

Oregon BENCHMARKS

THE U.S. DISTRICT COURT OF OREGON HISTORICAL SOCIETY NEWSLETTER



A Double Portrait Unveiling and Honoring the Society's Longtime Historian

By Adair Law

There was warm weather and warmth of feeling in evidence when family and friends gathered in Courtroom 9A of the Hatfield Courthouse on May 13, 2019 to unveil portraits of U.S. Magistrate Judge Paul Papak and U.S. District Judge Anna Brown, as well as to honor the work of historian Janice Dilg. Under the gaze (via separate portraits) of U.S. District Judges James Redden and the late Garr King, USDCHS President Julie Engbloom welcomed a packed courtroom.

Kerry Tymchuk, Executive Director of the Oregon Historical Society, introduced Janice Dilg. He reminded the crowd, that, in the words of historian and writer David McCullough, "History is who we are and why we are the way we are." Janice Dilg became oral history coordinator in 2008 after earlier years of transcribing and conducting oral histories. Her time with the Society saw the advent of digital recording formats and led to her work on the conversion from magnetic tape to digital files. Once recordings were stabilized, transcripts were created, then indexed, many for the first time. Jan oversaw the work of many who volunteered to transcribe the newly stabilized sound files, thereby making the collection more accessible. But Jan's magic can most readily be found in the rapport she developed with her interview subjects. Eliciting laughs and introspection, Jan's oral histories are a master study on the form. On taking the podium, Jan thanked a core group of committed transcribers attending the event. She spoke of her appreciation for the Attorney Admissions Fund support that keeps the oral history program active. She mentioned the reach of the work, noting a 2015 oral history conducted with U.S. Bankruptcy Judge Elizabeth Perris cited in the 2017 book, *Detroit Resurrected: To Bankruptcy*

and Back by Nathan Bomey. Jan looks forward to a range of future projects, including a 2020 centennial exhibit at the Oregon Historical Society on American women receiving the right to vote.

Chief Judge Michael Mosman introduced U.S. Magistrate Judge Paul Papak, noting that during his days in the U.S. Attorney's office he had tried cases against future-Judge Papak, who served as an assistant Federal Defender. The Chief Judge had special praise for Judge Papak's work on the Portland Re-entry Court (a program that works to reduce recidivism among drug involved offenders in the federal system), calling his work "wise, compassionate, holding people to account."

The photo portrait created by Keene Studio was unveiled. Judge Papak extended his thanks, noting that while there is a tradition of portraiture for Article III judges, Oregon is one of the few districts to extend this honor to magistrate judges. He recalled 14 years ago, when he received a morning phone

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Judge Paul Papak at center with his son Charlie at left and wife Krista Van Engelen. Photos by Rod Saiki, Federal Defender's Office

President's Message



Hello Members,

One of the things I enjoy so much about being part of the U.S. District Court of Oregon Historical Society is the continual stretch between looking back and being pulled forward. In crafting my first President's message, I looked back to the work of my predecessor Kathryn Roberts. Her first message talked about a double judicial portrait unveiling (U.S. Magistrate Judges Dennis Hubel and Janice Stewart). As it turns out, my first public-facing duty as President was to open the ceremonies for another double portrait unveiling for U.S. District Judge Anna Brown and U.S. Magistrate Judge Paul Papak, which you can read about on p. 1.

As I pick up the torch that has been passed to me, I can see both transition and continuity. We have the joy of events that bring us together. Our **Annual picnic on Sunday, August 4** at Judge Leavy's family hop farm. We will be honoring the women majority justices on the Oregon Supreme Court, including past justices and the governors who appointed them. Our **Annual Dinner** will be on **November 7, 2019**. **Judge Anna Brown** will receive our Lifetime Service Award. At the dinner, we will hear from an esteemed panel of judges and practitioners, moderated by **U.S. District Court Judge Marsha Pechman**. I look forward to a lively discussion of women's contributions to the federal court in Oregon.

We also note and remember those who are no longer with us. We cherish our memories of **Judge Owen Panner** (see p. 4), a great guiding spirit of the Society, and **Judge Garr King** (see p. 8), whose steady hand influenced all of those who appeared before him. We'll miss the smiling face of former Clerk of the Court and founding member **Robert Christ** (p. 10) at our Annual Picnic this year.

As a five-year wrangler for the Annual Meeting and Dinner, I know what type of volunteer effort our picnics, Annual Meeting, and Famous Cases presentations (see p. 11), call forth from our Board members. I would like to take this opportunity to welcome our new board members: **Scott Bradford**, **Crystal Chase**, **John Clarke**, **Ethan Knight**, **Steve Odell**, and **Mohammed Workicho**. I am also honored to work with this year's executive team of officers: **Vice President Doug Pahl**, **Treasurer Stephen Raheer** and **Secretary Joan Hilsenteger**.

Congratulations to **Doug Pahl** and the crew that brought together the very successful **Wild Wild History** presentation (p. 11). Several hundred attended this evening about a riveting portion of recent Oregon history.

I hope you will take a moment to have a look at and a wander through our website, a digital representation of our history. We have a new web design and are working hard to share our history in its recorded, pictorial, and literary form. By the time you receive this, we will have a greater span of our newsletter *Oregon Benchmarks* available to you on the website. Our Twitter account @USDCHS is pushing out interesting historical content about those who walked the halls of the federal courthouse over 100 years ago. It is one of my favorite looking-backward-to-move-forward things that we do.

