



The Scrivener

Scribes – The American Society of Writers on Legal Subjects

Winter-Spring 2004

Judge Richard Arnold Named Recipient of the Scribes Lifetime Achievement Award

by Beverly Ray Burlingame

Richard Sheppard Arnold, of Little Rock, Arkansas, will receive the Lifetime Achievement Award — bestowed for only the second time in Scribes' 50-year history. Judge Arnold has served for nearly 25 years on the U.S. Court of Appeals for the Eighth Circuit. The award will be presented in Atlanta on August 7, 2004, at the Scribes Luncheon, during the ABA Annual Meeting.

Judge Arnold's writing shines with clarity of thought and expression. While he's a master of the classics and classical languages, he eschews Latin in his writing, preferring plain, easily understood English. His style is poetic — spare and elegant. For instance, in these five sentences, he rebutted the view that Justice Brennan had molded the Warren Court through sheer force of personality and "Irish guile":

Personality, no doubt, is important. Judges are human beings. They live in bodies and react on a personal level. But judges do not cast votes simply because their backs are slapped in a particularly engaging way. What Justice Brennan did, he did as a lawyer and as a judge, and his mastery of the English language, of the history of the Constitution, and of the technical aspects of the law played at least as big a part in his success at constructing majorities as the warmth of his personality and manner.

The Lifetime Achievement Award was created to recognize a person whose extensive body of legal writing exemplifies the qualities that Scribes advocates — grace,

clarity, concision, lucidity, integrity, and scholarship. The award's only other recipient is Judge Guido Calabresi, of the U.S. Court of Appeals for the Second Circuit.

Judge Arnold attended Yale University and Harvard Law School, graduating first in his class from both schools. After law school, he clerked for Associate Justice William J. Brennan Jr., of the U.S. Supreme Court. Arnold practiced law for 12 years in Washington, D.C., and Texarkana. In 1969, he became a delegate to the Seventh Arkansas Constitutional Convention. And during the 1970s, he joined the staff of Arkansas Governor Dale Bumpers and, later, U.S. Senator Dale Bumpers.

In 1978, Judge Arnold was appointed to the U.S. District Court for the Eastern and Western Districts of Arkansas. Two years later, he was elevated to the Eighth Circuit, for which he served as Chief Judge between 1992 and 1998. In 2001, he assumed senior status on the Eighth Circuit.

In 1999, Judge Arnold received the Edward J. Devitt Distinguished Service to Justice Award. He is also the 2004 recipient of the Morton A. Brody Distinguished Judicial Service Award. As part of a bill signed by the President in February 2003, the U.S. Courthouse in Little Rock, Arkansas, was designated the "Richard Sheppard Arnold United States Courthouse."



President's Column

Beverly Ray Burlingame
Partner, Thompson & Knight LLP
Dallas, Texas

This quarter has brought exciting changes to Scribes, due largely to the hard work of our officers, board members, committee chairs, and committee members. In March 2004, the board met in San Diego, where we were graciously hosted by board member Steven R. Smith, Dean of the California Western



School of Law in San Diego. After a day-long meeting of the board on Saturday, Steve and his wife, Lera, treated us to dinner at their home, accompanied by a glorious sunset over the Pacific Ocean.

The annual board meeting is the board's only face-to-face chance to fully discuss and vote on critical issues affecting Scribes. But almost daily (and sometimes, several times a day), board members communicate through the board's listserv, hosted by Barry University School of Law, the home of Scribes' Executive Director, Dean Glen-Peter Ahlers.

One of the board's primary goals is to increase our membership. And we've made great progress, led by longtime board member John Williams — Chair of the Membership Committee and Principal Attorney Editor with West, a Thomson business. In March 2004 alone, Scribes added 2 new lifetime members, 16 regular members, and 137 faculty members at four law schools who joined as institutional members:

- John Marshall Law School
- Lewis & Clark Law School
- University of Akron Law Center
- William Mitchell College of Law

Another key goal has been to make Scribes more visible to the legal community. And we're making great strides there, too. This newsletter — *The Scrivener* — has a new Editor, Assistant Professor Jane Siegel, a member of the *Scrivener* and Website Committee. Professor Siegel, who teaches legal research and writing at Thomas M. Cooley Law School, has taken on this labor-intensive task.

