

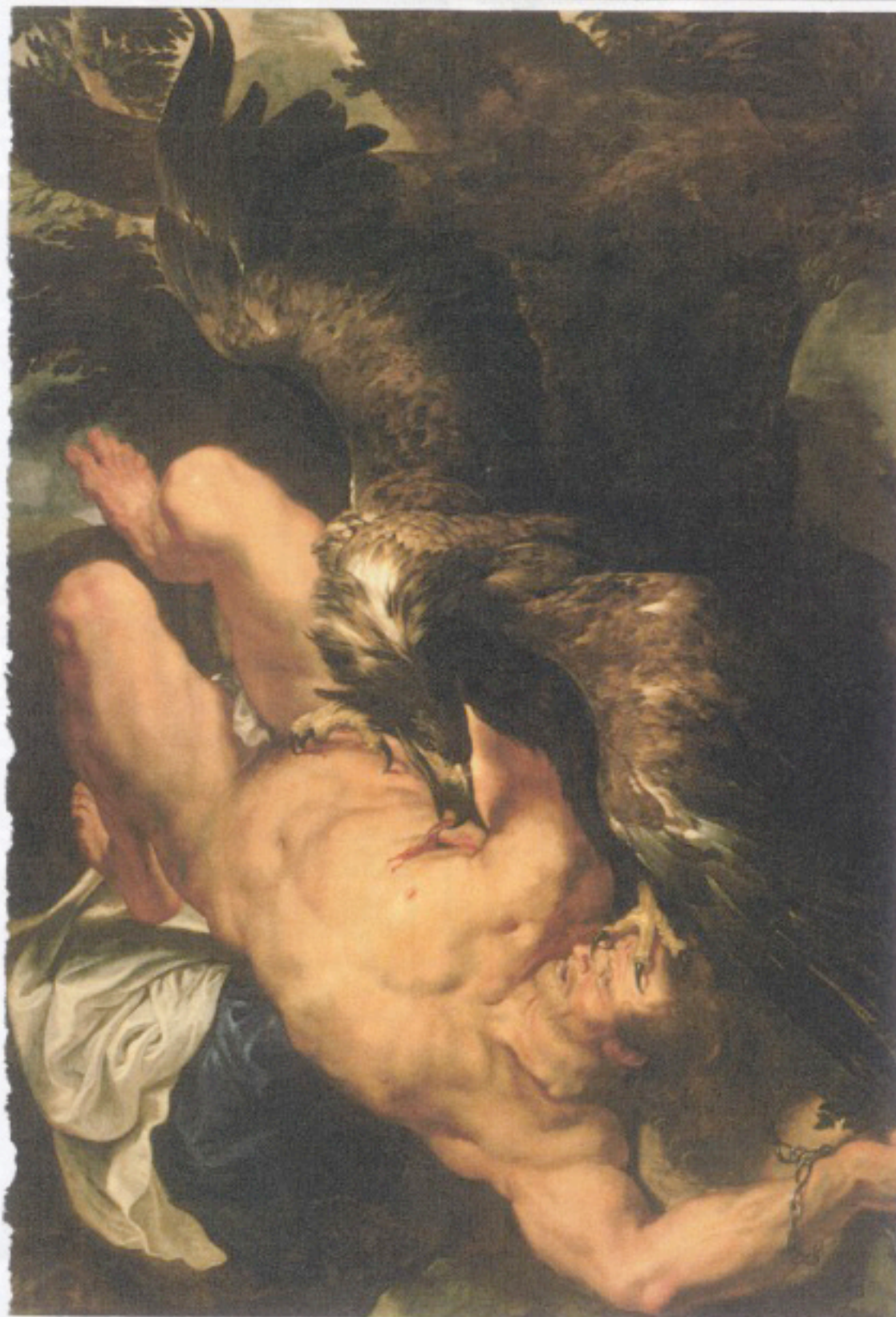


*American Board of Criminal Lawyers*  
**THE ROUNDTABLE**

Vol. MMXV, No. 6

*How WAS IT IN COURT TODAY, DEAR?*

June 2015





## QUOTE OF THE MONTH QUESTION OF THE AGE

For too long, too many judges have been too quiet about an evil of which we are a part: the mass incarceration of people in the United States today. It is time that more of us spoke out.

