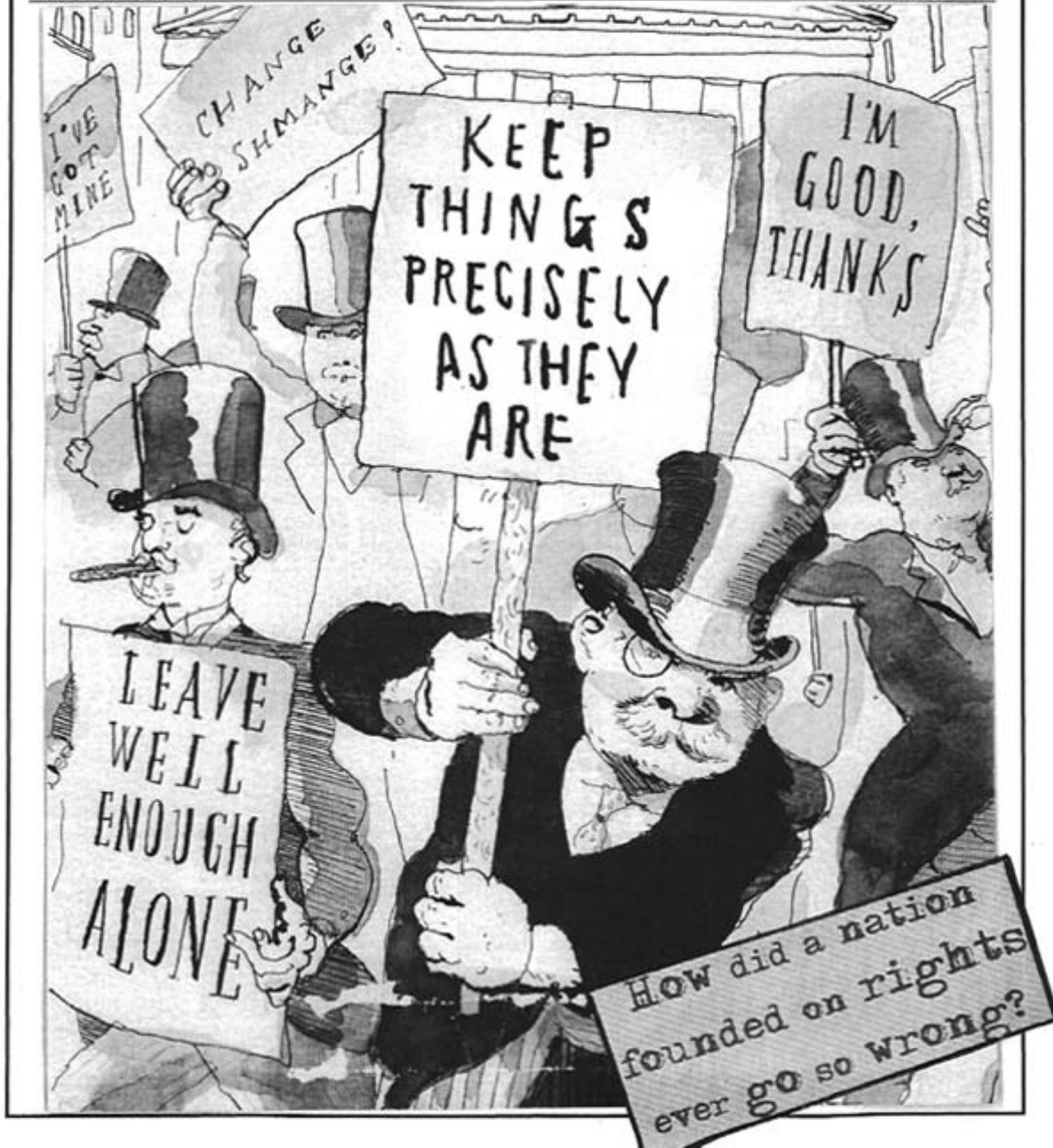


American Board of Criminal Lawyers
THE ROUNDTABLE

Vol. MMXI, No. 13

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TIDBITS

October 24, 2011

Ian Friedman Named 'lawyer of the year' by Ohio Association of Criminal Defense Lawyers

Cleveland's Ian N. Friedman to Receive First-Ever Award for Leadership, Advocacy, Character

The Ohio Association of Criminal Defense Lawyers is proud to present its first annual Lawyer of the Year Award to **Ian N. Friedman**, founder of Ian Friedman & Associates of Cleveland. The first-ever award was presented at the Association Annual Superstar seminar held on October 21 in Columbus, OH.

