

The magazine of the first law school in the Pacific Northwest | SPRING 2011

WILLAMETTE LAWYER



Great Judges, A Great Willamette Tradition

Oregon Chief Justice
Paul J. De Muniz JD'75

Willamette Lawyer

SPRING 2011



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This issue of *Willamette Lawyer* celebrates our graduates who have gone on to illustrious careers on the bench. Our cover subject, Paul J. De Muniz, is a classic Willamette success story: Raised in Portland, he attended Portland State University and graduated from Willamette University College of Law in 1975. After a career as a public defender and defense attorney in private practice, he was appointed in 1990 to the Oregon Court of Appeals. Voters elected him to the Oregon Supreme Court in 2000 and his colleagues elected him chief justice in 2005.

De Muniz is at the forefront of a nationwide movement to streamline the justice system while ensuring the courts remain accessible to everyone. He also teaches at the law school and has led efforts to promote the rule of law in Russia.

Impressive as his career has been, his commitment to family stands out. While climbing the career ladder, he coached all three of his kids' multiple sports teams. When his youngest son, Michael, graduated from law school in 2008, De Muniz wrote him a note about how proud he was. And he added

this: "Remember being a lawyer puts you on a long road. Never ever take a shortcut." Michael was so moved that he framed the note and hung it in his office. He practices criminal defense law – just like Dad.

Lisa Grace Lednicer

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College of Law



Dean's Last Message



Dean Symeon C. Symeonides

Dear Alumni and Friends,

This is the last time I speak to you from this page. In the next issue of this magazine, you will be greeted by our new dean, Peter Letsou.

When I accepted the honor of this deanship in 1999, the national average length of service for law deans was only 2.3 years. When asked how long I was willing to serve, I promised "five good years," an answer that was either presumptuous or too optimistic. I am now completing 12 years in this position (and 19 years in academic administration).

It is time for a change, for both the school and me. The school needs new energy and new ideas, and I would like to return to teaching and scholarship, which is my true love. For these reasons, I have decided to step down from the deanship at the end of this academic year.

Whether or not these have been "good years" is for you to judge. What I do know is that whatever progress our school has made during this period is due to the individual and collective efforts of our students, faculty and staff, the guidance and support of President Pelton and the Board of Trustees, and the generosity of our alumni and friends. It has been my privilege and good fortune to serve as dean during this period.

I am delighted that Associate Dean Peter Letsou has agreed to serve as our dean for the next two critical years of presidential transition at Willamette. I have worked closely with Peter in the last five years, and have had many opportunities to observe his multiple talents, his exceptional work ethic and personal integrity. He is a brilliant and hard-working individual and I am sure that under his able leadership our school will continue to excel. He will have my full support, and I hope you will give him yours.

In deciding whether to come to Willamette in 1999, I asked myself whether this was a place that I could proudly call home *after* my deanship, which I intended to last for only five years. My answer then was an intuitive yes. Now it is a knowing yes. I am proud to be a member of this collegial and caring community of learning, and I intend to remain one for many years to come.

I look forward to teaching more courses, and I am excited about my scholarship projects, which include completing three unfinished books, spending significant time in Brussels chairing a major law reform project for the European Union, and teaching again at the Hague Academy of International Law.

Thanks again for the honor of serving you for the last 12 years, and for all of your support.

Cordially,

Symeon C. Symeonides
Dean and Alex L. Parks Distinguished Professor of Law

Some Highlights of Symeonides' Deanship 1999–2011

Bar passage. Reversed 1990s decline and reached highest passage rate in 30 years and highest in the state of Oregon.

Value-added. WUCL ranks second in "best value" among the nation's 107 private law schools.

Faculty productivity. WUCL ranks first among Oregon's law schools in per capita faculty publications in top journals.

Fund-raising. Raised \$19.6 million for endowment and operational support (compared to \$5.4 million raised in the previous 116 years).

DEAN'S TRANSITION

President Pelton's Announcement



President M. Lee Pelton

I am writing to let you know that Dean Symeon Symeonides has informed me that he plans to step down as dean of the College of Law at the end of this academic year, effective May 31, 2011, and devote himself fully to scholarship and teaching at the law school. Peter Letsou, associate dean and Roderick and Carol Wendt Chair in Business Law, has accepted my offer to serve a two-year appointment as dean of the

College of Law, effective June 1, 2011, thereby providing an excellent transition for the College of Law.

Symeon's tenure has been marked by outstanding achievements too numerous to recount fully and, as with all great deans, he leaves the institution far stronger than he found it. The second longest serving dean in the College of Law's 128-year history, Symeon has raised significant gifts for operations and endowment (\$19 million, or almost four times more than the amount raised during the law school's previous 116 years), and has overseen a significant growth in applications (136 percent), acceptance rates and the largest percentage of students from underrepresented backgrounds in the school's history, while providing significant increases in scholarship support. These successes in application growth have been matched by the best record of bar passage that the College of Law has seen in the last 30 years.

Symeon has also left his mark on the College of Law faculty, overseeing a significant expansion of the faculty marked not only by major increases in scholarly productivity but also by gains in faculty diversity. Other highlights of Symeon's deanship include (but certainly are not limited to): a renovation of the law school building, including a modernization of the law school's classrooms; the acquisition and renovation of the Carnegie Building (now known as the Oregon Civic Justice Center), which houses, among other things, the Oregon Law Commission; the expansion of the Clinical Law Program, including the establishment of a \$3 million endowment; and, most recently, the renovation of the law school lobby with an updated student lounge and café.

These accomplishments, by themselves, are remarkable enough. But they become even more impressive when considered against the backdrop of Symeon's continued productivity as a scholar throughout his deanship. Moreover, throughout his deanship Symeon has remained active in scholarly organizations. He

currently serves as vice president of the International Association of Legal Science and as honorary president of the American Society of Comparative Law, and is just now at the beginning of his chairmanship of a major law reform project for the European Union.



Associate Dean
Peter Letsou

Peter Letsou joined the faculty of Willamette University College of Law in 2002 as the Isaac Van Winkle Melton Endowed Professor and director of the college's program in law and business. In 2003, Peter became the initial holder of the Roderick and Carol Wendt Chair in Business Law. In 2006, he was named associate dean. He graduated from the University of Chicago Law School with

highest honors and was elected to the Order of the Coif. He was a comment editor of the *University of Chicago Law Review* and was twice selected as an Olin Foundation Fellow in Law and Economics. Prior to coming to Willamette, Peter was professor of law and director of the Center for Corporate Law at the University of Cincinnati, a professor at the George Mason University Law School, and a lawyer in New York City. He is an active scholar and lecturer who, in addition to serving as associate dean, directs the College of Law certificate program in law and business.

Symeon will be greatly missed as dean. However, I am confident that Peter's considerable experience as associate dean and professor will ensure that he will sustain and strengthen Symeon's enviable legacy.

A handwritten signature in black ink that reads "M. Lee Pelton".

M. Lee Pelton

Since coming to Willamette in 1999, Symeon has published 10 books, 44 law-review articles, and 16 shorter pieces; he has been characterized as a "giant" in his field and as "perhaps the world's leading expert on comparative conflicts law today"; and his publications have been cited by the United States Supreme Court and the Supreme Court of the United Kingdom.

What's New@ THE COLLEGE OF LAW



Dean Symeonides (left) with Dale Hermann

Dale and Allen Hull Hermann Endow Scholarship

Dale Hermann BA'65, JD'69 and his wife, Allen Hull Hermann BA'65, endowed a new scholarship at the College of Law with a gift of property valued at \$400,000. The scholarship will be named The Robert and Marian Hermann Scholarship Fund in honor of Dale's father and mother.

Since their days as students, Dale and Allen have stayed connected to Willamette. Several family members have attended the undergraduate school or the College of Law.

Dale's mother Marian (Wakefield) was a 1937 graduate of the College of Liberal Arts. Dale's brother, Bob, BA'71, JD'74 received undergraduate and law degrees. Dale and Allen's son, Andrew, BA'93 was an Olympic race walker who finished 31st in the 2000 Sydney Olympics.

Dale became a Willamette trustee in 1997. Allen has served as a trustee of Stephens College in St. Louis, Mo. Their generous gift will provide valuable tuition assistance to Willamette law students for generations to come.

"On behalf of our students, I express to Dale and Allen our deepest gratitude for their generosity and a personal thanks for their friendship," said Dean Symeon C. Symeonides.

Willamette Ranked Top Law School in Oregon for Faculty Productivity



For the second consecutive year, Willamette University College of Law was ranked the top law school in Oregon in per capita faculty publications in top journals according to a study by Roger Williams University School of Law.

The study is based on the number of law review articles in prestigious journals written by faculty at law schools that are not included in the top 50 schools on the *U.S. News & World Report* list. In that group of 150 schools, Willamette ranked 32 in per capita faculty productivity.

That is higher than in the previous two years and higher than Oregon's two other law schools.

The study covers articles published from 1993 to 2010 by tenured and tenure-track faculty. Thus, unlike the *U.S. News* ranking based on one year's data — some of which are subjective — this study is based on objective data from 17 years and takes into account the size of the ranked schools.

Increasing faculty publications was a major focus for Dean Symeon C. Symeonides when he came to Willamette in 1999. According to the school's 2007 self-study, seven years later, faculty publications increased by 97.6 percent in total and by 63.4 percent per capita. That increase has continued at an even faster pace since 2007.

"The Roger Williams study simply confirms what we have known for some time," said Symeonides, "that our professors are very productive scholars, besides being excellent teachers."

Law Students Place 2nd in National Dispute Resolution Competition

Third-year College of Law students Lauren Askeland and Anthony Estrada took second place in a national negotiation competition sponsored by the American Bar Association.

Coached by Professor Sukhsimranjit Singh, Askeland and Estrada advanced to the finals in the ABA Law Student Division Negotiation Competition in February. The winner was a one-person team from Texas Wesleyan University School of Law. "This is an enormous accomplishment," said Richard

especially notable because it has been more than a decade since the school has reached the finals, Birke said.

Before advancing to the finals, Askeland and Estrada won a regional competition that included students from Oregon, Washington, Idaho, Montana and Canadian law schools. They both competed in regionals in 2009 on different teams and lost in the first round. They then decided to form their own team and ended up losing the nationals by just two points, Singh said.

"They were amazing," Singh said. "They were well-prepared, confident, brilliant thinkers on the spot and courageous. It says that anything is possible."

The competition had four rounds, and participants were given the scenario ahead of time. The scenario involved a new drug, a drug company that wanted to manufacture it and the market to which the drug would be distributed. Each round lasted 50 minutes and participants were scored on the tone and methods of their negotiations.

Estrada is from Staten Island and hopes to become a mediator after a few years practicing law. He said he and Askeland made a good team because of their different approaches. He's generally more assertive and to-the-point; Askeland provides the justification for their bargaining position. Sometimes, though, she'll

announce their offer and Estrada will explain it.

"She's just been the best partner a person can have," Estrada said. "Lauren and I are really satisfied with the result."

Askeland, who wants to be a prosecutor or a public defender, compared dispute resolution to a puzzle.

"You figure out who people are," she said. "I like the idea that there's not one way to settle a dispute. When you're in a private negotiation you can get as creative as you want to be."

Their partnership may continue even after they graduate. Singh said their strong standing in the nationals may earn Askeland and Estrada a trip to an international student negotiating competition this summer in Copenhagen.