See you at the Picnic on August 4th! – Julie Engbloom



Judge Anna Brown with retired Judge Ancer Haggerty at the 2014 USDCHS annual dinner.

2019 Lifetime Service Award Recipient

The U.S. District Court of Oregon Historical Society is pleased to announce that **Judge Anna J. Brown** is the 2019 Lifetime Service Award recipient.

A first generation American and the first native English speaker in her family, Judge Brown received her education, from kindergarten to law school, in Portland. After graduating from Lewis and Clark Law School in 1980, and passing the bar she joined the Bullivant firm. She worked as a trial attorney until she was appointed to the Multnomah County District Court by Governor Barbara Roberts in 1992. She was appointed to the federal bench in late 1999, the third female Article III judge in the District of Oregon's history. She is an energetic, engaged, and lifetime member of the USDCHS. We look forward to a riveting panel presentation on the subject of women in Oregon's federal courts.

Please join us at the Sentinel Hotel (614 SW 11th, Portland) for an evening of celebration, entertainment, and socializing on **Thursday, November 7, 2019**, starting at 5:30 p.m.

Portrait Unveiling

Continued from page 1

call from then-Chief Judge Ancer Haggerty. The Chief Judge informed him that he would indeed be Oregon's newest U.S. magistrate judge. He could start after lunch. In thanking all those who helped him achieve his success, Judge Papak quoted an expression Judge King liked to use, "If you see a turtle on a fence post, you can be sure it didn't get there on its own." Judge Papak extended his gratitude to a wide range of judicial mentors (Chief Judge Mosman, Magistrate Judge Donald Ashmanskas, the late Judge Garr King, and the late Judge Owen Panner); past and present co-workers (Steven T. Wax, Mary Moran); and law clerks ("You made me a better thinker and writer"). He was grateful to his wife Krista Van Engelen for her support during law school. He informed the audience that she was the first magistrate in the family, having served in Iowa. He thanked his son Charlie, born just before his formal judicial investiture, for keeping him young at heart.

While introducing Judge Anna Brown, Chief Judge Mosman noted that often when people learn he is from the District of Oregon, the main thing people want to know is whether he knows Judge Brown. The Chief Judge spoke of her extraordi-



Portrait of Judge Anna Brown

nary work as a trial judge and her leadership in the work of the court. "I appreciate the spirit she brings to the court," and he noted that she was also the first (and likely only) judge to knit him a scarf. Judge Brown's portrait was unveiled.

Stepping to the podium, Judge Brown said, "Ever since I first heard Oregon Senator Betsy Johnson's advice that speakers should always 'be sincere, be brief, and be seated,' I've tried to take that advice to heart." She informed the crowd she wished to speak of "gratitude, legacy, and the future." She spoke of her gratitude to her large, extended family, and to her husband Paul, the first person to suggest she should go to law school. She made special mention of her longtime clerk, Sandra Dixon, as well as "members of my stellar chambers team from over the years, two of whom, Judge Ericka Hadlock and Judge Xiomara Torres, have also committed to judicial service." She thanked several people "who particularly shaped my professional life, teaching me to be a good trial lawyer and then to be a judge who has always tried her best to 'do the right thing the right way.'" Judge Brown's gratitude extended to the completion of her judicial portrait. She chose a

photographic portrait and requested that an additional panel be added to show the six judges who served in Judicial Position No. 2 before her. Judge Brown joined the bench in 1999.

Moving on to the topic of legacy, Judge Brown noted that she is the first woman to serve in Judicial Position No. 2. With the late Judge Helen Frye joining the federal bench in 1980 and Judge Ann Aiken in 1998, three of the 29 U.S. District Judges who have served Oregon since 1859 have been women. Judge Brown hopes that it will not be another 20 years before the District of Oregon welcomes additional female colleagues to the bench.

As for the portion of her remarks related to the future, Judge Brown drew the audience's attention to a detail in the portrait, a gavel and strike plate made for her from her client in her final trial as a lawyer. Not visible in the portrait are the words on the strike plate. They came from a fortune cookie message her client received while waiting for the jury. The fortune read, "The law sometimes sleeps but never dies." Judge Brown spoke of her strong belief that the lawyers and judges coming after her "are the reason for firm optimism that the rule of law survives and will abide whatever our current challenges. I, for one, am counting on each of you to carry on what I was taught, always to try to do the right thing the right way for the right reason. With heartfelt gratitude, I will now "be seated."



Oregon Historical Society Executive Director and former USDCHS Oral History Coordinator Janice Dilg.



The crowd enjoys a laugh. USDCHS president Julie Engbloom at far right, U.S. Magistrate Judge Stacie Beckerman on her left.

Celebrating the Remarkable Life of Judge Owen M. Panner (7/28/24 - 12/20/18)

From Whizbang to the Federal Bench and the "Best Saddle in the Arena"

By U. S. Senior District Judge Anna J. Brown and U.S. Magistrate Judge Mark Clarke

The remarkable life of U.S. Senior District Judge Owen Murphy Panner was celebrated on June 1, 2019, at the Panners' horse arena in Medford, Oregon, under sunny skies illuminating a verdant vineyard, lush pastures, and a snow-capped Mount McLoughlin. As guests took their seats, the District Court's own Rick Galarneau and Houston Bolles shared their considerable talents from a flat-bed truck stage to provide musical background that Judge Panner would have loved.

