

Oregon BENCHMARKS

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

Judges Ancer Haggerty and Garr King

Two Unveilings, Thanks, and a Tease

By Adair Law



Portraits of Judges Ancer Haggerty (left) and Garr King by Wayne Chin

Family, friends, and colleagues of Judges Ancer Haggerty and Garr King gathered on February 4, 2013, in the 16th floor ceremonial courtroom of the Mark O. Hatfield Courthouse for the unveiling of two new judicial portraits. They were also gathered to wish a formal farewell to Judge Michael Hogan who recently stepped down as a senior judge to go into mediation work (see Fall 2012 *Oregon Benchmarks*). The honored judges and the portrait artist Wayne Chin sat before two larger veiled easels and a smaller one as the ceremony got underway.

Chief Judge Ann Aiken welcomed all to the occasion, noting that “Careers are important, but the support system of family and friends is as well.” Recently retired Multnomah County District Attorney Michael Schrunk spoke on behalf of his longtime friend, Judge Haggerty, and attorney Paul Fortino spoke on behalf of his friend Judge King. As Wayne Chin unveiled the portraits, portrait subjects Judges Haggerty and King forged a

new link in a chain of judicial experience that stretches back to Oregon’s first federal judge, Matthew Deady. Judge Deady’s portrait watches over all the men and women who enter the Hatfield Courthouse from his perch in the lobby. Both Judge Haggerty and Judge King expressed their thanks to the assembled family and friends.

Judge Edward Leavy rose to speak of Judge Michael Hogan, reminding those assembled of his many accomplishments. Judge Hogan, a former law clerk to Judge Robert Belloni, became a half-time bankruptcy referee and a half-time magistrate judge at 26 in 1973 and a district judge in 1991. With his involvement in a range of judicial matters, Judge Leavy noted that Judge Hogan “became the face of the District Court of Oregon.”

Judge Anna Brown stepped forward with addi-

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Judge Edward Leavy speaks at the ceremony wishing Judge Michael Hogan well on his retirement.

President's Message



It's time for a picnic! For more than 10 years, the Leavy family has hosted our **Annual Picnic at Judge Leavy's Hop Farm**. There will be a band—China Watch will play country, blues, and old time rock n roll. There will be great food—Country Grains Bread will serve old-fashioned barbeque ribs and chicken, with strawberry shortcake for dessert. And there will be games for kids and adults alike. In lieu of a thousand words describing the event, I offer the following photo. Please join us for all the

fun on **Sunday, August 4**. This year we are recognizing the members of the criminal bar at both the Annual Picnic and the Annual Dinner. At our **Annual Dinner on November 7, 2013**, we will present our **Lifetime Service Award** to Sid Lezak (posthumously), the country's longest-serving U.S. Attorney, and **Norm Sepenuk** a dean of the criminal defense bar.

We are also thrilled to have popular Portland author, **Phillip Margolin**, as our keynote speaker at the Dinner. He will speak about the Oregon case that inspired one of his recent books. Margolin's first job after law school was a clerkship with Judge Herbert M. Schwab, then chief judge of the Oregon Court of Appeals. He was in private practice from 1972 until 1996, specializing in criminal defense at the trial and appellate levels. He began writing full time in 1996. Margolin's most recent book, *Sleight of Hand*, came out in April 2013.

So mark your calendars—Sunday, August 4 and Thursday, November 7. I look forward to seeing you there.



Judge Leavy is a contender in the egg race

— Stephen Joncus

Judge Michael Mosman Named to Foreign Intelligence Surveillance Court

By Adair Law

Chief Justice John Roberts appointed Judge Michael W. Mosman of the District of Oregon to serve as a judge on the U.S. Foreign Intelligence Surveillance Court.

The appointment was effective May 4, 2013, and extends through May 3, 2020. Judge Mosman replaces Judge Roger Vinson, whose term on the surveillance court expired on May 3, 2013.

The eleven-member Foreign Intelligence Surveillance Court reviews applications from government agencies for electronic surveillance and physical search under the Foreign Intelligence Surveillance Act. In 2012, the Court approved 1,788 applications for electronic surveillance and denied none, as noted in a report to Congress in April 2013.

Many photographs from this issue can be seen in color on our website, www.usdchs.org.)

Oral Histories Added to U.S. District Court Library

By Janice Dilg

The Oral History Committee of the U.S. District Court of Oregon Historical Society is pleased to announce that copies of federal, state, and circuit court judges' oral history transcripts will be available through the U.S. District Court Library. Court librarian Scott McCurdy is "thrilled to have this collection added to the court library."