Professor Sukhsimranjit Singh, Lauren Askeland and Anthony Estrada

Birke, director of Willamette's Center for Dispute Resolution. "To be recognized as one of the best negotiation teams in the nation is an honor that the competitors should relish for the rest of their legal careers. We can expect that Lauren and Anthony will enjoy similar success and satisfaction in their careers.

"As a school with a specialization in dispute resolution, we all share in the current victory and the team members' future successes," Birke said.

The competition encourages law students to develop negotiating skills in a dispute resolution setting. Willamette's success was

Appleman, Binford, Cunningham-Parmeter Receive Tenure

Three Willamette law professors have received tenure — the highest number ever in one year, according to Dean Symeon C. Symeonides.

Laura I Appleman teaches criminal law, criminal procedure, and sentencing law and policy. A graduate of Yale Law School and a former criminal appellate public defender at the Center for Appellate Litigation, she joined the faculty in 2006.

Warren Binford directs the Clinical Law Program and teaches in the Child and Family Advocacy Clinic as well as the Business Law Clinic. A graduate of Harvard Law School, she joined the faculty in 2005 after eight years at a law firm specializing in commercial litigation and transactions.

Keith Cunningham-Parmeter teaches contracts, labor law, and employment law and discrimination. Before joining the faculty in 2006, he worked with the Oregon Law Center Farmworker Program. He is a graduate of Stanford Law School.

Willamette Lawyer asked the professors to tell us more about their lives outside the classroom. Here's what they said:



Appleman:

Q: What do you like to do in your spare time?

A: Read literary fiction, drink tea, walk around Portland, play with my toddler.

Q: What would people be surprised to know about you?

A: The "I" in Laura I Appleman is not an initial but my full middle name.

Q: Packers or Steelers?

A: Yankees.

Binford:

Q: What would people be surprised to know about you?

A: I was one of the first female snowboarders in the country. I have a collection of snowboarding licenses from the ski resorts that used to require them.

Q: Favorite movie?

A: I can really relate to "La Femme Nikita." If I'm taking someone out, I'm taking the whole room out and I've never learned to tone it down. I'm the Sylvester Stallone of litigation.

Q: Best trip you've ever taken?

A: To Asia to investigate and research child labor. Child labor is embedded in daily life in the developing world more than I'd realized. The memories keep me connected to my work.



Cunningham-Parmeter:

Q: Best movie you've ever seen?

A: "The Color Purple." The movie came out when I was 12 and I loved it. How many adolescent boys can say that?

Q: Best trip you've ever taken?

A: I-5 north from California to Eugene. I had just graduated from high school and was on my way to college. Little did I know that the most incredible woman in the world was waiting for me at the end of the road.



Q: Portland or Salem?

A: Are you kidding? Vancouver, definitely. Work tax-free in Washington and shop tax-free in Oregon.

Richard Birke Wins Writing Award



For the second time in just over a decade, Professor Richard Birke has won a writing award from a leading organization that promotes the use of alternative dispute resolution in business and public conflicts.

The New York-based CPR Institute for Dispute Resolution gave the award to

Birke for an article called “Neuroscience and Settlement: An Examination of Scientific Innovations and Practical Applications” that appeared last year in the *Ohio State Journal on Dispute Resolution*. The article explored the idea that neuroscience, with its ever-increasing ability to peer into the brain while it gathers information and makes decisions, creates opportunities to study why some disputes settle and some do not.

“Negotiators and mediators are among those who hope that neuroscience can make them better at what they do,” Birke wrote.

“Despite contributions from economics, psychology and self-study, negotiators and mediators still want perspective on how and why people make decisions under conditions of risk and uncertainty.”

Birke’s previous writing award was in 1999, for an article called “Psychological Principles in Negotiating Civil Settlements,” which he co-wrote with Craig R. Fox. It appeared in *Harvard Negotiation Law Review* and focused on psychological obstacles to resolving disputes in a rational way.

Helena Tavares Erickson, senior vice president and secretary of the CPR Institute for Dispute Resolution, said the five-judge award panel was nearly unanimous in its decision to give Birke the prize.

“It was an innovative piece that contributed something new to the field,” she said. “The judges felt his work was far and above the work of others.”

Robin Morris Collin Invited to the White House

Professor Robin Morris Collin attended the first-ever White House Environmental Justice Forum in December, an invitation-only event in which participants discussed investments in a clean energy economy and expanding opportunities for green jobs.

The day-long forum featured five Cabinet secretaries and senior officials from several federal agencies. The Oregon Environmental Justice Task Force was honored for its work helping to incorporate environmental justice issues into state agency programs. Morris Collin was a founding chairwoman of the organization and remains an active member.

“There is no sustainable society without justice,” Morris Collin said during the forum. “Collaboration with people who do not understand environmental justice sets us back, wastes our time and does a lot of bad things.”

Also last year, the Oregon State Bar’s Sustainable Futures Section gave Morris Collin its first-ever Sustainable Leadership Award for her work in environmental justice.

Morris Collin, who was the first law professor to teach sustainability at an American law school, heads Willamette’s Certificate Program in Sustainability Law. She has lectured and written widely on the subject of environmental justice, which

says that sustainability is a moral act. In her acceptance speech, she talked about the need to recognize the physical harm humans have done to the environment and the obligation to restore what has been damaged.

“This is recognition from my peers and I am deeply grateful for it,” Morris Collin said of her award. “To be valued is one of the most fulfilling experiences anyone can have.”

To see a video of the White House event, go to: www.youtube.com/watch?v=c5A1CK7O1g.



“There is no sustainable society without justice ... Collaboration with people who do not understand environmental justice sets us back, wastes our time and does a lot of bad things.”

Willamette Celebrates 20 Years of Mentoring Great Lawyers

Patricia Heatherman JD'93 graduated from law school almost two decades ago, but she still remembers the retired Oregon Supreme Court justice who helped her get a prestigious clerkship and her first job at a law firm in Bend, Ore.

"I was blessed with being assigned to retired Justice Howell," she said. "When you go to law school, you learn how to find the law and how to make arguments, but you don't learn anything about the business of owning a practice, or billing or client management."

Since 1991, that gap has been filled by mentors who show first-, second- and third-year law students the ropes. They instruct students on how to choose a practice area, how to apply for jobs and how to assess the trustworthiness of other lawyers. Often the mentors will reassure the students that they can, indeed, get through exams — just like they did.

Willamette's mentoring program, the first at any law school in Oregon, celebrates its 20th anniversary this year. (The program actually started as a women's-only opportunity in 1989, but at Heatherman's urging it was opened to men in 1991). At a reception last fall, Career Services Director Phylis Myles read part of a letter from D. Erik Larson JD'76 who said he has been mentoring students for about two decades.

"I tried to be a 'giver of advice' without being a know-it-all," Larson's letter said. "I have a network of friends from my mentoring scattered across the Pacific Northwest. Life is too short, and in this small way, I have made a contribution, and have made some great friends and am grateful to have been a part of our extended legal community."

Elizabeth Harchenko BS'72, JD'76, one of the program's first mentors, still keeps in touch with some of the students she guided. She has seen her students get married and start families. Coaching young people energizes her, she said.

"I remember what it was like as a student and wishing I could talk to someone about what it was like on the other side of the bar exam," she said. "I have a very strong value in investing in the profession."

Other states, concerned about the breakdown of civility and professionalism in law, are recognizing the importance of mentoring: Georgia and Utah now require new attorneys to be assigned mentors and Oregon is on track to do the same.

"The first year of practice is very stressful. You're affecting people — their lives, their businesses — by the decisions you make," Myles said. "You still need guidance when you get out of law school."

Willamette Mentoring by the Numbers

Number of students who signed up for the program in 1991–92:

40 1st Year
52 2nd Year

86

Number of attorneys who signed up to be mentors in 1991–92:

Number of students who signed up for the program in 2010–11:

121 1st Year
65 2nd Year

124

Number of attorneys who signed up to be mentors in 2010–11:

Percentage of first-year law students who have signed up for the program:

77%



Deborah Mosman Retires

Deborah Mosman, the law school's career services coordinator, has retired. Mosman, who worked for the school for 22 years, says she plans to travel, spend time with her grandchildren and perhaps learn to play the harp.

Mosman connected students with internship and job opportunities; gave advice on resume writing and what kind of clothing to wear to an interview; and urged students to write thank-you notes at the end.

"She stays calm during times of disaster when students don't get the jobs they wanted," said Phylis Miles, Willamette's director of career services, at Mosman's retirement party. "Debi's worked with more than 3,000 law students and I wouldn't be surprised if she knows the name of every one."

Mosman says her career has been fulfilling and that she has seen many success stories in her two decades at Willamette.

"I have found that practicing lawyers love to help students," she says. "Some students say, 'Oh, I don't want to brown-nose.' But the lawyers are a wonderful resource for them and they need to understand that."

Lawyers and Academics Meet to Discuss Water as a Human Right

Is water a human right? And if so, how should it be allocated in a way to assure clean water for everyone in a time of increasing scarcity?

A group of 50 lawyers and academics tackled that provocative question during a three-day conference in February called, "Implementing the Human Right to Water in the West." Participants, led by Professors Susan L. Smith and Robin Morris Collin, tackled five issues: Defining and enforcing the international human right to water; defining the human right to water in the West; how Western water law currently secures the human right to water; water conservation and water supply; and designing institutions and defining roles in securing the human right to water.

Participants agreed that the human right to water must be defined in terms of producing "reasonable and affordable access to sufficient quantities and quality of water for drinking, cooking and hygiene."

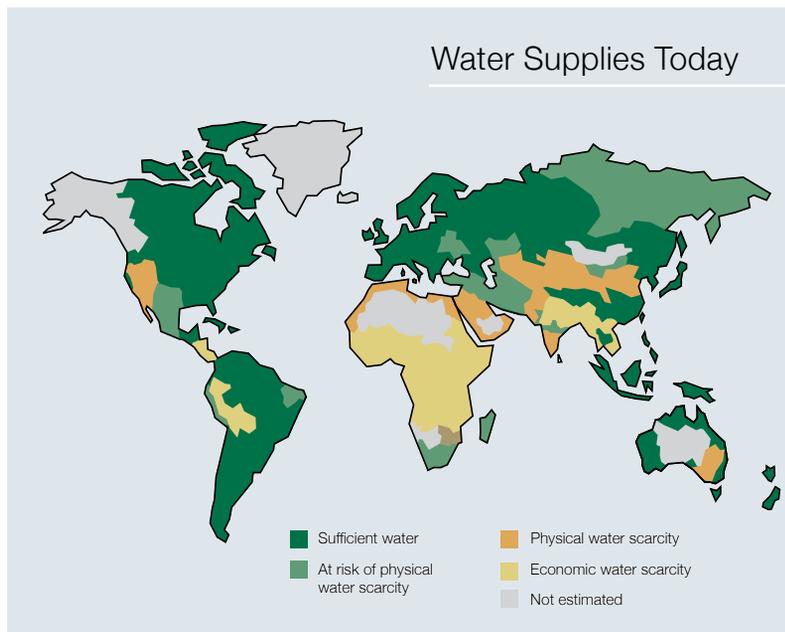
Elizabeth "Betsy" Burluson, a professor at the University of South Dakota School of Law, said the idea of water as a basic right is starting to show up in international treaties that deal with human rights. "The human right to water versus whether water is a commodity ... those terms are loaded," she told participants. "People get very emotional about the language."

Climate change and population growth are transforming regions with sufficient water into areas with long-term shortages. Even in places with an adequate supply, water may be polluted by mining and logging and destructive agricultural practices as well as by municipal sewage and industrial discharges.