Ian was chosen by a special awards committee based on his exemplary career of criminal law advocacy and leadership, length of career and his creative strategies in criminal defense work. Additionally, Ian stood out among nominees for his role as an Association member, living out the goals and values of the organization by serving as a mentor to other lawyers.

"Ian stands out as the clear leader in every category," said Joseph A. Humpolick, awards chairman. "His zealous professional advocacy and his unselfish assistance to his colleagues in need has been an inspiration to all of us, and it goes without saying that he deserves to be the first recipient of an award this momentous."

Ian has been practicing law since 1997, focusing on municipal, state and federal law criminal law representation. He has been an active member, often holding leadership positions in several associations, including the American Bar Association, the Ohio State Bar Association, the Cuyahoga County Criminal Defense Lawyers Association and several more.

Ian became President of the OACDL in June of 2008, following the untimely death of Donald Schumacher. During his tenure, he actively worked with the Ohio Prosecutor's Association and the Ohio Supreme Court to reform Ohio's discovery practice in criminal law. His work has resulted in a more open and transparent criminal advocacy process.

Ian's name will be the first to appear on a master plaque that will hold the names of all recipients of this award that follow him.

A note from Ann Roan:

My wonderful husband is far too modest about his wins, but I'm not. **Jim (Jenkins)** was representing a county inspector up in Aspen who was charged with manslaughter after a family died of carbon monoxide poisoning in a \$9 million dollar house that Jim's client had inspected when it was built. Jim got the entire case **DISMISSED** yesterday on a very clever statute of limitations argument, in a courtroom filled with the relatives of the decedents' families. He is clearly the brains of our family.

ACQUITTAL ON EIGHTEEN COUNTS OF CONSPIRACY, MAIL FRAUD, WIRE FRAUD AND MONEY LAUNDERING

In September 2009, the U. S. Attorney for the District of Connecticut charged Frank M. Ruocco, Boris Tomicic, and Earth Technology, Inc., an environmental waste removal company, with eighteen counts of conspiracy, mail fraud, wire fraud, and money laundering. The charges stemmed from a waste removal contract with the developer of a New York shopping mall. Ruocco was the owner of the company and Tomicic was an employee. The Government alleged that the defendants submitted inflated invoices for removal of contaminated soil.

After two years of battling with the Government over discovery and other legal issues, the case went to trial in October 2011. The defense argued that there was no fraud in the business deal involving the removal of soil. The jury was asked to decide as a matter of fact whether the defendants were acting pursuant to an agreed upon price for waste removal or whether there was, as the Government charged, a scheme to defraud.

After three days of deliberation, the jury found Ruocco to be not guilty on all eighteen counts. The jury also acquitted Earth Technology, Inc. on all counts and acquitted Tomicic on seventeen of the eighteen counts.

Attorney **Austin J. McGuigan** of Rome McGuigan in Hartford represented Ruocco. Attorney Kenneth Rosenthal of New Haven represented Tomicic. Attorney Willie Dow of Jacobs and Dow in New Haven represented Earth Technology, Inc.



No Mr. Nice Guy—Ask Wall Street

By MICHAEL ROTHSCHILD (11/9/11)

It was a boilerplate, how-I-spent-my-summer-vacation assignment for sixth-grader Jed S. Rakoff.

By the time he turned it in, though, what was supposed to be a five-page report about a family trip to Colonial Williamsburg swelled to 50 pages packed with unsavory stories about the Founding Fathers, such as that Benjamin Franklin cheated on his wife.