Since 2005, the oral history interview transcripts of judges have been formatted, bound, and deposited at the Oregon Historical Society Davies Research Library where anyone can access the transcripts. Adding copies to the U.S. District Court Library offers a new avenue of access to these important and interesting documents of Oregon legal history.

There are currently 15 bound copies in the collection that include federal judges Owen Panner, Robert E. Jones, Susan Graber, Garr M. King, John Cooney, Malcolm Marsh, John Jelderks, George E. Juba, former Oregon Supreme Court Justice Randall Kester, and former Multnomah County Circuit Court Judge Roosevelt Robinson, and current Multnomah County Circuit Court Judge Michael Marcus.

Additional oral histories are in process and will be added to the library collection upon their completion. The current bound transcripts are being processed and will be on the U.S. Court Library shelves in the near future. The library is located on floor 7B of the Mark O. Hatfield Courthouse, and arrangements to access the transcripts can be made through Scott McCurdy, scott_mccurdy@lb9.uscourts.gov, (503-326-8140).

Oregon's Newest Member of the Federal Bench: Judge Michael McShane

By Adair Law

Multnomah County Circuit Court Judge Michael McShane was confirmed by the U.S. Senate as Oregon's newest federal judge on May 20, 2013. Judge McShane fills the seat vacated by Judge Michael Hogan. Judge McShane will join Chief Judge Ann Aiken and Magistrate Judge Tom Coffin on the bench at the Wayne Morse U.S. Courthouse in Eugene. He started his new job on June 3.

McShane has been a judge on the Multnomah County Circuit Court in Oregon since 2001, presiding over a wide variety of matters, including civil, criminal, and family court cases. He previously served as a judge pro tem on the same court, 1997-2001. Prior to becoming a judge, he spent almost a decade serving as a public defender at the Office of the Metropolitan Public Defender in Portland, where he represented indigent clients facing criminal prosecution. McShane is also the recipient of the 2012 Oregon State Bar President's Public Service Award. He is among five openly gay judges who have been appointed during the administration of President Barack Obama.

In 2008, Judge McShane filled out a judicial election questionnaire and one question asked him to describe a case or legal issue that he had worked on that he was particularly proud of. He responded, "I think that it is easy to equate having a great judicial moment with being a great judge. In fact, I believe what makes a great judge is our ability to manage the small things with great compassion and great humility. This is really the hard work."

The U.S. District Court of Oregon Historical Society extends a warm welcome to Judge Michael McShane.



Chief Justice John Roberts Visits Lewis & Clark Law School

In what may be the first visit by a sitting Chief Justice to an Oregon law school, Supreme Court Chief Justice John Roberts was in Portland in early April to inaugurate Lewis & Clark Law School's Environmental Moot Court Advocate of the Year competition. Chief Justice Roberts, U.S. District Court Judge Anna Brown, and 9th Circuit Judge Diarmuid O'Scannlain sat on a panel set up as a fictional "12th Circuit" to hear a fictional but complex Clean Water Act case.

Lewis & Clark Law School Dean Robert Klonoff got to know Chief Justice Roberts and his chief of staff

when they all worked in the U.S. Capitol. Dean Klonoff wanted a local academic competition to showcase the moot court students. In the past seven years, the Lewis & Clark contingent was in the top three every time and placed first three times nationally. Dean Klonoff set up what will be an annual in-house competition. According to the *Oregonian*, the students refer to it as "sort of like 'The Hunger Games.'" The three participants were Maggie Hall, Meredith Price, and Andy Erickson. They argued before an audience of 500. Meredith Price won the competition and she will be clerking for Judge Michael Simon after her May graduation.



From left: Judge Diarmuid O'Scannlain, Chief Justice John Roberts, competition winner Meredith Price, Dean Robert Klonoff and Judge Anna Brown.

Photo courtesy of Lewis & Clark College Law School.

Two Unveilings cont.

tional information. By her reckoning, Judge Hogan has worked with more than half of the 28 district judges during their active service, each of at least 18 part-time and full-time magistrate judges, and at least 10 of the 13 full-time bankruptcy judges who have served this District. Judge Brown ended her brief history review with a video excerpt of Senator Mark Hatfield's remarks at Judge Hogan's confirmation hearing in 1991. Senator Hatfield spoke warmly of Judge Hogan, noting that they had met in 1968 and he had helped Hogan to get a job with the Capitol Police while he was studying at Georgetown.

