

American Board of Criminal Lawyers
THE ROUNDTABLE



Vol. MMXII, No. 2

February 2012

**RENEW NOW AT
EXCEPTIONAL SAVINGS...**



Say YES now to great savings on the wisdom, wit and thought-provoking insight packed into every issue

Lawyer **Ian Friedman** has new perspective after motorcycle accident: Regina Brett

Published: Sunday, November 06, 2011, 11:49 AM Updated: Sunday, November 06, 2011, 6:29 PM



Regina Brett, The Plain Dealer

By

There's no longer a rush hour in **Ian Friedman's** life.

Not since a medical helicopter rushed him to MetroHealth Medical Center to save his life on June 17.

Not since he found himself at that place where the life you choose ends and the life that chooses you begins.

Ian is a criminal defense lawyer who was known as a bulldog and, sometimes, a bulldozer. Not anymore.

One sunny day he left his downtown Cleveland office around 6 p.m. and headed east down the Shoreway on his Harley. He took an exit, then lost control of the bike. He flew off the motorcycle and skidded across a rusty guardrail. All 100 feet of it.

Each post of the guardrail ripped into him. It nearly severed his thumb. The metal tore into his neck and severed the nerves to his arm. You could see the bones in his spine. It barely missed slicing his aorta and spinal cord. He broke a leg, shoulder and collarbone. His broken ribs punctured his lung.

He closed his eyes and asked God, "Am I going to die? Is this my time?"

All he heard was silence.

When he opened his eyes he heard these words: "It's OK to get up and walk and be happy."

The sun was still shining. The sky was still blue. He was still here.

Lucky for him, among the strangers who stopped were two doctors. He remembers every police officer, paramedic and stranger giving him their very best.

At Hillcrest Hospital, his friend Joe Delguyd held his good hand. "You're OK, you're OK," Joe lied.

Surgeons at MetroHealth closed the gash in his neck and saved his thumb. They installed a metal rod to repair his leg. They discovered the guardrail had ripped out five vital nerves to his arm.

Ian's left arm is paralyzed. It dangles dead at his side when he's not wearing his black arm sling. He has to be careful not to burn it or catch it in a door. Horrible phantom pains run from his elbow to his fingers like a hot sword. He's grateful to be right-handed and for the help he's found online at the **United Brachial Plexus Network** to cope with his injuries.

"People just adjust," he said. "I tied my tie this morning. I saw on YouTube how to do it. There's a way to do everything. I kind of like the challenge."

The challenge is to simplify his life and to deepen it. Instead of finding it awkward to hug with one arm, his hugs are stronger than ever because of the person he has become.

Ian goes to the Mayo Clinic later this month. Surgeons will take nerves from his chest and implant them in his arm and transfer muscle from his leg into his shoulder area. He hopes to regain some function.

For now, everything is slower, more deliberate. Buttoning the cuff on his right wrist is tough. So is tying his shoes. He's had to figure out how to close the car door, deal with drive-through windows and ask strangers for help.

The accident changed him as an attorney. When you're a criminal defense attorney, you often see the grisly underbelly of life. "Now I see the very best in people every single day," he said.

In January, Ian Friedman & Associates LLC of Cleveland will become Friedman & Frey LLC. He's sharing the power with Ronald Frey. The firm will also open an office in North Carolina.

"Cold is not good for this," he said, pointing to his limp arm.

In October, Cleveland State University gave Ian a Distinguished Alumni Award. The Ohio Association of Criminal Defense Lawyers gave him its first annual Lawyer of the Year Award. Ian worked with the Ohio Prosecuting Attorneys Association and the Ohio Supreme Court to make Ohio's discovery practice in criminal law more open and fair.

Ian, who is 41, is humbled by both awards but more by his new life.

"I smell things differently and see things for the first time. I was given a fresh canvas for the second half of my life. What's important to me is completely different. I'm a better friend, a better father, a better lawyer.

"The arm, it's crazy, but it's the best thing that's ever happened to me. I love having this reminder 24/7. That left arm sits there and keeps everything in perspective. I can't fall back into the grind."

Now, it's OK to simply get up, walk and be happy.

To reach Regina Brett: rbrett@plaind.com, 216-999-6328 Previous columns online: cleveland.com/brett

Facebook: ReginaBrettFans



Plain Dealer file

Attorneys Michael Brittain, left, Ian Friedman and Stuart Friedman, celebrate a decision in 2003 by Cuyahoga County judges to allow open discovery, which requires defense lawyers to share information with prosecutors.