Our website — www.scribes.org — has also been recently transformed. The new website design is by Astrid Gulley, a Dallas-area technology maven who will also serve as the new Scribes webmaster. Ms. Gulley owns a consulting business and is a staff member of the Technology Assistance Small Business Development Center in Dallas. In that role, she counsels and trains law firms and other groups in computer technology and intellectual property. Ms. Gulley also teaches E-Commerce-Marketing, Web-Design (HTML), Internet Architecture, and Network Security.

When you visit the new Scribes website, you'll find links to the websites of all our institutional members, as well as direct e-mail links to all Scribes officers and directors. And soon, Ms. Gulley will enable Scribes members to pay their dues more conveniently, by using a secure online-payment system at scribes.org.

On another front, the Annual Meeting Committee, led by board member Tom Steele — a former Scribes Executive Director and a law professor at Wake Forest University School of Law — has been actively planning the 2004 Scribes Annual Luncheon, to be held August 7, 2004, during the ABA Annual Meeting in Atlanta. At the luncheon, the Scribes Lifetime Achievement Award will be presented to Judge Richard Arnold, as discussed on the first page of this issue. Scribes will also present the 2004 Book Award and 2004 Brief-Writing Award — the winners of which two other Scribes committees will soon be hard at work selecting.

And the Scribes Planning Committee has been planning another Scribes-sponsored legal-writing seminar, which will also take place during the Atlanta ABA Annual Meeting. The two-hour program, which will be scheduled for August 6 or August 7, will offer practical advice on legal writing for business lawyers. The program will be co-sponsored by *Business Law Today*, the news magazine for the Business Law Section. Last year's program, co-sponsored by Scribes and the ABA Litigation Section, offered advice on writing effective motions and briefs.

Finally, Joseph Kimble — Editor in Chief of *The Scribes Journal of Legal Writing* — expects that Volume 9 of the *Journal* will be published this summer. And longtime Scribes supporter Thomas M. Cooley Law School has generously offered to fund three issues of the *Journal*, including Volume 9.

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President's Column

(continued from page 2)

A Legal-Writing Tidbit: End Sentences with a Punch

"A sentence must be so written that the punch word comes at the end."

Karl Llewellyn,
A Lecture on Appellate Advocacy,
29 U. CHI. L. REV. 627, 628 (1962).

In an English sentence, the primary emphasis falls at the end. The next most emphatic position is at the start. Consider these two sentences, hearing each one in your mind's "ear" as if it were being read aloud, with the last word exaggerated:

Version 1: Coker promised Jones that the stock would earn a hefty profit in 2001.

Version 2: Coker promised Jones that in 2001, the stock would earn a hefty profit.

In the first sentence, emphasizing the date, *2001*, sounds slightly foolish. But emphasizing *profit* improves the rhythm by putting the most important word last. By reading a sentence aloud and exaggerating the last word, you can often improve its sound and effectiveness.

In general, follow these four rules on word placement, formulated by Bryan Garner:

- Don't end a sentence with a date unless the date is crucial, as in —
The statute of limitations has now run; the accident occurred not in 2000, as Ulmer contends, but in 1999.
- Don't end a sentence with a case name unless the case name is crucial, as in —
Lipscomb's argument is refuted by a leading case — *Celotex*.
- Don't end a sentence with a person's name unless it comes as a surprise, as in —
The only fingerprints on the gun belong not to the defendant, but to his brother, Jim Field.
- Don't end with a qualifier such as *in most circumstances*, *in general*, or the like.

Compare these two sentences, noticing whether each one ends with a punch:

Version 1: It's a wonder that Beatrice even survived under these dire circumstances.