They opened the celebration by leading everyone in "America the Beautiful." On behalf of Nancy Panner and all of Judge Panner's family, U.S. Senior District Judge Anna J. Brown welcomed over 200 guests from around the region. As she introduced the speakers, Judge Brown stressed that Judge Panner was still

presiding from "the best saddle in the arena," and all agreed to be brief or risk her use of the cow bell in her hand to signal violations.

Oregon's Chief District Judge, Michael W. Mosman, noted Judge Panner's core mission as a judge was to help people resolve disputes, which he did in two main ways. First, he always did what he thought was right, regardless of public opinion, lawyers' preferences, or even what might happen on appellate review. Second, he was famous for tightening up cases to avoid what he thought were unnecessary delays. For example, when Mosman tried a serious criminal case before Judge Panner as a prosecutor, Judge Panner required Mosman to introduce his case agents' testimony by entering their written statements into evidence, "saving" all the time that would have been

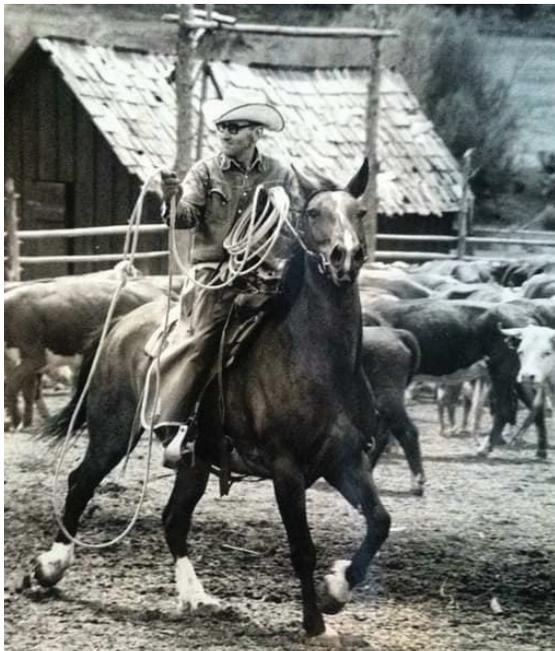
used for direct examination and allowing Judge Panner to move sooner to the next case that needed resolution. Indeed, Judge Panner loved working at the courthouse so much that he continued doing so until just three weeks before his passing.

Magistrate Judge Mark D. Clarke emphasized the tremendous privilege it was to have Owen Panner as a very close friend and unique mentor. Despite his tough exterior, Judge Panner was always a gentleman who showed a big heart and who believed in a fundamental goodness of people and the power

of redemption. He sought to uplift us all with his kind, gracious, and positive spirit and his wonderful sense of humor. Judge Clarke noted that Judge Panner's Portland chambers served as a virtual museum of the things he really loved in life: his family, his country and state, Native American tribes, golf, horses, and, of course, the law. Judge Clarke cherishes a book on his desk from Judge Panner's personal library, *Don't Squat with Yer Spurs On: A Cowboy's Guide to Life*, by Texas Bender.

Chief Delvis Heath and former Chief E. Austin Greene Jr. of the Confederated Tribes of Warm Springs performed a compelling Native American drum ceremony in Judge Panner's honor. Raymond Trumpti, the current Chair of the Warm Springs Tribal Council, also attended. Howard Arnett, an attorney at the Bend law firm Karnopp Petersen, aka "The Panner Firm," shared some of Judge Panner's early professional history. After serving in the U.S. Army in World War II, Panner graduated with high honors from the University of Oklahoma Law School in 1949, and moved to Bend, where he initially worked as a car salesman! After passing the Oregon State Bar, Panner formed a law firm with Duncan McKay.

Former Chief Greene recounted how the Tribe was looking to hire a lawyer in 1955. Some members knew Panner from his car-selling days. They also respected his friendships and golfing associations with Native



Owen Panner, ca. 1960, Aspen Valley Ranch in Post, Oregon

Americans in Oklahoma (having grown up in Whizbang in Oklahoma Indian territory). The Tribe ultimately hired Panner to “keep them out of court” and “outsmart the white man.” Panner represented the Warm Springs Tribe for many years, and Chief Greene spoke of the tremendous leadership Panner provided to them and the ultimate respect they had for him in return.

Oregon Supreme Court Justice Adrienne Nelson spoke on behalf of the Owen M. Panner American Inn of Court. In 1983, Judge Panner helped form the Inn, the first chapter in Oregon, and he was a loyal supporter and mentor to Inn members until the end. Justice Nelson read a letter in tribute to Judge Panner from the Executive Director of the National American Inns of Court that praised him for his “commitment to professionalism.”

Sarah Crooks and Marc Herzfeld, two of Judge Panner’s law clerks, shared their perspectives from working with him in chambers. Crooks stressed that Judge Panner kept his law clerks to the same tight timeline he imposed on lawyers because he really believed that “justice delayed was justice denied.” His chambers mantra was “Be Brief,” and he would often tell the law clerks, “Good job, but cut it in half.” Crooks knew lawyers who were supposed to give concise closing remarks were in trouble when Judge Panner turned his chair toward the waste basket and started sharpening his pencil with his pocketknife! Herzfeld fondly remembered Judge Panner always counseled lawyers to “disagree without being disagreeable.” He also emphasized Judge Panner was secure in his thinking, and it could be hard for law clerks to change Panner’s mind. He relayed the story of one former law clerk who cautioned that, “Judge, if you rule that way, you will be reversed.” Judge Panner calmly replied, “Maybe, but NOT by you!” Marc Herzfeld had

the honor of working for Judge Panner for 32 years.