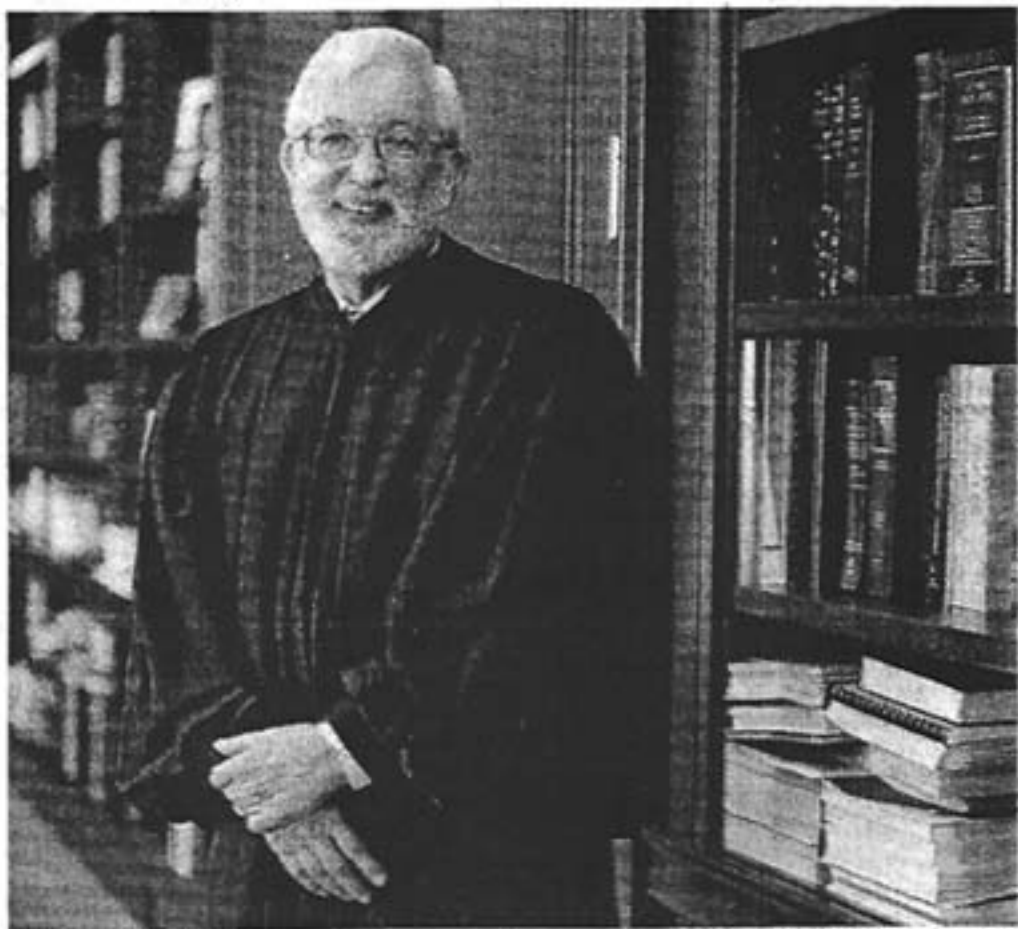
"I was always attracted to taking a novel position," recalls Mr. Rakoff, now a U.S. district court judge in New York, "but one grounded in the materials I'd been given, not made up out of whole cloth."

The 68-year-old Judge Rakoff is known for his unconventional—and often provocative—attempts to get to the bottom of the matters before him.

On Wednesday afternoon, the judge is expected to grill the Securities and Exchange Commission and Citigroup Inc. about why he should approve their proposed \$285 million settlement of fraud charges over a mortgage-bond deal. He previously made the agency squirm over a 2009 deal with Bank of America Corp.

"As an institution, I think they have a very distinguished history," Judge Rakoff says of the SEC, in an interview with *The Wall Street Journal*. "That doesn't mean they're right in every case."

Last month, Judge Rakoff demanded that SEC and Citigroup officials show up in his court-



Rob Bernstein for The Wall Street Journal

U.S. District Judge Jed S. Rakoff, shown in his chambers, is known for his provocative opinions.

room with answers to 18 questions about the settlement.