Version 2: Under these dire circumstances, it's a wonder that Beatrice even survived.

Glanville Williams provided this shining example of ending a sentence with a punch:

Law is the cement of society and also an essential medium of change.

In sum, instead of letting your sentences trail off into trivia or conclude with a graceless thud, make them rise to a resounding climax.

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New Editor

The Scrivener has a new editor. Jane M. Siegel is an assistant professor teaching Research and Writing at Thomas M. Cooley Law School. Jane received her undergraduate degree from the University of Michigan and her J.D. from Cooley. Before becoming a lawyer, Jane was a freelance writer, editor, and communications consultant.

Please send items for upcoming issues of *The Scrivener* (electronically or on disk) to the address shown below.

Deadlines

Summer	August 15
Fall	November 15
Winter	February 15
Spring	May 15

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Revised Constitution and Bylaws

We have completely rewritten the Scribes Constitution and bylaws. There are two main reasons. First, we want them to exemplify the clear, plain style of writing and drafting that Scribes advocates. Second, we need to bring them up to date so that they are consistent with our current practices. They will be presented for approval at the annual membership meeting in August.

SCRIBES CONSTITUTION

Article 1 — Name and Goals

The name of this organization is Scribes — The American Society of Writers on Legal Subjects. Its goals are:

- (1) to foster a feeling of fraternity among those who write about the law — and especially among its members;
- (2) to create an interest in writing about the history, philosophy, and language of the law and about those who make, interpret, and enforce it;
- (3) to help and encourage people who write about the law; and
- (4) above all, to promote a clear, succinct, and forceful style in legal writing.

Article 2 — Membership

1. **Qualifications.** A member of the legal profession in any country is eligible for Scribes membership if that person has:
 - (1) published a book on a legal subject;
 - (2) published two or more articles on legal subjects in a journal, magazine, or newsletter;
 - (3) served as an editor of a legal publication; or
 - (4) published two or more opinions as a judge.
2. **Categories.** The Board of Directors may create categories of membership, including special categories for those who would not otherwise qualify for membership.
3. **Resignation or Expulsion.** A member may resign at any time by filing a written resignation with the Executive Director. A member may be expelled for good reason by a four-fifths vote of the Board.

Article 3 — Membership Meetings

1. **Annual Membership Meeting.** The annual membership meeting is held during the annual meeting of the American Bar Association, at a time set by the President of Scribes. At least 60 days before the meeting, notice of the time and place must be given to the membership by mail, by publication in *The Scrivener* or on scribes.org, or by some other appropriate means.
2. **Special Meetings.** On extraordinary occasions, a special membership meeting may be called by a three-fourths vote of the Board or by a petition signed by a majority of members.
3. **Records.** The Secretary, the Executive Director, or a designate must prepare the minutes of the annual membership meeting and any special meeting and must file them with the Executive Director.

Article 4 — Board of Directors

1. **Function.** The governing and administrative body of Scribes is its Board of Directors.
2. **How Constituted.** The Board consists of 16 members: the President, Past President, Vice President (President-Elect), Secretary, Treasurer, Executive Director, and Editor in Chief of *The Scribes Journal of Legal Writing*, together with nine elected members.
3. **Terms of Office; Vacancy.** The officers serve a two-year term, as stated in Article 5. The Past President serves a two-year term. Each of the nine elected members serves a three-year term. The Executive Director and the Editor in Chief of the *Journal* serve at the Board's pleasure.
4. **Board Meetings.** The Board meets just before or after each annual membership meeting; at a separate annual Board meeting called by the President with 30 days' notice to the Board; and at any other time agreed to by a majority of the Board. The President may also call an electronic meeting by asking Board members to vote electronically on a matter. For electronic meetings, the President must give the Board at least 5 days to vote.
5. **Quorum and Voting.** At any Board meeting, a majority of the Board constitutes a quorum. Decisions are by a majority of the Board members present, unless the meeting is an electronic meeting. At electronic meetings, decisions are by a majority of the Board members who vote.
6. **Records.** The Secretary, the Executive Director, or a designate must prepare the minutes of a Board meeting and file them with the Executive Director.