Three lawyers who regularly tried cases before Judge Panner shared their memories. On the civil side, U.S. District Court Judge Michael H. Simon described Judge Panner as “a trial lawyer’s trial judge” for three reasons: (1) He knew what he was doing, and his rulings were consistent, supported by law, and fair; (2) He loved juries, who he felt did a good job of untangling complicated situations; (3) He loved trial lawyers. This was even when he regularly told trial lawyers he would be happy to grant a request to move a trial date. . . to an earlier one! Judge Simon emphasized Judge Panner’s respect for the appellate process and shared the story of a lawyer who got a favorable ruling from Judge Panner, which was affirmed by the 9th Circuit. The lawyer was pleased to tell Judge Panner the good news, to which Judge Panner replied, “This does not cause me to change my mind. I still think I was right.”

Former Assistant U.S. Attorney Doug Fong remembered the ever-present “twinkle” in Judge Panner’s eyes. He recalled personal conversations, including when he asked Judge Panner “What had been the most amazing thing he had seen in his life?” Panner responded that it was his parents, who gave him his faith in God, work ethic, and belief in mankind. Doug saw Judge Panner the day before he died. He was at peace.

District of Oregon Federal Defender Lisa Hay said Judge Panner was revered by the criminal defense community and substantively ahead of his time when he ruled the federal sentencing guidelines unconstitutional a year before the Supreme Court did. He also supported and mentored woman lawyers at every opportunity, including when he swiftly corrected a male lawyer in court who addressed Emily Simon, one of the few women defending criminal cases in federal court at

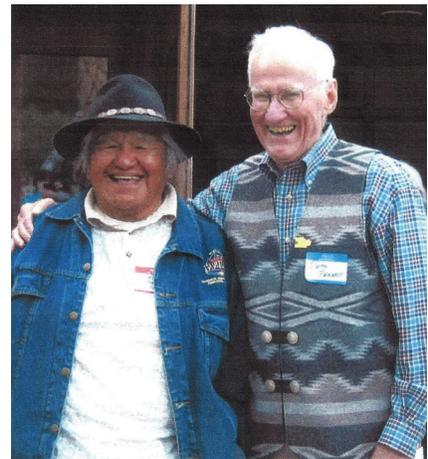
the time, by her first name!

Judge Brown read portions of a letter from Oregon Attorney General Ellen Rosenblum, who was a young assistant U.S. attorney when Judge Panner joined the court. Ellen shared a story about having to ask Judge Panner for accommodation to nurse her new baby ahead of a long trial with Judge Panner in Pendleton. She had never been more nervous in her life leading up to the request, which she said was not really done in those days. Without missing a beat, his response was, “Well, you will just have to tell me what your needs are.” She says she will never forget those words, as they were music to her ears.

Owen Panner’s long-time friend, Ron Palasek, shared Panner’s love of Arabian horses and attributed Panner’s success as a great trial lawyer and judge to his ability to handle horses. Panner became president of the Arabian Horse Association because of his inherent ability to get a room of strong opinions to come around to his position.

As the program neared completion, Portland trial lawyer Denny Rawlinson offered an Irish prayer and toast. Denny was instrumental in establishing the Owen M. Panner Profes-

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Confederated Tribes of Warm Springs Chief Delvis Heath and Judge Owen Panner sharing a laugh. Photo courtesy of Karnopp Peterson Law Firm



Panner on a tractor [caption] Judge Owen Panter liked to keep things moving, even at USDCHS annual picnics. Photo by Owen Schmidt

Celebrating the Life of Judge Owen Panter

continued

sionalism Award 25 years ago, now awarded annually by the Oregon State Bar Litigation Section and intended to honor the best in our profession. The award was named for “Judge Owen M. Panter” as “no one represents the best in all of us better than Owen Murphy Panter.” Denny also described the Irish “Blessing of Light” which comes from love of “family, friends, and good fellowship.” Denny attested that Judge Panter knew the importance of the Blessing of Light and raised his glass of Early Times bourbon (Judge Panter’s favorite) and offered this toast: “May the blessing of light be on you, light within and light without, shall the sun shine down to warm your heart.”

In a poignant show of respect, a saddled, riderless horse with backward-facing boots was led around the arena, to a quiet standing ovation, while Rick and Houston played and sang, “When I get to Where I’m Going,” by George Teren and Rivers Rutherford. It was a moving symbol of a beloved, fallen leader who will ride no more.

Judge Brown concluded the program by reading a letter from U.S. Senator Ron Wyden, who wrote,

“Today we gather to honor my friend, Judge Owen Panter. Judge Panter was recognized as one of Oregon’s most outstanding, influential, and long-serving judges. His impact will be felt for many, many years to come.” Molly McCarthy from Senator Wyden’s office presented Nancy Panter with a flag that was flown over the United States Capitol in Judge Panter’s memory.

