

American Board of Criminal Lawyers

THE ROUNDTABLE



Vol. MMXVII, No. 3

BREAKING NEWS FROM YOUR PRESIDENT!

March 2017



Our summer meeting, at the Ritz-Carlton in Montreal, is set for June 23 thru June 25, 2017. We have 60 rooms reserved for those dates. The Ritz has also extended our rate for three days at either end of your stay. The problem is that some of the extended dates have already been sold out. For instance, June 22nd is sold out. For now, three days at the end of our event are still available at our rates. Therefore, if you have any interest in extending your stay, please make your reservations immediately so as to avoid those days of extended stay being sold out. In making your reservations, please call 1-514-842-4212 or even better, email them directly at groupreservations@ritzmontreal.com. The problem is that Fellows call outside of regular office hours which results in their call being transferred to central reservation. Central reservation does not have the right to "override" a reservation outside of the contracted dates so that extended stays are treated at full fair.

Montreal has a population of 4 million people. It is an island between the St. Lawrence and Ottawa rivers. There is a hill in the middle of the island named Mount Royal, thus the name Montreal. The hill is 761 feet. Montreal is an amazing city with 21 miles of tunnels beneath the city. It has the largest number of restaurants per capita in Canada, it is second only to New York. (One of its most popular restaurants is Schwartz's Hebrew Deli.) No building is permitted to be taller than the cross on Mount Royal. This will be the summer solstice with sunrise at 5:06 am and sunset at 8:47 pm. John Lennon wrote "Give Peace a Chance" while in Montreal. The world-famous Montreal jazz festival begins June 28th. Yesterday's rate of exchange was \$1.32. For every American dollar, they give you 1.32 Canadian dollars. Barbara and I are having a lot of fun making all the preparations for our summer meeting. Attached please find a copy of the promotional material sent out by the Ritz-Carlton. Stay well. Kindest personal regards, **John H. Rion**



TIDBITS:

On Feb. 9, 2017, **Pat Mika** reported:

I just obtained a dismissal in a solicitation of a prostitute case yesterday based on the governments intentional destruction of evidence. My client is a doctor who upon conviction would have his mug in the newspaper in accordance with the governments "John Shaming " approach to punishment. He was thoughtful enough to pay my bill in full so that I may join my fellow beach comers in the white sandy beaches of Palm Island.

Richard Hirsch reports:

Our Fellow **Ed Rucker** is now a published author. Watch out John Grisham!

Ed's first mystery novel, *The Inevitable Witness*, will be published by Chickadee Prince Books on May 1, 2017. It's a legal thriller about a notorious safecracker charged with the murder of a decorated LAPD officer, making him the poster child for the death penalty. Bobby Earl, the smart, dogged defense attorney, believes he's innocent, which is the worst kind of client to have.

Ed says he has tried to write a story that would be entertaining, but at the same time remain true to the role of a defense lawyer and realistically portray the drama of a high-stakes jury trial, hoping the story will help fans of the genre better understand the impact of the news media on justice in our courts; how political ambition distorts decisions from the bench or the prosecutor's office; and the cancerous effect of the use of informants on the judicial process.

The book is already available for pre-order in paperback or Kindle on Amazon or Barnes & Noble.

Ed will be doing a reading on April 25th at 6:30 p.m. at Diesel Books in Brentwood and on May 4th at 6 p.m. at The Corner Bookstore on the Upper East Side of Manhattan. Wine and food at each, and invites us to join him.

Congratulations to our fellow **Betty Layne DesPortes**, who became the new president of the American Academy of Forensic Sciences at their annual meeting last week in New Orleans. She is the first criminal defense lawyer and the 7th woman to lead that organization in its 70 year history. She will be hosting the Academy's next meeting in Seattle, WA, February 19-24, 2018.