Georgia Judge Accused of Misconduct Will Resign

NEW YORK TIMES
By ROBBIE BROWN

Dec. 21, 2011

ATLANTA — In her courtroom in Brunswick, Ga., Judge Amanda F. Williams told lawyers to "sit down and shut up." She once jailed a defendant for using the words "baby momma." And she detained offenders "indefinitely" without access to lawyers, state judicial investigators say.

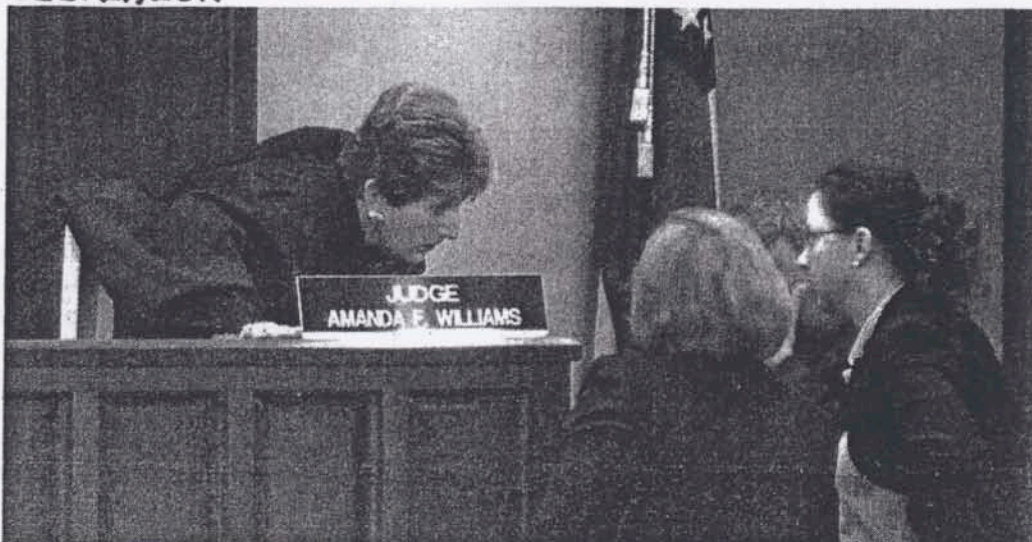
But on Monday, Judge Williams, the chief judge of the Superior Court of the Brunswick Judicial Circuit — a powerful, controversial figure who gained national exposure when the public radio program "This American Life" devoted an hourlong episode to her — announced that she was leaving the bench after 21 years.

Judge Williams, 64, who said she would resign on Jan. 2., faced wide-ranging misconduct accusations. She vowed not to seek another judgeship, and, as a result, those complaints will be dropped, the Georgia Judicial Qualifications Commission said. She could still face criminal charges related to her conduct.

She was first elected in 1990 to the court, which handles cases in five southeast Georgia counties. For more than a decade, she also ran the state's largest drug court.

She has long been known as an aggressive, combative judge, lawyers say. But in recent years, they say, her behavior grew harsher and more punitive.

In November and December, the judicial commission brought formal complaints against Judge Williams, after receiving multiple complaints from lawyers. The commission accused her of giving special treatment to the relatives of her friends, allowing her personal lawyer to represent clients before her and behaving in a



CHRIS VIOLA/FLORIDA TIMES-UNION

Judge Amanda F. Williams in 2007 in her courtroom in Brunswick, Ga. J. Robert Morgan, a lawyer who argued cases before Judge Williams, said, "She ruled by fear and intimidation."

A combative figure on the bench grew more punitive, lawyers say.

"tyrannical" manner.

According to the commission's 14-count list of charges against her, she sentenced drug-court defendants to "indefinite" detention "until further order of the court." In one case, she ordered that a defendant be denied any communication.

"Nobody! Total restriction!" she ordered, according to the complaint. "No mail, no phone calls, no visitors." The complaint says the defendant, who had a history of mental illness, spent 73

days in solitary confinement and tried to kill herself while in jail.

"Judge Williams was a person you did not cross," said J. Robert Morgan, a lawyer in Brunswick who argued cases before her. "She ruled by fear and intimidation. I've been in front of 50 judges in 34 years and I've never seen anything like her."

Her lawyer, John J. Ossick Jr., declined to comment. Judge Williams did not return phone calls.

But in an interview with The Atlanta Journal-Constitution in April, she defended her behavior. "I didn't just decide I was going to be mean to these people," she said. "These people aren't sitting in jail forever and ever and ever and ever. I'm fair. I'm consistent. I do care."

