

SOMETHING HAPPENED TO OUR PLANET

Something happened to our planet, and it was us. The upshot is that it is getting insane. People yammer about how hot it is currently in Phoenix. It has always been thus, but it no longer



cools off at night. The high temperatures are not the problem so much as the the overall heating. Including that the cool off at night no longer happens.

Climate change and heat sinking.

But, together, they really do matter. A lot. Both can be minimized if humans are not stupid. Do not count on that happening. Because humans are stupid.

But the kids today, and their kids, will make the future. They can make a difference in their own schools and communities. Starting now.

This is book for kids. But a really helpful, and useful, one.

Many, if not most, of the people that frequent here won't be around in fifty years to see how it all goes, but you can school up those next generations. This book can help. It is a great starting point.

As an adviso, the author is a friend and relative of mine. But I would not recommend it if I did not truly believe in her and her work.

THOMAS, ALITO AND CHRISTMAS COOKIES

You have heard about the private jet and yacht trips given to Clarence Thomas, the jet trips given to Samuel Alito, etc. The stories of this type of absolute impropriety are seemingly endless.

Senior Massachusetts District Judge Michael Ponsor has penned an op-ed in today's New York Times: in which he discusses the acceptable limits of what federal judges can take as gift. It is quite good and not very long, I'd suggest a read of it.

What has gone wrong with the Supreme Court's sense of smell?

I joined the federal bench in 1984, some years before any of the justices currently on the Supreme Court. Throughout my career, I have been bound and guided by a written code of conduct, backed by a committee of colleagues I can call on for advice. In fact, I checked with a member of that committee before writing this essay.

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The recent descriptions of the behavior of some of our justices and particularly their attempts to defend their conduct have not just raised my eyebrows; they've raised the whole top of my head. Lavish, no-cost vacations? Hypertechnical arguments about how a free private airplane flight is a kind of facility? A justice's spouse prominently involved in advocating on issues before the court without the justice's recusal? Repeated omissions in mandatory financial disclosure statements brushed under the rug as

inadvertent? A justice's taxpayer-financed staff reportedly helping to promote her books? Private school tuition for a justice's family member covered by a wealthy benefactor? Wow.

This is FAR beyond "the appearance of impropriety", it is actual impropriety. Any judge and/or lawyer with even an ounce of ethics knows this, and it is patently obvious. It is wrong.

Let me give you an analogy that demonstrates how absurd Thomas and Alito really are.

Many, many years ago, a junior partner in our firm decided to be nice to the local county level judges we practiced in front of. So she got a bunch of boxes of Christmas cookies from a local custom cookie place and tried to deliver them to the pertinent judges for Christmas. They were just local superior court judges, not SCOTUS level. They turned them down, and there were a bunch of cookies suddenly in our kitchen and lounge.

There were a lot of attorneys, including me, both prosecution and defense, that used to drink at a local downtown dive bar after 5 pm. Judges, both federal and state, came in too. The lawyers always swapped rounds. But not the judges, they always paid for their own.

Nobody in the world would have carped about it if the judges would have eaten the cookies, nor had the judges gotten a free drink. They just did not. It was pretty admirable.

And now, when such things should be far more apparent, we have a Supreme Court that thinks they are entitled to the graft and grift. Do I think that makes them "corrupt" per se? I do not know that, we shall see how it all plays out further.

HOW MANY PODUNK LOCAL DAS OUGHT TO ARROGATE THEMSELVES FEDERAL ELECTION POLICE?

For anybody that has read me here, or followed me on



Twitter, you know I have maintained from the start that Fani Willis, and her “investigation” is a complete joke.

Have also maintained the Trump conspiracy actions in Arizona were as bad as Georgia, if not worse.

Apparently the national media has caught on to what informed Arizonans have known from the start.

Arizona Governor Doug Ducey was hit up by Trump (so was the then Secretary of State).

So, why is the ladder climbing Fani Willis the only local DA trying to enforce federal election law, much less her completely bogus RICO posit?

There are now people in Arizona clamoring for this horse manure. Thanks to Fani Willis and her self serving showboating garbage.

Fulton County, where Fani Willis is the local DA, has approximately 1.1 million county

residents. Maricopa County, where all significant acts in AZ occurred, has nearly 5 million.

So, should every pissant local county prosecutor arrogate upon themselves to control and charge federal election crimes?

No. Nor should local AGs. Leave this to the Feds.