-Steven D. Benjamin

After four weeks of gov evidence ineptly presented by three lawyers from justice we achieved a rule 29 acquittal on all forty three counts of an internet pharmacy indictment in the District of Minnesota. We have been working on this case for three years and walked our client out the back door and had his bracelet cut off. He is an Israeli citizen who was baited out of Israel to Roumania so the DEA could extradite him. God damn it, I do hate the Government.

-Joseph Friedberg

On 2/9/2017, our inveterate "stringer" **Tommy Spina** reported:

Here's another weird, wild story. Fellow **John Beck** tried a manslaughter case this week in the free state of Baldwin County, Alabama. The jury got the case yesterday and appeared to beheaded to "hanging up". This morning, while the jury deliberated, the DA, feeling his fate, came in and offered a probation plea to Johns client. The client accepted the plea about the same time as the jury knocked on the door to announce it had reached a verdict.

Faced with the the choice of freedom, John's client accepted the "bird in the hand" , after John got the Judge to commit to a probation sentence should the jury convict, and plead guilty.

The Jury was excused, as they announced that they had in fact reached a Not Guilty verdict.

Damn, John is obviously perplexed, but clearly did a great job and deserves credit for a job well done. -Tommy Spina

...

Ed. Note: Later that day, we got the following correction of perhaps minor importance...We accepted the deal, found out the jury had reached a verdict, and decided to receive the jury's verdict. Not guilty on manslaughter! Get the facts right Spina, that's what they're paying you to do! Love you, mean it. Back to my rum. -Beck

Brother **Chesnoff** is representing former NBA star Charles Oakley as a result of charges brought from an altercation at Knicks game at Madison Square Garden sparked by arena security surrounding Oakley for reasons which are in dispute.

David has brought in **Gerald Lefcourt** to co-counsel.

-Tommy Spina

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ATTORNEYS AT LAW
est. 1964

February 15, 2017

Edward D. Tolley
etolley@cooktolley.com

The Round Table
c/o Mr. Steve LaCheen
LaCheen & Wittels
1429 Walnut St. Suite 1301
Philadelphia, PA 19102

RE: Not Guilty Verdict

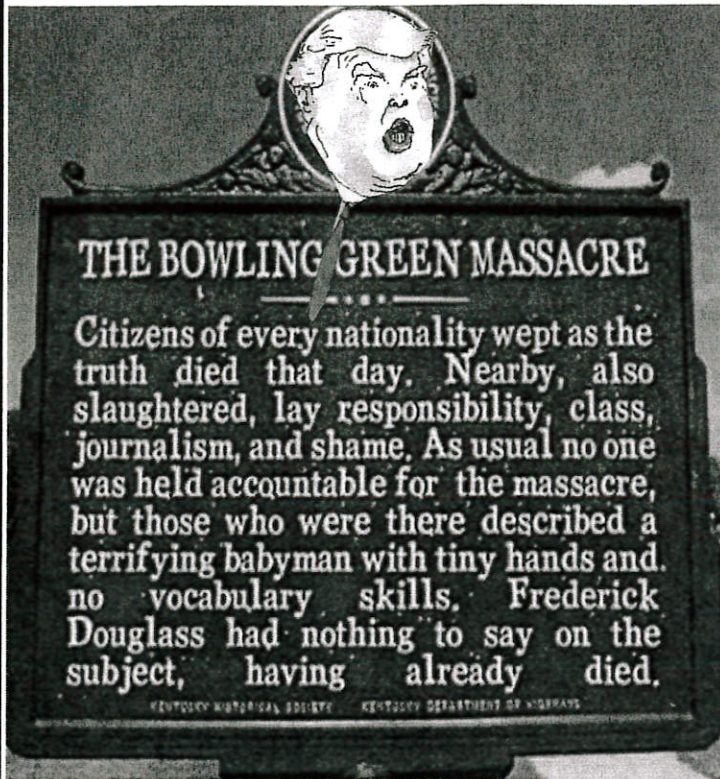
Dear American Board:

