



American Board of Criminal Lawyers

THE ROUNDTABLE

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January 2015



Welcome to 2015, Melinda and I sincerely hope your Holidays were filled with family and good times. Before I discuss ABCL plans for 2015, I want to give tremendous recognition and thanks to Pat and Jennie Mika for their hard work and fantastic meetings in Key West, Aspen and San Francisco. I want to also thank our Treasurer, John Rion, for his tireless efforts and extraordinary expertise which keeps our finances in check. Well earned thanks to Jim Jenkins for his remarkable and comprehensive directories, Jim Liguori for his unparalleled energy in his screening for the finest, top notch new members joining our Fellowship, and to Steve LaChen for his always informative, creative, timeless and humorous Roundtables.

All of our 2015 meetings, New Orleans, La Jolla and Santa Fe, will feature the customary Friday night reception at the conference hotel and a Saturday night dinner. It is my hope this schedule will allow Fellows and spouse/guests to attend our meetings and still be able to return to work and/or court on Monday. There always will be the option to come early and stay late for those who wish to spend more days at the conferences.

Our first meeting will be at the world renowned Windsor Court Hotel in New Orleans, February 20-22. Our ABCL room block is for 800 sq. ft. suites at the rate of \$350, registration fee is \$500 per Fellow and \$500 per spouse/guests. Saturday night dinner at August restaurant.

The June 5-7 meeting will be at the newly renovated La Valencia Hotel overlooking the Pacific Ocean, La Jolla, CA.

The October 9-11 Annual Conference and Black Tie Dinner Dance will be at the breathtaking La Posada Resort and Spa, Santa Fe, NM.

ATTENTION REQUIRED: WINDOR COURT HOTEL ROOM BLOCK CUTOFF DATE IS JANUARY 22

HOTEL RESERVATIONS: Toll Free- 800.262.2662 or Hotel Direct-504.523.6000
REGISTRATION: \$500 per person, CONTACT JOHN RION, jrion@rionlaw.com

Wishing you and your family a very happy and healthy 2015. We hope to see you at the 2015 meetings. Warmest Regards, Jim and Melinda

Portrait of a Judge



The Honorable William T. Moore, Jr., the exemplar of the ABCL's eponymous Willie Moore Rule, was the Guest of Honor at a cocktail reception, private viewing and subsequent dedication of his portrait at the United States District Court for the Southern District of Georgia on November 7, 2014. ABCL was represented by the Judge's Fellow Georgians, **Froelich, Ossick, Tolley**, and the Outlander **Liguori**. Postcard-size reproduction of the portrait suitable for framing will be available as a prize at the next **Len Chesler Raffle**.

Richard Lubin has been named by *Best Lawyers in America* as one of three Florida "Lawyers of the Year" for Criminal Law. In case this was missed before, I thought y'all should know.

Ed Shohat

Today is one of those days. I lost U.S. v Spencer 5-4 en banc in the 11th Circuit. (Don Samuel had very graciously helped moot court me for the oral argument.) My associate Agne Krutules had won the Panel decision. I took over when she took another job. In the meantime, the court granted the Governments' Petition for Rehearing En Banc. As of today, in the 11th Circuit you can never raise improper classification as a Career Offender on 2255, even if the Supreme Court has ruled, after you were sentenced, that one or more of your predicate offenses is not a crime of violence. (You can raise it on direct appeal, just not 2255.) The opinion is 108 pages. Pryor wrote the opinion, with Martin, Jordan, Wilson, and Rosenbaum writing four separate dissents. That was the bad news. Oh well, on to the Supreme Court. The good news was that the kudos for brother Lubin caused me to wonder who Best Lawyers had recognized in Georgia. Turns out Don Samuel is Georgia Lawyer of the Year for Non White Collar and yours truly is Georgia Lawyer of the Year for White Collar. I would rather have won En Banc.