Judge Brown then made a motion to adjourn, which was, of course,

granted by Judge Panter from his “best seat in the arena.”

Owen Murphy Panter was a man of deep faith. He knew God was ready for him. He taught us all many lessons about the law and life. He inspired us to be better judges, better lawyers, and most of all, better people. We will all miss the twinkle in his eyes. Judge Simon said it well: “There is a bright new star in heaven. Rest in Peace, Dear Friend.”

Judge Owen Panter and the Warm Springs Tribe

by Dennis C. Karnopp as told to Howard Arnett

Dennis C. Karnopp is a retired partner in the Karnopp Petersen law firm, which is the successor to the firm founded by Owen Panter in 1950. From 1967 until his retirement in 2017, Mr. Karnopp worked with and succeeded Judge Panter as Warm Springs Tribal Attorney.

The late Judge Owen Panter’s career in private practice is best known for his long and successful representation of the Confederated Tribes of the Warm Springs Reservation of Oregon. His relationship with the Tribe began shortly after he moved to Bend from Oklahoma in 1949. Before Owen could take the Oregon bar and practice law, he was a car salesman, and sold Chevys, Buicks, and GMC trucks to tribal members from the nearby Warm Springs Reservation. He developed friendly relationships with many of his Indian customers, some of whom had family ties to Owen’s native Oklahoma. “I loved selling cars. It was a real thrill,” he said. Those relationships with Warm Springs tribal members opened the door a few years later to Owen becoming their attorney.

In 1954, the Warm Springs Tribe decided to hire a new attorney. Some of the tribal leaders knew and respected Owen from his days as a car salesman and they asked him to consider becoming their attorney. The fact that Owen was from Oklahoma and had worked with and played golf with Indians in Oklahoma helped him build a good relationship with the Warm Springs tribal members.

Owen was hired as Warm Springs tribal attorney in 1955. One of Owen’s first tribal meetings was a gathering of the entire membership to discuss and decide what to do with the \$4 million dollars the Tribe was to receive from the U.S. government for the flooding of



Dennis Karnopp with his colleague and friend, Judge Owen Panter. Courtesy of Karnopp Petersen LLP.

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"A lawyer who made the rest of us proud to be lawyers:"

Memories of Judge Owen Panner

"As a brand new law clerk for Judge Panner, I was quite nervous submitting my first draft opinion resolving a motion. I was relieved when returning it to me, he said, "Amy, this is just fine." However, he then added, "I want you to change only one word: grant to deny!" This epitomized the Owen Murphy Panner approach I observed in the seven years I clerked for him: direct, to the point, and no BS.

And then I rewrote the entire draft!"

– Amy Kent, law clerk to
Judge Panner 1990-1992,
1994-1999

"I very much enjoyed working with Judge Owen Panner on the U.S. District Court of Oregon Historical Society's Board of Directors. It was invaluable to have his thoughts and support during stressful times. He was a true gentleman and scholar."

– Arlene Schnitzer
Founding board member and
original chair of the Oral History
Committee

"I finished a 15-page draft opinion that would grant a criminal defendant's motion to suppress on three separate grounds. I had been clerking for Judge Panner for almost 20 years by then. After reading the draft, the judge told me, "Marc, this is very good." Right away I knew I was in trouble. He then said, "I want you to cut it in half." I was a little surprised, but I managed to pare down the draft until it was seven pages. I realized that if I cut any more, it would just be headnotes (not that there's anything wrong with that!). The judge did sign it then."

– Marc Herzfeld



Judge Panner with two friends at the 2005 USDCHS annual picnic.

Owen Panner loved being a lawyer and loved being around lawyers. This was true when he was a practitioner and when he was a judge. His enthusiasm for the legal profession was contagious. He always tried to see the larger context of legal disputes, and how the people involved—on both sides—were impacted. And he always had a wonderful sense of humor that gave him perspective on life.

I first saw these qualities when I was a young lawyer assisting George Fraser representing a forest products manufacturer against an engineering firm relating to alleged deficiencies in a wood-waste boiler installation. Owen was then in his mid-40s and already the leading lawyer in Bend. What most impressed me was his ability to simultaneously master the technical and legal issues, gain the confidence of his client, work with his adversary, and relate to the jurors and to the court. This was before mediation became the norm—the case settled because two experienced and able lawyers were able to be both adversaries and colleagues.

Who can forget the Bar Convention of 1976 in Seaside when Owen presented his committee's "Report on Specialization"? Although he himself practiced in a wide range of fields in central Oregon, he believed the legal profession state-wide would better serve clients if it formally spe-

cialized. Only the eloquence of John Ryan ("We are being fired upon by the Queen's own troops!") turned the convention against Owen's report. And Owen's reaction? He laughed at John's eloquent oratory along with the rest of us.

Soon after he became a judge, he organized the Panner Inn of Court. He did this to encourage plaintiffs' lawyers to get to know defense lawyers, criminal lawyers to get to know civil lawyers, young lawyers to get to know older lawyers, male lawyers to get to know some of the remarkable women then entering the profession, and judges to get to know practitioners. The Inn he founded, now 40 years old, still thrives.

