

THE Green Bagatelle

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EXEMPLARY WRITING FROM 2015 & RULES FOR 2016

Green Bagatelle #2 (March 8, 2016)

Here is a list of our “exemplary legal writing” honorees for 2015. Most can be found on the web. *Green Bag* subscribers will find all of them (except the books) in the 2016 *Almanac & Reader*, which will be in mailboxes worldwide later this month. Congratulations to all:

OPINIONS FOR THE COURT

- Charles R. Breyer, *In re Hewlett-Packard Company Shareholder Derivative Litigation* (N.D. Cal. July 28, 2015)
Elena Kagan, *Mach Mining v. EEOC*, 135 S.Ct. 1645 (2015)
Cornelia T.L. Pillard, *Arpaio v. Obama*, 797 F.3d 11 (D.C. Cir. 2015)
Amul R. Thapar, *Wagner v. Sherwin-Williams Co.*, 2015 WL 5174130 (E.D. Ky. 2015)

CONCURRENCES, DISSENTS, ETC.

- Carlos T. Bea, *Doe v. Nestle*, 788 F.3d 946 (9th Cir. 2015)
Frank H. Easterbrook, *Thomas v. Clements*, 797 F.3d 445 (7th Cir. 2015)
O. Rogerie Thompson, *Sanchez v. Roden*, 808 F.3d 85 (1st Cir. 2015)
Don R. Willett, *Patel v. Texas Department of Licensing and Regulation*, 469 S.W.3d 69 (Tex. 2015)

LAW REVIEW ARTICLES FROM 50 YEARS AGO

- Guido Calabresi, *The Decision for Accidents*, 78 Harvard Law Review 713 (1965)
Herbert Wechsler, *The Courts and the Constitution*, 65 Columbia Law Review 1001 (1965)

BOOKS

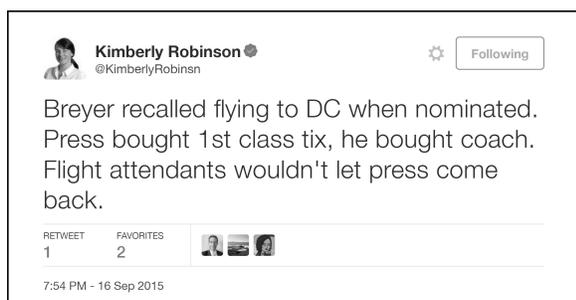
- Recommended by our respectable authorities — Femi Cadmus, Lee Epstein, Cedric Merlin Powell, and Susan Phillips Read:
Akhil Reed Amar, *The Law of the Land* (Yale)
Adam Benforado, *Unfair* (Crown)

The Green Bag's
2016
ALMANAC
of useful & entertaining tidbits for lawyers
for the year to come
&
READER
of exemplary legal writing
from the year just passed
(see honorees on back cover)
is a special
SHERLOCK HOLMES
ENCORE EDITION
with much mystery
steeped in Victorian imagery
as well as our perennially popular
ANNUAL REVIEWS
The Year in Language & Writing
Bryan A. Garner
The Year in Law
Gregory F. Jacob
A Year in the Life
of the Supreme Court
Tony Mauro
A Year of Lowering the Bar
M. Kevin Underhill

FEATURES coming soon
law books of 2015 recommended by our respectable authorities
Femi Cadmus • Susan Phillips Read
Cedric Merlin Powell • Lee Epstein
And much more, including ...
... the Court's attention that ...
... an UNREADABLE OPINION, ...
... old and new versions of THE REIGATE PUZZLE ...
... and THE FIELD BAZAAR, ...
... JUDICIAL, SCIENTIFIC, and OTHER PIGS, ...
Your co-workers take pleasure in your great sense of creativity.
... FORTUNES from COOKIES, and so on and so on ...