Bruce Maloy (11/14/14)

BOOK REVIEW

Several weeks ago I read **Cheney Mason's** book "Justice In America" about the Casey Anthony trial. It is amazing the obstacles that were put in the way of the defense by the Court and the prosecution and the avalanche of adverse publicity that had to be overcome to obtain the not guilty verdict. Cheney did an incredible job, without pay, and he gives credit to the entire defense team. It is a worthwhile read.

Jerry Froelich

Bernholz takes top honor at NCLW Awards event

Dorothy "Dottie" Bernholz accepted the 2014 Woman of the Year award during the North Carolina Lawyers Weekly Women of Justice ceremony on Nov. 13 in Raleigh. A panel of independent judges selected the Bernholz for the honor. Lawyers Weekly congratulates Bernholz and the 29 other legal professionals chosen as members of the 2014 class of Women of Justice. Reported by **Ian N. Friedman**

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November 5, 2014

Stephen Robert LaCheen
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RE: American Board of Criminal Lawyers (The Round Table)

Dear Steve:

Thank you for inviting me to submit a paragraph or two as a brief bio for the members who did not vote me in.

My name is Margaret Sind Raben. I was accepted as a Fellow in absentia at the October 2014 meeting. You can blame your Fellows/my colleagues Bill Swor, Jim Thomas, and Jimmie Feinberg for that.

Here's what you need to know: My given name is Margaret Mary, but my family name is Peggy. I answer to both. I am 66 years old and have been a lawyer for 28 years. Before that, I was a junior high school teacher in Detroit (so useful for a future criminal defender!) and a freelance fiber artist. My late husband and I raised three sons to adulthood without any of them getting a felony conviction. They are all "launched." My law partner, Harold Gurewitz - also a new ABCL Fellow - hired me when I was in law school. If he has any regrets, he has wisely kept them to himself. I'm in good shape if you think that "round" is a good shape. Finally, if you go to www.digital.superlawyers.com/superlawyers/mjw14 and search "Raben," you'll find me.

I am honored to be one of you.

Yours in Fellowship,

Margaret Raben

Margaret Sind Raben
/s/

BREAKING NEWS! Hank Asbill has just achieved an amazing sentencing victory. Prosecutors wanted Virginia Governor Robert McDonnell to go away for up to twelve long years. Hank got the judge down to two. Wow!

Fresno attorney James Homola elected president of elite legal society

By Pablo Lopez

The Fresno Bee

December 21, 2014

Fresno attorney James R. Homola has been elected president of an elite legal society that is committed to fighting for the accused.

His colleagues say Homola marches to a different beat. Homola, 67, says he is a perfect fit to be leader of the American Board of Criminal Lawyers, having seen the law from both sides of the courtroom. His one-year term starts Jan. 1.

Homola was a prosecutor — first for the Madera County District Attorney's Office and then the Fresno County District Attorney's Office — before getting tangled in a ticket-fixing scandal in 1980. His subsequent resignation, he says, turned out to be "a blessing in disguise."

Since 1980, he has specialized in criminal defense in federal and state courts, defending drug dealers, killers and white-collar criminals. He is a certified criminal law specialist with the State Bar of California (out of 185,735 active lawyers, only 353 are certified criminal law specialists, according to the Bar) and has the credentials to argue cases in front of the U.S. Supreme Court. Now, he has the distinction of being the first attorney from Fresno — and from the Valley — to be named president of the national organization, which was founded in 1978 and has about 225 members nationwide and in Canada and Europe.

The members, who are called fellows, include heavy-hitters like Florida attorney James Cheney Mason, who was co-counsel for Casey Anthony, the mother acquitted in 2011 of killing her 2-year-old daughter, Caylee; Southern California attorney Blair Berk, a Harvard law school graduate whose clients are a who's who of Hollywood; and Atlanta attorney Donald F. Samuel, who has written several books on criminal defense and successfully defended former Baltimore Ravens linebacker Ray Lewis against a double murder charge in 2000.

The ABCL meets three times a year to discuss important cases. Becoming a fellow is difficult. Lawyers have to be nominated by a fellow and had to have tried at least 50 major felony cases to a verdict, winning at least 35 of them. Of the 35 successful cases, at least five of them must be capital or life prison sentence cases. After a background check, the nominees face a vote by the membership.

