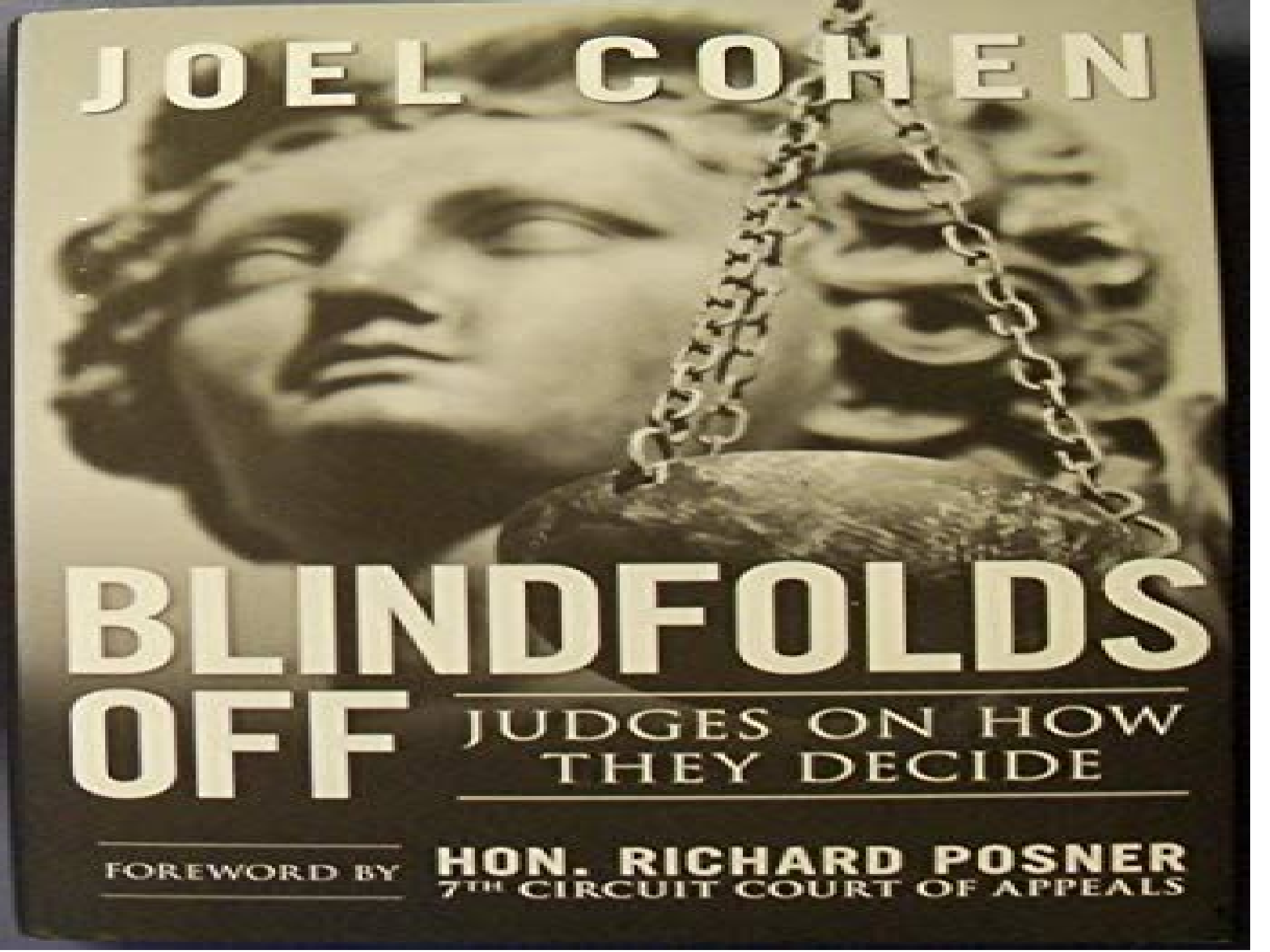




JOEL COHEN

**BLINDFOLDS
OFF**

JUDGES ON HOW
THEY DECIDE

FOREWORD BY

HON. RICHARD POSNER
7TH CIRCUIT COURT OF APPEALS

Blindfolds Off Judges On How They Decide

Daniel E. Holloway



Blindfolds Off Judges On How They Decide:

Blindfolds Off Joel Cohen, 2014 *Blindfolds Off* Joel Cohen, 2014 The 13 interviews that comprise this volume all but two conducted during 2013 were tape recorded in the chambers of the respective judges except for the interview of Judge Hittner conducted in New York the interview of retired Judge Walker conducted at his law office in San Francisco and the interview of retired Judge Gertner conducted at her office at Harvard Law School Page xxvii Divergent Paths Richard A. Posner, 2016-01-04 Judges and legal scholars talk past one another if they have any conversation at all Academics criticize judicial decisions in theoretical terms which leads many judges to dismiss academic discourse as divorced from reality Richard Posner reflects on the causes and consequences of this widening gap and what can be done to close it *The Jury Under Fire* Brian H. Bornstein, Edie Greene, 2017-01-23 Although the jury is often referred to as one of the bulwarks of the American justice system it regularly comes under attack Recent changes to trial procedures such as reducing jury size allowing non unanimous verdicts and rewriting jury instructions in plain English were designed to promote greater efficiency and adherence to the law Other changes such as capping damages and replacing jurors with judges as arbiters in complex trials seem designed to restrict the role of laypeople in trial outcomes Whether these innovations are implemented to facilitate the administration of justice or due to the belief that juries have excessive power and make irrational decisions they raise a host of questions about their effects on juries judgments and about justice Policymakers sometimes make incorrect assumptions about jury behavior with the result that some reform efforts have had surprising and unintended consequences The Jury Under Fire reviews a number of controversial beliefs about juries as well as the implications of these views for jury reform It reviews up to date research on both criminal and civil juries that uses a variety of research methodologies simulations archival analyses field studies and juror interviews Each chapter focuses on a mistaken assumption or myth about jurors or juries critiques these myths and then uses social science research findings to suggest appropriate reforms Chapters discuss the experience of serving as a juror jury selection and jury size and the impact of evidence from eyewitnesses experts confessions and juvenile offenders The book also covers the process of deciding damages and punishment and the role of emotions in jurors decision making and it compares jurors and judges decisions Finally it reviews a broad range of efforts to reform the jury including the most promising reforms that have a solid backing in research Featuring highly visible trials to illustrate key points The Jury Under Fire will interest researchers in psychology and the law practicing attorneys and policymakers as well as students and trainees in these areas **Common Law Judging** Douglas E. Edlin, 2020-03-06 Are judges supposed to be objective Citizens scholars and legal professionals commonly assume that subjectivity and objectivity are opposites with the corollary that subjectivity is a vice and objectivity is a virtue These assumptions underlie passionate debates over adherence to original intent and judicial activism In Common Law Judging Douglas Edlin challenges these widely held assumptions by reorienting the entire discussion Rather than analyze judging in

terms of objectivity and truth he argues that we should instead approach the role of a judge's individual perspective in terms of intersubjectivity and validity. Drawing upon Kantian aesthetic theory as well as case law, legal theory and constitutional theory, Edlin develops a new conceptual framework for the respective roles of the individual judge and of the judiciary as an institution as well as the relationship between them as integral parts of the broader legal and political community. Specifically, Edlin situates a judge's subjective responses within a form of legal reasoning and reflective judgment that must be communicated to different audiences. Edlin concludes that the individual values and perspectives of judges are indispensable both to their judgments in specific cases and to the independence of the courts. According to the common law tradition, judicial subjectivity is a virtue, not a vice.

