



Court of Appeal

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CHAMBERS OF
WILLIAM S. DATO
ASSOCIATE JUSTICE

March 28, 2022

Committee on Appellate Courts
California Lawyers Association
400 Capitol Mall, Suite 650
Sacramento, CA 95814

Re: Nomination of Harold Cohen for the Appellate Lawyer Hall of Fame Award

Dear Committee Members:

Lawyers did not run in my family. So it is no doubt a reflection of my naiveté that I started law school in 1977 without knowing that appellate judges had lawyer assistants called law clerks who helped research and draft appellate court opinions. And it wasn't until two years later that I learned there was such a thing as a career research attorney. One of the first research attorneys I met was a lawyer who, even then, was a model for others to emulate – Harold (Hal) Cohen. Hal had been an attorney on Justice Mathew Tobriner's staff for eight years when, as a second-year law student, I arrived at the California Supreme Court in January 1979 to begin an externship. There is no exaggeration or embellishment when I say that it was Hal who inspired me to pursue a career in appellate law that included significant periods of time as a research attorney. To have a teacher and mentor at the start of a career, particularly someone who becomes a lifelong friend, is a blessing. For that friend to be Hal Cohen is nothing short of unbelievable good fortune.

Appellate judges and their research attorneys understand the critical role that the attorneys play in the work of appellate courts. More often than not, it is the attorney who crafts the opinion, structuring the court's analysis and choosing the words to express its conclusions. Others who worked with Hal longer than I did have chronicled and will continue to marvel at the breadth of his influence. It is fair to say that few individuals have had a greater impact on California jurisprudence. And while none of us who worked with him are permitted to cite specific decisions as concrete examples of Hal's legal brilliance or elegant writing style, he has left his indelible fingerprints on the fabric of California law for the last half century.

Some imagine a research attorney as someone who shies from human contact, leading a monastic existence hidden behind a stack of law books or, more recently, multiple computer monitors. But Hal's influence at the Supreme Court was as much a function of his personal interaction with other research attorneys as it was his drafting of court opinions. Hal was an invaluable resource for everyone at the court. If you had a particularly intractable legal issue you were struggling with, his office door was always open. What followed might be a five-minute conversation that ended with a suggestion where to look for an answer. Or it might be an hour-long discussion that caused you to look at your problem in an entirely different way. Regardless of the length of the interaction, you came away reinvigorated because Hal's enthusiasm for his work and commitment to quality was contagious. His sage counsel subtly but compellingly reminded us that what we were doing was important, and we were privileged to be part of the process.

Hal's manifest talents and outstanding contributions over a lifetime of service to the citizens of this state merit this award, even though his humble, self-effacing nature would never permit him to seek or expect it. But there is an additional reason why the CLA should recognize Hal Cohen. Inclusion is one of the core values of the organization. This means, among other things, a recognition that law is not a one-size-fits-all profession. Lawyers come in all shapes and sizes; they fill many different roles and perform many different tasks. All these roles and tasks contribute to the fair administration of justice. No one is more important; no lawyer is more "worthy" than another.

When I began my legal career in 1980, Ellis Horvitz notwithstanding, appellate specialization for practicing lawyers was a relatively new phenomenon. Yet attorneys had been working alongside appellate judges as law clerks for nearly 100 years, helping to research legal issues and draft opinions. (Dorsen, *Law Clerks in Appellate Courts in the United States* (1963) 26 Mod. L.Rev. 265.) Although law clerks are typically thought of as recent law school graduates, these early clerks were often experienced lawyers. (*Id.*, at p. 266.) In many respects, they were the first appellate specialists.

Hal epitomizes the many thoughtful and talented research attorneys who do critical work outside the spotlight to uphold the rule of law and ensure equal justice for all. They are not judges, but they perform a judicial role. They research, they reason, and they explain *why* the rule should be as it is. They maintain public confidence in our judiciary. I can think of no lawyer who upheld these values better, or more consistently, than Hal Cohen.

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I urge you to make Hal Cohen the 2022 recipient of the California Lawyers Association Appellate Lawyer Hall of Fame Award.

Sincerely,

A handwritten signature in black ink that reads "William S. Dato". The signature is written in a cursive style with a large, prominent "W" and "D".

William S. Dato
Associate Justice