As a judge he was able to solve major issues with great efficiency and fairness. In 1987 a group of investors put \$39 million into Far West Federal, a troubled savings and loan based in Portland. The investors did so relying on written assurances by the then federal regulators. Two years later Congress passed a sweeping change in the law, and the new regulators shut the bank, claiming the prior assurances had no further effect, and told the investors they were out of luck. Judge Panner cut through a mass of legal issues and issued a short, common-sense ruling returning the investors' money. He was affirmed on appeal. The whole process took far less time at far less cost than parallel litigation involving other banks in the Federal Court of Claims. He did this largely through conferences rather than formal hearings. Throughout, he treated the lawyers on both sides with great courtesy.

As he aged, Owen laughed at mnemonic challenges. "I still get 24-hour memory service."

Owen was a lawyer who made the rest of us proud to be lawyers.

– Barnes H. Ellis, Portland attorney
and recipient of USDCHS
2018 Lifetime Service Award

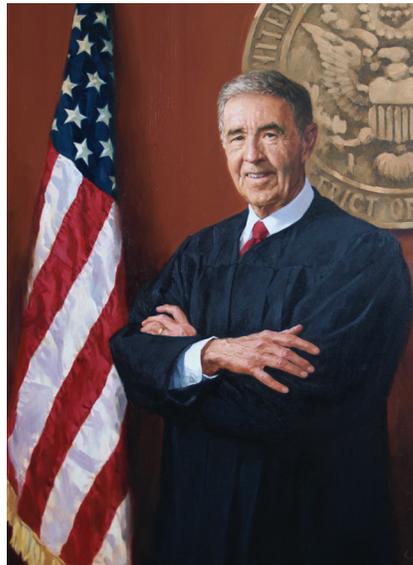
"Unquestionably and Eminently Qualified": Remembering Judge Garr M. King

By Carra Sahler

When I try to conjure up an image that captures what it is to have "good judicial temperament" it is Judge Garr M. King who comes to mind. A man who embodied kindness and thoughtfulness, he was decisive, fair, diligent, and empathetic as well. I had the pleasure and joy of working for Judge King for 12 years, nearly two-thirds of his service on the federal bench. His service started with his appointment by President Clinton in 1998 and ended with his death on February 5, 2019. Those who knew him called him Mike—asking for Garr on the phone marked the caller as a stranger. But to his staff he was simply Judge—a respected and respectful decisionmaker.

Former partners, former adversaries, counsel to parties in federal court, and friends could find him at the Multnomah Athletic Club every morning. Early in his career on the bench, he played tennis (he once played with Justice Sandra Day O'Connor at the Ninth Circuit's tennis tournament), and later on he swam. They could find him with Mary Jo, his wife of over 60 years (who passed away just weeks after he did), at bench and bar events many evenings. He told me he knew some judges felt they should be careful about socializing with attorneys, but he thought it was important because he never wanted to forget what it was like to be a practicing lawyer.

Everyone experienced that respect when appearing before him. Although he wanted to move cases along—indeed, he cleared his desk before leaving for home each night—he never insisted on deadlines for the sake of deadlines, remembering what it felt like to be at the mercy of the court. When anyone asked him about the most difficult part of his



*Top: Portrait of Judge Garr King;
Bottom: Carra Sahler and Judge
Garr M. King 2012*



*Judge Mike and Mary Jo King
with Judge Ed Leavy at USDCHS
Annual Picnic, 2008. Photo by
Owen Schmidt.*

job, without hesitation he said sentencing defendants in criminal cases. He pored over sentencing materials to ensure he handed down the most reasonable and appropriate sentence, and he often received thank you letters from individuals grateful to him for the fair hearing he gave them.

In my first year as his law clerk, fresh from serving as an associate at a large law firm, I remember discussing some piece of business—a draft opinion or the details of a hearing we had just left—when Judge gave me a review, of sorts. Never a pre-arranged affair, his reviews of my work seemed to come periodically and just when I needed feedback and support. After praising me, he mentioned as an aside that this was a good place to have a family. I appreciated his candor and knew it came from a place of experience; he greatly valued the company of his seven children and thirteen grandchildren. After my son was born, Judge invited my husband and me to his house. We arrived and Mary Jo—always the consummate hostess—promptly offered a tour of their beautiful home overlooking the city and Mt. Hood. I set my son down, still buckled into his car seat, to look around the house. When I turned around, Judge had my infant in his arms, walking him around the deck, patting him on the back. Add gentle to the list of Judge's characteristics.

I haven't captured Judge's financial acumen and recognized trial skills. Straight out of law school, he secured his first legal job working at the Multnomah County District Attorney's Office. District Attorney George Van Hoomissen learned Judge was in the top of his class at Lewis & Clark Law School and wanted him for his staff.

From the beginning of his legal career as a deputy DA, Judge was trying cases. Every subsequent professional opportunity offered to him came about because of his ability to try a case well. He became an associate at Morrison & Bailey because the DA told Bill Morrison that Judge was a good trial lawyer. Five years later, Judge's trial skills so impressed opposing counsel Jack L. Kennedy that he approached Judge and asked if he was interested in forming a partnership—thus began Kennedy & King. In 1984, deemed a trial lawyer “unquestionably and eminently qualified” and the best in his state, Judge was nominated and inducted into the American College of Trial Lawyers in 1984, a membership of which he was exceedingly proud.