"Why should the court impose a judgment in a case in which the SEC alleges a serious securities fraud, but the defendant neither admits nor denies wrongdoing?" he wrote in the order last

month.

The SEC and Citigroup say the deal is fair.

In 15 years on the federal bench, Judge Rakoff has written funny, blunt and occasionally reversed opinions. In addition to pushing back against what he

has described as superficial punishment by the SEC for companies accused of fraud, Judge Rakoff has overturned a death-penalty conviction and carpentered about U.S. sentencing guidelines.

In 2006, he ordered the gov-

Please turn to the next page

Continued from the prior page

ment to allow individuals accused of defrauding at Quantitative Easing in Cuba.

"He has always been a history person," says Todd Rakoff, the judge's youngest brother, a law professor at Harvard University. "He's not at all afraid to ask things up, to put it colloquially, but I would say also that I think he really cares about getting it right, and I think he views the law as an instrument of justice."

While Judge Rakoff has a reputation as a populist, he also rules in favor of big companies, after dismissing a class-action lawsuit against International Business Machines Corp.

In addition, last year the judge ruled that the Financial Industry Regulatory Authority and the Wall Street self-regulator's former top executive, Mary Schapiro, enjoyed immunity in a private lawsuit filed by British-born Mr. Schapiro now is chairman of the SEC.

Rakoff approved the further attachment of the Wall Street-Washington secret that is crippling our society," Larry Doyle, a former trader, wrote on his blog last year. In an interview, Mr. Doyle says: "In his court, I was like: 'OK, this is the people's judge.'"

The ruling was upheld on appeal, Judge Rakoff says he still

thinks like he sees them.

"I don't have any respect for judges who arrive at the result first, and then try to figure out some way they can bend the law to reach their particular conclusions," he says.

Married with three daughters, Judge Rakoff practices a Christian faith by writing letters for judges performing in the annual "Courthouse Follies" and has

While Judge Rakoff has a reputation as a populist, he also has a track record of ruling in favor of big companies at times.

taken up ballroom dancing. A few times he often holds court for late in the evening, and can quickly alternate between cracking jokes and shredding a lawyer for sticking off.

"Welcome to my ballroom," Judge Rakoff, a New York Times has, said at an August hearing in a lawsuit by Irving Perot, the court-appointed trustee recovering money for Bernard Madoff's victims, against the New York Mets owners. The judge said he was glad to read their

whimsical things "because otherwise I probably would have had to watch a Mets game."

He is well-known among lawyers for showing little patience with delays and moving cases along rapidly.

In May, Judge Rakoff called a lawyer who didn't show up for a no-show, putting him on a speakerphone in court. "Do you think I see America this way?" the judge demanded. The lawyer claimed "a miscommunication" and was ordered to pay his opponent's legal fees for the day.

Judge Rakoff grew up in the Germantown section of Philadelphia. His father was a sports agent, and his mother taught English. The opportunities his mother was denied—first as a girl and later when she was a mother—highlighted problems the young Rakoff saw hidden behind a facade of transparency in the 1950s.

"It was really from my mother that I sensed the disconnect between the sort of comfortable acceptance of a phony reality versus the true reality," Judge Rakoff says.

In high school, he was captain of the debating team. At Swarthmore College, he was student-voted president and editor of the newspaper. He moved with becoming a reporter before pursuing a law degree at

Harvard. After working as a federal prosecutor and defense lawyer, Judge Rakoff was appointed to the bench in 1996 by President Bill Clinton.

He says he isn't hostile to the SEC and is obliged under federal law to decide if settlements are fair, appropriate and in the public interest. In a recent article in *Litigation Magazine*, Judge Rakoff said he "gagged" on the SEC's original settlement with Bank of America. He was especially rattled that shareholders who had allegedly been defrauded were being asked to pay a \$22 million fine related to bonuses paid in the 2008 takeover of Merrill Lynch & Co.

Judge Rakoff forced Bank of America and the SEC to come back with a 50-page statement about what happened—and a higher penalty. He reluctantly approved the method deal, calling "the great American pleasure 'Deal Better'" at a ruling.