... Unless we judges make more effort to speak out against this inhumanity, how can we call ourselves instruments of justice?

- Hon. Jed S. Rakoff

"Mass Incarceration:  
The Silence of the Judges"  
*The New York Review of Books*,  
Vol. LXII, No. 9, May 21, 2015

## DISMISSAL OF MURDER CHARGES

Self reporting a recent victory in a murder prosecution. Judge just issued a 25-page Order holding that my defendant was entitled to immunity from prosecution under South Carolina's defense of habitation and stand your ground law. SC allows a pre-trial determination of immunity (not sure of procedure in other states) in a homicide prosecution. In what amounts to a mini-trial, I called 9 witnesses including a crime scene expert who laid the groundwork that the statute applied under the defense of habitat and stand your ground provisions of the Act. I also called the chief investigating detective, who left the Sheriff's Department a year after the shooting. He testified that he told the Solicitor (our DA) that the facts clearly fell under the statute, was a clear case of self defense, and the defendant should not be prosecuted. Wanted to share with the Fellows.

Jack B. Swerling (5/3/15)

## ASSAULT VICTORY

Colorado Springs fellow, Rick Bednarski won a self defense assault case this week. He was given the customary "plead to the charge with an open sentence" offer in the case. His client gave the loser of the fight a good old fashioned ass whippin' that was second only to the one Rick handed the arrogant prosecutor. Congratulations Rick! (Reported by Pat Mika (5/1/15))



## DILBERT® by Scott Adams



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by Colby Jones



A PASTOR, A PRIEST AND A RABBI WALK INTO A BAR...



## TRIGGERS

BY PAUL RUDNICK

Politically sensitive organizations and individuals have begun to advocate for the addition of "trigger warnings" to books and movies that contain scenes of bullying, prejudice, or sexual violence. A group called SKITTISH, the Society of Kindhearted Individuals Terrified of Trauma, Icky Stuff, and Heartache, has issued a manifesto calling for even more extreme measures:

1. A series of escalating online alerts to warn viewers of any film or public-service video featuring Angelina Jolie, whose appearance may further upset Jennifer Aniston, even now.



2. If any work of fiction describes stereotypical behavior by a member of a minority group, there must be a bold-faced introduction stating such correctives as "JEWS ARE NEITHER WEALTHY NOR EDUCATED"; "AFRICAN-AMERICANS HAVE NO AFFINITY FOR DANCE, MUSIC, OR CO-HOSTING MORNING SHOWS"; and "GAY MEN DO NOT GO TO SEE 'CAPTAIN AMERICA' MOVIES HOPING FOR A SUDSY SHOWER SCENE."

3. Any work of fiction or nonfiction that includes depictions of sadomasochistic sexual activity must be rated on the following scale. X: Suitable Only for Bored, Lonely Women in Small Towns. XX: Suitable Only for Bored, Lonely Women Married to Men Who Wear Oversized Team Jerseys to Weddings. XXX: Suitable Only for Bored, Lonely Women Who Will Re-Create the Most Graphic Scenes Using Their Workplace Precious Moments Figurines.

4. Any documentary about war or slavery must begin with a title card reading either "War and Slavery Are Bad," "War May Sometimes Be Regrettably Necessary to End Slavery," or "War and Slavery Are Not Appropriate Names for Children or Pets."

5. Any animated film that depicts colorful cartoon animals must conclude with this voice-over: "The creatures you have just witnessed were created entirely on a computer. Never attempt to force live animals to sing power ballads, tap-dance on a tundra, or assure you that everything will be fine if you just believe in yourself. In reality, such animals would be hunted and killed."

6. Any written work that contains derogatory references to a character's height, weight, skin tone, gender, original gender, or sexual orientation must have all of these references crossed out and replaced with the words "proud," "healthy," "personhood," "not gross in any way so stop making that face," and "attractive to people who like that sort of thing."

7. Any recording of a song with lyrics that are degrading to women must include a supplementary version of the same song with alternate lyrics. For example, the words "mega-booty," "pumpin' thang," "luscious lady lava," and "steamin' hot pocket" would be replaced with the words "respect," "boundaries," "child care," and "Pelosi."