The goal of the conference was to produce a report that will be submitted to the U.N.'s expert on the Human Right to Water.

Papers submitted by academics from around the world discussed the role of tribes in the water rights debate and raised the concern that the definition of water as a human right should be communal rather than focused on the individual.

Participants agreed that the human right to water must be defined in terms of producing "reasonable and affordable access to sufficient quantities and quality of water for drinking, cooking and hygiene." They decided that extending the definition to include corporations was unwise because "it's going to be difficult to



draw principled lines between subsistence farming and gardening uses and commercial needs for large corporations," Smith said. "There was a sense that if you go in that direction, you won't be able to control that line."



From left: conference organizers Sarah Hunt Vasche JD'08, Tom Dimitre JD'10, Jon Clyde JD'09 and James Culliton JD'09 with Conference co-chair Prof. Susan L. Smith

Lisa Murkowski Wins Office in Historic Re-election



After an arduous campaign that involved instructing voters how to spell her name, U.S. Sen. Lisa Murkowski JD'85 won re-election to the Senate seat she has held since her appointment to the post in 2002.

Murkowski was aided by Mary K. Hughes JD'74, who co-chaired Murkowski's state campaign. After losing in the primary to a tea party candidate backed by former Alaska Gov. Sarah Palin, Murkowski considered her options: Concede the race, run as a Libertarian or stay in. She decided to stay.

"After she decided she was going to run a write-in campaign, there was a rally and the crowd wasn't just a Republican gathering," Hughes said. "It was composed of all Alaskans: The firefighters, the teachers' union, Alaska native leaders and even women lawyers. Everybody was so happy they had a choice."

Campaign officials launched statewide ads instructing voters how to write Murkowski's name on the ballot. They distributed blue bracelets to campaign workers with Murkowski's name and the words, "fill it in, write it in."

The tactic worked. Murkowski beat Republican Joe Miller, becoming only the second candidate in the nation's history to run a successful write-in campaign for the U.S. Senate.

"After she decided she was going to run a write-in campaign, there was a rally and the crowd wasn't just a Republican gathering."



Amanda Marshall up for U.S. Attorney in Oregon

Amanda Marshall JD'95 may be the next U.S. Attorney for Oregon — providing the U.S. Senate confirms her nomination by President Obama.

If she gets the job, Marshall will be the top federal prosecutor in the state. She'll lead a team of more than 50 lawyers handling drug and gun cases, sex trafficking cases, mortgage fraud, environmental crimes and cases involving national security and terrorism.

"It's an amazing opportunity," she says. "I feel so honored and incredibly blessed and overwhelmed to be able to serve the state of Oregon and the United States at this level."

Obama nominated Marshall last year but the Senate adjourned without making a decision. She is expected to be confirmed this year.

Marshall is the attorney in charge of the child advocacy section of the Oregon Department of Justice. She previously served as an assistant attorney general. She also has worked as a deputy district attorney for the District Attorney's Office of Coos County.

"Amanda Marshall has shown an unwavering commitment to justice throughout her career," President Obama said in a news

release. "I am confident she will continue to serve the people of Oregon with distinction."

Tom Towslee, a spokesman for U.S. Sen. Ron Wyden, says Marshall was a standout candidate.

"She's got live courtroom experience and administrative experience to go with it," Towslee said. "Ron's a big advocate about doing something about sex trafficking and this plays right into it."

Wyden has introduced legislation that would send federal funds to combat sex trafficking in regions of the country with the greatest need, including Oregon. Marshall's experience handling sex trafficking cases helped her candidacy, Towslee said.

Interim U.S. Attorney Dwight C. Holton has held the job since February 2010. Former U.S. Attorney Karin Immergut submitted her resignation at the start of the Obama Administration.

The job has been a steppingstone to judgeships for some former U.S. attorneys. But Marshall says she's open to anything, even returning to her alma mater: "I think it would be really enjoyable to come back to Willamette and teach criminal law," she says.

Liani Reeves Appointed Governor's Chief Legal Advisor



Oregon Gov. John Kitzhaber has chosen Willamette University alumna Liani Reeves BA'98, JD'01 to be his chief legal advisor.

Reeves will provide independent legal advice to the governor, which includes assisting in extradition and clemency matters and vetting the appointments of district attorneys and judges. Reeves has chosen Steve Powers JD'01 as her deputy.

"I've always had an interest in government, which is why I went to Willamette," Reeves said. "This position is right in the middle of decisions that impact people all over the state. It's overwhelming but exciting."

Reeves, who earned her bachelor's degree in religious studies, most recently worked as deputy chief trial counsel for the Oregon Department of Justice. Before joining the department, she

worked for the National Crime Victim Law Institute, studying cases of sexual violence against women and working to strike down laws that negatively impacted victims.

She also leads the Oregon Commission on Asian Affairs, is active in the Oregon Minority Lawyers Association and mentors minority law students. Her professional and community achievements caused the *Portland Business Journal* to name her one of its Forty Under 40 last year.

Reeves said she'll miss her colleagues in the Department of Justice, where she defends the state in employment disputes. And she loves the courtroom. But she's looking forward to broad exposure to a variety of topics in the governor's office at a time when the state is facing difficult economic circumstances.

"Having a solid legal background is important," she said. "For this job in particular, you have to be a generalist in a lot of different areas because you never know what will come up."

Wallace P. Carson, Jr. Named Salem's First Citizen

Former Oregon Supreme Court Chief Justice Wallace P. Carson Jr. JD'62 has been named Salem's First Citizen, an honor the Salem Chamber of Commerce gives every year to outstanding residents who have contributed to the community.

Recipients are nominated by fellow community members and selected by a committee comprised of local business and community leaders. Carson is the 61st recipient.

"Our 61st First Citizen has definitely had a life full of professional accomplishments and we honor him for his profound dedication to others outside his many roles in Oregon's judicial system," said Dr. Bud Pierce and his wife, Dr. Selma Pierce, the chamber's 2009 recipients, at the awards banquet. "It almost seems unfathomable that the same individual has accomplished such an unwavering reputation for his longstanding service as a lawyer, county judge, Oregon chief justice and avid community volunteer."

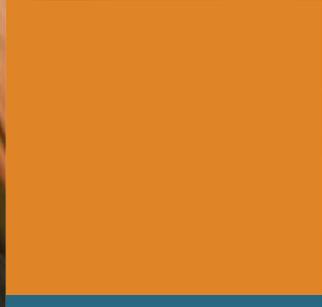
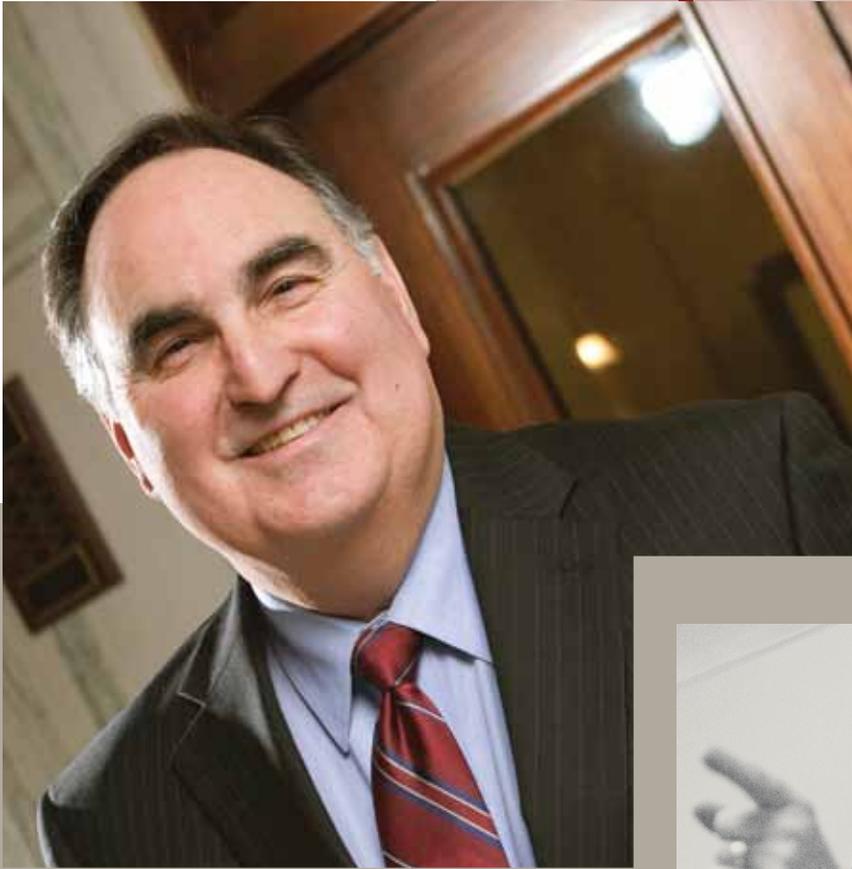
Carson, 76, known as "Wally," was appointed a Marion County Circuit Court judge in 1977, and five years later won appointment to the Oregon Supreme Court. He stayed 14 years — the longest of any chief justice in Oregon — until retiring in 2006.

Carson and his wife, Gloria, helped establish a clothing closet that benefits hundreds of children every year. He serves on Willamette University's Board of Trustees and is on the board of directors for Family Building Blocks, a private, nonprofit organization that provides services to high-risk families with young children.

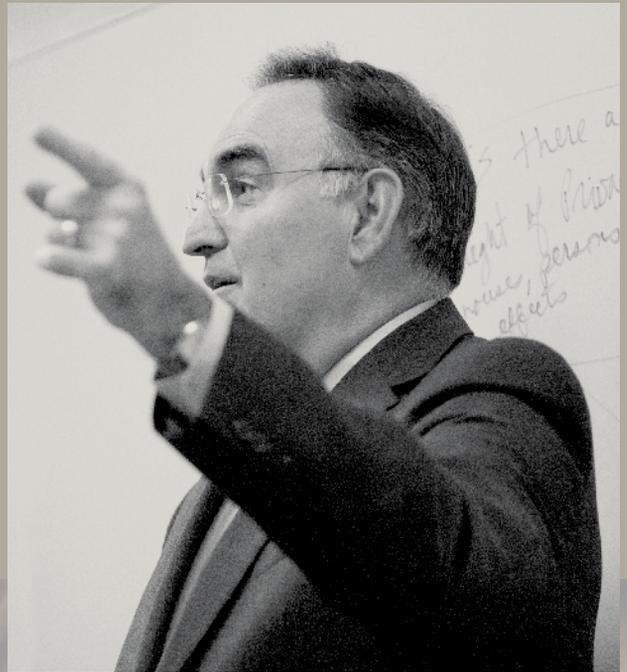
Carson served in the military. He also served in the Oregon House of Representatives and the Senate. A native of Salem, Carson received an undergraduate degree at Stanford before coming home for law school.

Carson has been on many local boards and commissions, including the Salem Planning Commission and the Advisory Board of the YMCA Youth and Government Program.





A





MAN FOR

As the public face of Oregon's court system and someone with a compelling life story, Oregon Supreme Court Chief Justice Paul J. De Muniz JD'75 can draw on any number of anecdotes and experiences to explain how the courts work and why they need to be funded adequately.

De Muniz could, for example, cite his atypical childhood to say that the justice system shouldn't give up on kids. Or he could talk about the history-making case of the migrant worker he helped free from prison because the guy didn't understand his court translator. Or he could recount his years as a defense attorney going up against hard-charging prosecutors and hostile juries.