Judge Brown invited Hogan to join her at the podium. After noting that she had been assured that Judge Hogan's portrait was in progress, she proceeded to present him with a faux-Hogan portrait "to also serve as a reminder to him that we do want to have a real Hogan portrait for posterity in due course.

"Judge Hogan is known for many things, his love of all things French; his unique fashion sense; his 'spikey,' sometimes orange hair styles; his unfailing optimism, and, in the eyes



Judge Ancer Haggerty thanks those assembled for his portrait unveiling while Judge Michael Hogan listens.

of some, his occasional 'princely' tendencies.

"So, Your Honor, I present to you, with the Historical Society's sincere appreciation for your long and faithful service, our 'faux-Hogan-portrait'—otherwise known as Antoine de Saint-Exupery's: 'The Little Prince in a Red Cape!' May this small token serve as a fun reminder to you of our heartfelt appreciation for your nearly four decades of service to the District of Oregon."

The faux portrait was unveiled, Houston Bolles sang a lovely, unaccompanied "America the Beautiful," and the assembled group adjourned to the lobby for further conviviality.

Wayne Chin: Oregon's Court Painter

By Adair Law

As the artist responsible for the creation of portraits of eight judges in Oregon, Wayne Chin has made a place for himself in Oregon legal history. Since 1997, Chin has painted judges in the federal court (Judges Helen Frye, Ancer Haggerty, Robert Jones, Garr King, and Malcolm Marsh), the Ninth Circuit (Judges Edward Leavy and Diarmuid O'Scannlain) and former Oregon State Supreme Court Chief Justice Paul De Muniz..

Chin was born in Guangzhou (Can-

ton), China in 1955. His father was a self-taught artist and was renowned for his work as a poster artist throughout China. Chin grew up watching his father paint. His father did not encourage him because he wanted his son to find steadier work.

In 1973, Chin was sent to the countryside to work for several years, as were most other city-dwelling Chinese youth of his era. In addition to the farmwork he was doing, he developed a reputation as an able billboard painter. The manager of his farm

co-op suggested that he apply to a new two-year art program in Guangzhou. Chin applied with a pool of 4,000, was asked to take a test and bring in his portfolio with a group of 50, and was chosen as part of a class of 12. His days and nights were filled with the study and creation of art. He studied Chinese artists primarily and his western influences were Russian or French. He remembered seeing a portrait by the American painter John Singer Sargent in a traveling exhibition and being impressed by the detail of his work.

Chin immigrated to the United States in 1981 and worked as a cook in a Chinese restaurant in Estacada. A local artist saw his drawings and paintings on the restaurant walls and advised him about places he could sell his work. Soon he was selling work through the Portland Art Museum's Rental Sales gallery and at Saturday Market booth where he drew 20-minute charcoal portraits.

During an elementary school sketching demonstration, he drew the teacher, Luann Soderstrom. Her architect husband David Soderstrom saw the portrait and asked Chin if he would be interested in architectural



Wayne Chin unveils his portrait of Judge Garr King.

work. Chin relished the challenge of this more precise work. He worked with Soderstrom 1988-97, when he started his own art studio, Wayne Studio in Vancouver. Architectural illustration is the majority of his business.

During Chin's days at Saturday Market, a gentleman named Richard Wiley handed him his card and asked him to come visit him at his studio. Wiley painted the portraits of Judges William East and Otto Skopil. He saw a similarity in their styles and when the need for new judicial portraits arose, Wiley suggested Chin. Judge Helen Frye chose him when she was ready to have her portrait painted in 1997.

To begin the portrait process, Chin takes numerous photographs of the subject in different poses as well as photos of items that have particular meaning to the subject. From the photographs he builds a composite charcoal sketch, a color sketch or watercolor, then the final oil painting. The creation of the portrait is an ongoing conversation. Chin notes that although he takes a lot of photographs to start the portrait, "It's the brush-stroke that touches people's hearts."

In the summer 1999 *Oregon Benchmarks*, current Oregon Attorney General Ellen Rosenblum wrote about Wayne Chin and his work, "...if you are not a fan of the dark, somber school of portraiture, you are likely to love these portraits of our judges. Judge Frye, robed and standing at her desk, glasses in hand, in front of the *Federal Reporters* and bordered by the American flag, comes across with warmth, dignity, and intelligence." Rosenblum also asked Chin how he knew when a portrait was finished. "When I feel good about it—and when the subject is satisfied." We thank Wayne Chin for the beautiful ways he has captured so many of Oregon's judges.