In March, "This American

Life" broadcast an entire episode about Judge Williams and what it called "possibly the toughest drug court in the country."

Douglas W. Alexander, a lawyer in St. Simons, was initially a supporter of Judge Williams. But as her power grew and the drug court expanded, she became more combative and punitive, Mr. Alexander said. "She would tell a lawyer to shut up and sit down," he said. "She would rant and rave and belittle people."

For years, lawyers tolerated the behavior for fear of retribution against their clients, several lawyers said. "People cussed her in the dark because they were afraid to cuss her in the daylight," Mr. Morgan said. "There's not many tears being shed about this announcement."

ALABAMA JUBILEE!

Dec. 2012

I am so pumped right now. My client was indicted for making a false statement in violation of 18 USC 1001 (lying in a state case civil deposition about having a permit from the Army Corps of Engineers to build jetties on his Mobile Bay property). I filed a motion to dismiss for lack of jurisdiction. My client agreed to plead guilty while reserving the right to appeal the jurisdiction issue. The plea was set for tomorrow morning.

The government sent a DOJ AUSA down from DC to handle the case. He was a pleasure to deal with in negotiations but the process became protracted. So the client and I were in my office waiting for the fourth draft of the plea agreement to be emailed to me when I noticed that the judge had ruled on my motion.

I opened the attachment with trepidation to read her eleven page dissertation. The first paragraph made me shout so loudly my client fell out of his chair.

"The court finds that the defendant's motion to dismiss the indictment is due to be granted."

whoa!

Jeff Deen

MICHAEL MORTON'S LAWYERS AIM TO PROVE MISCONDUCT

By Chuck Lindell AMERICAN-STATESMAN STAFF (Oct. 10, 2011)

While Michael Morton begins rebuilding a life after almost 25 years in prison, his lawyers are moving forward on phase two of their quest for justice: looking into the investigators and prosecutors whose efforts sent him to prison for a murder he did not commit. Angered by revelations of hidden evidence and apparently ignored leads that could have saved Morton from a wrongful conviction, defense lawyers have promised to conduct a vigorous investigation in the coming weeks.

Details of how that investigation will proceed remain hidden behind sealed court records, but presumably Morton's lawyers will seek to force onetime District Attorney Ken Anderson, now a district judge, and other former Williamson County officials to testify under oath in depositions. Any new information unearthed would be added to allegations of official misconduct that are pending at the state's highest criminal court.

"Those are serious matters," said Gerry Goldstein, one of the state's leading criminal defense lawyers whose San Antonio firm joined Morton's cause earlier this year. "We are pursuing those. I can't discuss exactly how, but you can trust us that these will be pursued vigorously." "Mr. Morton is the victim of a crime; he lost his wife," defense lawyer Barry Scheck said, arguing that a rush to judgment by prosecutors and investigators victimized Morton yet again, depriving him of 25 years of freedom and the chance to raise his son.

Court documents prepared by Morton's legal team focused on four allegations of wrongdoing, including the withholding of a possible eyewitness account of Christine Morton's murder and the apparent failure to fully investigate the cashing of a \$20 check, made out to Christine, nine days after her death.

Recent DNA tests identified another man as a suspect in the 1986 Morton murder and the similar bludgeoning death two years later of Debra Masters Baker in Austin. The suspect, unnamed in court records, was not in custody as of Friday, officials said.

The new DNA evidence prompted Williamson County District Attorney John Bradley to join Scheck in asking the courts to throw out Morton's conviction. That request is pending at the Texas Court of Criminal Appeals, which must approve all sentences that are vacated based on actual innocence.

But defense lawyers also informed the appeals court that in the unlikely event that Morton's request is denied, they will pursue allegations of official misconduct as a second path to attack his conviction.

To further develop those allegations, Morton's lawyers and Bradley agreed to allow "limited discovery," a legal process by which information is collected or exchanged. Details about the discovery plan are hidden in sealed files, except for one: If the appeals court agrees to throw out Morton's conviction, the time for discovery ends, and the allegations of misconduct "shall remain unresolved," court records show.

JURY ACQUITS FORMER FLHS TRACK COACH

GREELEY- The fate of former Fort Lupton High School teacher and track coach Ray Brown came down to a single vote by 12 of his peers. Acquitted on all counts, Brown is free to attempt to pick up the pieces of a life shattered over a year ago, when the Weld District Attorney's office brought him up on charges of sexually abusing female athletes under his care.