I represented Mr. John Hart Smith, Jr. In December, 2016 who was charged with "obscene internet conduct with a child", a felony in Georgia. Smith was a fifty year old divorced insurance executive who signed on to "Craig's List", certified his age as "over eighteen" and entered the sub-category of "casual encounters". A male deputy sheriff entered Craig's List as well, and after certifying that "she" was over eighteen began multiple "chats" with Smith. All sexually explicit conversations were initiated by the deputy. At one point he said "I am almost sixteen" and offered to meet Smith. Smith agreed to meet "her" at a park, but changed his mind. The deputy, who had arranged a "take down" then began desperately enticing Smith by saying "she" was stranded. The defense was entrapment and was particularly fact-based. Our carefully prepared and highlight telephone transcripts carried the day, as well as evidence that Smith would not have gone to the meeting location but for the complaint that "she" was stranded.

Edward D. Tolley
Georgia

"IN MEMORIAM"

by Kellyann Conway



Law professors file misconduct complaint against Kellyanne Conway

(The Washington Post) By Sari Horwitz

A group of law professors from around the country has filed a professional misconduct complaint against White House counselor Kellyanne Conway, a graduate of George Washington University Law School who was admitted to the D.C. Bar in 1995. The letter, filed with the office that handles misconduct by members of the D.C. Bar, said Conway should be sanctioned for violating government ethics rules and "conduct involving dishonesty, fraud, deceit or misrepresentation," the letter says.

The 15 professors, who specialize in legal ethics, cite several incidents, including a television interview in which Conway made the "false statement that President Barack Obama had 'banned' Iraqi refugees from coming into the United States for six months following the 'Bowling Green Massacre,'?" and the use of her position to endorse Ivanka Trump products.

"We do not file this complaint lightly," the professors said in their filing. "We believe that, at one time, Ms. Conway, understood her ethical responsibilities as a lawyer and abided by them. But she is currently acting in a way that brings shame upon the legal profession." The professors teach at law schools such as Georgetown University Law Center, Yale Law School, Fordham University and Duke University.

The White House did not immediately respond to a request for comment.

The letter was sent to the D.C. Office of Disciplinary Counsel, the chief prosecutor for disciplinary matters that involve active or inactive attorneys who are members of the D.C. Bar. Conway is listed as a D.C. Bar member under her maiden name, Kellyanne E. Fitzpatrick, but is a suspended member for not paying her dues, according to the disciplinary filing.

Since she has been serving as counselor to President Trump, Conway has been caught up in several controversies. Last month, during an interview on NBC's "Meet the Press," she said the White House had put forth "alternative facts" regarding the size of Trump's inauguration crowd.

"'Alternative facts' are not facts at all; they are lies," the professors said in their filing.

Conway was also criticized for using her position during a Feb. 9 interview on Fox News to endorse Ivanka Trump's fashion products. "Federal rules on conflicts of interest specifically prohibit using public office 'for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives or persons with whom the employee is affiliated in a nongovernmental capacity,'" the complaint said.

Abbe Smith, a Georgetown Law Center professor and director of the Criminal Defense and Prisoner Advocacy Clinic, said she has never filed such a complaint before and generally does not believe that lawyers should routinely face discipline under the broad rule they cited, which includes conduct outside the practice of law.

"But Ms. Conway's conduct was so outside the norm for a member of the legal profession," Smith said. "What prompted our complaint was a combination of the specific conduct that Ms. Conway engaged in plus the fact that she holds such a high public office."

(Submitted by **Richard Lubin**)

DOWN MEMORY LANE: TOMMY SPINA



AT A PARTY I THREW AT THE "LYLE TUTTLE TATTOO ART MUSEUM" IN SAN FRANCISCO (IN THE "MISSION DISTRICT," CIRCA 1985) WHILE ACTIVE IN "NACDL"...THE GROUP WAS STAYING AT THE "FAIRMONT" (EXCEPT IRA--- "THE BISHOP'S MANSION").

