



EX ANTE

EXEMPLARY LEGAL WRITING 2008

Congratulations to this year's *Green Bag* "exemplary legal writing" honorees. Samples of their good work appear in the 2009 edition of the *Green Bag Almanac and Reader*. They are:

Opinions for Courts

Frank H. Easterbrook, *FTC v. QT, Inc.*, 512 F.3d 858 (7th Cir. 2008)

Robert A. Katzmann, *Aris v. Mukasey*, 517 F.3d 595 (2d Cir. 2008)

M. Margaret McKeown, *Anderson v. Terhune*, 516 F.3d 781 (9th Cir. 2008) (en banc)

Books

Charles Lane, *The Day Freedom Died* (Henry Holt & Co. 2008)

Victoria F. Nourse, *In Reckless Hands* (W.W. Norton & Co. 2008)

Antonin Scalia & Bryan A. Garner, *Making Your Case: The Art of Persuading Judges* (Thomson/West 2008)

Benjamin Wittes, *Law and the Long War: The Future of Justice in the Age of Terror* (Penguin Press 2008)

Short Articles

Norman Otto Stockmeyer, *To Err Is Human, To Moo Bovine: The Rose of Aberlone Story*, 24 Thomas M. Cooley Law Review 491 (2007)

Jeffrey Toobin, *Death in Georgia*, The New Yorker, Feb. 4, 2008

Ex Ante

J. Harvie Wilkinson III, *Toward One America: A Vision in Law*, 83 New York University Law Review 323 (2008)

Long Articles

Michael Boudin, *Judge Henry Friendly and the Mirror of Constitutional Law*, 82 New York University Law Review 975 (2007)

Lee Epstein, Kevin Quinn, Andrew D. Martin & Jeffrey A. Segal, *On the Perils of Drawing Inferences About Supreme Court Justices from Their First Few Years of Service*, 91 *Judicature* 168 (2008)

James Robertson, *Quo Vadis, Habeas Corpus?*, 55 *Buffalo Law Review* 1063 (2008)

Philippe Sands, *The Green Light*, *Vanity Fair* (May 2008)

Miscellany

Richard G. Kopf, *The Top Ten Things I Learned From Apprendi, Blakely, Booker, Rita, Kimbrough and Gall*, osjcl.blogspot.com (2008)

John G. Roberts, Jr., *Pennsylvania v. Dunlap*, 129 S. Ct. 448 (2008)

RECOMMENDED READING

There were plenty of other good works on the ballot for the 2009 edition of the *Almanac and Reader*. We list them here. Congratulations to all.*

Opinions for Courts

Carlos Bea, *Navajo Nation v. U.S. Forest Service*, 535 F.3d 1058 (9th Cir. 2008)

Franklin D. Elia, *Krinsky v. Doe 6*, 159 Cal. App. 4th 1154 (6th Dist. 2008)

Ronald M. George, *In re Marriage Cases*, 43 Cal.4th 757 (2008)

* Some publishers require consideration for republication that exceeds our modest resources. It was publishers' demands for money, not low supplies of votes, that precluded our presentation of Adam Liptak's article, *Illegal Globally, Bail for Profit Remains in U.S.*, and an extract from H. Jefferson Powell's book, *Constitutional Conscience: The Moral Dimension of Judicial Decision*.

Ex Ante

- Ruth Bader Ginsburg, *Taylor v. Sturgell*, 128 S. Ct. 2161 (2008)
- Ronald Gould, *Witt v. Dep't of the Air Force*, 527 F.3d 806 (9th Cir. 2008)
- Patrick E. Higginbotham, *In re Katrina Canal Litigation Breaches*, 524 F.3d 700 (5th Cir. 2008)
- Alex Kozinski, *Garcia-Aguilar v. U.S. District Court for the Southern Dist. of California*, 535 F.3d 1021 (9th Cir. 2008)
- Michael McConnell, *Colorado Christian University v. Weaver*, 534 F.3d 1245 (10th Cir. 2008)
- Antonin Scalia, *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008)
- J. Harvie Wilkinson III, *EEOC v. Sunbelt Rentals, Inc.*, 521 F.3d 306 (4th Cir. 2008)
- William G. Young, *Situation Management Systems v. ASP Consulting Group*, 535 F. Supp. 2d 231 (D. Mass. 2008)
- William J. Zloch, *In re Beck*, 526 F. Supp. 2d 1291 (S.D. Fla. 2007)

Opinions Concurring, Dissenting, Etc.