But at a time when the state is short of money and the courts find themselves competing against other agencies for an ever-shrinking slice of the budgetary pie, high-minded discussions about the courts' role in dispensing justice won't cut it. So for the past five years De Muniz has crusaded relentlessly to restructure Oregon's justice system by requiring it to operate efficiently — and remain accessible to everyone. In the process he has moved to the forefront of a burgeoning nationwide movement to re-think how courts work.



THE TIMES



A COURT IN CRISIS

When his colleagues elected him as chief justice in 2005, De Muniz took over a court system that had been led by “the right men for the times,” according to recently retired Justice Michael Gillette. But repeated economic crises and battles with the Legislature had taken their toll. Salaries for Oregon judges ranked at the bottom nationwide; several courthouses around the state, according to a 2008 legislative study, were literally falling apart.

“Our system of government requires so much from us, we have to be engaged with all aspects — on all levels of society.”

De Muniz realized he needed to repair relationships with the Legislature, so he began a campaign to win the trust of lawmakers and the support

of the business community. He met lawmakers outside the Capitol and invited them to his home. He approached the managing partners of the largest law firms in Portland and asked them to introduce him to their CEO clients. There was one condition: The CEOs could ask him anything they wanted — as long as he got five minutes to explain how important the courts were to the state’s economic prosperity and that the recruitment and retention of well-paid judges were important to the lives of Oregonians. The effort paid off with lawmakers granting judges a pay raise of 19.4 percent. Lawmakers also severed the tie between judges’ and legislators’ salaries and reactivated the Public Officials Compensation Commission.

As the composition of the Legislature changed, De Muniz gained the respect of lawmakers. Republican Rep. Bruce Hanna, co-speaker of the Oregon House of Representatives, says De Muniz has helped him better understand the needs of the judicial branch.

“His reputation is really good. He’s honest about his approach and he’s been proactive about making change,” Hanna says. “There’s no barrier to getting to the top of that branch of government and that’s critically important.”

To keep the Supreme Court engaged with Oregonians, De Muniz continued the tradition of taking Supreme Court cases “on the road,” but expanded them to town hall affairs in which

Education: Portland State University, Willamette University College of Law

Appointed to Oregon Court of Appeals: 1990

Elected to Oregon Supreme Court: 2000

Elected by his fellow justices to the position of chief justice: 2005

Connection to Willamette: Board of Trustees member; adjunct law school professor

Outside activities: Served on the Defense Advisory Committee on Women in the Services (DACOWITS); established a partnership between the Oregon judicial system and Russia to reform that country's criminal justice system

Awards: Global Business Award, the Oregon Hispanic Bar Association's Inaugural Paul J. De Muniz Professionalism Award, the Edwin J. Peterson Racial Reconciliation Award, the National Association of Criminal Defense Lawyers Judicial Recognition Award and the Oregon Area Jewish Committee 2010 Judge Learned Hand Lifetime Achievement Award

Memorable quote: "This job requires every ounce of energy and intellect. I feel humbled and invigorated I have the opportunity to do this and to make a difference."

"His reputation is really good. He's honest about his approach and he's been proactive about making change."



students, community members and local legislators discussed the role of courts in government. De Muniz even took the court to Klamath Falls to hear oral arguments on a court battle between irrigation-hungry Klamath area farmers and federal officials who had shut off their water. The event, held in the Klamath Union High School gymnasium, drew an audience of 350.

"I see the courts as having to be actively involved in their communities," De Muniz says. "We are not particularly well-equipped for the political give-and-take because we have no favors to give. But that doesn't mean that the courts are without stakeholders and constituencies. Society demands so much from us, we have to be engaged on all levels."



From Left: Paul De Muniz, Pete De Muniz (son), Paige (Allen) De Muniz JD'08 (daughter-in-law), Mike De Muniz JD'08 (son), Josh Mosar (grandson) Carrie Mosar (daughter), Mike Mosar (son-in-law), Mary De Muniz (wife) after Mike and Paige's graduation from WUCL in 2008. Paul gave the commencement address.



Qui Nhon, South Vietnam
June, 1968

NOT A LIFE HE IMAGINED

Becoming a chief justice — with his own Wikipedia entry and a state trooper to drive him around the state — is not the life De Muniz imagined growing up in Portland. His parents divorced when he was 1; he was raised by his mother and his grandparents. His grandfather read him *Treasure Island* and *Robinson Crusoe* when he was a toddler and he says that spurred a lifelong fascination with

books. He reads criminal dramas, biographies of historical figures and owns every book written by or about Supreme Court Justice Oliver Wendell Holmes, Jr.

“He was always respectful of the bench and the DAs but he didn’t mind going toe-to-toe with them and beat[ing] them at their own game.”

De Muniz says that he was “not an outstanding student” in high school, but he made up for that with hard work. He bused dishes at a restaurant when he was a teenager, enlisted in the Air Force after high school and was sent to

Vietnam in 1968. “College was not a guaranteed part of my future,” he says. He got through Portland State in 2½ years on the G.I. Bill and worked nights unloading freight to put himself through college and law school.



De Muniz as a 1L at Willamette University in the early 1970s.



Salem in NYC: Upon his presentation of the Justice Brennan lecture at NYU in November 2010, Paul and Mary De Muniz are joined by Christopher Symeonides (left) and Mike Bennett (right), director of development and alumni relations.

De Muniz got the attention of Oregon's legal community when he successfully argued a case in the Oregon Court of Appeals as a third-year law student. After he entered private practice, he grabbed headlines with the case of migrant worker Santiago Ventura Morales, who was wrongfully convicted of murder in 1986 for allegedly killing a fellow worker. Morales, whose primary language was an indigenous Mexican dialect, had a court interpreter who spoke only Spanish. De Muniz represented Morales pro bono and was instrumental in getting the conviction overturned.

De Muniz built a reputation as one of the most skilled defense attorneys in the state.

"He was extremely smart and creative," says John Hemann BA'65, JD'68, a former partner and now retired from Garrett Hemann Robertson, P.C. "He was always respectful of the bench and the DAs but he didn't mind going toe-to-toe with them and beat[ing] them at their own game. After a while the word got out that he wasn't someone to be messed with." De Muniz was so resourceful, Hemann said, that when a judge refused to allow him to inspect a house as part of his trial preparation, De Muniz requested — and got — money from the court to re-create the interior. When he was chosen for jury duty, prosecutors and defense attorneys were so confident he'd be impartial that they didn't eliminate him during jury selection. He ended up serving as a grand jury foreman.

RE-ENGINEERING THE COURTS



The high school students visiting the Supreme Court on a field trip look slightly bored as the opposing lawyers argue about the details of an automobile accident insurance payout. They become more animated afterward when De Muniz explains the outlines of the case to them and then describes how the court system works.

“The Supreme Court is at the intersection of every political, economic and social issue of your time,” he says in his talk about the importance of civic education and the role of the courts. “You can’t take that understanding for granted. It has to be taught and nurtured with every generation.”

But the lofty words don’t always jibe with the reality of shrinking budgets. That’s why De Muniz is so passionate about re-making the courts. He has seen what happens when the wrong man is imprisoned because the translator doesn’t speak his language, but he also knows the economic realities on the ground. Re-engineering the courts is his implicit acknowledgment that Oregon’s financial crisis isn’t temporary.

“A court system is not like a faucet that can be turned on and off at will. It is not a program to which you can restrict eligibility. Timely and complete justice is a constitutional right for Oregonians.”

In October 2010, De Muniz gave the Justice William Brennan Jr. Lecture on State Courts and Social Justice at New York University Law School. He said that judicial leaders must critically examine traditions, culture and processes that courts have developed or accepted for hundreds of years.

His goal is to make Oregon’s courts the first in the nation to be fully electronic and accessible to the public 24 hours a day, seven days a week. Other initiatives include electronically processing

collections, traffic citations and jury management in a central location instead of through 27 separate judicial districts; assigning complex civil cases to judges experienced in such litigation regardless of where the case is filed; and centralizing the adjudication of prisoner lawsuits.

“It is time to change at a fundamental level the nature of the discourse between our three branches of government respecting how we fund our state’s court system,” he says. “A court system is not like a faucet that can be turned on and off at will. It is not a program to which you can restrict eligibility. Timely and complete justice is a constitutional right for Oregonians.”



IN HIS OWN WORDS...

Part of the job of an Oregon Supreme Court chief justice is to give a lot of speeches. The following is a sampling of some of Chief Justice De Muniz's speeches through the years:

August 2008

IN OREGON, we have an excellent judiciary, one that is hard-working, innovative and dedicated to the rule of law. But we also have a judiciary that has been laboring for decades under only sporadic increases in salary, that has no mechanism to ensure the periodic adjustment of compensation to account for inflation, and that in recent decades has ranked either at or near the bottom of judicial pay across the nation. In other words, the threat that the status quo presents to our judicial system as an impartial and co-equal branch of state government is very real.

Not only do courts have no sword and no purse, they also have no constituency in the traditional sense. Added to that is the fact the courts administer an adversarial

IN HIS OWN WORDS...

system of justice that produces winners and losers, and judges — no matter how hard they might try — necessarily are in the business of disappointing at least 50 percent of the people who appear before them. Taken together, those factors do not make for a branch of government that is particularly adept at representing its own interests, but they do in combination make for a body of public servants that can easily be overlooked.

— The Chief Justice's 2008 Report on Judicial Compensation

Oct. 27, 2010

STATE JUDICIAL branch leaders should view state government's present fiscal difficulties less as a crisis and more as an opportunity to dramatically improve judicial productivity and service quality by re-engineering court structures and operations in a way that will increase efficiencies while improving services to the public ... If re-engineering is left for another generation of court leaders, our state court systems will, in the interim, potentially face two kinds of competing chaos. The first will come about through the steady diminishment of timely citizen access to justice as state courts acquiesce in repeated cuts to judicial resources. The second will manifest itself if state judiciaries are forced to actively battle the other branches of state government for those resources and leave a flurry of state constitutional crises in their wake. The effort to reengineer our state courts, while undoubtedly arduous, represents a middle way that is a constructive alternative to both.

— The 17th Justice William J. Brennan Jr. Lecture, New York University

May 31, 2010

WHAT, THEN, is the purpose for gathering together today? And my response is this: The soldier's faith does not need us; it is we who need the soldier's faith. It is we who benefit from the examples of selflessness that this day commemorates; it is we who glimpse a measure of the divine in the bravery of men and women recounted by these monuments. I ask that all of us drink deeply from this well: First, so that we will not falter when we are called upon to provide for the veterans now in our midst and those yet to come. Let us demonstrate, let us legislate, and if necessary, let us litigate our unceasing commitment to meet the needs of our newest generation of veterans, however great or small.

— Memorial Day address,
Willamette National Cemetery



Dec. 2, 2010

OREGON'S BUSINESSES and consumers need timely access to the courts to resolve a myriad of economic issues, ranging from collecting small claims debts and enforcing landlord/tenant laws all the way up to multimillion dollar contract disputes and injury or liability claims. Timely decisions in these cases are crucial to Oregon's economic well-being and regulatory functioning.