8. Any cable program featuring scenes of Viking misbehavior, vampire lust, questionable prison romance, enjoyable drug use, or unrepentant serial killing must be preceded by one or more of the following admonitions: "Suitable Only for Mature Audiences, Meaning No Male Viewers of Any Age," "May Contain Nudity by Attractive Actors, Which Will Inspire Immediate Audience Arousal Followed by Clinical Depression," and "So Filthy, Disgusting, and Insulting That There's Nothing We Can Possibly Say to Stop You from Enjoying Every Second of It." ♦

## Five Common Symptoms of PTSD

1. Hypervigilance and an exaggerated startle response —being on guard and jumpy
2. Irritability or angry outbursts
3. Nightmares and trouble falling or staying asleep
4. Emotional numbness, lack of interest in activities and difficulty feeling love and joy
5. Avoiding thoughts and situations that are reminders of a traumatic event



## The Disgrace of Our Criminal Justice

David Cole



## Why Innocent People Plead Guilty

Jed S. Rakoff

**The One-Rule Diet** Wouldn't it be nice if there were one simple rule to help you shed weight? University of Massachusetts Medical School researchers think there is: Eat more fiber. In a yearlong study, published in the *Annals of Internal Medicine*, overweight adults who were told to eat more fiber lost nearly as much weight as those who were instructed to follow a more complex diet. The fiber group also did equally well at lowering their blood pressure and controlling their insulin levels, which is important for warding off diabetes. —Candy Sagon and Elizabeth Agnvall



WE ARE NOT THE ONLY ONES





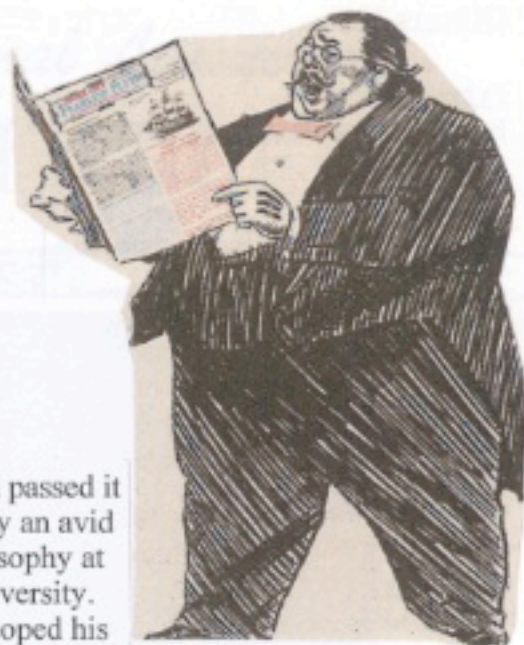
National Bestseller

# Ass-holes\*

Aaron James

A Book Review by Thomas F. Liotti  
of

Ass-holes\*, \*A Theory By Aaron J. James  
(First Anchor Book Edition, 2014,  
Paperback, 221 pages, \$14.95 U.S.)



When I first saw the title of this book I thought it was a joke and passed it by. But I came back to it and read of Professor Aaron James, foremostly an avid surfer, but secondarily a Ph.D from Harvard. He is a Professor of Philosophy at the University of California Irvine, and a former Fellow at Stanford University. As I browsed the book I began to realize that Professor James had developed his own, well annotated behavioral theory not found in DSM-V (the Diagnostic and Statistical Manual for Mental Disorders, 5<sup>th</sup> Edition, the book published by the American Psychiatric Association and used by professionals to diagnose mental disorders) but nonetheless a profound statement about a prevalent condition among humans.

The closest variant to which I might analogize the Professor's theory, would be delusions of grandeur which is, of course, articulated in DSM-V. But I am just a lawyer and judge often dealing with the emotionally disturbed, the deranged and the people with a great multitude of other mental disorders usually endemic to the legal problems in which they are embroiled. So lawyers, not corporate types but those in fields closest to the people, often find themselves playing the combined roles of clinician, therapist and legal advisor. Some of us recognize that we are really just amateurs in the behavioral sciences while others take on what Professor James labeled a false sense of entitlement or power over the vulnerable clients we represent.