EVERYONE WAS INVITED, MANY CAME AND TO GET "IN" YOU HAD TO PUT YOUR MUG IN THE "BILLBOARD" FROM THE "BOARDWALK" (WITH THE TATTOOED WOMAN ON THE OTHER SIDE) AND LET ME TAKE A PICTURE....WHICH WERE PASSED OUT AT THAT EVENING'S DINNER

WHAT TIMES....AND HOW LONGGGGGG AGO !

- Steve Salter

Profiles

Roger Synenberg

Synenberg, Coletta & Moran LLC

AMANDA KOEHN | STAFF REPORTER

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Jan 26, 2017



Roger Synenberg is first to tell you he is “a lucky guy,” with “a lot of interesting things going on.” It isn’t until he starts describing some of those things that one realizes what he sees on a daily basis as a criminal defense attorney.

“A lot of people who I represent are people like your dad or your mom or you, or people who never got in trouble before and all of a sudden they wake up one day and their life is turned upside down,” Synenberg said. “People who have never been in the system cannot believe it works the way it does, and it’s not always to that person’s advantage.”

“It’s the government versus your client and all he or she has in their corner is you,” he said.

Unlike his wife, Cuyahoga County Court of Common Pleas Judge Joan Synenberg, who knew she wanted to be a defense attorney since childhood, Synenberg never set out to work in the field. In fact, early in Synenberg’s career he reported to a new job in the U.S. Attorney’s Office in the civil division – at least he thought.

“They said that job is filled, the only job we have is in the criminal division,” Synenberg said.

“But I got into it and I really began to see you are in a fabulous position to make a difference.

“I was always very interested in making sure people weren’t being taken advantage of, I didn’t like people being bullied,” he said.

Synenberg points to government abuse as one of the biggest challenges in his work. He also said that today, when people need a defense attorney, they often look to the quality of a lawyer’s website, rather than word of mouth and personal recommendations, as was done in the past. He said this leaves some clients hiring lawyers who are not a good fit for the help they need.

Synenberg has also been special counsel to the Ohio Attorney General for almost 20 years. Last year he also received two new distinct honors: he was appointed to the Ohio Public Defender Commission by Gov. John Kasich and was asked by Chief Justice of the Ohio Supreme Court Maureen O’Connor to be part of a task force studying improvements to the Ohio grand jury system.

“It’s a very important agency because it ensures defendant’s rights,” he said.

Merrick doctor wants pain pill case tossed

Attorney: Belfiore, patients victims of pharmaceutical industry

BY ERIK HAWKINS *Jan 2017*
erik.hawkins@herald.com

A Merrick doctor under indictment for allegedly writing illegal prescriptions for patients is asking a federal judge to dismiss the case against him and go after those he thinks are really at fault — the pharmaceutical companies who promoted the drugs while downplaying their risks.

Dr. Michael Belfiore, who lives in Westbury and practices in Merrick, was charged in 2014 with unlawfully prescribing oxycodone to an undercover Nassau County detective, and now faces further charges of illegally prescribing the drug to patients.

Belfiore wrote 5,000 prescriptions for 600,000 pain pills between January 2010 and March 2013, according to documents filed in U.S. District Court

in Central Islip.

According to federal officials, 5,000 is "an extremely high number of oxycodone prescriptions and oxycodone pills issued by a sole family practitioner, especially in light of the defendant's specialty area: general family medicine and dermatology."

According to Belfiore and his attorney, Tom Liotti, the doctor bears little responsibility for providing the drug to his patients because federal guidelines and warnings about the danger of addiction did not exist until recently, and the medical community believed for

years that opioids could be used to manage pain without significant fear of addiction.

"With all due respect to the government, its overly simplistic 'knee-jerk' presentment to the grand jury totally ignored these compelling factors and wrongful-



ly placed the blame on Dr. Belfiore instead of where it belongs — on 'Big Pharma,'" Liotti wrote in a recent motion. "The government should indict 'Big Pharma' and should consent to the voluntary dismissal of the charges against Dr. Belfiore, or the court should do so."