Article 5 — Officers

1. **How Constituted.** The officers consist of a President, a Vice President (President-Elect), a Secretary, and a Treasurer.
2. **Term of Office; Vacancy.** Each officer serves a two-year term. If a vacancy occurs in the office of President, the Vice President succeeds to that office for the rest of the President's term. A vacancy in any other office must be filled by the Board for the rest of that person's term.

Article 6 — Nomination and Election of Officers and Directors

1. **Nominating Committee.** The President must appoint a Nominating Committee of at least five members. Every other year, the Nominating Committee must nominate the four officers. Each year, the Nominating Committee must nominate three Board members. The President may treat the Nominating Committee as a standing committee or may appoint a new committee each year.
2. **Report of the Committee; Other Nominations; Elections.** The Nominating Committee's report must be filed with the Executive Director and presented at the annual membership meeting. Other nominations may be made from the floor. Election to each position is decided by a majority of members present at the meeting.

Article 7 — Committees

With the Board's advice, the President may appoint the committees that seem necessary to carry out the goals of Scribes. The life of each committee ends at the annual membership meeting, after which the President may appoint the same or reconstituted committees.

Article 8 — Adopting and Amending Bylaws

Bylaws may be adopted, amended, or rescinded at any annual membership meeting by a majority of members present. The proposed action may be submitted to the Executive Director by the Board or by any member. At least 60 days before the meeting, notice of the proposed action must be given to the membership by mail, by publication in *The Scrivener* or on scribes.org, or by some other appropriate means.

Article 9 — Amending This Constitution

This Constitution may be amended in the same manner as the bylaws, except that a two-thirds vote of members present is required.

SCRIBES BYLAWS

Article 1 — Membership

1. *Full Members.*

a. *Four Categories.* There are four categories of full membership:

- regular member
- sustaining member
- life member
- institutional member

Any ABA-approved law school or any federal or state appellate court may become an institutional member — in which case each faculty member or judge who meets the eligibility requirements of the Constitution, Article 2, section 1, becomes a Scribes member. In appropriate circumstances, any other deserving legal organization may become an institutional member by a majority vote of the Board — in which case each of its members who is eligible becomes a Scribes member.

b. *Determining Eligibility.* The Executive Director must determine whether a person meets the eligibility requirements for full membership. The requirements should be liberally construed, and the Executive Director may rely on the information provided in the application form.

2. *Associate Members.* A person who is not a member of the legal profession but is otherwise qualified for membership may be elected to associate membership by a majority vote of the Board, on the recommendation of the Executive Director. An associate member must pay the same dues as a regular member. An associate member has no right to vote or to be elected to the Board, but has all the other rights of membership.

3. *Honorary Members*

a. *Persons of Distinction.* A person of distinction in the field of legal writing may be elected to honorary membership by a majority vote of the Board, on the recommendation of any member.

b. *Law-Review Members.* Each year, the faculty adviser for the primary law review at each ABA-approved law school may nominate one member of the law review's editorial board for honorary membership. Before April 1 of each year, the Executive Director must mail the nominating forms to the faculty adviser at each school. The nominee should be recognized for outstanding published legal writing or legal editing.

- c. *Term and Rights of Honorary Members.* An honorary member is granted a two-year membership, during which no dues are required. An honorary member has no right to vote or to be elected to the Board, but has all the other rights of membership.

Article 2 — Dues

1. **Amount.** Each full member must pay dues as follows:
 - regular member — \$65 annually
 - sustaining member — \$100 annually
 - life member — \$1,000 as a one-time contribution
 - institutional member — \$650 annually or \$350 annually for an institution with fewer than 10 members of its own.
2. **When Payable.** Dues are payable each year on August 1. A person or institution who joins less than 6 months before that date is treated as having paid for the year after that date. The Board may remit a member's dues under special circumstances.
3. **Default.** A member in default must be given at least one notice of the default. A member in default for a year or more becomes a nonvoting member. A member in default for two years ceases to be a member.

