



### MEMBER PROFILE QUESTIONS

#### INTRO :

**Member Name :** David Anber

**Year of Call :** 2009

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#### QUESTIONS :

##### **1- How did you get into criminal law?**

I've always found it to be the purest form of law. Civil society requires a robust criminal law to maintain order. But this necessarily involves all the weight of the state being brought to bear against an individual. This has the inherent potential to be an unlevel playing field. As such, the necessary rules of due process have always interested me and I take great pride in helping to utilize and enforce them.

## **2- What type of cases do you enjoy defending the most and why?**

Alcohol-related driving offences. Like many criminal cases, a brief error in judgment (or addiction) leads to these charges, but unlike other types of cases, the prosecution tends to be relentless and unyielding due to strict Crown policy. People can be deported; jobs can be lost; families can be greatly disrupted by a conviction and related driving restrictions. Since Crown policy often doesn't allow for any meaningful leniency, I take great pride in running trials and holding the state to a strict standard of compliance to the Criminal Code and the Charter.

## **3- How did the practice of criminal law change you?**

I now use all sorts of expressions that normal human beings don't use such as, but not limited to: "long in the tooth"; "turn my mind to"; and "as soon as practicable". I also use the words "satisfied" and "canvass" in ways that confuse most other people.

## **4- If there is one thing only you would like to see change in criminal law, what would it be?**

Appellate law is very broken in Canadian criminal law. If a properly instructed trier of fact could acquit, but another reasonable trier of fact could convict on the same evidence (and if the trier of fact does, in fact, convict), an Appeal court will generally find the verdict to be reasonable and uphold the conviction. The proper test should be instead that the conviction must be set aside unless no properly instructed trier of fact could acquit. This is the only interpretation that gives effect to the presumption of innocence. Right now, our appeal law tolerates situations where the Appeal judge or panel might have been left with a reasonable doubt, but upholds the conviction nonetheless.

## **5- What do you think of Zoom court?**

For years, I had understood that the defence bar had suggested routine appearances be dealt with in a more efficient way (such as, but not necessarily limited to virtual

appearances). And for years I understood that the powers that be said this could not be done. Well it turns out that it can be. We should remember this the next time we make a sensible suggestion and are told “no we can’t do that”.

#### **6- What’s your favourite song?**

Oh gee, this is a tough one. I love music in all senses of the word; I love listening to it, playing it (guitar and bass), studying it, going to concerts, etc. My wheelhouse is 90s rock and alternative. I am a huge fan of Collective Soul who I’ve seen a dozen times in concert and even got to hang out with them backstage. My current playlist has a lot of Led Zeppelin, Foo Fighters, Tea Party, Boston, April Wine, Pearl Jam and Dave Matthews Band. It may also have some ABBA on it. On the advice of counsel, I do not wish to say anything further.

#### **7- What do you do outside of the law?**

When I’m not spending time with my kids I am an avid volleyball and football player.

#### **8- What would your defence bar colleagues be surprised to learn about you?**

For 27 seasons I have umpired high-competition baseball at the amateur, college and semi-pro levels. I have done games all over Ontario and Quebec including at the Rogers Centre (Toronto) and the Olympic Stadium in Montreal.