— Letter to Oregon Governor-elect John Kitzhaber

Jan. 7, 2011

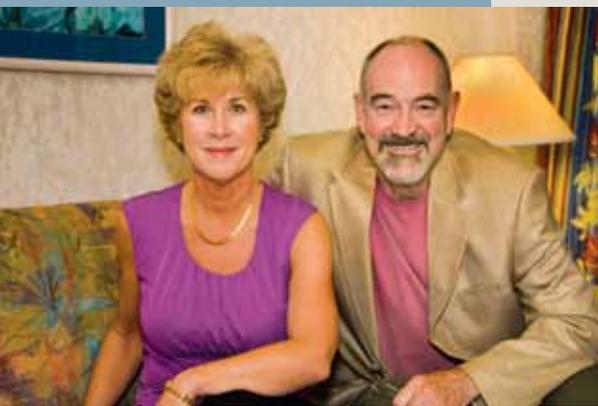
IF YOU are a student of Oregon history, you might know that many of the hallmark laws that define our state – public beaches, the bottle bill, land-use planning – all are in place today because they were upheld by the courts. Oregon must return to the practice of having its policy dictate the budget, and not having the budget establish Oregon policy. It is not a question of how much justice we can afford. Providing justice completely and without delay is the constitutional policy of this state, and our elected leadership must provide a budget sufficient to carry out that constitutional mandate.

— "The State of the Courts" speech, City Club of Salem

Great Judges, A Great Willamette Tradition

Willamette University College of Law has a reputation throughout the Pacific Northwest for seeding the federal, state and local benches.

by Cliff Collins



Marion County Circuit Court Presiding Judge James L. Rhoades and Marion County Circuit Court Judge Don A. Dickey

They met when James L. Rhoades JD'78 was in law school and Don A. Dickey JD'72 was an associate interviewing students for clerkships at his firm. She didn't get the job.

"It was the best interview of my life," Rhoades remembers, but within days she found out he had hired her roommate instead. Rhoades, however, got her revenge: Less than a month after that interview, Dickey asked Rhoades for a date. Four years later, they married.

The two laugh about it now, but also acknowledge that, had Rhoades been hired at Dickey's firm, things would have turned out differently.

"We would not have become a couple if he had hired me," she insists. "He was a very proper lawyer, very buttoned-down when he was at work, and it was a very conservative law firm. It would have been so highly inappropriate for the young associate to date a law clerk that I believe he simply would have shut down any such thoughts."

Although Rhoades is the county's presiding judge, and thus Dickey's boss, charges relating to favoritism don't crop up. That's partly because Marion County's cases get assigned at random, and Rhoades doesn't have control over her husband's calendar.

Both bring different backgrounds to their jobs. Dickey, an Arkansas native raised mostly in Coquille, Ore., coached sports and taught school before becoming a lawyer. His work had been on the civil side, as a mediator and arbitrator for a dozen years. Rhoades, born in Wichita, Kan., and raised from fourth grade in Edmonds, Wash., spent eight years as a prosecutor in Multnomah and Marion counties before being appointed a judge.

At home, they often talk shop. "Being a trial judge can be very solitary work," Rhoades says. "You, and you alone, are responsible to make the decisions. It can be enormously helpful to consult with a colleague whose judgment you trust, particularly in areas of the law that are outside of your comfort zone. I believe it has made us each better judges." Adds Dickey: "Judges come from lots of different places. And thank goodness they do."

When Dickey became a circuit court judge in 1998, he was the only one in Marion County with experience in settlements. The idea of mediation was new to the county, he says. It soon became his specialty, and he doesn't handle criminal cases.

After moving to the bench, Rhoades found that she had to convert from being an actor to a reactor.

“Judges are supposed to be shed of personality; thus the robe,” she says. “But you bring your personality to that job.” To be an effective judge, one must possess the right type of judicial temperament and be a “thoughtful, compassionate listener,” she says.

The couple’s two children grew up hearing court stories. Daughter Megan Dickey once worked at juvenile court but now is studying to become a dietitian. Son Travis Dickey went to law school and passed the bar in 2009.

Off-duty, Rhoades and Dickey enjoy taking weeklong bicycle trips. Looking back on their first meeting, Dickey jokes that Rhoades “didn’t get that job,” but she ended up being the boss, both at work and away.



Multnomah County Circuit Court Judge Janice R. Wilson

The vanishing jury trial has become something of a crusade for Janice R. Wilson BA’76, JD’79, a judge for two decades.

“I think people thought arbitration would offer the same experience to lawyers as trials, but it didn’t,” she says. “The right to a jury trial is worthless if you don’t have lawyers and judges experienced in doing trials.”

Wilson has made her mark educating juries. A juror orientation video now used statewide was based on the jury instructions she gave in a jury assembly room. The intent is to help jurors do their job and understand their role.

“This is really gratifying to me,” Wilson says. “I feel like I’ve made a tiny dent.”

A native Oregonian raised in Beaverton, Wilson graduated first in her class from law school. She clerked two years for 9th U.S. Circuit Court of Appeals Judge Otto R. Skopil Jr. BA’41, LLB’46, H’83, who strongly influenced her. She reached partner in private practice, but after she was appointed a district judge, she realized that was where she should be.

“When I got into this, I thought, ‘This is what I was supposed to be doing.’ I felt being a judge was a calling,” Wilson says.

Wilson is modest about her numerous volunteer contributions to the community and the profession.

“I have trouble saying ‘no’ to people,” she says. “I see something and think, ‘Maybe we can make it even better.’ I can’t stand to just wring my hands.”

Wilson is grateful for her legal education at Willamette, and says the school’s graduates have had a major impact.

“I once told one of my colleagues that if we all wore Bearcat maroon and gold beanies on the bench, people would appreciate what an influence our law school has had on Oregon’s courts.”



Retired Maine Justice Caroline Duby Glassman

When Caroline Duby Glassman LLB'44, H'94 was in law school with only one other woman, a professor greeted students with, "Good morning, gentlemen."

"It didn't occur to us to be offended by that," Glassman says. The two also ignored professors' offers to be excused from discussions of grisly criminal cases. The dean had discouraged Glassman from enrolling, and her father refused to give her money for law school. Glassman took a job as a waitress to pay her own way.

Her first legal job was as a title insurance attorney. She then traveled the country, established bar residency in California working as a legal secretary and was hired by famed personal injury lawyer Melvin M. Belli, who she says did not care what gender or color one was; lawyers were lawyers. As a result, Glassman — who had been raised in Eastern Oregon on a cattle ranch and educated in a one-room schoolhouse — became the only female attorney in San Francisco practicing trial law. She worked with Belli for a decade.

Glassman married a lawyer who later became the first faculty member of the University of Maine School of Law. The couple raised a son, and she didn't return to practice until he turned 14. Twelve years later, she was appointed to the Maine Supreme Judicial Court, becoming the first woman to achieve that honor.

Glassman served on the court for 14 years and retired in 1997 but has remained active on boards and in community service. In 1993, the Maine State Bar Association created an award in her name, given annually to a Maine attorney who has worked to advance the position of women in the profession.



U.S. Magistrate Judge John Jelderks

Over his nearly four decades as a judge — the last 20 years on the federal bench — John Jelderks BA'60, JD'64 has presided over some of Oregon's most prominent and controversial cases, including the one involving Kennewick Man and several involving members of the Rajneesh movement.

The changes he has seen have been immense. When he was appointed presiding district judge in 1972 for Hood River, Wasco, Sherman, Gilliam and Wheeler counties, "I was the busiest judge for a single-judge circuit in the state, with more than 100 trials a year," he says.

Now, with the emphasis on alternative dispute resolution for civil cases, "I see tens of thousands (of dollars) spent on discovery about cases, the vast majority of which never go to trial," Jelderks says. "We should have more civil trials. There are a lot of gray areas of the law that need to get refined."

On the criminal side, the power has shifted to prosecutors as a result of mandatory sentences and guidelines, Jelderks says. "Sentences have become much more punitive in both state and federal courts. There was a time when the system was too soft; I had trouble putting killers in jail. Now there are a number of people who are serving too long."

A native of Salem, Jelderks and a friend of his expressed an early interest in becoming lawyers. But on high school career day, after a lawyer painted a dismal picture of the profession, both decided against that course. As a result, Jelderks floundered for several years, not knowing what he wanted to do. Then while he was an undergraduate, Jelderks met a law graduate who “represented the best of the profession in all respects,” and he decided to become an attorney.

“I haven’t regretted it,” he says. “I’ve enjoyed being a judge, and that’s why I continue to work,” albeit with a reduced caseload.



**Multnomah County District Court Judge
Angel Lopez**

Angel Lopez JD’78, one of the newer appointees to the circuit court bench, says his new job is the fulfillment of a dream. Twice he applied for the job, and twice he was passed over. Now, he says, he’s delighted at the chance to handle a variety of complex and low-level cases.

“I have the ability to communicate with people from all walks of society because I’ve been there,” he says. “I’ve been very poor. I’ve lived in the ghetto. Sometimes I believe I’ve been put in the world to be an interpreter

between those who are brilliant and those who aren’t.”

Lopez was raised in a low-income area of Los Angeles. He was accepted to a private high school and decided to become a lawyer — inspired, in part, by a classmate’s father who was a judge. Among his siblings, he was the only one to go to college. At Willamette, he was one of only a few Latinos on campus.

“I questioned whether I belonged there because no one was reflecting back to me what I looked like,” he says. But after meeting Rocky Barilla, a well-known Legal Aid lawyer, Lopez said he realized “it’s OK to be a lawyer here, it’s OK to go to school here.”

Lopez became a defense attorney and practiced law with his wife, Wendy Squires JD’79 for 23 years before he was appointed to the bench. He directed the Oregon State Bar’s affirmative action program and co-chaired the Oregon Commission on Hispanic Affairs.

One of the benefits of being a bilingual judge, Lopez says, is the relief he sees on the faces of criminal defendants when he addresses them in Spanish.

“Their body really relaxes, that someone can talk to them in their language, understand their culture,” he says. “The level of trust goes way up.”

Great Judges, a Great Willamette Tradition

Below is a list of current and retired judges who are graduates of the College of Law. This list is culled from a keyword search of alumni records so it is possible we may have unintentionally left off some names. If we have, please let us know by contacting our alumni relations office at (800) 930-ALUM (2586) or cmccann@willamette.edu. For those who are members of this elite community, congratulations. You make Willamette proud.

FEDERAL COURTS

U.S. COURT OF APPEALS

Skopil Jr.	Otto	BA'41, JD'46	9th Circuit
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U.S. DISTRICT COURTS

Cooney	John	JD'62	Ore.
Fitzgerald	James	BA'50, JD'51	Alaska
Jelderks	John	BA'60, JD'64	Ore.
McQuaid Jr.	Robert	JD'71	Nev.
Settle	Benjamin	JD'72	Wash.

U.S. BANKRUPTCY COURTS

Haines Jr.	James	JD'77	Maine
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MILITARY COURTS

Murdock	John	JD'74	Va.
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TRIBAL COURTS

Adams	Lisa (Henderson)	JD'90	Neb.
Myers	Karliin	JD/C'90	Utah
Pearson	Mary	JD'76	Idaho
Stevenson	George	JD'76	Ore.

STATE SUPREME COURTS

Carson Jr.	Wallace	JD'62	Ore.
De Muniz	Paul	JD'75	Ore.
Glassman	Caroline (Duby)	JD'44	Maine
Ireland	Faith (Enyeart)	JD'69	Wash.
Leeson	Susan	BS'68, JD'81	Ore.
Linder	Virginia	JD'80	Ore.