Article 3 — Officers

1. **Duties.** The officers must perform the duties ordinarily performed by such officers, together with the duties prescribed by the Constitution and these bylaws, or by a decision of the Board that does not conflict with the Constitution or these bylaws.
2. **Finances.** At each annual membership meeting, at each annual Board meeting, and at any other time the Board requests, the Treasurer must report on the finances of Scribes and the funds passing through the Treasurer's hands. Throughout the year, the Executive Director must keep accurate records of the income and expenses of Scribes. The President may ask a licensed public accountant to examine and audit any Treasurer's report, along with the records of Scribes.

MARK YOUR CALENDAR NOW!



**Scribes Luncheon
August 7, 2004
Ritz-Carlton Hotel
Atlanta, Georgia**

Witness the presentation of the Scribes Lifetime Achievement Award.

Meet the winner of the Scribes Book Award and buy personally inscribed copies of the book.

Win valuable door prizes, including Bryan Garner's *The Winning Brief*.

Details to follow at scribes.org.

Excerpts from *Garner's Modern American Usage*

Bryan Garner, a former President of Scribes, has kindly agreed to let us print excerpts from his invaluable *Modern American Usage*, the second edition of which has recently been published by Oxford University Press. Please note that some of the items do not contain the full entry as it appears in the book; they are abbreviated excerpts, if you will. Also note that the terms in small capitals cross-refer to other entries. Obviously, we can't do justice to the book. But we've picked some items that should be interesting to legal writers, and we'll continue with more in the next issue.

abjure; adjure. A. Senses Distinguished. *Abjure* may mean either (1) "to renounce" <Germany abjured the use of force>, or (2) "to avoid" <her evaluation abjured excessive praise>. In bygone days, people were sometimes required to "abjure the realm," i.e., go abroad. *Adjure* means "to charge or entreat solemnly; to urge earnestly" <Reagan adjured the Soviets to join him in this noble goal>.

absent, used as a preposition meaning "in the absence of" or "without," is commonly used in LEGALESE but is simply unnecessary JARGON. The better choices are *without* and *in the absence of*—e.g.:

- "That is, *absent* [read *without* or *in the absence of*] justification, anything goes." Jonathan Rauch, "For Better or Worse?" *New Republic*, 6 May 1996, at 18.

accusee is a NEEDLESS VARIANT of the noun *accused* (= a person accused of wrongdoing).

administrate is an objectionable BACKFORMATION from *administration*. Avoid it as a NEEDLESS VARIANT of *administer*.

Adverbs. A. Placement of Adverbs. Many writers fall into awkward, unidiomatic sentences when they misguidedly avoid splitting up verb phrases. Although most authorities squarely say that the best place for the adverb is in the midst of the verb phrase, many writers nevertheless harbor a misplaced aversion, probably because they confuse a split verb phrase with the SPLIT INFINITIVE. H.W. Fowler explained long ago what writers still have problems understanding: "When an adverb is to be used with [a compound] verb, its normal place is between the auxiliary (or sometimes the first auxiliary if there are two or more) and the rest. Not only is there no objection to thus splitting a compound verb..., but any other position for the adverb requires special justification." Other authorities agree and have long done so.

adverse; averse. To be *adverse to* something is to be turned in opposition against it <Thailand was adverse to Japan during most of World War II>. The phrase usually refers to things, not people. To be *averse to* something is to have feelings against it <averse to risk>. The phrase usually describes a person's attitude. Both words may take the preposition *to*, but *averse* also takes *from*.

allude. A. And advert & refer. To *allude* is to refer to (something) indirectly or by suggestion only. To *advert* or *refer* is to bring up directly, *advert* being the more FORMAL WORD. (See **advert.**) *Allude* is misused for *refer* when the indirect nature of a comment or suggestion is missing.

