

## LAW REVIEW

Published in the Sierra Sun  
February 27, 2009

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### TACO BELL CHIHUAHUA STILL BARKING

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“Yo quiero Taco Bell.”

Do you remember Taco Bell’s wise-cracking Chihuahua who was part of a major advertising campaign in the late 1990’s? TV commercials featured the dog, whose name was Gidget by the way, decked out as a beret-sporting revolutionary or bandit in sombrero.

The ads made Taco Bell \$500 million and garnered Gidget appearances on late night talk shows. In fact, on “The Tonight Show with Jay Leno,” Leno allowed Gidget to chow down on her choice of a Taco Bell chalupa or some chicken from Kentucky Fried Chicken. She chose the chicken, of course.

#### Chihuahua Suit

Here is the story on how the little Chihuahua got entangled in litigation. In 1996 two advertising executives met with Taco Bell’s advertising department proposing use of their “Psycho Chihuahua” cartoon as a possible character for TV spots. Taco Bell declined.

In 1997 Taco Bell commissioned advertising agency TBWA to develop a new advertising campaign. One of TBWA’s advertising ideas proposed for Taco Bell’s new campaign involved a male Chihuahua dog passing a female Chihuahua to get to Taco Bell. Market research demonstrated favorable results

for the diminutive Chihuahua test campaign. Taco Bell chose that character as the center of its multi-million dollar campaign starting in 1998.

The Psycho Chihuahua was very similar to Taco Bell's Chihuahua, so much so, the two Psycho Chihuahua executives sued Taco Bell.

In June of 2003 a jury determined that Taco Bell had improperly used the Psycho Chihuahua without compensation. A judgment was entered for \$30 million, totaling over \$42 million with interest.

Taco Bell lost round one.

#### Taco Bell v Ad Agency

Round two was Taco Bell's lawsuit against TBWA claiming TBWA was responsible for stealing the Psycho Chihuahua character. TBWA's defense was it had no knowledge of Psycho Chihuahua nor Taco Bell's contact with the two advertising executives who proposed the Psycho Chihuahua character to Taco Bell in 1996.

It might have gone well for Taco Bell had it not been for evidence that surfaced during the trial that one Taco Bell executive warned Taco Bell that its new TBWA-designed Chihuahua advertising campaign was very similar to the Psycho Chihuahua campaign proposed a year earlier.

#### Yo quiero Taco Bell's Dinero

In the end a federal court determined Taco Bell was responsible for using the Psycho Chihuahua idea without compensation - not its advertising agency TBWA.

The Chihuahua campaign was dropped by Taco Bell in 2000 in favor of its “Think Outside the Bun” slogan.

As a footnote, Gidget later starred opposite Reese Witherspoon in “Legally Blonde 2: Red White and Blonde.”

So, if it costs a few pennies more for a taco or a chalupa at Taco Bell, now you know why.

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