Better Judgment Reynolds Holding, 2025. The weakening of the federal courts and how they can restore their power and Americans' access to justice told through the lives of three remarkable judges. Despite the outsize public attention paid to the Supreme Court, federal trial courts are at the heart of US democracy. Through the stories of Jed Rakoff, Martha V. Zquez, and Carlton Reeves, lawyer and acclaimed journalist Reynolds Holding recounts how the erosion of federal court power and people's ability to seek justice has undermined our constitutional system and charts a way to repair the damage done. Combining archival and legal records with hours of intimate interviews with the principal characters and their clerks, colleagues, friends, and families, he animates the lives and work of the judges who are the first and usually only stop for ordinary people seeking justice. Over the past six decades, the federal courts have been constrained by Congress, by the executive, and especially by the Supreme Court to the point where they can no longer do what we count on them to do. Holding makes the bold case that judges are good for democracy and should have more power, not less. In *Better Judgment*, he offers a lively up-close judicial biography of resistance.

The American Supreme Court Robert G. McCloskey, 2016-05-02. The sixth edition of the classic and concise account of the US Supreme Court, its history, and its place in American politics. For more than fifty years, Robert G. McCloskey's classic work on the Supreme Court's role in constructing the US Constitution has introduced generations of students to the workings of our nation's highest court. As in prior editions, McCloskey's original text remains unchanged. In his historical interpretation, he argues that the strength of the Court has always been its sensitivity to the changing political scene as well as its reluctance to stray too far from the main currents of public sentiment. In this new edition, Sanford Levinson extends McCloskey's magisterial treatment to address developments since the 2010 election, including the Supreme Court's decisions regarding the Defense of Marriage Act, the Affordable Care Act, and gay marriage. The best and most concise account of the Supreme Court and its place in American politics, McCloskey's wonderfully readable book is an essential guide to the past, present, and future prospects of this institution. Praise for *The American Supreme Court*. The classic account of the American Supreme Court by the mid-twentieth century's most astute student of American constitutionalism, updated by the early twenty-first century's most astute student of American constitutionalism. This is the first work constitutional beginners should and constitutional scholars do turn to. Mark Graber.

University of Maryland School of Law Essential This fifth edition carries on the tradition of earlier iterations keeping McCloskey's keen insights analytical framework and normative instincts intact Levinson supplements the original argument with chapters that draw on his remarkable intellectual range and invite readers to continue asking the still salient questions McCloskey set forth a half century earlier Choice on the fifth edition

Lawyers, Judges & Semi-Rational Beasts Daniel E. Holloway, 2020-01-22 Lawyers Judges it is a brilliant integration of what others have written into a powerful perspective on persuasion for the trial lawyer Richard H Friedman Inner Circle of Advocates co author of Rules of the Road author of Polarizing the Case and On Becoming a Trial Lawyer Lawyers spend their careers attempting to persuade judges jurors clients adversaries and the press to adopt their positions without giving sufficient thought to what would motivate those audiences to do so Dan Holloway has drawn together a fascinating analysis of the inner workings of the human mind and how lawyers can apply that knowledge to persuade different types of thinkers A valuable analytical tool for any attorney's arsenal Robert J Dwyer Boies Schiller Flexner LLP In easy engaging prose this book provides indispensable light for anyone engaged in the foggy mysterious work of persuasion Every law firm should provide a copy to each of its lawyers Lawrence B Schlachter MD JD Neurosurgeon retired medical malpractice attorney active author of Malpractice A Neurosurgeon Reveals How Our Health Care System Puts Patients at Risk Crossing back and forth through the permeable membrane between the conscious and the unconscious realms where decisions sprout Dan Holloway guides us on a meticulous no stone unturned quest to reveal what determines how jurors or judges hear or read what the advocate speaks or writes As Dan explains persuasion is a matter not of proof but of people No one should be disappointed or disturbed to realize how little the I yammering away in your head actually controls It's mainly the unconscious self we love the way you wear your hat the way you sip your tea the way you grin when your niece walks in all the things you do without thinking about it Those define you most Those are the reasons people like you or don't You hardly need me to say that all of this holds true as much for judges and law clerks and jurors as it does for you Their responses to your brief or your trial presentation will derive largely from unconscious processes Actually Dan we do need you to say it and particularly in the depth and breadth of observation with which you have considered it in this book Joshua Karton communication and trial consultant co author of Theater for Trial with David Ball Full of surprising facts and strikingly original observations this book manages to combine sound practical advice for lawyers with a profound meditation on human thought motivation and behavior Louis Michael Seidman Carmack Waterhouse Professor of Constitutional Law Georgetown University Law Center A comprehensive study of the science and art of persuasion boiled down to effective tools for winning over judges and juries and your spouse and teenage child too Mauricio Gonzalez DLA Piper The lessons and information Holloway provides would be valuable in any law school classroom In particular this book could serve as a key text in a stand alone class on persuasion It could also be a valuable supplemental resource in a variety of legal writing clinical and other courses that merge theory and practice Ann Mallatt Killenbeck