Photos of unveiling and Wayne Chin by Chad Tucker

"One Hundred Fourteen and Counting...."

By Judge Anna Brown and Kathryn Roberts

Did you know that 114 women have served or are serving as state and federal judges in Oregon?

Fact: Oregon's first woman to serve as a state judge was Mary Jane Spurlin. Appointed in 1926 by Governor Walter M. Pierce to the Multnomah County District Court, she was defeated in the 1926 election and served but six months.



Judge Mary Jane Spurlin

Did you know it took another 35 years before the next woman served in the state judiciary?

Fact: Oregon's first woman to serve as a Circuit Court Judge was Jean Lewis. Appointed by Governor Mark O. Hatfield in 1961, Judge Lewis served the Multnomah County Circuit Court for 17 years.

Did you know only five more women joined Oregon's judiciary in the 1970s?

Fact: Judge Mercedes Deiz, Judge Shirley Field, Judge Kimberly C. Frankel, and Judge Elizabeth Welch all served in the District or Circuit Courts of Multnomah County in the 1970s, and Judge Helen Frye began her judicial service as a Lane County Circuit Court Judge in 1971. Judge Deiz was the first woman of color to serve on an Oregon court.

Did you know that Gov. John Kitzhaber's most recent judicial appointment of Heather L. Karabeika to serve on the Clackamas County bench brings to 114 the number of women who have served as a state or federal judge in Oregon? We are, indeed, "One Hundred and Fourteen and Counting . . ."

Because facts like these aren't readily available, the U.S. District Court of Oregon Historical Society and Oregon Women Lawyers are pleased to announce the formation of Oregon Women Judges (or "OWJ"). Judge Anna J. Brown, historian Jan Dilg, and attorneys, Angela Lucero, Kendra Matthews, Elizabeth Milesnick and Kathryn Roberts, are currently serving on the committee.



Judge Heather Karabeika

Oregon Women Judges is dedicated to honoring and celebrating the contributions of Oregon's state and federal women judges by collecting and preserving their history. Currently in its beginning stages, OWJ seeks to gather and organize accurate data about each of Oregon's women jurists. In the near future, OWJ plans to make this information accessible to all in a convenient online format. What we do with the information ...well, the sky is the limit!

If you're interested in donating, volunteering, or otherwise supporting this exciting project, please contact OWLS Executive Director, Linda Tomassi, at linda@oregonwomenlawyers.org or (503) 595-7831.

Part One: 1924–1962

Sid Lezak: Two Decades as U.S. Attorney for Oregon

By Adair Law

Sid Lezak will be one of two recipients of the U.S. District Court of Oregon Historical Society 2013 Lifetime Service Award. He is the first to receive the award posthumously. This article was developed from Sidney Lezak's oral history conducted by Jack Gore Collins, August 16, 1988–June 6, 1990. It is on file with the Oregon Historical Society on behalf of the U.S. District Court of Oregon Historical Society. Sid Lezak died in April 2006; Jack Gore Collins died in September 2010. Thanks to Muriel D. Lezak for her comments in shaping this article.

Sidney Lezak was born in Chicago on November 8, 1924 to Manny and Celia Lezak. Both his parents came from Vasytkiv, a small town about 30 miles outside of Kiev, in Ukraine. According to his World War I draft card, Lezak's father was born August 15, 1896. Sid recounted a story his father told about a family outing to Kiev when he was a boy. His father had just received his first ice cream cone when a group of thugs stormed through the Jewish quarter, breaking windows and beating up Jewish people at random. His father ran into the back of a butcher's shop where he hid under the butchering table crouching, amid the blood, guts, and sawdust, while he finished his ice cream. Lezak noted, "I've always taken that as a sort of measuring point from which to measure any success that I've had in my career and have marveled at the progress which has been possible in this country within the space of one generation."

Lezak's mother, Celia Weiner, was born in 1898 and came to the United States with her family on the *Lusitania* in 1908. The Lezak family came to the



Sid Lezak, age three with his sister Rozelle, age two.

United States in 1911, settling eventually on the south side of Chicago. In Russia, Lezak's paternal grandfather was a butcher, an occupation that all his sons continued in America.

When the United States became involved in World War I, Lezak's father and his brothers all enlisted. Some served overseas where one was killed. Manny Lezak served in the states and was honorably discharged. He didn't view his enlistment as a hardship and had fond memories of being in the service.