- Samuel A. Alito, Jr., *Kennedy v. Louisiana*, 128 S. Ct. 2641 (2008)
- William A. Fletcher, *Navajo Nation v. U.S. Forest Service*, 535 F.3d 1058 (9th Cir. 2008)
- Thomas Reavley, *Wheeler v. Pilgrim's Pride Corp.*, 536 F.3d 455 (5th Cir. 2008)
- Robert Sack, *Arar v. Ashcroft*, 532 F.3d 157 (2d Cir. 2008)
- Antonin Scalia, *Boumediene v. Bush*, 128 S. Ct. 2229 (2008)
- David Souter, *United States v. Williams*, 128 S. Ct. 1830 (2008)
- John Paul Stevens, *New York State Board of Elections v. Lopez Torres*, 128 S. Ct. 791 (2008)
- John Paul Stevens, *Baze v. Rees*, 128 S. Ct. 1520 (2008)

Books

(including articles more than 25,000 words long)

- Thomas B. Colby, *The Federal Marriage Amendment and the False Promise of Originalism*, 108 Columbia Law Review 529 (2008)

Ex Ante

- Mary L. Dudziak, *Exporting American Dreams* (Oxford University Press 2008)
- Oona A. Hathaway, *Treaties End*, 117 Yale Law Journal 1236 (2008)
- Nicholas Parrillo, *The De-Privatization of American Warfare*, 19 Yale Journal of Law & Humanities 1 (2007)
- Justin Peacock, *A Cure for Night* (Doubleday Press 2008)
- William D. Popkin, *Evolution of the Judicial Opinion: Institutional and Individual Styles* (New York University Press 2007)
- H. Jefferson Powell, *Constitutional Conscience: The Moral Dimension of Judicial Decision* (University of Chicago Press 2008)
- William J. Stuntz, *Unequal Justice*, 121 Harvard Law Review 1969 (2008)
- Steven M. Teles, *The Rise of the Conservative Legal Movement* (Princeton University Press 2008)
- Laurence H. Tribe, *The Invisible Constitution* (Oxford University Press 2008)
- Jonathan Zittrain, *The Future of the Internet and How to Stop It* (Yale University Press 2008)

Short Articles

- Neil Kinkopf, *The Congress as Surge Protector*, www.acslaw.org/pdf/Kinkopf-Surge.pdf (2007)
- Michael J. Klarman, *Conclusion*, in *Unfinished Business: Racial Equality in American History* (Oxford University Press 2007)
- Adam Liptak, *If Your Hard Drive Could Testify . . .*, New York Times, January 7, 2008
- Adam Liptak, *Illegal Globally, Bail for Profit Remains in U.S.*, New York Times, January 29, 2008
- Theodore B. Olson, *Clinton v. Obama: The Lawsuit*, Wall Street Journal, February 11, 2008
- Henry Weinstein, *Supreme Court takes up lethal injection battle*, Los Angeles Times, January 7, 2008

Ex Ante

Long Articles

- Rachel E. Barkow, *The Ascent of the Administrative State and the Demise of Mercy*, 121 *Harvard Law Review* 1333 (2008)
- Jose Cabranes, *International Law By Consent of the Governed*, 42 *Valparaiso University Law Review* 119 (2007)
- Scott Dodson, *Mandatory Rules*, 61 *Stanford Law Review* 1 (2008)
- Lisa Eichhorn, *Clarity and the Rules of Civil Procedure: A Lesson from the Style Project*, 5 *Journal of ALWD* 1 (2008)
- Robert George, *Natural Law*, 31 *Harvard Journal of Law & Public Policy* 171 (2008)
- Jamal Greene, *Giving the Constitution to the Courts*, 117 *Yale Law Journal* 886 (2008)
- Steven G. Kalar and Jon M. Sands, *An Object All Sublime – Let the Punishment Fit the Crime*, *The Champion* 20 (March 2008)
- Jamie Gibbs Pleune, *Is Scalian Standing the Latest Sighting . . . ?*, 38 *Lewis & Clark Law School's Environmental Law Online*
- Joseph W. Singer, *Things that We Would Like to Take for Granted*, 2 *Harvard Law & Policy Review* 139 (2008)
- John Yoo, *Jefferson and Executive Power*, 88 *Boston University Law Review* 421 (2008)

Miscellany

- Ronald B. Leighton, *Presidio Group LLC v. GMAC Mortgage LLC*, 2008 WL 2595675 (W.D. Wash. 2008)
- Benjamin C. Mizer, *Application for a Stay, Brunner v. Ohio Republican Party*, 129 S. Ct. 5 (2008)
- James R. Nowlin, *Waggoner v. Wal-Mart Stores, Inc.*, No. A-07-CA-703-JRN (W.D. Tex., June 3, 2007)
- Chris Satullo, *A not-so-glorious Fourth*, *Philadelphia Inquirer*, July 1, 2008

• THE GREEN BAG ALMANAC & READER OF USEFUL & ENTERTAINING TIDBITS FOR LAWYERS & READER OF EXEMPLARY LEGAL WRITING FROM THE PAST YEAR SELECTED BY THE LUMINARIES & SAGES ON OUR BOARD OF ADVISERS 2009 at 7-10 (Green Bag Press 2008).