Judge knew he wanted to be a trial judge because of his experience trying cases in the District of Oregon. As Judge said in his oral history, “Being a federal judge is one of the best jobs you can have in the legal system.” In fact, Judge often likened his job to getting paid to eat ice cream. I'll miss Judge's masterful trial skills, his common sense, and his genuine kindness, but above all I'll miss his contagious love for his work. And when I eat ice cream, I'll think of him.



2019 USDCHS
Summer Picnic
 Sunday, August 4, 2019
 1:00 to 4:00 p.m.
Join us
 at Judge Leavy's family farm

“They Got the Grant!”: Digitizing the Oregon Story

The U.S. District Court of Oregon Historical Society is thrilled to learn that the Oregon Historical Society (OHS) was recently awarded a grant for an ambitious oral history digitization project. The grant request “Digitizing the Oregon Story: Creating Access to Significant Legal and Political Oral Histories” received \$77,431. This Library Services and Technology Act (LSTA) 2019 Grant, is funded through the State Library of Oregon's Library Support and Development Services. Because OHS serves as the repository for the legal and judicial oral histories conducted by USDCHS, our organization wrote a letter of ringing endorsement for the grant.

The project will make available interviews originally recorded in obsolescent formats, including open reel tapes, audiocassettes, and VHS tapes. The audio and video recordings document unique, firsthand accounts of Oregon politics, law, and government. The earliest USDCHS oral history affected by the grant could be a 1981 oral history of Judge Helen Frye. Numerous past (and future) articles in our newsletter would not be possible without the excellent foundational work conducted by staff members of the OHS Oral History program (active 1974-2006) and by volunteers taught by those staff members. It is through the work of numerous volunteers that the stories of those not as visible as judges and attorneys (such as former court reporter Jerry Harris as well as the former longtime director of Multnomah County Law Library Jacquelyn Jurkins) have been preserved.

You can find out more about the range of this exciting new project at <https://ohs.org/blog/digitizing-the-oregon-story.cfm#footnote>. And please take a moment to look at what is available on our oral history page. <https://usdchs.org/oral-histories/>

Judge Panner and the Warm Springs Tribe continued

Celilo Falls on the Columbia River. Many tribal members wanted the money to be divided up equally between the 2,000 members. The tribal leaders told Owen his job was to tell the members they could not have the money. He was told to tell the members the Tribal Council was going to invest the money and “use it to make money.” Because Owen's message was interpreted into various Indian languages, he had some time to think about what he was saying. Using that time, he got the leaders to agree to give the members \$1 million and to keep \$3 million for investment and an economic development study that led to the creation of several new tribal enterprises. The tribal leaders later said it was the best decision the Tribe ever made.

One of the most significant accomplishments during Owen's 25 years as Warm Springs Tribal Attorney from 1955 until 1980 was federal legislation returning the 79,000-acre “McQuinn Strip” to the Reservation, which erroneously had been left out of the original 1855 Treaty Reservation due to a faulty survey. It took a Herculean effort by tribal leaders and Owen over many years to convince Congress, the county, local governments, and the area's ranching and timber company stakeholders that returning the land to the Tribe was the just and proper thing to do. With the unflagging support of Oregon Senators Mark Hatfield and Bob Packwood and Congressman Al Ullman, the McQuinn Act became law in 1972 and, after a 20-year transition period, the land was fully incorporated into the Warm Springs Reservation.

A Founding Friend: Clerk of the Court Robert M. Christ, 1927–2019

By Adair Law

Robert M. Christ (rhymes with wrist), a lawyer, court administrator and life-long Portland resident, died in his sleep May 31, 2019. He was at the summer 1984 founding of the U.S. District Court Historical Society and became its first executive secretary. He served as Clerk of the Court 1971-90, working with four chief judges: Judges Robert Belloni, Otto Skopil, James Burns, and Owen Panner.

Bob's father Mladen Christ (1895-1965) emigrated from Macedonia in 1910 and the people of Bob's mother Anna Zehiko (1900-85) came from the Ukraine via Edmonton, Canada to the United States. Mladen met Anna at a dance at St. Stanislaus Catholic Church in North Portland. The couple married during the 1918 flu epidemic with five people in attendance, including the priest. With the flu epidemic raging, gatherings of more than five called for special permission. The Christs had two sons, Theodore in 1920 and Robert in 1927. Mladen owned a newsstand and confectionary store on West Burnside at 23rd Avenue. Bob did a range of jobs there and learned early lessons in treating people with courtesy and warmth.

A proud graduate of Portland's Jefferson High School and the Lewis and Clark Night Law School, Bob also attended the University of Oregon. He passed the bar in 1954 and worked as a deputy district attorney in 1955. He married his wife Jeanne Santini, a nurse from Montana, that same year. They had five children together.

In 1962 Bob joined the firm of Dusenbery, Martin, Beatty, Bischoff & Parks. He succeeded George Juba as Clerk of the District Court when George Juba became Oregon's first U.S. Magistrate Judge. On Jan. 6, 1971, the *Oregonian* announced, "Juba to become 1st Magistrate, Christ to Fill Court Clerk Post." Both men were



Robert Christ.

sworn in on Jan. 13, 1971.

On taking up his new job, Clerk of the Court Christ was faced with a 900-case backlog. Judge Gus Solomon went on Senior

Status in September, and Judge Alfred Goodwin was elevated to the Ninth Circuit in December, which left Judge Robert Belloni as the primary active federal judge in the district. Judges Otto Skopil and James M. Burns would not join the federal bench until June 1972. By necessity, Magistrate Judge Juba was quickly trying civil cases and engaging in far more expansive activities than other federal magistrates around the nation.