Homola has been a member since 1998. He says the only other fellows from the Valley are Fresno attorneys Roger Nuttall and Anthony Capozzi. Retired Fresno Judge John "Nip" Gallagher was once a member, but now has honorary status, Homola said.

Homola is married to Melinda Homola, a former associate superintendent of the Fresno Unified School District. His father, Edward F. Homola, was an executive in the casino industry for 50 years; his mother, Dorothy, owned a painting and sculptures shop in the Bally's hotel in Las Vegas.

When he was 5 years old, Homola wrote his autobiography. In it, he says he wanted to be a lawyer, not a baseball player or a fireman. "I would not change it for anything," he says now. A graduate of the University of San Diego School of Law, Homola began his career in 1974, working for the Madera County District Attorney's Office. His claim to fame then was indicting the three men responsible for the 1976 Chowchilla bus kidnapping and interviewing the kidnapped children in the grand jury proceedings.

Former Madera County District Attorney David Minier worked with Homola during those early years. While most prosecutors dressed conservatively for court, Homola had long hair and sometimes wore an all-white, Mexican-style suit to court. Homola's wardrobe also included tacky plaid suits. "He marched to a slightly different beat than the rest of us," said Minier, who is a judge.

Homola was a Fresno prosecutor from October 1977 to April 1980, when he resigned. According to Homola, deputy district attorneys were dismissing traffic tickets so nonchalantly, the office had a stamp that read "Case dismissed."

A four-month McClatchy Newspapers investigation in 1981 found that more than 2,300 tickets were summarily dismissed over 30 months by 48 prosecutors, costing the county \$130,000 in revenue. "When I left the office, I knew it would never happen again, because I took the stamp with me," Homola said jokingly.

Homola said he has done more than 200 trials. On the walls of his downtown office are framed jury verdicts of his acquittals. Among them is the not-guilty verdict for Frank Pino in October 1980 — Homola's first murder trial. In the trial, Homola told the jury that Pino stabbed the victim in self-defense. He said he won the case because a police officer had put his initials on the murder weapon to keep track of evidence. The initials also happened to be the same as the victim's, Homola says. In closing arguments, the prosecutor never explained the initials, so the jury likely surmised it belonged to the victim, Homola said, grinning.

Over the years, he has won acquittals for other accused killers, as well as drug dealers, bank robbers and gun runners.

"He's a great trial lawyer," Nuttall said. Homola is good at his craft, Nuttall and Capozzi said, because he is smart, witty and not afraid to confront the prosecution.

But what really makes him special, they say, is that he is a nice guy.

**[Judges' skit and song, 2014 Courthouse Follies,
by Jed Rakoff]**

["RLE" = Judge Ellis; "JSR" = Judge Rakoff;
"LMS" = Judge Smith; "LTS" = Judge Swain]

JSR: I can't wait to celebrate the Southern District's
quasquibicentennial.

RLE: The who?

JSR: Quasquibicentennial. Q_u_a_s_q_u_i ... I know it sounds
kind of kwazy.

RLE: Quasquibi ... Is that a new protected class?

JSR: It means 225th anniversary, dummy.

LTS: I think that's the number of anniversaries my husband
has forgotten.

LMS: Or the number of pro se petitions on my six-month list.

JSR: Don't you know our court was the very first federal court
ever created, even before the Supreme Court.

LTS: What's the Supreme Court?

LMS: That's why our court is called The Mother Court.

RLE: Sure is a mother.

JSR: I don't think of our court as a mother. I think of it as a
beautiful woman.

LTS: [preening] That's certainly the way I look at it.

LMS: [sashaying] Me too.

JSR: But as the saying goes, the law is a jealous mistress.

RLE: How so?

JSR: Well, for example, the other night my wife and I were home
alone, we had a candlelight supper, a little wine, I put on some
music, and pretty soon I was feeling a little ... frisky.

LTS: At your age?

LMS: Not possible.

RLE: I thought "feeling frisky" had been outlawed by Judge
Scheindlin.