Professor of Law University of Arkansas This book distills a library of cognitive science literature into a concise description of how human beings think and decide Dan Holloway's book provides the bedrock foundation from which all lawyers should work It is required reading for anyone who wants to persuade Lloyd N Bell medical malpractice attorney and member of the Inner Circle of Advocates

The Nonsense Factory Bruce Cannon Gibney, 2019-05-14 A withering and witty examination of how the American legal system burdened by complexity and untrammelled growth fails Americans and threatens the rule of law itself by the acclaimed author of A Generation of Sociopaths Our trial courts conduct hardly any trials our correctional systems do not correct and the rise of mandated arbitration has ushered in a shadowy system of privatized justice Meanwhile our legislators can't even follow their own rules for making rules while the rule of law mutates into a perpetual state of emergency The legal system is becoming an incomprehensible farce How did this happen In The Nonsense Factory Bruce Cannon Gibney shows that over the past seventy years the legal system has dangerously confused quantity with quality and might with legitimacy As the law bloats into chaos it staggers on only by excusing itself from the very commands it insists that we obey leaving Americans at the mercy of arbitrary power By examining the system as a whole Gibney shows that the tragedies often portrayed as isolated mistakes or the work of bad actors police misconduct prosecutorial overreach and the outrages of imperial presidencies are really the inevitable consequences of law's descent into lawlessness The first book to deliver a lucid comprehensive overview of the entire legal system from the grandeur of Constitutional theory to the squalid workings of Congress The Nonsense Factory provides a deeply researched and witty examination of America's state of legal absurdity concluding with sensible options for reform

The Roles of Psychology in International Arbitration Tony Cole, 2017-03-15 The system of international arbitration is built on private contractual relations yet has been endorsed by governments around the world as a fair and reliable alternative to litigation in State courts As a private process however its authority and legitimacy derive entirely from the views and actions of those involved in the arbitral process whether arbitrators counsel or parties It is though increasingly clear that psychological factors complicate and in some cases radically change every arbitral proceeding In this context psychological insights are crucial for understanding how international arbitration genuinely operates and whether the legal framework currently applied to it is well suited to achieving the aims of ensuring a fair and reliable dispute resolution procedure This is the first book to focus on this important issue the insights into international arbitration that can be gained from contemporary psychology With contributions from nineteen internationally known figures in their fields arbitrators mediators lawyers law professors psychology professors psychologists and drawing from a longer term project on the role of psychology in arbitration this ground breaking volume addresses a range of topics including the following the decision making processes of arbitrators the ability of arbitration to serve as a genuine dispute resolution mechanism the impact of particular procedures on the arbitral process bias self deception and vested interests in judgment and decision making the role of arbitrators in managing the arbitral process cultural differences

in the evaluation of arguments psychological influences on witness testimony the impact of tribunal composition on arbitral decision making the influence of arbitration's professional context on arbitrators and legal counsel and methods for arbitrators and legal counsel to more effectively manage the arbitral process Informed by the behavioural insights in these essays counsel and arbitrators will be enabled to think critically about the underlying assumptions and the potential behavioural effects of a prospective arbitration while individuals researching arbitration will gain a greater understanding of the psychological context in which every arbitration occurs This book meets the increasingly recognized need for understanding the role of psychology in arbitral proceedings and forms an indispensable foundation for subsequent work in this area Its innovative and forward thinking analysis will be of immeasurable value to the international arbitration community as well as to institutions supporting arbitration and to academics in the field

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