In an interview, Liotti said that he is serious about going after the pharmaceutical companies. He may join an ongoing Suffolk County case as a plaintiff against Purdue Pharma, the company that created the powerful opioid medication OxyContin, for deceptive marketing.

Suffolk's attorneys assert that the 11 companies and four doctors named in their suit launched a "coordinated, sophisticated and highly deceptive marketing campaign" to convince doctors and patients that the reward of using opioids outweighed the addictive medications' risks.

Purdue paid a \$600 million settlement in 2007 when three executives pleaded guilty in federal court to "misbranding" the medication, according to a New York Times report.

According to Liotti, federal lawsuits against Purdue and other industry giants over the addictiveness of the drugs and their alleged connection to growing rates of heroin abuse are often settled out of court, amounting to a "cash cow" for the government, and no "higher-ups" in the companies are held accountable.

Liotti plans to introduce documents from the Suffolk case as evidence, if Belfiore goes to trial, and also floated the idea of filing his own action against Purdue, among other companies also named in the Suffolk suit.

Liotti also intends to subpoena federal officials, including Sylvia Burwell, secretary of the Department of Health and Human Services, and Dr. Vivek Murthy, the U.S. surgeon general, to testify, should the case proceed to trial.

If the federal officials named in a recent filing, including Murthy, do testify, Liotti said, he intends to have them explain, under oath, "the history of the opioid epidemic and the government's role in it."

The federal Drug Enforcement Administration opened an investigation in 2013 into Belfiore's practice after receiving many complaints by pharmacists, law enforcement officers and confidential sources, court documents state. The DEA then sent an undercover detective to the

office claiming to suffer from back and shoulder pain.

According to documents, the officer was "examined by Belfiore for approximately 30 seconds." After a brief discussion, Belfiore allegedly wrote the officer a prescription for 90 80-milligram oxycodone pills.

After the detective made statements to Belfiore that prosecutors' claim should have raised any doctor's eyebrows, including that he liked the way the pills made him feel, Belfiore allegedly still provided prescriptions to him on five occasions. The officer paid \$75 in cash for each visit. At no point, documents state, did the officer provide "any documentation of his injury."

Belfiore, however, argues that he was "induced, cajoled and persuaded" to break the law by the detective.

Belfiore adds that he discharged at least 60 patients because he believed they were abusing their medication, something that, along with other information he claims would have exonerated him, was kept from the grand jury.

In the filing, Belfiore and Liotti also refer to guidelines for patients taking opioids that Belfiore created independently before federal guidelines were available, as well as an agreement called "Long-term Controlled Substances Therapy for Chronic Pain" that he asked all his patients to sign.

Liotti claims that Belfiore always acted "with legitimate medical purpose," and on the best knowledge available to him, with the federal government offering no guidance or warning about the addictive drugs.

"Dr. Belfiore, like many other doctors and their patients, is a victim of an opioid epidemic created by [Big Pharma companies] which encouraged the aggressive prescribing of opioids for chronic pain," Liotti said. "While the government cannot indict itself, it has clearly misfired in this prosecution of Dr. Belfiore, a learned and caring physician who works tirelessly for his patients."

The U.S. Attorney's office declined to comment on Belfiore's case, which is tentatively scheduled to go to trial in March.

The companies and individuals named in the Suffolk County suit, including Purdue, Janssen and Johnson & Johnson, will ask a judge to dismiss it, according to court documents. A conference with the judge is scheduled for Jan. 11.



DEE WAMPLER



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"48 Hours" looks into the upcoming Robert Durst trial

msn.com

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The RoundTable

Steve LaCheen, Editor

Rita Bognanni, Staff



Future Meetings

June 23-25, 2017: Montreal, Quebec

October 6-9, 2017: Greenbrier, WV

Feb. 16-18, 2018: Beverly Hills, CA

June 15-17, 2018: Edinburgh, Scotland

Oct. 5-7, 2018: Cleveland, OH

The RoundTable

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