STATE COURTS OF APPEAL

Deits	Mary (Gordenier)	JD'74	Ore.
Edmonds Jr.	Walter	JD'67	Ore.
Johanson	Jill	JD'85	Wash.

CIRCUIT/DISTRICT/SUPERIOR

Abernethy	Pamela	JD'80	Ore.
Adkisson	Marci (Warner)	JD'88	Ore.
Albright	Harold	JD'71	Nev.
Anderson	Glen	JD'74	Alaska
Ash	Carol (Kinder)	JD'81	Calif.
Avera II	Fred	JD'76	Ore.
Baisinger	Glen	JD'74	Ore.

Barber Sr.	Richard	JD'55	Ore.
Barron	Richard	JD'70	Ore.
Batthey	David	JD'78	Minn.
Bispham	Carol	JD'87	Ore.
Brady	Alta	JD'83	Ore.
Branford	Thomas	BA'68, JD'73	Ore.
Broyles	Audrey (Broyles)	BA'85, JD'88	Ore.
Burge	Frances (Roberts)	JD'98	Ore.
Butterfield	Eric	JD'91	Ore.
Carnahan	Lew	JD'71	Nev.
Casey	Paula	BA'69, JD'72	Wash.
Clark	Brian	JD'91	Alaska
Collins	John	JD'72	Ore.
Connell	David	JD'74	Ore.
Crowley	Paul	JD'85	Ore.
Davis	Ross	JD'67	Ore.
Dickerson	Henry	BA'64, JD'68	Ore.
Dickey	Don	JD'72	Ore.
Donnell	James	BA'61, JD'64	Ore.
Ellis	James	BA'52, JD'56	Ore.
Erwin	Andrew	MAT'92, JD/C'96	Ore.
Fun Jr.	James	JD'87	Ore.
Gamble	David	JD'76	Nev.
Gannett	Frederick	JD'86	Colo.
Graves	Dennis	BA'70, JD'73	Ore.
Guimond	Joseph	JD'75	Ore.
Haas	Harl	JD'61	Ore.
Hantke	David	JD'77	Ore.
Haynes	Lansing	JD'82	Idaho
Hill	Daniel	JD'86	Ore.
Horner	William	JD'68	Ore.
Hudson	Judith	JD'84	Ore.
Hunt	Nelson	JD'78	Wash.
Jack	Alan	BA'60, JD'60	Ore.
Jones	Jeffrey	JD'80	Ore.
Knight	Frank	JD'62	Ore.
Lawler	James	JD'82	Wash.
Lawrence-Berrey	Robert	JD/C'89	Wash.
Leonard	Kip	JD'75	Ore.
Lopez	Angel	JD'78	Ore.
Loy	Michael	BA'73, JD'76	Ore.
Lund	Jon	JD'66	Ore.
Luukinen	Charles	JD'75	Ore.
Mackay	William	JD'84	Ore.
Marshall	Christopher	JD'85	Ore.

Martin	Elizabeth (Pike)	JD'82	Wash.
McCauley	Francis	JD'79	Wash.
McNish	Douglas	BA'66, JD'69	Hawaii
Midlam	Kevin	BS'61, JD'63	Calif.
Millikan	Robert	BA'68, JD'71	Ore.
Morgan	Robert	JD'61	Ore.
Murgo	Rudolph	JD'75	Ore.
Murphy	Daniel	JD'80	Ore.
Nakashima	Steven	JD'79	Hawaii
Needy	David	JD'80	Wash.
Norblad III	Albin	JD'65	Ore.
Olsen	Clifford	JD'49	Ore.
Perkins	Edward	JD'74	Ore.
Prall	Tracy (Newell)	JD'95	Ore.
Preston	Anne	JD'83	Alaska
Redding	Robert	JD'67	Ore.
Rhoades	Jamese	JD'78	Ore.
Romanchak	Eric	JD'70	Hawaii
Sams	Charles	JD'64	Ore.
Schacht	Donald	JD'72	Wash.
Schiveley	Mark	JD'75	Ore.
Seitz	Joan (Glawe)	JD'74	Ore.
Selander	Robert	BA'68, JD'72	Ore.
Steinheimer	Connie	JD'79	Nev.
Stephens	Trevor	BS'81, JD'85	Alaska
Stuart	Diana	JD'77	Ore.
Thompson	Gary	JD'72	Ore.
Tollefson	Brian	JD'76	Wash.
Tollefson Jr.	Rudolph	JD'72	Wash.
Van Nuys	Heather	JD'80	Wash.
Voy	William	JD'86	Nev.
Walberg	Robert	JD'62	Ore.
Wallace	Jeffrey	JD'76	Ore.
Weber	Katherine	JD/C'94	Ore.
West	Charles	JD'72	Ore.
Wheatley	Horace	JD'64	Calif.
Williams	Gary	JD'84	Ore.
Wilson	John	BA'73, JD'77	Ore.
Wilson	Janice	BA'76, JD'79	Ore.
Woodrich	George	JD'54	Ore.
Wyatt	Merri Souther (Lowry)	JD'78	Ore.
Yraguen	Francisco	JD'70	Ore.

PRO TEM JUDGES

Ambrosini	George	JD'85	Ore.
Bennett Jr.	Frederick	JD'75	Ore.
Blank	Harold	JD'58	Ore.
Brumund	Carl	JD'71	Ore.
Cannon	Robert	JD'72	Ore.
Coady	Larry	JD'75	Ore.
Hallman	W.	JD'74	Ore.
Krug	Bob	JD'62	Calif.
Larson	D. Erik	JD'76	Ore.

Marshall	William	JD'80	Ore.
Matson	Chris	JD'74	Wash.
Rogers	Velda	JD'83	Ore.
Todd	Jennifer (Bellinger)	JD'83	Ore.

MUNICIPAL/LOCAL

Bliven	Mark	JD'61	Ore.
Briggle	Robert	JD'72	Colo.
Briney	Douglas	JD'88	Ore.
Carnaroli	Rudolph	JD'85	Idaho
Colby	George	JD'74	Wash.
Crist	Richard	JD'66	Ore.
Duff	Larry	JD'62	Idaho
Eide	D. Mark	JD'82	Wash.
Fitch	Rodney	JD'73	Wash.
Gibbons	Daniel	JD'86	Utah
Grant	Joshua	JD'75	Wash.
Gruber	Frank	JD'77	Ore.
Haberlach	William	JD'68	Ore.
Karabeika	Heather (Jeffers)	JD'94	Ore.
Krouse	Merle	JD'86	Wash.
Lebov	William	JD'69	Calif.
Lemery	Neal	JD'79	Ore.
Rammell	Mark	JD'86	Idaho
Resick	Thomas	JD'76	Wash.
Rhea Jr.	David	JD'69	Wash.
Ridgway	Robert	JD'71	Ore.
Rohrer	Erik	JD'85	Wash.
Smith	Tyler	JD/C'93	Idaho
Svaren	David	JD'81	Wash.
Thompson Jr.	Ralph	JD'74	Wash.
Tripp	Gregory	JD'73	Wash.
Veverka	David	JD'00	Ore.
Wilson	Shirley (Lutfi Ali)	JD'83	Wash.

JUDGES PREVIOUSLY PROFILED IN WILLAMETTE LAWYER:

Wallace P. Carson Jr.	JD'62	.....Fall 2005
Paula K. Casey	BA'69, JD'72	.....Spring 2007
Mary J. Deits	JD'74	.....Spring 2007
Paul J. De Muniz	JD'75	.....Spring 2006
James M. Fitzgerald	BA, LLB'51	.....Fall 2004
Peter Froelich	JD'75	.....Fall 2004
Carolyn Duby Glassman	LLB'44, H'94	.....Spring 2007
Faith Ireland	JD'69	.....Spring 2007
Susan M. Leeson	BA'68, JD'81	.....Spring 2007
Virginia Linder	JD'80	.....Spring 2007
Otto R. Skopil Jr.	BA'41, JD'46, H'83	.....Fall 2007
Robin Taylor	JD'69	.....Fall 2004

To read the profiles in full, go to:

willamette.edu/wucl/alumni/lawyer/index.php

A Student of the World

Before she even arrived at Willamette, Erin Tofte, a member of the Class of 2011, had a deeper understanding of developing nations than many students. As a Peace Corps volunteer, she helped build wells and latrines for a village in Nicaragua.

In college, she majored in societal injustice and minored in human rights. She speaks fluent Spanish and has worked on four asylum cases through Willamette's International Human Rights Clinic.

Now, as she prepares to graduate, Tofte hopes to find a job dealing with immigration or refugee issues — but not necessarily as a lawyer. Eventually, she wants to become an ambassador.

"I always had a strong sense of right and wrong and helping people who couldn't stand up for themselves," Tofte says. "I really appreciate what the United States can do for other countries and I feel I can represent the United States better abroad than I can here."



"Everyone in the area respected Erin not only for caring for other community members but for being part of the community. Erin has a very bright and vibrant soul."

"It's a rare case that I find a student who can be a role model for me...She's a role model when it comes to patience, compassion and empathy."

Tofte grew up in a small town in Washington six miles south of the Canadian border, in an area dominated by cattle farmers and apple orchards. She was on welfare for a time while her single mom held the family together. To put herself through the University of Washington, Tofte worked summers as a firefighter for the U.S. Forest Service.

"On a gut level, I don't like people judging other people," she says. "Everyone deserves a fair chance to have an education and to do what they want to do and live the way they want to live."

Tofte's mom got her master's degree while Tofte was young; she says that reinforced the idea that education was important. Growing up in a small town made her want to see the rest of the world, so she joined the Peace Corps after college. It was a life-changing experience, daily life reduced to simple tasks: Spending two hours to obtain water from the village well; trying to make herself understood in a language she didn't speak fluently; coping with the relaxed attitude about arriving on time for meetings. When she returned to the U.S., the array of choices at the supermarket so overwhelmed her that she begged her mother to come get her because she couldn't make a decision.

"Erin really took her Peace Corps service seriously," says Jason Skipton, a Peace Corps colleague who still keeps in touch.

At Willamette, Tofte joined the board of the Willamette University Public Interest Law Project as a first-year law student. She also serves as vice president of her class and is on staff of the *Willamette University Journal of International Law and Dispute Resolution*. And she's pursuing a certificate in International Human Rights Law.

In her work with the law school's International Human Rights Clinic, Tofte has handled four asylum cases — remarkable for a student, says clinic director Gwynne Skinner. The cases included a Mexican man under persecution for his sexual orientation and a Russian family seeking asylum because of their religious beliefs.

"She has a great talent for working with clients," Skinner says. "She's interested, empathetic, a problem solver — she's a real standout."

"It's a rare case that I find a student who can be a role model for me," Skinner says. "She's a role model when it comes to patience, compassion and empathy."

Although her plans after law school and the bar exam aren't firm right now, Tofte's classmate Lauren Askeland, a third-year law student, says she's sure Tofte will make a difference in the world.

"She's not interested in the traditional path people take after law school," Askeland says. "She'll find her own path."

An Eventful Career

Think your job is complicated? Try this one: Six months after your first day at work, the gubernatorial election you oversee becomes one of the closest in U.S. history. TV news trucks fill the parking lot. Ballots get re-counted three times. A seven-month legal battle follows.



Also, the election system itself is thrown into turmoil when voters approve a new primary system. Then a fight erupts over whether signature sheets for initiative petitions can be released to the public. That case goes all the way to the U.S. Supreme Court. Even as you announce your retirement, the issue still isn't settled.