The judge says he feels bad taking lawyers and others to task, but he sees in private practice how delays and government-made the American legal system too slow and expensive for the average person. "The price of being a sane guy in the high-march the high-to-charge of the system of justice," Judge Rakoff says.



'When times are bad, people feel it will help'

Lawyer makes sure a defendant's constitutional rights are protected.

Atlanta Journal-Constitution
By Bill Torpy November 5, 2011
btorpy@ajc.com

Over the years, Jimmy Berry has kept more than 50 killers from the death chamber, including infamous clients like Fred Tokars, a lawyer who set up the shotgun-murder of his wife, and Lynn Turner, who poisoned her boyfriend and husband with antifreeze.

Juries in the U.S. and Georgia have been sentencing fewer defendants to death in recent years. But Berry, 68, a Cobb County native who started out in real estate law, has seen three clients receive the ultimate sentence since 2007. Joshua Drucker was sentenced to death last month by a Cobb jury for a double slaying in 2004. Stacey Humphreys, who killed two real estate agents in 2003, was sentenced by a Brunswick jury. And Michael Ledford was condemned by a Paulding County jury for the 2006 sexual assault and murder of a bicyclist on the Silver Comet trail.

Berry is known for being overloaded with cases that few other lawyers want, cases that eat up weeks of time and pay little. He said the intense publicity surrounding Georgia's execution of Troy Davis, a convicted cop killer who insisted on his innocence until the end, may have actually hurt other death penalty defendants.

Q: What did the Davis case do to future death penalty cases?

A: I think it might have had some backlash on cases coming up. People will say, "This case is not like Troy Davis. They have a confession and eye witnesses." They may see Troy Davis as a poster child for what a death penalty case shouldn't be. They might say, "The prosecution has this [evidence] and that, so we should give it."

Q: The trend seems like it's going against the death penalty. In 1998, 294 defendants [nationally] were sentenced, but last year it was only 112.

A: I'm hopeful people are looking at that. We're the only civilized country that has it.

Q: But, at the same time, it's popular. Gallup polls show it with 64 percent support.

A: I don't know if it's the economy. When times are bad, people feel it will help. Statistics show it does not deter crime. In England, they used to hang pickpockets, but in the crowd at the hangings, there were more pickpockets there picking pockets.

Q: You seem a little down when talking about this.

A: You have to stay optimistic. I think people get a wrong perception about defense lawyers. It's not to get people off. It's to protect someone's constitutional rights. If a person gets arrested, they're going to want their constitutional rights protected. Otherwise, we'd be a police state — whoever gets arrested goes to jail without a trial.



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Your address in Kansas

October 26, 2011

Stephen R. LaChern
LaChern Witzel & Greenberg, LLP
1429 Walnut Street, 13th Floor
Philadelphia, PA 19102

Re: ABCL "The RoundTable"

Mr. LaChern:

Thank you for your letter of October 22, 2011. I am grateful for inclusion into the American Board of Criminal Lawyers. I have enclosed a brief bio as you have suggested.

I also look forward to meeting you at the next meeting. If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,

WYRSCH HOBBS & MIRAKIAN, P.C.

BY: 
JAMES R. HOBBS

Enclosure

James R. Hobbs
Wyrsh, Hobbs & Mirakian P.C.
Kansas City, MO

J.R. Hobbs graduated with a B.A. from the University of Kansas and a J.D. from the University of Missouri at Kansas City in 1981.

He is past president of the Missouri Association of Criminal Defense Lawyers and is listed in the "Best Lawyers in America" in criminal law. He is a past recipient of the Lon O. Hoeker Trial Lawyer Award for the Missouri Bar Foundation, which is an honor selected with input by the state and federal trial judges. Mr. Hobbs is a past recipient of the Kansas City Metropolitan Bar Association's Congenial Counselor Award and has been the KCMBA Criminal Law Committee chairman. He is a member of the American Board of Trial Advocates and a Fellow in the American College of Trial Lawyers. Mr. Hobbs was also recently inducted into the International Academy of Trial Lawyers. He also serves as co-chair of the Midwest/Kansas City Region with Gerald Handley for the ABA White Collar Crime Committee.