Brown had been charged with felony counts of sexual assault on a child by a person in a position of trust and sexual assault on a child by a person of trust as a pattern of abuse. The verdict came down after three hours of deliberation by a jury evenly divided along gender lines, when the prosecution, led by Weld Deputy District Attorney Hollie Wilkinson, failed to meet the burden of proof beyond a reasonable doubt. Brown's representation in the case consisted of the Denver defense attorneys Leonard Chesler and John Tatum.

The fourth and final day of trial saw the accused take the stand on his own behalf. Testifying before a jury evenly split down gender lines, Brown answered questions posed by his defense attorney Leonard Chesler, explaining away some of the allegations against him while flatly denying others. Brown testified to knee problems that prevented him from kneeling without extreme pain and balance issues, claiming a diagnosis of osteoarthritis that has thus far necessitated three surgeries on his left knee and two on his right.

Following Brown's testimony, the judge called for closing arguments. (Deputy D.A.) Wilkinson offered the first. Her opening remarks accused Brown of violating the trust of those he was supposed to protect. Claiming he was selective in how he chose his victims, Wilkinson said Brown groomed victim 1 with hugs to get her used to him touching her. She said Brown was banking on shame to keep his victims quiet, and that each touch was for the purposes of sexual gratification.

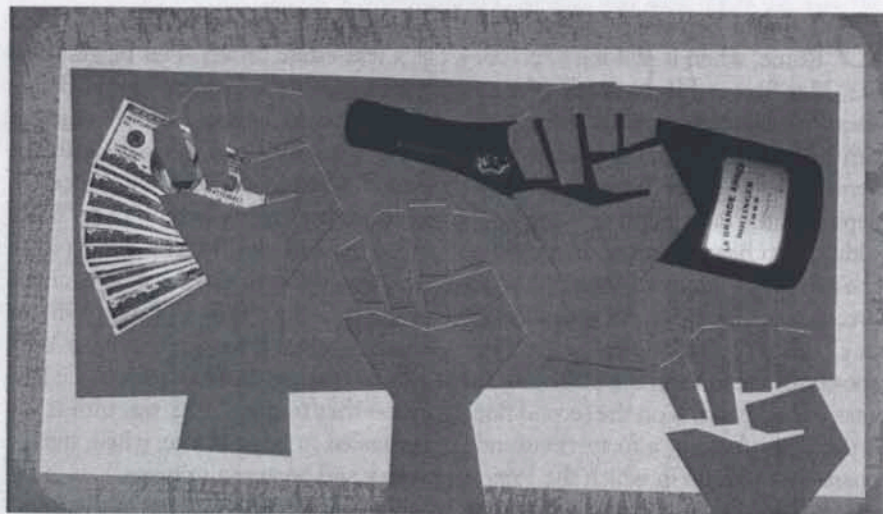
Chesler followed Wilkinson, saying that once upon a time, teachers were called upon to be substitute parents. He offered that such behavior now may likely result in being labeled a pedophile and a felon. He offered that each alleged incident, if it occurred, happened on the athletic field, not in private areas like the shower, the coach's office or his car.

Catching the jury's full attention, Chesler told a tale of his he and his brother who were left to oversee the cooling of a pie his mother baked for her ladies social while she left to get ice cream. Unable to resist, the boys took taste after taste of the pie until hearing their mother coming and realizing fully one-fourth of the pie was missing. In a panic, the brother poked the family cat's nose into the pie, leaving him on the counter covered in crumbs and goo for the mother to find.

She did, and recalling how she tossed the unfortunate feline into the spring running behind the house, Chesler tied the story to the case, saying the cat had been sent up the river by crummy circumstantial evidence. Saying that the jury had the potential to return some dignity to Brown following the loss of his career and reputation, Chesler implored the jury to find in favor of the defense (which they did).

WE ARE THE ONE PER CENT

BY JOHN KENNEY



Average wealth of the top 1 percent was almost \$14 million in 2009, according to a 2011 report from the Economic Policy Institute.

—*Washingtonpost.com*.

"Shit is fucked up and bullshit."

—Sign seen at the Occupy Wall Street protest in lower Manhattan.

We, too, have mobilized.

We come from near and far, by any means necessary, some on private jets, others on extremely large private jets.

But you will not find us sleeping in a park and waiting in line at a Burger King to urinate. Have you heard of Mustique? Because that's where we have mobilized. Don't bother trying to Google Earth us, though, because we have proprietary military software that prevents you from doing so.

Our numbers may be smaller than those demonstrating in New York and other cities, but we are still a movement, coalesced around a cause, sleeping two and sometimes three people to a villa.

