

TURNING THE PAGE AT THE ALMANAC & READER: A NEW SELECTION SYSTEM FOR 2015 AND BEYOND

Editors' note: This announcement about the new system for picking works to include in our annual collection of exemplary legal writing will also appear in the forthcoming 2015 *Almanac & Reader* (the *Almanac* is where we republish the exemplary legal writing). We are printing it here too in the hope that it will inspire some qualified *Bag* readers to participate.

It has been a good run, these past ten years, but now we are done with our original system for selecting exemplary legal writing. Starting with the eleventh *Almanac* (that's the next one, to be published in 2016, recognizing works published in 2015 and 1965), we are using a new system. But before we get to that, permit me, on behalf of everyone at the *Green Bag*, to once again thank all of our advisers for their generous contributions of their time, thought, good taste, and reputation-by-association. It has been, I would like to think, worth the trouble. Thank you very much, advisers.

Now, about the present and the future.

A. The New System

It is like the old system, with four exceptions:

- there is some division of labor at the nominations stage;
- only nominators get to vote – and all of them get to vote in all categories;
- the categories have changed a bit – we are starting small and hoping to manage things fairly well on a small scale early on, work out any kinks, and expand in the future; and
- the nominations cycle was Halloween-to-Halloween (cute but confusing); now it is the calendar year (dull but not so confusing).

B. Categories and Nominators

We're starting out in 2015 with four categories, each with its own nominators, and all with the same deadline: January 1, 2016.

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Category #1: Judicial Opinions

Who can nominate? Any judge who issued a signed opinion in 2014 that is available in WestlawNext’s “Cases” database.

What can they nominate? One or two signed judicial opinions issued in 2015 that are available in WestlawNext’s “Cases” database. (If someone nominates more than two it won’t be a problem – we will simply ask them at the end of the year to pick their two favorites from all their nominees.)

Category #2: U.S. Supreme Court Briefs

Who can nominate? Any member of the Supreme Court bar whose name is on the cover of a merits-stage brief – filed on behalf of a party or an amicus curiae – in a case decided by the Court on the merits in 2014. Also, any member of the Court’s press corps.

What can they nominate? One or two briefs in cases decided by the Court on the merits in 2015. (Once we have a handle on this we will probably add other practice-related categories.)

Category #3: Law Review Articles

Who can nominate? Anyone who (a) authored a work with a 2014 publication date that is available in WestlawNext’s “Law Reviews & Journals” database, and (b) was not a law student at the time.

What can they nominate? One work with a 1965 publication date in any law review at a U.S. law school. This is a test of durability and timeliness: What legal scholarship published 50 years ago is the most readable and worth reading today? (We will probably add other times in the future – 10, 25, and 100 years seem like good candidates – but for now we’re starting simple.)

Category #4: Books

Who can nominate? Each year, starting this year, we will enlist a few respectable authorities to give us lists of their five favorite new law books (with short explanations, which we will publish with the listers’ bylines in the *Almanac*). Those will be our nominees in the “Books” category. (We will probably treat other types of writing this way in the future – news reporting, scripts, and poetry seem like good candidates – but, again, for now we’re starting simple.)

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What can they nominate? This time around, any books about law with 2015 publication dates.

C. Winnowing and Voting

Voting will be conducted in January 2016.

Who can vote? Anyone who (a) sends a valid nomination in any category to rdavies@greenbag.org, and (b) provides their snailmail address with the nomination (so we can send them a ballot) gets to vote in all categories.

What will they actually vote on? A ballot of finalists winnowed from the pools of nominees. The winnowing will be mostly a popularity-and-persuasion contest – opinions, briefs, and articles receiving the most nominations will make the ballot, as will those whose nominations are accompanied by the most persuasive explanations of their sterling qualities. The “Books” category will be an exception: it will be a merged list of the “five favorites” lists described above. We will probably divide the “Judicial Opinions” nominees into two categories – “Opinions for the Court” and “Dissents, Concurrences, Etc.” – when it comes time to vote.

D. Confidentiality

This is one area where there will be no change: Confidentiality of nominator-nominee and voter-nominee connections will be complete, as it always has been. The names of all nominators and voters will appear only in a long, plain, simple list with no indication of what anyone nominated or voted for. No titles or other honorifics, no precedence, no categories – just alphabetical order by last name as it has been on our website and in the *Almanac* since day one back in 2006.

I suppose the people making the “five favorites” lists of books are exceptions of a sort – everyone will know what their five favorites are because we are going to publish their short explanations with bylines. But that is all. Even for the book people, no one will know what they vote for in any category.

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E. Publication

The old routine holds here as well. Every year we will publish as many of the top vote-getters as we can (or, for books, excerpts) in the *Almanac*.

F. Why Are We Doing This?

There are many reasons, big and small. Here are short versions of a few of the biggest:

First, we are trying to expand and diversify the pool of nominated works – by expanding and diversifying the community of participants in the selection process.

Second, we are trying, at the same time, to maintain (or perhaps even improve) the credibility of our results. (We think they have always been credible, due to the quality of our board of advisers.) To that end, we've created for each category a pool of nominators consisting of obviously qualified and interested experts (people who are sufficiently competent and committed to publish in the relevant category, and sufficiently active to have done so quite recently), and an overall pool of voters that is sufficiently large and diverse to offset any parochial tendencies among specialists in any one category.

Third, we are also trying to structure the whole process so that it is less burdensome and more enjoyable for all participants.

So, for example, focusing on judges to make the initial nominations of opinions and then inviting a wider range of people to vote – that “wider range” being all nominators in all categories, all of whom are experts on legal writing of some sort and have demonstrated their interest in the subject of writing excellence generally by nominating in their own categories – seems like a good thing to try. Nobody else has, to the best of our knowledge. Dealing with practitioners' writing and scholarship in pretty much the same way seems equally worthwhile: focusing on practitioners to make the initial selection of briefs and then letting a wider range of experts vote, and focusing on scholarly writers to make the initial selection of law-review writing and then letting a wider range of experts vote.

I expect that in the next few years we will enlarge (and perhaps also refine) our nominating pools for current categories, add new

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categories (legal journalism? student writing?), add new vintages for scholarly writing, and so on.

Suggestions are most welcome. Please send them to editors@greenbag.org. And please spread the word.

G. And Yes, We Are Paying a Steep Price

While we are optimistic about this new system, we are also unhappy with one feature of it. We will lose, temporarily, several superb (as in superbly knowledgeable, collegial, and sage) *Almanac* advisers who do not fit in any of the new categories of nominator-voters. But we hope to be able to invite them back soon, as this new system grows and evolves.



LUNCHTIME LAW QUIZZERS EXTRAORDINAIRE

We are pleased to honor our autumn 2014 Lunchtime Law Quizzers Extraordinaire. They are the participants in the LLQ who gave us, during the autumn 2014 season, some kind of especially impressive combination of correct, complete, and clever answers to our quizzes. Congratulations and thanks to all: Kevin Barnett, Jennifer