Welcome to Nick Handy's world. Handy JD'75, retired last year from his job as Washington State's director of elections. His eventful six-year tenure capped a 35-year career in state government. He has helped shape policy in key areas of open records, natural resource management and elections.

"When you embark upon a public policy career, you are likely to end up in areas that are interesting and transformative," he says. "One of the wonderful things about a law degree is all the different directions it can take you."

Handy started his government career almost on a fluke: He wrote an article for the *Willamette Law Review* about Washington's new public disclosure law and got hired in the state attorney general's office, acting as legal counsel to the state's Public Disclosure Commission. It was a heady time to work in that area of government, he says — the fallout from the Watergate scandal led

state lawmakers to pass laws opening meetings and documents to public scrutiny.

That led to subsequent jobs at a time when government agencies were re-examining policies in the wake of various crises that dominated the headlines. Handy worked in the state's Department of Natural Resources during epic clashes between environmentalists and natural resource users; served as executive director of the Port of Olympia after the Exxon Valdez oil spill, helping to create Washington's first oil spill prevention plan; and ran the state elections division after Bush v. Gore led to calls for election reform across the nation.

"I was always drawn to work in public policy areas that were exciting and current," Handy says. "Change was actively happening and the climate was ripe for reform."

Handy has made one stab at public office: He ran for commissioner of public lands in 1992 and lost in the primary — despite being endorsed by every major newspaper in the state. He shrugs off the defeat: "I wasn't really drawn to running for public office," he says. "At this point in time, I'm done."

Secretary of State Sam Reed appointed Handy to the elections job in May 2004. Six months later, Republican Dino Rossi and Democrat Christine Gregoire were locked in an election battle that Gregoire first appeared to be losing — by 261 votes. A hand count financed by the state Democratic Party gave her a 10-vote lead. A judge's ruling later

increased her margin to 129 votes. "That was very gratifying for those of us who worked in the administration," Handy says.

But the judge in the case also found flaws in the state's election system. Handy centralized the state's voter registration database, kept better track of felons who had lost their right to vote and regularly purged the database of deceased voters. He also oversaw the transition to vote by mail.

Lawyer Kevin Hamilton, who represents the Washington State Democratic Party, says Handy was unflappable during hotly contested issues and elections. "He has had to stand in the middle of shouting and finger-pointing and chest-bumping, and Nick always keeps his cool," he says. "I've had elections officials around the country hang up on me, but I never had anything like that happen with Nick."

"He devoted a chunk of his life to running the machinery of democracy," Hamilton says. "It's hard to think of a more noble calling than that."

A Perfect Fit

If anyone seems born to enter the Foreign Service, it's Natella Svistunova BA'96, JD'00: Born and raised in Moscow, she came to the U.S. in 1990 as part of one of the first exchange groups from the Soviet Union. She was a 16-year-old high school student and describes it as "a huge, huge, huge culture shock. It was really like going to the moon."

Then the government back home collapsed and she scrapped her plans to attend Moscow State University as an art history major. Her host parents in Seattle urged her to attend college in the States; she got in to Harvard and Columbia but chose Willamette University. Her love of the Pacific Northwest and Willamette's generous undergraduate scholarship persuaded her to stay in this part of the country. She has worked virtually every job on the Willamette campus and has fond memories of her years at the university.

Svistunova decided to go to the law school because she needed a mental challenge, she says. "I came over as a foreigner and I became more and more like an American. I really wanted to learn the fundamentals — things like constitutional law and contracts, to really understand the country inside and out.

"Willamette was such a good environment; it lets you make mistakes, lets you learn, try, be yourself," Svistunova says. "I never considered any other place for law school."

Professor Vince Chiappetta, who taught Svistunova antitrust and intellectual property law, says she was "really curious, really energetic, always asked interesting questions. She was a lot of fun to have in class.

"She made her own career," he says. "She was always willing to look at what the possibilities were instead of waiting for opportunities to come to her."

After graduation, Svistunova worked at the Ater Wynne law firm and Nautilus Inc. She became a U.S. citizen. On a visit to a friend who worked for the U.S. State Department in Thailand, Svistunova realized that a similar career to her friend's would enable her to learn more languages and experience other cultures. So she took the Foreign Service exam and landed as a vice consul at the U.S. Embassy in Mexico City.

Already fluent in Russian, Georgian and English, she has added Spanish to her portfolio of languages. Her husband is a musician; she recently gave birth to a daughter.

Before going on maternity leave, Svistunova spent her days interviewing applicants and adjudicating U.S. visas. She says it was a bit like being a low-level judge. "You learn so many fascinating stories," she says. "Loved ones going to visit their families in a hospital, going to a wedding, funerals. Very quickly you acquire the skill to tell if someone is not being truthful."



Since returning from leave, Svistunova's responsibilities have changed somewhat; she now deals with issues primarily involving residents of Mexico or those simply visiting the country.

She says she misses the U.S., misses being able to drink water straight from the faucet, going to Sauvie Island, picking

"Willamette was such a good environment; it lets you make mistakes, lets you learn, try, be yourself,...I never considered any other place for law school."

raspberries and making jam with friends. She rents out her home in southwest Portland and speaks somewhat wistfully of her former life in the Pacific Northwest.

But her job is all-absorbing. Asked how she feels about illegal immigration, the biggest issue in U.S.–Mexico relations, she replies, "Our model is open, legitimate travel and secure borders. There are tons of people who come and go and do great work for both countries."

WUCL's Super Lawyers

More than 130 Willamette University College of Law graduates throughout the U.S. were named 2010 *Super Lawyers* by *Law & Politics* magazine. *Super Lawyers* is an annual publication that identifies the top five percent of attorneys who are chosen by their peers and the magazine's researchers. The College of Law congratulates the following alumni who made the 2010 *Super Lawyers* list:

Super Lawyer Superstars



William A. Barton JD'72
Oregon Top 50 Super Lawyers
Partner, Barton & Strever PC
Newport, Ore.



Jeffrey M. Batchelor JD'72
Oregon Top 50 Super Lawyers
Shareholder, Markowitz Herbold
Glade & Mehlhaf PC
Portland, Ore.



John M. Coletti JD'94
Oregon Top 50 Super Lawyers
Partner, Paulson Coletti Trial
Attorneys PC
Portland, Ore.



Peter C. McKittrick JD'85
Oregon Top 50 Super Lawyers
Of Counsel, Farleigh Wada Witt
Portland, Ore.



Albert A. Menashe JD'76
Oregon Top 10 Super Lawyers
Managing Shareholder, Gevurtz
Menashe Larson & Howe PC
Portland, Ore.



Daniel H. Skerritt BA'65, JD'68
Oregon Top 50 Super Lawyers
Partner, Tonkon Torp LLP
Portland, Ore.



Paul L. Stritmatter JD'69
*Washington Top 10 Super
Lawyers*
Senior Partner, Stritmatter
Kessler Whelan Coluccio
Hoquiam, Wash.



Edward J. Sullivan JD'69
Oregon Top 10 Super Lawyers
Owner, Garvey Schubert Barer
Portland, Ore.

Linda B. Clapham JD'86
Gordon & Rees LLP
Seattle, Wash.

Nena Cook JD'91
Sussman Shank LLP
Portland, Ore.

Thomas E. Cooney Sr. LLB'56
Cooney & Crew LLP
Lake Oswego, Ore.

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Remembrances



Dallas Isom, a thin, chain-smoking law professor whose obsession with World War II military strategy led him to write a book about the Battle of Midway, died Oct. 3, 2010. He was 72 and lived in Salem, Ore.

Isom, described by his colleagues as a brilliant professor, taught civil procedure at the College of Law from 1968 until he

retired in 1998. He was emeritus professor at the time of his death. "Professor Isom served Willamette and its students long and well," said Dean Symeon C. Symeonides. "We honor his service in the same way he honored this school."

Isom's teaching style, said visiting professor Ross Runkel, was "incredibly intelligent, unbelievably energetic, creative. It would be a show to watch." Isom, Runkel said, paced back and forth. He'd twirl his pencil. Other professors explained legal principles in bookish, obtuse ways; he used real-life examples.

When describing the concept of personal jurisdiction, Isom referred to the "two-beer rule" — if you come into a state long enough to have only one beer, that state's courts would not have jurisdiction over you. But if you stayed long enough to have two beers, you'd be subject to the jurisdiction of that state's courts.

That rule took on a life of its own outside Isom's class, said Professor Kathy Graham. At one point, the Oregon Bar examiners contacted the law school to inquire about the rule, since Willamette students mentioned it on their exams.

After Isom retired, he wrote a 408-page book called *Midway Inquest: Why the Japanese Lost the Battle of Midway*, published by Indiana University Press. The product of 10 years of research, the book attempts to explain why the Japanese lost the pivotal Battle of the Midway. Isom, who didn't speak Japanese, analyzed Japanese records, literature of the battle — much of which had never been translated into English — and interviewed more than two dozen Japanese battle veterans. He concluded that the main officers involved were competent but their high-level blunders did them in.

Isom graduated from the University of Utah Law School with highest honors and taught at Stanford University's law school for a year before arriving at Willamette. His students said he loved teaching civil procedure and could recite the entire history of English Common Law, showing how it evolved into the law practiced in the United States today.

"He turned that foreign territory into comfortable hunting grounds," said attorney Dan Gatti JD'73. "He was one of the finest profs I had."

Isom is survived by sons Matthew and Thomas and 10 grandchildren.

Those wishing to give a donation in Isom's name may write a check c/o Willamette University College of Law and send it to Mike Bennett, Willamette University College of Law, 245 Winter St., Salem, OR 97301 or contact Mike Bennett at 503-370-6761.



Linda Alderin, executive assistant to Dean Symeon C. Symeonides, died March 20 of cancer. She was 61 and had fought the disease for two years.

"The fact that no more than a handful of people knew about her condition is just one example of the kind of person Linda was — highly conscientious, hard-working, extremely competent, meticulous and in all respects an outstanding employee with excellent judgment and discretion," said Dean Symeonides. "But more importantly, Linda was an all-around outstanding person."

Alderin grew up in Allegany, Ore. She worked for the state of Oregon, a Salem law firm and, since 1986, for Willamette University. Alderin was the executive assistant to three presidents: Jerry Hudson, Bryan Johnston and Lee Pelton. In 2001, she was named executive assistant to Dean Symeonides.

Alderin is survived by her father Lyle McGuire; husband Pat; son Ty and daughter-in-law Ann Koellmann; sister Judy and brother-in-law John Knutson; brother Pat and sister-in-law Karen McGuire; sister and brother-in-law Cathy and Ross McDonald, grandchildren Ella and Hilde Koellmann; stepchildren Seth Alderin, Rendi Alderin and Summer Alderin-Miller; step-grandchildren Taylor Christianson, Kaci Alderin, Brody Alderin and Olivia Alderin; and many nieces and nephews.

Ethics Corner

With this issue we begin a new feature about ethics and the law. "Ethics Corner" will pose a question about an ethical dilemma facing lawyers today, and we'll invite comments from those who have a stake in maintaining the honesty and integrity of the profession.

Please share your thoughts about this feature and send suggestions for future ethical questions to Lisa Grace Lednicer, editor of Willamette Lawyer, at llednice@willamette.edu or call 503-370-6760. We welcome your input.

Banks, hedge funds and private investors are bankrolling lawsuits involving medical malpractice claims, divorce battles, class actions against corporations and other lawsuits with big potential payouts. This lending practice is giving more people a chance in court and helping to ensure that cases are decided on merit rather than money. But it also is fueling abuses — the client's cost of paying back his investors may exceed the amount of damages awarded, and judges are throwing out cases they say were initiated and controlled by investors.