and. A. Beginning Sentences with. It is rank superstition that this coordinating conjunction cannot properly begin a sentence.

because. E. Beginning a Sentence with. There's an odd myth that it's poor grammar to begin a sentence with *because*. It seems to have resulted from grade-school teachers who were trying to prevent fragments such as this: "We came in from recess after 15 minutes. Because everyone was tired."

beg the question. This phrase has not traditionally meant "to evade the issue" or "to invite an obvious question," as some mistakenly believe. The strict meaning of *beg the question* is "to base a conclusion on an assumption that is as much in need of proof or demonstration as the conclusion itself." The formal name for this logical fallacy is *petitio principii*.

BE-VERBS. B. Circumlocutions with Be-Verbs. Verb phrases containing *be*-verbs are often merely roundabout ways of saying something better said with a simple verb. Thus *be determinative of* for *determine* is verbose. But *be determinative* is all right without an object <this factor may be determinative in a given situation>.

The following circumlocutory uses of *be*-verbs are common in stuffy writing. The simple verb is usually better:

be abusive of (abuse)
be applicable to (apply to)
be benefited by (benefit from)
be derived from (derive from)
be desirous of (desire or want)
be determinative of (determine)
be in agreement (agree)
be in attendance (attend)
be indicative of (indicate)
be in error (err)
be in existence (exist)
be influential on (influence)
be in possession of (possess)
be in receipt of (have received)
be in violation of (violate)
be operative (operate)
be productive of (produce)
be promotive of (promote)
be supportive of (support)

Many such wordy constructions are more naturally phrased in the present-tense singular: *is able to (can)*, *is authorized to (may)*, *is binding upon (binds)*, *is empowered to (may)*, *is unable to (cannot)*.

blatant; flagrant. Despite a fairly well-defined distinction, each word is misused for the other. What is *blatant* stands out glaringly or repugnantly; what is *flagrant* is deplorable and shocking, connoting outrage.

breach, more honored in the. Strictly speaking, this phrase refers to an unjust rule that is better broken than obeyed. Thus, in *Hamlet*, where the phrase originated, Shakespeare has Hamlet say that the Danes' riotous drinking "is a custom / More honor'd in the breach than in the observance" (1.4.15–16). But writers frequently misapply the phrase to a just rule that, in practice, is often broken.

BURIED VERBS. Jargonmongers call them "nominalizations," i.e., verbs that have been changed into nouns. Without the JARGON, one might say that a verb has been buried in a longer noun—usually a noun ending in one of the following suffixes: *-tion*, *-sion*, *-ment*, *-ence*, *-ance*, *-ity*. It is hardly an exaggeration (make that *one hardly exaggerates*) to say that when the verb will work in context, the better choice is almost always to use it instead of a buried verb. Thus:

The Verb Buried

arbitration
compulsion
computerization
conformity, -ance
contravention
dependence
enablement
enforcement
hospitalization
incorporation
knowledge
maximization
mediation
minimization
obligation
opposition
penalization
perpetration
perpetuation
reduction
utilization
violation

The Verb Uncovered

arbitrate
compel
computerize
conform
contravene
depend
enable
enforce
hospitalize
incorporate
know
maximize
mediate
minimize
obligate, oblige
oppose
penalize
perpetrate
perpetuate
reduce
utilize, use
violate

Naturally, you will sometimes need to refer to competition or litigation or regulation as a procedure, and when that is so you must say *competition* or *litigation* or *regulation*. But if a first draft says *the insurance industry's attempts at regulation of doctors*, you would be well advised to change that to *the insurance industry's attempts to regulate doctors*.

but. A. Beginning Sentences with. It is a gross canard that beginning a sentence with *but* is stylistically slipshod. In fact, doing so is highly desirable in any number of contexts, as many stylebooks have said (many correctly pointing out that *but* is more effective than *however* at the beginning of a sentence).

by reason of is usually an artificial way of saying *because of*. Although *not guilty by reason of insanity* is a SET PHRASE, in other phrases the words *by reason of* can usually be improved.

