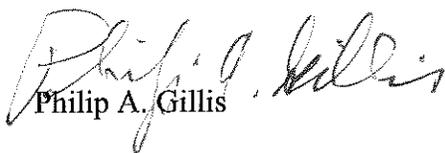
II

Restitution exceeding 'cuniary loss
may not be done by the Supremes even though boss
They got it right in *Acorn*,¹ also *Garrison*²
The Restatement³ supports them in comparison.

III.

Judicial power to a lay board? Big mistake.
Let's pray it is one that the Supremes will forsake.
There's more to be said about the proposal's pap,
but the morning has gone; it is time for my nap.

Recommended for the Supreme's CJE: *Restatement of restitution and quasi-contracts*;⁴
Restatement (third) of restitution and unjust enrichment;⁵ *Restoring restitution to the canon*.⁶


Philip A. Gillis

¹Acorn Investment v Michigan Basic etc., __ Mich __, Docket number 146452, decided May 20 last.

²People v Garrison, __ Mich __, Docket number 146626, decided May 29 last.

³Restatement, fn 4 below, § 1, comment e. I can't quote the third edition. In my 90th year, I no longer buy season tickets or update my textbooks.

⁴American Law Institute (1936).

⁵American Law Institute (2011).

⁶Douglas Laycock, 110 Michigan law review 929 (April, 2012).