Is it an ethical practice to allow banks, hedge funds and private investors to "invest" in the outcome of a lawsuit?

1



Few would question the ethics (perhaps the wisdom) of businesses borrowing from hedge funds. Nor would we question the result if a business borrowed money with the expectation there would be ample profits to pay the loan, and it turns out there are not. Yet something pulls at us and makes us question a case where a plaintiff's award ends up consumed by financing necessary to pursue the case. This demonstrates the duality of the practice of law.

There is no question the law is a profession of great tradition. It has yielded heroes real (Abraham Lincoln, Oliver Wendell Homes), and imagined (Atticus Finch). Their triumphs and wisdom helped shape society and our perception of what it means to be a lawyer. Somehow a hedge fund backing Atticus Finch's defense of an innocent man from an angry mob robs Finch of his moral authority.

At the same time, law is increasingly perceived and pursued as a business. As with any business there are those willing to invest in hopes of great returns (20 percent returns in some cases) and those willing to pay such rates for financing they cannot get elsewhere.

Does borrowing money to pursue cases implicate the professionalism and ethics of those involved? There is no ethical prohibition on the making or accepting of such loans. In the end, it is the type of business done thousands of times a day.

Does borrowing money to pursue a case rob a lawyer of his or her professionalism? At the end of the day, I think this ties to the conduct of the professional. As professionals, we are responsible for shaping the environment in which we practice. If lawyers use such financing with the full knowledge of the client to bring a case which might not otherwise make it to trial, injustices which might not otherwise be subjected to review are brought to light. If the financing is unscrupulously used to drum up suits, I suspect the lawyer and investor will both get what they deserve.

— Mark C. Hoyt JD'92, managing partner at Sherman Sherman Johnnie & Hoyt, LLP

2



The benefits of such financing include the ability of law firms to obtain remedies for injured plaintiffs by undertaking expensive litigation that, without outside funding, their insufficient resources would prevent them from doing so. Additionally, the loans serve to balance the playing field between cash-strapped plaintiffs' firms and wealthy corporate defendants who can easily afford six and seven-figure fees in defending those lawsuits.

Critics of these arrangements argue that the pressure of high interest rates on the loans may incentivize law firms to prematurely accept low settlement offers and repay the loans as quickly as possible, thus depriving their clients of a maximum monetary recovery. The ABA Model Rules of Professional Conduct prohibit interference with an attorney's independence of judgment. The Rules forbid a third party who pays the attorney's fee from directing or regulating the lawyer's professional judgment and further provide that a lawyer's primary ethical obligation is to zealously protect and pursue a client's legitimate interests.

— Yvonne Tamayo, Willamette law professor, Civil Procedure, Federal Courts, Professional Responsibility

3



In the situation at hand, it is likely that the investor will want regular status reports. Counsel will need to carefully consider such questions as how much disclosure is in the underlying client's interest, whether attorney-client privilege may be waived in whole or in part by any disclosure to a non-client and whether the work product doctrine may allow broader disclosure than attorney-client privilege while still protecting confidentiality.

The best way to protect plaintiff-side counsel is to start from the beginning — with appropriately drafted engagement and non-engagement letters. One way to help keep the client and non-client third party threads from entanglement is have separate letters for the client and the non-client third party. Whether one or two letters are sent, however, both the client and the third-party payor/investor/non-client must be told in writing who is, and who is not, a client and what counsel's responsibilities will be to each. These essential documents should be fully discussed at the beginning of representation and then re-evaluated during the course of representation to ensure that all questions and concerns are fully addressed. Similarly, it may be necessary to remind both the client and the third party of their respective roles as the case proceeds.

One final word of caution. Most lawyers know that the potential client with unrealistic expectations is generally to be avoided. The same is true for non-client third parties.

— Judith A. Parker JD'06, associate at Hinshaw & Culbertson LLP

I Doubt

An attitude of mind. The intellectual oxygen of the legal profession. In the world of the attorney, absolutes are absent, ambiguities abound, and ambivalence is an art form.

Supporting the value of doubt, William Shakespeare observed that “modest doubt is called the beacon of the wise.” Nowhere does it shine more brightly than in the courtroom. Consider the following, from the *Oxford Book of Light Verse*, attributed to the acclaimed poet Anon:

Mr. Leach made a speech,
Angry, neat, but wrong:
Mr. Hart, on the other part,
Was prosy, dull and long.

Mr. Bell spoke very well,
Though nobody knew about what;
Mr. Tower talk'd for an hour,
Sat down, fatigued, and hot.

Mr. Parker made the case darker,
Which was dark enough without;
Mr. Cooke quoted his book,
And the Chancellor said, I doubt.

The Chancellor in question may well have been Lord Chancellor Eldon, whose crowning achievement during the reigns of George III and IV was the development of equity into a working body of legal principles. He also presided over the resulting procedural quagmire and dilatory practices later described by Charles Dickens in *Bleak House*, in which the members of the High Court of Chancery are “mistily engaged in one of the ten thousand stages of an endless cause, tripping one another up on slippery precedents, groping knee-deep in technicalities”

Reflecting upon his many years as Chancellor and the complaints about his doubts and delays, Lord Eldon remarked, “I always thought it better to allow myself to doubt before I decided, than to expose myself to the misery after I had decided, of doubting whether I had decided rightly and justly.”

Some years later on this side of the Great Pond, U.S. Supreme Court Justice Oliver Wendell Holmes summed up the value of doubt: “To have doubted one’s own first principles is the mark of a civilized man.”

And, we might add, of a learned profession.

By this standard, civilization entered a second renaissance with the opinion of the U.S. Supreme Court in *McConnell v. F.E.C.*, 540 U.S. 93, 124 S.Ct. 619 (2003) in which the lower court was affirmed in part and reversed in part in a 273-page opinion:



Lord Chancellor Eldon

Justice Scalia concurred in part, concurred in judgment in part, dissented in part, and filed opinion.

Justice Thomas concurred in part, concurred in result in part, concurred in judgment in part, dissented in part, and filed opinion in which Justice Scalia joined in part.

Justice Kennedy concurred in judgment in part, dissented in part, and filed opinion in which Chief Justice Rehnquist joined and Justices Scalia and Thomas joined in part.

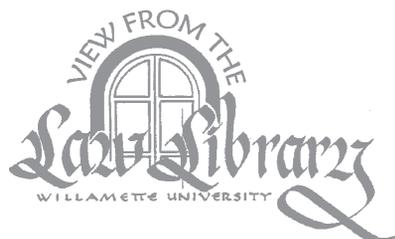
Chief Justice Rehnquist dissented in part and filed opinion in which Justices Scalia and Kennedy joined.

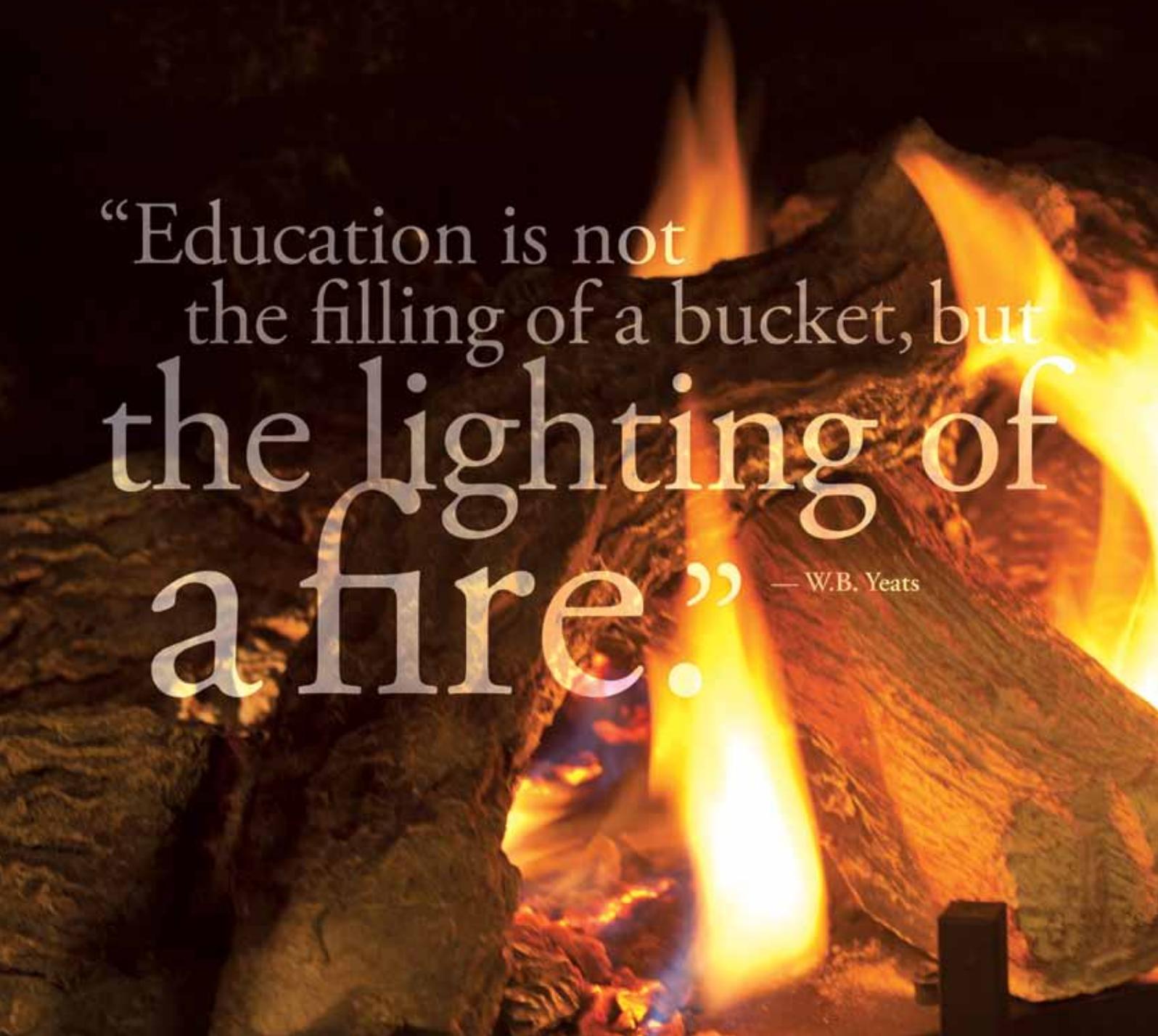
Justice Stevens dissented in part and filed opinion in which Justices Ginsburg and Breyer joined.

Only Justices O’Connor and Souter restrained themselves from casting further doubt on the wisdom of the majority opinion which, only seven years later in a 5-4 decision, was reversed in part and affirmed in part in *Citizens United v. Federal Election Commission* 130 S.Ct. 876 (2010).

One might describe this as an exercise in “Extreme Judicial Doubt.”

Doubt — reasonable, real, substantial and otherwise — lives on in the cradle of civilization known as the law library.





“Education is not
the filling of a bucket, but
the lighting of
a fire.” — W.B. Yeats

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Saturday, September 10



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Noon Tour of the College of Law

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2-4 p.m. Free CLEs

Just like being back in Professor Hagedorn's Secured Trans class ...

6 p.m. Private class receptions

... at several great Salem-area restaurants. \$25 per person, locations TBA.

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