Things are getting just absurd.

FRONTMAN

Who is the best frontman in rock and roll history?

I don't think it is even close. It is Mick. Here is some early Stones from 1971.

Okay, there are later things. From Copacabana Beach in front of an intimate crowd of nearly 1.5 million.

The Glimmer Twins did that again in Havana and lit up Cuba.

The power of rock and roll can bring the world together, if only even a little closer.

That is a really good thing.

So, if not Mick Jagger, who is the best RnR frontman ever?

There are not that many possibilities. Daltrey? Mercury? Morrison? Bono? Robert Plant? Michael Hutchence? (If you never saw INXS with Hutchence, don't count him out of this discussion). Then who?

Since it is a weekend, and that of the Austrian Grand Prix, a short note about that. The Austrian has never been the same for a long time, but it is currently a fast track. The grid

is mostly as expected, though don't know how Alonso let the two Ferraris ahead of him.

JUNETEENTH

It is a real holiday now, so celebrate! Long ago, if not that far away, we built a new office and moved in. Came to work one day and could barely get into our parking lot. People and cars everywhere. Took the elevator up and asked our receptionist what the hell is going on out there?

Juneteenth was the answer. Spent a lot of the day and night there and, thanks to some wonderful people, got educated on what it was and meant. The memory of the food and music still seem like it was yesterday.

It is a great day. Celebrate it.

ON JUDGE AILEEN M. CANNON

The New York Times is out with a long, interesting, piece on SDFL Judge Aileen M. Cannon by Schmidt and Savage. I won't call it a hit piece, but it is extremely negatively framed, and in some regards disingenuously so. For a news article, there is no way not to view it as a position piece.

“Aileen M. Cannon, the Federal District Court judge assigned to preside over former President Donald J. Trump’s classified documents case, has scant experience running criminal trials, calling into question her readiness to

handle what is likely to be an extraordinarily complex and high-profile courtroom clash.

Judge Cannon, 42, has been on the bench since November 2020, when Mr. Trump gave her a lifetime appointment shortly after he lost re-election. She had not previously served as any kind of judge, and because about 98 percent of federal criminal cases are resolved with plea deals, she has had only a limited opportunity to learn how to preside over a trial.”

That is the opening salvo. Okay, Cannon is a newish federal judge. So what? You take your federal judges as you get them, not as you want them. Criminal trials are not the only trials federal judges do, they also do civil trials. And complicated criminal hearings, including evidentiary ones, pre-trial that most often lead to pleas. The NYT did not delve into that, to any extent it may exist. The fact Cannon has only four criminal jury trials is not shocking in the least. Importuning that she is incompetent because of that is lame.

In Arizona state courts, I have Rule 10 right to notice a change of judge as a right within 10 days of arraignment or assignment of judicial officer.

There is no such availability in federal court. You get what you get. TV lawyer gadabouts like Norm Eisen are shouting that Cannon MUST recuse, and if not Smith must affirmatively move for her disqualification. Based on a ruling in a short civil matter involving Trump previously. Granted her action in that matter was dubious, to be overly kind. But even the hideous 11th Circuit slapped that down, and she complied with the edict. This is a non-starter, and Smith would be an idiot to attempt it. Attempt that and lose, and you almost certainly would, now you *really* have a problem.

Would Cannon self recuse? There is no evidence of that to date. My friend Scott Greenfield thinks she should for the sake of her career, while acknowledging there is little to no chance of forcing her off like windbags like Eisen clamor for.

I, which rarely happens, disagree with Scott. It would torpedo her career and be a tacit admission she is a right wing nut job incapable of presiding over any partisan issues. That would not be a good look, does not look like a career enhancer in a jurisdiction like SDFL to me.

Back to the NYT article. It reports:

“But the chances appeared low. Under the Southern District of Florida’s practices, a computer in the clerk’s office assigns new cases randomly among judges who sit in the division where the matter arose or a neighboring one – even if the matter relates to a previous case. Nevertheless, Judge Cannon got it.

That is completely contrary to the facts as I understand them. As I have related in comments previously, anybody who took the job seriously enough to check with the clerk’s office, and current status of the SDFL bench could have seen this coming. Not just as a freak chance, but arguably a likelihood. Smith chose to put his eggs in that basket, and did so.