JSR: Anyway, my wife looked at me romantically and said
"What are you thinking?" And I said...

RLE: Yes?

LTS: Yes?

LMS: Yes?

JSR: I said, "Dear, I'm thinking beautiful thoughts ...about the
mail fraud statute."

LTS: Cool.

LMS: Suave.

RLE: And what did she say?

JSR: She said, "You are definitely a male fraud." But gosh, I
can't help it. Just thinking about the law gets me hot and
bothered.

RLE: I know what you mean.

[The piano sounds a pitch, and JSR and RLE then sing the
following duet, in two part harmony, to the tune of "Lida
Rose" from "The Music Man" by Meredith Willson]

RLE & JSR:

Lovely law, oh beautiful law,
Each day we love you more and more.
You are free of foible or flaw,
Although at times you are a bore.
Our hearts pine
Every time we open your code.
Line by line,
You're so darn amusing and so confusing.
Lovely law, oh beautiful law,
All your provisions leave us weak.
We are lost, our passions are raw,
Like any genuine law freak.
So here is our tribute
To whom we applaud,
Lovely law,
It's you that we laud.
Lovely law, oh lovely law, oh lovely law ...

[LMS and LTS immediately go into the following duet, again in
two part harmony, to the tune of "Will I Ever Tell You?", again
from "The Music Man."]

LMS & LTS:

Dream of law,
Brave and strong,
Dream of a statute,
So big and long.
Do we need you?
Oh yes, we need you.
And we plan to read you,
But only when we're nearly gone.
Never plain,
Never clear.
You make all meaning
Just disappear.
You're clever
Beyond all measure -
That's why we treasure
The law.

RLE & JSR: Lovely law, oh lovely law, oh
[The two songs are now sung simultaneously, as a double song]

Courtroom Plaque Honors Late Criminal Defense Attorney



Famed Miami criminal defense attorney Richard Sharpstein, who died last year, will be honored with a memorial plaque in the second floor hallway of the Richard E. Gerstein Justice Building.

The plaque, which is sponsored by the Florida Association of Criminal Defense Lawyers, the League of Prosecutors and the Miami-Dade state attorney's office, will be unveiled at 11:30 a.m. Thursday. It will be located in Courtroom 4-1.

Sharpstein, a former partner at Akerman, committed suicide in his Miami Beach home last year at 63. Over a four-decade career, he handled some of Miami's most high-profile cases.

The former criminal defense attorney represented disgraced Miami-Dade County Commissioner Joe Gersten, star FIU baseball player Garrett Wittels and Peter Rosello, the son of "Real Housewives of Miami" star Alexia Echevarria, who was accused of beating a sleeping homeless man.



Office of the Vice Chancellor for University Advancement

November 6, 2014

Mr. John H. Rion
American Board of Criminal Lawyers
PO Box 532
Dayton, OH 45409-0532

Re: \$1,000 gift to Law School General Scholarship Fund

Dear Mr. Rion,

Thank you for ABCL's contribution to the Law School General Scholarship Fund in honor of your president and our alumnus, Patrick D. Mika. The School of Law is currently ranked in the top tier of law schools for the fifth consecutive year. Gift support such as yours allows the school to offer challenging courses, recruit top-tier students, and hire nationally recognized faculty which will ultimately benefit our goal to become a Top 50 Public Research University.

I appreciate the commitment you bring to our campus. You truly make an impact in the lives of our students, faculty, and alumni.

Sincerely,

Chris Wyrick
Vice Chancellor for University Advancement

WE MOVED!

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The RoundTable

Steve LaCheen, Editor
Rita Bognanni, Staff



Future Meetings

February 20-22, 2015: New Orleans, LA
June 5-7, 2015: LaJolla, CA
October 9-11, 2015: Santa Fe, NM

New Year's Resolutions

Lighten up

The RoundTable

Steve LaCheen

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WHAT ARE YOU SO AFRAID OF?

**A BONE-CHILLING EXPLORATION
OF OUR DEEPEST, DARKEST FEARS.**

ENTER IF YOU DARE!