His mother's family also came to Chicago. Her father was a blacksmith. The Lezak and the Weiner families had had a slight acquaintance in Vasytkiv and became reacquainted in Chicago through the approximately 70 member Verein (a German word for club) for people from Vasytkiv. His parents married in 1923 in an Orthodox Jewish ceremony. As Lezak was growing up, they drifted away from Orthodoxy into the conservative branch of Judaism.

The Lezak family lived in Chicago's Hyde Park neighborhood (just blocks away from President Obama's Chi-

cago home). Lezak's sisters—Rozelle and Iris—arrived one and five years after him. In 1935 the Lezak family moved into an apartment building on Ingleside Avenue where a girl named Muriel Deutsch lived. She was three years younger than Lezak; they met when he was 11. Thirteen years later they would marry.

Lezak graduated from grammar school at age 12. "My mother had a good opinion of me. I was pushed ahead in school so that I was actually three semesters ahead from where I would have been and I was actually out of high school just at my 16th birthday." Lezak began working at 12, assisting his father in the meat market. He thought he wasn't interested in attending the University of Chicago (which he could walk to from his home) because, as the neighborhood school, it lacked glamour and seemed stuffy. He went to Northwestern University in Evanston in February 1941 just after he turned 16, staying there for one semester. He returned home to work in the advertising department at Mandel Brothers department store. He also worked as an advertising representative for the neighborhood newspaper—*The Hyde Park Herald*—until he enrolled at the University of Chicago in June 1942. At first, he wanted to become a psychiatrist. He lived at home while he attended the university.

Military Service

At the age of 17 Lezak applied to the Air Force for cadet training and was accepted. He turned 18 in November 1942 and by February was in a Miami Beach hotel for basic training and precadet training. He tested well as a navigator candidate, but at the San Antonio Aviation Cadet Center, he

broke his arm on the obstacle course. He was given special permission to run instead of doing the physical training that was normally required so he could stay with his class. “For the first time in my life I felt that I was doing something really well physically and I actually came in third in the cross-country race. I remember being thought of as a crazy kid running around with a cast on his arm.”

He completed navigation school in San Marcos, Texas where, in February 1943, he became a navigator and a second lieutenant. After bomber training in Oklahoma he arrived in England in April. He joined the 305th Bombardment Group flying 22 missions with the same crew. Many of the missions involved mass daylight bombings. He received “a Distinguished Flying Cross and five Air Medals which doesn’t signify any specific bravery but just the fact that you lived.”

After these combat missions he



Second Lt. Sid Lezak

became a navigation instructor at Ellington Field, Texas. In those days before air conditioning, rather than spend a summer in Houston, Texas, he volunteered in May 1945 to go back overseas with the Air Transport Command. He soon found himself in Marrakech, Morocco in July in 115 degree heat, “but it was still more comfortable than Houston, Texas.” The European theater was winding down and planes were wanted in the United States for refitting and reconditioning for the Pacific theater. The ATC flew these planes from Marseilles or Naples through Africa to Monrovia, Liberia. They landed at Ascension Island for refueling and



Navigator Lezak ca. 1945. After D-Day, he flew 33 missions over France and Germany.

then on to South America. “Or we would go down to Natal to Dakar, Senegal and then fly directly across, because we were flying twin-engine light bombers, B-25’s.”

The radio was playing in Lezak’s barracks in early August 1945 when he heard that the atom bomb had been dropped. He had enough points to be let out immediately. By late September 1945, he was in Chicago at the university, not yet 21 years old and living at home. He graduated with a bachelor’s in philosophy and entered the University of Chicago Law School. By this time he was dating Muriel Deutsch, who was studying psychology at the university. “We continued living in the same apartment building, studying together and romancing every night.” While he pursued his J.D., Muriel studied for a master’s in psychology. Within a two-week span in June 1949, they both graduated with advanced degrees and were married on June 26.

Westward

In the summer of 1948, Lezak was admitted to summer law school programs at Berkeley and the University of Washington. He and Muriel were not officially engaged at that point, but they had an understanding. Both knew that they were interested in leaving the Chicago area. The University

of Washington won the coin toss and after a summer in Seattle, Lezak decided the Northwest was where he wanted to be, and he wanted to live in Portland. Their “honeymoon” was a five-day drive from Chicago to Portland in the cream-colored convertible they had bought with gifts from their parents.