Mr. Hobbs has been married to his wife, Doel, for 31 years and they have six children.

GOD'S BLOG

BY PAUL SIMMS

UPDATE: Pretty pleased with what I've come up with in just six days. Going to take tomorrow off. Feel free to check out what I've done so far. Suggestions and criticism (constructive, please!) more than welcome. God out.

COMMENTS (24)

Not sure who this is for. Seems like a fix for a problem that didn't exist. Liked it better when the earth was without form, and void, and darkness was on the face of the deep.

Going carbon-based for the life-forms seems a tad obvious, no?

The creeping things that creepeth over the earth are gross.

Not enough action. Needs more conflict. Maybe put in a whole bunch more people, limit the resources, and see if we can get some fights going. Give them different skin colors so they can tell each other apart.

Disagree with the haters out there who have a problem with man having dominion over the fish of the sea, the fowl of the air, the cattle of the earth, and so on. However, I do think it's worth considering giving the fowl of the air dominion over the cattle of the earth, because it would be really funny to see, like, a wildebeest or whatever getting bossed around by a baby duck.

The "herb yielding seed" is a hella fresh move. 4:20!

Why are the creatures more or less symmetrical on a vertical axis but completely asymmetrical on a horizontal axis? It's almost like You had a great

idea but You didn't have the balls to go all the way with it.

The dodo should just have a sign on him that says, "Please kill me." Ridiculous.

Amoebas are too small to see. They should be at least the size of a plum.

Beta version was better. I thought the Adam-Steve dynamic was much more compelling than the Adam-Eve work-around You finally settled on.

I liked the old commenting format better, when you could get automatic alerts when someone replied to your comment. This new way, you have to click through three or four pages to see new comments, and they're not even organized by threads. Until this is fixed, I'm afraid I won't be checking in on Your creation.

SPOILER

One of them is going to eat something off that tree You told them not to touch.

Adam was obviously created somewhere else and then just put here. So, until I see some paperwork proving otherwise, I question the legitimacy of his dominion over any of this.

Why do they have to poop? Seems like there could have been a more elegant/family-friendly solution to the food-waste-disposal problem.

The lemon tree: very pretty. The lemon flower: sweet. But the fruit of the poor lemon? Impossible to eat. Is this a bug or a feature?

Unfocussed. Seems like a mish-mash at best. You've got creatures that

can speak but aren't smart (parrots). Then, You've got creatures that are smart but can't speak (dolphins, dogs, houseflies). Then, You've got man, who is smart and can speak but who can't fly, breathe underwater, or unhinge his jaws to swallow large prey in one gulp. If it's supposed to be chaos, then mission accomplished. But it seems more like laziness and bad planning.

If it's not too late to make changes, in version 2.0 You should make water reflective, so the creatures have a way of seeing what they look like.

S*H*O*E*S!!! Manolo Jimmy Choo Vuitton Prada +++ All sizes Great deals Free shipping! @@@ [www.shoeware-houze.com]

Penguins are retarded. Their wings don't work and their legs are too short. I guess they're supposed to be cute in a "I liek to eat teh fishes" way, but it's such obvious pandering to the lowest common denominator.

There's imitation, and then there's homage, and then there's straight-up idea theft, which is what Your thing appears to be. Anyone who wants to check out the original should go to www.VishnuAndBrahma.com. (And check it out soon, because I think they're about to go behind a paywall.)

Putting boobs on the woman is sexist.

Wow. Just wow. I don't even know where to start. So the man and his buddy the rib-thing have dominion over everything. They're going to get pretty unbearable really fast. What You need to do is make them think that there were other, bigger, scarier creatures around a long time before them. I suggest dinosaurs. No need to actually create dinosaurs—just create some weird-ass dinosaur bones and skeletons and bury them in random locations. Man will dig them up eventually and think, What the f?

Epic fail.

Meh. ♦



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Future Meetings

February 10-12, 2012: Atlantis Hotel, Nassau - Bahamas

June 22-24, 2012: Broadmoor Resort, Colorado Springs

October 4-6, 2012: St. Regis, Dana Point, CA