Many lawyers and judges clearly fit the description of what Professor James referred to as Ass-holes, A Theory. Except for its pejorative and provocative title, Ass-holes, A Theory, makes perfect concrete sense. Ass-holes as defined by Professor James may be compared to incurable sociopaths who make up approximately four percent of our population. Sociopaths are those who are defined in DSM-V, as having no conscience. They spend their lives beating others out of money, and even justifying both blue collar and white collar crimes without a second thought. They can kill animals or people purely for the thrill. They steal with no remorse. They may feign illness or depression to engender sympathy from others while their true game is to fleece the unwary.

Ass-holes simply unjustifiably view themselves as being higher up on the chain than the rest of us. They are not curatively oppositional because it is not their goal to change the social order. Their objective is short term, an unknowing modus operandi that allows for braggadocio beyond compare, road rage and stiffing waiters for tips. They may have lower I.Q. scores or less ability but they believe that they are entitled to be paid more. Except for their boisterous demeanors, they do not have a glow or larger-than-life presence when they walk into a room. What identifies them is their noise.

Ass-hole lawyers and judges are rude. They do not listen because they are all important. They do not want to hear from others because they know it all. The best way to deal with the ignoramus ass-hole is two-fold. If their actions are merely obnoxious with no other harmful affects, ignore it. If on the other hand it is an "ass-hole move" with harmful effects, measure the significance of that by prioritizing your response in either "calling out" and publically embarrassing the ass-holes, or challenging them legally, for the impact of their actions on individuals or a wide group of individuals. The choices are yours, but ass-holes are everywhere. Of course, if you are an ass-hole then you probably have not read this.



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Steve LaCheen, Editor

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### Future Meetings

June 5-7, 2015: LaJolla, CA

October 9-11, 2015: Sante Fe, NM

### 2016 Meetings

Feb. 11-15, 2016: Havana, Cuba

May 26-31, 2016: Rome, Italy

October ? - ?, 2016: Austin, Texas

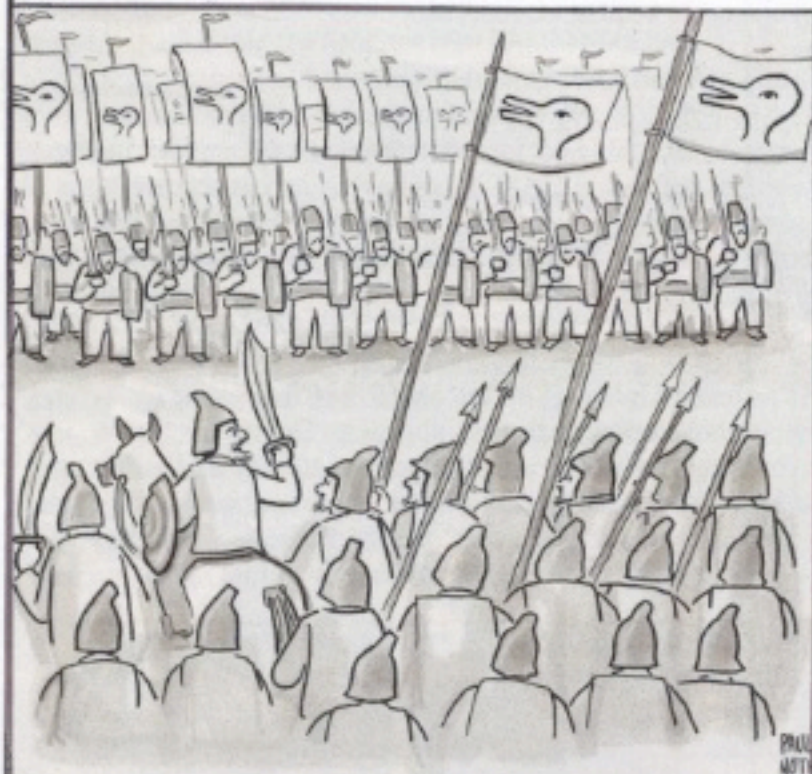


*The RoundTable*

Steve LaCheen

1429 Walnut Street, Suite 1301

Philadelphia, PA 19102



*"There can be no peace until they renounce their  
Rabbit God and accept our Duck God."*