Perhaps you are wondering what our cause is. Perhaps you're wondering why we, the richest people on the planet, have come together. Perhaps you're curious whether what we're undertaking couldn't technically be called

a vacation. These are all good questions.

We're angry. We're angry at something we're calling "imagined frustration." By this we mean that, except for Congress, the White House, banks, major lobbyists, and the editorial boards of Fox News and the *Wall Street Journal*, no one is listening to us. And we're tired of it.

You claim to know something about us. You think we are rich beyond comprehension, that we can do anything we please at any time, go anywhere we want at a moment's notice, wander the earth in a state of constant bliss, enjoying abundant and fabulous sex. Perhaps you do know us.

There are those in the more liberal press who have questioned whether the wealthiest one per cent truly understand how difficult life is for so many Americans right now, and to that we would say—Oh, look, someone just brought in lobster and a Bollinger Grande Année.

Except for money and the almost unnatural flawlessness of my skin, we are no different, you and I. I don't know who you are or what you look like or how much money you have in the bank. Nor does it matter. Because we're just men. Unless you are a woman. Or a

child. Or a pony. But ponies don't read magazines, do they? Unless they're precocious ponies, like Mister Ed. And he wasn't real. But I think you get my point. And that is: we are the same, except for the coarseness of the skin on your elbows. Do you know that feeling, upon waking at 4 A.M., heart racing, your mind looking twenty, thirty years down the road, wondering how you are going to make ends meet? Worrying about what would happen if you lost your job, asking yourself how you're going to pay for your kids' college or retire? Well, I don't. But I read a story about it once and remember thinking, I'm so glad that's not me.

What do we want?

Here is our manifesto, still very much a work in progress, as it's cocktail hour and several of our protesters are out at the pool:

—All wealth should be shared equally among the wealthy.

—Eradicate poverty. (Note: Maybe a clearer way to say this would be "Eradicate the poor." Need to discuss.)

—End business as usual. (Note: Several members like the sound of this, but they don't know what it means. A suggestion has been made to add the word "hours" after "business.")

—Implement a rule whereby the public cannot look at us and must keep a distance of at least twenty feet at all times.

Yes, I have more things—more homes and cars and planes and art and underground passages and satellites and private militias and a person whose only job is to grow hair that is genetically identical to my own. But when you take off your pants and I take off my pants and we stand facing each other as naked as the day we were born, except for socks, all I would ask is that you feel my skin and tell me it's not the softest skin you've ever felt on a man. And also realize that we are the same, except for the fact that I have four submarines.

Shit is fucked up and bullshit.

We agree.

Except that we would substitute "money" for "shit," "awesome" for "fucked up," and "squash courts" for "bullshit," and add the words "cannot be used for more than ninety minutes. Please respect club rules. Thank you." ♦

Officers 2012

President

Richard Tegtmeier, Colorado Springs, CO

President-Elect

Bruce Maloy, Atlanta, GA

Vice-Presidents

Jerome J. Froelich, Atlanta, GA

Mack K. Martin, Oklahoma City, OK

Ronald I. Meshbesh, Minneapolis, MN

John H. Rion, Dayton, OH

Peter B. Wold, Minneapolis, MN

Secretary

Patrick D. Mika, Colorado Springs, CO

Treasurer

James R. Homola, Fresno, CA

Immediate Past-President

Gerald S. Gold, Cleveland, OH



*"Good news—I hear the
paradigm is shifting."*

The RoundTable

Steve LaCheen, Editor

1429 Walnut Street, Suite 1301

Philadelphia, PA 19102

Board of Governors 2012

Blair Berk, Los Angeles, CA

Leonard M. Chesler, Denver, CO

Gerald Handley, Kansas City, MO

Charles L. Hawkins, Minneapolis, MN

James K. Jenkins, Atlanta, GA

John J. Ossick, Jr., Kingsland, GA

Michael Pancer, San Diego, CA

Randy Schaffer, Houston, TX

Janet Sherman, Santa Monica, CA

Roger M. Synenberg, Cleveland, OH

James H. Voyles, Indianapolis, IN

The RoundTable

Steve LaCheen, Editor

Rita Bognanni, Staff



Future Meetings

February 10-12, 2012: Atlantis Hotel, Nassau - Bahamas

June 22-24, 2012: Broadmoor Resort, Colorado Springs

October 4-6, 2012: St. Regis, Dana Point, CA

Loosen Up



40 It's not so important to be serious as it is to be serious about the important things. The monkey has an expression of seriousness that would do credit to any great scholar. But the monkey is serious because he itches. **What can you take less seriously?**