Scribes Committees for 2003–2004

Annual Meeting

Tom Steele (Chair)
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Glen-Peter Ahlers
Roger Newman
Otto Stockmeyer
John Williams

Book Award

Michael Hyman (Chair)
mbhyman@muchshelist.com

Beverly Burlingame
Robert Markle
Steve Sheppard
Stuart Shiffman
Randall Tietjen

Brief-Writing Award

Kenneth Gartner (Chair)
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Joseph Baca
Dewey Cole
Stephen Fink
Robert Lindefjeld
Christy Nisbett
Laurel Oates
Mark Painter

Law-Review Award

Roy Mersky (Chair)
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Glen-Peter Ahlers
Dana Livingston Cobb
Anne Enquist
Roger Newman
Richard Wydick

Scribes Journal

Joseph Kimble (Chair)
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Beverly Burlingame
Bryan Garner
Wayne Schiess
David Schultz

Nominations

Stuart Shiffman (Chair)
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Bryan Garner
Joe Kimble
Steve Smith
Otto Stockmeyer
John Williams

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Beverly Burlingame
Darby Dickerson
Michael Hyman
Janis Reinken

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Beverly Burlingame
Michael Hyman
Joe Kimble
Mark Painter
Steve Smith
Otto Stockmeyer

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Beverly Burlingame (Chair)
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Glen-Peter Ahlers
Mark Cooney
Joe Kimble
Jane Siegel

Life Members

Glen-Peter Ahlers (Orlando, FL)
Lee C. Buchheit (New York, NY)
Michael J. Collins (Dallas, TX)
Deborah Cook (Akron, OH)
Willard H. DaSilva (Garden City, NY)
Bryan A. Garner (Dallas, TX)
Judge Lynn N. Hughes (Houston, TX)
Emil L. Iannelli (Southampton, PA)
Lynne P. Iannelli (Southampton, PA)
Joseph Kimble (Lansing, MI)
Robert N. Markle (New Orleans, LA)
Bernard S. Meyer (Mineola, NY)
Richard L. Neumeier (Boston, MA)
Judge Mark P. Painter
(Cincinnati, OH)
Keldon K. Scott (Lansing, MI)
Gary D. Spivey (Albany, NY)
Paul R. Steadman (Chicago, IL)
Thomas M. Steele
(Winston-Salem, NC)
Norman Otto Stockmeyer
(Lansing, MI)
Anthony Turley (Toledo, OH)

**Please send us news about your
publications, promotions, presentations,
awards, and the like. Scribes members
want to know.**

Send your news to siegelj@cooley.edu.

Remarks for the Scribes Law-Review Award, 2004

Roy Mersky

The American Society of Writers on Legal Subjects—Scribes—was founded in 1953 to promote greater clarity in legal writing. The many judges, lawyers, legal editors, writers, and law professors who belong to Scribes believe that rewarding good legal writing is more productive than simply condemning poor legal writing. Scribes advocates excellence in legal writing with publications such as *The Scrivener* and *The Scribes Journal of Legal Writing*; with workshops and conferences; and with various writing competitions.

The tremendous diversity of legal writing makes it impossible to have a single competition to judge every kind of legal writing. For this reason, Scribes has annual awards that recognize outstanding legal writing in three different categories: best book, best written brief, and best student law-review note or comment.

Scribes established the Law-Review Award in 1987. This award, presented at the National Conference of Law Reviews each year, seeks to recognize the most outstanding note or comment written by a law student and published by a student-edited law review. In fact, this award has become known as the most prestigious award honoring a law student's article and the law review that published it.

The competition is quite intense because there are over 407 student-edited law reviews published by ABA-accredited law schools. Of these, 283 focus on specialized interests; 72 focus on Foreign, International, and Comparative Law; and 28 focus on Environment and Land Use Law.