- Ellen Berrey, *The Enigma of Diversity* (Chicago)
Stephen Breyer, *The Court and the World* (Knopf)
John Bronsteen, Christopher Buccafusco & Jonathan S. Masur, *Happiness and the Law* (Chicago)
Irin Carmon & Shana Knizhnik, *Notorious RBG* (Harper-Collins)
Ta-Nehisi Coates, *Between the World and Me* (Spiegel & Grau)
John C. Coffee, Jr., *Entrepreneurial Litigation* (Harvard)
Alan M. Dershowitz, *Abraham* (Schocken)
Nancy E. Dowd (ed.), *A New Juvenile Justice System* (NYU)

Jeffrey A. Engel (ed.), *The Four Freedoms* (Oxford)
 Nuno Garoupa & Tom Ginsburg, *Judicial Reputation* (Chicago)
 Gunnar Grendstad, William R. Shaffer & Eric Waltenburg, *Policy Making in an Independent Judiciary* (ECPR)
 Wil Haygood, *Showdown* (Knopf)
 Dan Jones, *Magna Carta* (Viking)
 Burt Neuborne, *Madison's Music* (New)
 Richard A. Posner, *Divergent Paths* (Harvard)
 Cass R. Sunstein, *Constitutional Personae* (Oxford)
 Michael A. Zilis, *The Limits of Legitimacy* (Michigan)



In related business, here are some new and perhaps improved rules for selection of our “exemplary legal writing” honorees for 2016.

FORM

First, all nominations must be sent to editors@greenbag.org and must include the following in the body of the email: (a) an accurate citation or functional link to the nominated work, (b) the nominator’s real name, and (c) an email address and a snail-mail address for the nominator (for Category #5 — see below — also include a Twitter handle).

CONTENT

Second, we have tinkered with some categories, given up on one, and added two new ones:

Category #1: Judicial Opinions — We are expanding the pool of nominators. Any judge in active service in 2016 on a state or federal court may nominate one or two signed opinions issued in 2016.

Category #2: State Supreme Court Briefs — We are ditching “U.S. Supreme Court Briefs.” We had zero nominees in 2015. It is easy to imagine reasons for this, and none of the likely ones involves conditions over which the *Green Bag* has much influence.

So, we are moving on to another field where good litigators write. Category #2 is now “State Supreme Court Briefs.” Anyone listed as counsel on a brief filed in a state supreme court in 2015 or 2016 may nominate a brief filed in that court in 2016.

Category #3: Law Review Articles — We are pretty happy with this category, so the only changes are the qualifying years for nominators and nominees. Anyone who (a) wrote something with a 2015 publication date in any law review at a U.S. law school, and (b) was not a law student at the time, may nominate in this category any article with a 1991 publication date in any law review at a U.S. law school. This is, as it was last year, a test of durability and timeliness: What scholarship published 25 years ago is the most readable and worth reading today?

Category #4: Books — We are happy with this as well. We hope all four of our respectable authorities return for 2016. We might add one or two.

Category #5: Tweets — This is a new category. Anyone with a Twitter account may nominate an exemplary law-related tweet by sending us a link. Hashtags, likes, and retweets are irrelevant in this context. We will have no stuffing of ballot boxes at the *Green Bag*, if we can avoid it. To get you thinking about excellence in tweeting we’ve included one by Kimberly Robinson that we think is mighty good: compact, articulate, and interesting, with a point and an edge but no barb.

PROCESS

Third, we have done a little bit of tinkering with the voting qualifications, just to make them line up with the other changes we’ve made:

Who can vote? Anyone who sends a valid nomination in any category gets to vote in all categories.

What will they actually vote on? A ballot of finalists winnowed from the pools of nominees. It will be mostly a popularity-and-persuasion contest — works receiving the most nominations are most likely to make the ballot. A few others whose nominations are accompanied by especially persuasive explanations of their sterling qualities are likely to make it too.

And, finally, there is the nomination deadline: January 1, 2017.

— Ross E. Davies