As a recently practicing trial lawyer, Bob double- and triple-booked cases for a given judge as they neared trial, knowing that many would settle the closer they got to trial. Bob also helped attorneys realize that trials could occur more quickly if they would consent to have them heard by Magistrate Judge Juba. Bob's innovations took hold and

veteran and rookie judges worked to diminish the backlog.

Bob was active in the Federal Court Clerks Association and served as president of the association in 1983. As Clerk of the Court he witnessed the change from manual to electric typewriters and then to computers. During the course of his job, his name was on important certificates for family members. After Bob's father died in 1965, Bob realized with some shock that because of naturalization laws at the time of her marriage, Anna Christ was not actually a U.S. citizen. Not having finished grammar school, she was concerned about completing the studies to become a citizen, but she persisted and her son's name is on the signature line of her citizenship papers. Bob's name is also on the certificate authorizing his son Tom Christ to practice in his court.

We will miss this longtime supporter and friend. Bob was an unfailingly cheerful presence at bench and bar events, annual picnics, and annual dinners. His funeral was held June 29, 2019, and his family thoughtfully requested that donations in his memory be made to Boys and Girls Aid or to the USDCHS.



Robert Christ and Katherine O'Neil observe a display of court history in Portland's Federal Courthouse in 1988.

Wild Wild History: Key Players in the Rajneesh Episode Come Together for Famous Cases Discussion

By Douglas Pahl

In 1981, the Indian guru Bhagwan Shree Rajneesh, his personal assistant Ma Anand Sheela, and their community of followers purchased the Big Muddy Ranch near the tiny Oregon town of Antelope. The ambitious experiment soon ignited great concern among the citizens of Antelope as well as among state and federal officials. The resulting legal and cultural controversies – many of them caused or exacerbated by supporters of the Bhagwan – played out in state and national media and in state and federal courtrooms. Events spiraled from challenging to bizarre to quite dark, and the initially challenging issues of constitutional, voting rights, and land use law issues gave way to fairly obvious issues in the realm of criminal law.

On June 27, before a crowd of approximately 300, leading advocates from both sides of the Rajneeshpuram episode revisited the events that captivated Oregonians and the nation in the 1980s and continue to reverberate today. Three speakers made prominent appearances in the highly acclaimed Netflix Original documentary series *Wild Wild Country*. The



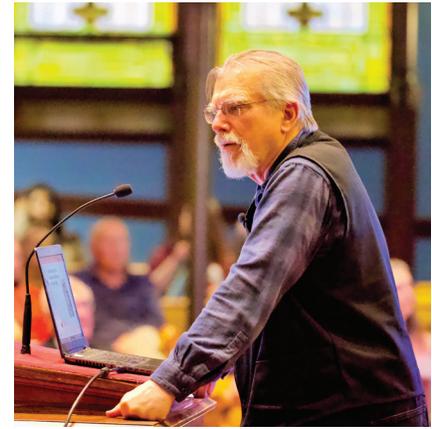
U.S. Magistrate Judge John Jelderks who presided over a number of the state court legal proceedings

lively event was the latest installment of the Famous Cases series. The U.S. District Court of Oregon Historical Society was joined by cosponsors the Oregon Historical Society and the Perkins Coie firm. Oregon Supreme Court Justice Tom Balmer moderated the discussion by:

Philip Toelkes (a.k.a. Swami Prem Niren), attorney for the Rajneesh.

Robert Weaver, assistant U.S. attorney at the time and lead federal prosecutor.

William Gary, lead counsel for Ore-



Philip Toelkes (a.k.a. Swami Prem Niren), attorney for the Rajneesh

gon Attorney General Dave Frohnmayer on the matter.

U.S. Magistrate Judge John Jelderks, who presided over a number of the state court legal proceedings.

Thirty-five years later, Oregonians continue to grapple with the Rajneeshpuram episode. It is an extraordinary story of a religious utopian experiment gone wrong. The strong feelings engendered by these events remain, highlighted poignantly by proceedings in Oregon courtrooms. The Famous Cases program brought together the leading legal advocates to reflect on the most significant issues they faced in and outside courtrooms during that tumultuous time.



A crowd of nearly 300 for Wild Wild History. Photos by Owen Schmidt



Check out our official Twitter feed **@USDCHS** for “new” historical content.

You can also find expanded articles with additional photos at **www.USDCHS.org**



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The U.S. District Court of Oregon Historical Society thanks its lifetime members for their continued support of the mission of the Society and honors those lifetime members who are no longer with us.

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IN MEMORIAM: Hon. Owen Panner, Hon. Garr M. King, Robert Christ

LIAISONS: Joseph Carlisle (interim), Oral History; Adair Law, Newsletter; Dana Vinchesi, USDC

2019 USDCHS Summer Picnic

Sunday, August 4, 2019 | 1:00 to 4:00 p.m.

Celebrating

This historic time in our state’s history—a time when more women than men form the majority on the Oregon Supreme Court.

Join us for an afternoon of food, entertainment, and socializing at Judge Leavy’s family farm

RSVP by July 30 at <https://usdchs.org/events>
or call Joan at (503) 326-8362