Today we are here to present the seventeenth Law-Review Award. This year there were 57 entries. Previous winning entries have been from the Yale Law Journal (1987); George Washington Law Review (1988); Virginia Law Review (1989); Texas Law Review (1990); University of Chicago Law Review (1991); William and Mary Law Review (1992); University of Pennsylvania Law Review (1993); University of Maine Law Review (1994); Suffolk University Law Review (1995); Columbia Law Review (1996); University of Pennsylvania Law Review (1997); St. John's Law Review (1998); Marquette Law Review (1999); Case Western Reserve Law Review (2000); California Law Review (2001); California Western Law Review (2002); and San Diego Law Review (2003).

This special event has been made possible through the efforts of many individuals and the support of various

organizations. I would like to take a few minutes to acknowledge these people and thank them for their support of Scribes.

I have the privilege of chairing a committee of dedicated professionals who select the competition winner, and I would first like to acknowledge the great contributions of the 2004 selection committee: Roger Newman, a distinguished lawyer and legal historian; Glen-Peter Ahlers, the Executive Director of Scribes and the Associate Dean at Barry Law School, who is in attendance tonight; Dana Livingston Cobb of Alexander, Dubois, Jones & Townsend in Austin; Anne M. Enquist, Professor of Law at Seattle University School of Law, who is in attendance tonight and who gave an outstanding presentation earlier today on substantive and technical editing; and Tom Steele, Professor of Law at Wake Forest University. We all read the final entries and worked together to select the winner.

The initial screening of entries was done by a number of Barry law professors, and I would like to acknowledge their efforts as well. A special thank you to Associate Dean Glen-Peter Ahlers and Professors Leonard Birdsong, Tim Blevins, Mitch Frank, Marsha Freeman, Joanna Markman, Anjali Nayyar, Nancy Strohmeyer, Tom Young, and Robert Whorf for screening the entries.

I would also like to thank West, a Thomson business, for sponsoring this award. Several people from West have come today to show their support, and I want to publicly acknowledge our sincere appreciation to Danae Weidemann, Foster Blair, Christina Vassey, Dan Serlin, and Jane McCampbell.

We are honored to have other special guests here tonight, including our keynote speaker, the Honorable Edward Prado of the U.S. Court of Appeals for the Fifth Circuit. We would like to thank Judge Prado for participating and making this a very special evening.

And last but not least among the many thank yous, I would like to recognize the Joe Christenson Printing Company, which has generously reprinted the winning essay and provided us all with a copy.

Now it is with great pleasure that I announce the winner of the 2004 Scribes Law Review Note and Comment Award: Catherine Carroll of the University of Michigan Law School. Ms. Carroll's contribution, "Section Five Overbreadth: The Facial Approach to Adjudicating Challenges Under Section Five of the Fourteenth Amendment," published in the *Michigan*

Law Review, was selected as the finest of the finest. Ms. Carroll, would you please come to the podium to accept your award?

While Ms. Carroll makes her way to the podium, let me tell you a little about her. Ms. Carroll earned her J.D. in 2002 and is currently a Ph.D. candidate in the Political Science Department at the University of Michigan. She also clerks for the Honorable Harry T. Edwards, a circuit judge for the U.S. Court of Appeals for the District of Columbia Circuit.

And now I am pleased to present you with this commemorative plaque in recognition of your excellence in legal writing. I want to offer my sincere congratulations to you on winning the 2004 Scribes Law-Review Note and Comment Award. I'm sure everyone in the audience joins me in wishing you all the best for an outstanding career in law.

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Scribes Board members look over the new Scribes website at the annual Board meeting.



From left to right: John Williams, Donald Dunn, Joe Kimble, Beverly Burlingame (seated), Christy Nisbett, Dewey Cole (seated), Steven Smith, and Glen-Peter Ahlers.

Not pictured: Joseph Baca, Roger Newman, Stuart Shiffman, Tom Steele, Otto Stockmeyer, Randall Tietjen, and Richard Wydick.

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