Another portion of the report literally made me roll out of bed and laugh:

“At the same time, they said, she is demonstrably inexperienced and can bristle when her actions are questioned or unexpected issues arise. The lawyers declined to speak publicly because they did not want to be identified criticizing a judge who has a lifetime appointment and before whom they will likely appear again.”

Seriously?? That describes pretty much EVERY federal judge I have been in front of, irrespective of how long they have been on the bench. This is completely silly land.

Here is another one:

“The Trump case is likely to raise myriad complexities that would be challenging for any judge – let alone one who will be essentially learning on the job.

There are expected to be fights, for example, over how classified information can be used as evidence under the Classified Information Procedures Act, a national security law that Judge Cannon has apparently never dealt with before.”

Seriously? There are a LOT of very experienced federal District judges that have never had to meaningfully deal with CIPA at trial. And most of the ones that have are in DC or EDVA. Again Smith chose this locus, he, and we, will have to live with it. So too should the NYT instead of posting up a somewhat dubious and negative filled report.

The Times report goes on to belittle Cannon’s background and qualification to even serve. But Cannon is nowhere near as bad as many of Trump’s appointments. She is a graduate of Duke and then the University of Michigan Law School. She worked for years at Gibson Dunn and as an AUSA. She is fully qualified, even if you think she should not have been nominated. And the NYT citing “ABA” ratings as still being relevant in any regard seems quaint, at best.

Read the NYT article. I am sure it will inflame your passions. But this is federal court, and the law, where not your passions control things. Am I warm and fuzzy about Judge Aileen M. Cannon? No, not whatsoever, but that is irrelevant. Here is where the issue is, for better or worse. Unless Cannon self recuses, that is where it shall remain.

LONG LIVE THE QUEEN

This is a guest post by long-time community member Rosalind. Rest in peace, Queen.

RIP RIVERBOAT QUEEN

As you may have heard, Tina Turner has passed at the age of 83. It is pretty hard to describe how incredible, and important, she was over so many decades.

ARE THE DUBS DONE?

Last night I was too tired, and half asleep, so did the unthinkable and semi-hijacked Rayne's thread with a shout out to Punaise and Molly Pitcher regarding the Golden State Warriors demise. Punaise has not showed up yet, but Molly's response was pretty spot on:

Yeah, bummer of a birthday for Mr Pitcher. We had to turn the sound off in the second half.

I think Bob Myers made some head scratching decisions prior to this season, and at the Allstar break. Why did they keep Iguodala, whom I love, but is definitely beyond his sell-by date?

Why was so little done to find some sort of replacement for Wiseman? The lack of a mobile Big really crippled us. Loony was a rebounding machine, but he cannot handle the other Bigs in the league.

The Warriors have some serious thinking and greatly needed action ahead of them, starting immediately. Steph, Klay and Dray need to take pay cuts so the Warriors can bring the needed talent to support them, now that the NBA has monkeyed with the salary cap rules to keep Joe Lacob from just ponying up the salary cap tax.

Draymond has recently said he wants to play 4 more years and retire as a Warrior. Both Kerr and Tom Izzo have said that not only is Draymond the smartest basketball mind they have ever met, but he is one of the smartest guys they have ever met. If Klay and Steph still want to compete as much as they have claimed, they can still get another Championship, but only if they have the supporting cast that has been missing this year. And Jordan Poole needs to be traded yesterday, there was a reason Draymond punched him in camp.

Think that is right. So, are the Dubs done? Dunno, but they do have some impending salary cap issues under the NBA's ever more byzantine guidelines. If Golden State keeps the big three together, they are going to need some help. Jordan Poole thinks he is Steph Curry, but he is not Steph Curry, does not play defense that well and appears a bit of a cancer in the locker room. Loose Poole. Ike is wonderful (and a former Arizona great), but he is done. Keep the big three, get a little help and keep Wiggins healthy, and you still have an elite team.

The Suns are kind of in the same boat. Have Booker and Durant, and that is as dynamic a duo as there is in the NBA. Yet Chris Paul is old, slow, and never managed to be there come playoff time even when younger and faster. Deandre Ayton is just a puzzle. Has every physical skill and factor in the world, but doesn't seem to care. The sun is setting on Ayton's time in Phoenix. If anybody will take him. The NBA Western

Conference is not what it once was. Change is afoot.

DERBY DAY TRASH TALK 2023

It is Derby Day, the weekend of the Miami Grand Prix (on the most hideous circuit in recent memory) and NBA Playoffs. Time to Trash talk!