When Lezak passed the Oregon bar, he already had a job with the firm Lensky, Spiegel, Spiegel, and Martindale. “I decided to accept Reuben Lensky’s offer, in part because I was told I could start trying cases right away and I wanted a firm that would permit me to be involved in the liberal end of politics.” He soon realized it was not the best match for him, but he stayed for a couple of years.

With the advent of the Korean War, his bombardier was recalled and Lezak was told that they would need navigators. Rather than wait around for his assignment, he and Muriel went to Washington, D.C. where they applied for positions with the Economic Cooperation Administration. As this was during the McCarthy era, it took four or five months to be investigated for this kind of federal

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Muriel Deutsch and Sid Lezak, 1946. Photos on this and following page courtesy of Muriel D. Lezak



Sid and Muriel Lezak wedding portrait, 1949.

Sid Lezak

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job. Muriel was working at the Child Guidance Clinic (now the Morrison Center) and both of them had been saving as much as they could.

“We said, ‘What the hell, we’ve got \$3,500, let’s just go to Europe.’” The couple traveled in Europe for six months then returned to Portland. “It was probably the wisest investment that we’ve ever made because it got rid of our wanderlust. It made us realize that the choice that we made to come to Portland in the first place was correct and, fortunately, let’s see, we had \$35 left to our name, and my wife had a job waiting for her.” Their first child, Annie, was born in November 1953, with David and Miriam following in 1955 and 1958. They made their home in Southwest Portland.

Lezak did freelance work for the Nels Peterson and Frank Pozzi firm. After a year, Paul Bailey, who had been an officer with the Lumber and Sawmill Workers Union while going through law school, asked Lezak to help him try some cases. The two started the firm of Bailey and Lezak on January 1, 1954. “So I had one year on my own, approximately, from about November of ’52 until then.”

Lezak became friendly with Howard Morgan, future U.S. Senator Richard Neuberger, and Monroe Sweetland, working with them to liberalize the Oregon Democratic Party. “I’d have to say, looking back, that I probably voted for about as many statewide Republican as Democratic candidates. So long as the moderate element was in control, they were putting up as attractive or more attractive candidates. I guess it’s symbolic of my own feelings that I did not feel that party loyalty was of such a strong consideration that it should override voting for people that I liked, like Tom McCall, and Hatfield. I remember voting for Wayne Morse as a Republican.”

In 1955, Bailey and Lezak took on a case that would have long-ranging effects. The firm represented a number of unions, including the Office Employees Union. Portland Teamsters insisted that four of their secretaries, who were with Office Employees Union, become members of the Teamsters Union, “apparently because they sat on chairs which were on casters or wheels, and they refused. The Teamsters fired them and Paul got the National Labor Relations Board to file unfair labor practice charges against the Teamsters on behalf of those four Office Employees. So Paul and I worked up the hearings together and I participated actively in the hearings before the NLRB, cross-examining the Teamster witnesses and so forth and so on.” The case was the first in NLRB history in which one union brought a claim of unfair labor practices against another. On November 1, 1957 the NLRB found that the Teamsters had been committing unfair labor practices. As a Democratic labor lawyer who was willing to fight the Teamsters, Lezak achieved a new level of attention. The case later went before the Supreme Court and was upheld in 1959 in a 5 to 4 decision under *Office Employees*

vs. Teamsters. The Office Employees also received \$10,000 in back wages.

During the Democratic presidential primary in 1960, Sen. Wayne Morse ran against Gov. Adlai Stevenson and Sen. John F. Kennedy. To pull more labor votes, Morse made what Lezak considered an unfair characterization of Kennedy’s role in the Landrum Griffin Bill. Kennedy made a campaign swing through Portland and had a breakfast visit with a number of young lawyers. At the end of the breakfast, Rep. Edith Green introduced Lezak to Kennedy. Lezak told Kennedy that although he wasn’t one of his team, as a labor lawyer he thought that Morse’s accusations were unfair. Kennedy was interested in what Lezak had to say and asked him what he might do to change that perception. “I think that was the first long conversation I’d had at which Edith Green had ever been present, which turned out to be interesting.”

A Fateful Phone Call

On February 18, 1961, the phone rang at the Lezak home before 7 a.m. Representative Edith Green was calling to tell Lezak that Harry Hogan—the District Attorney of Wasco County, a well-regarded lawyer active in Democratic politics—had had “a very unhappy interview with Bobby Kennedy” for the position of U.S.



Sid and Muriel, both raised in apartments, on the lawn of their Portland home, ca. 1953



Sid and Muriel with their children, Miriam, Annie and David, ca. 1964

Attorney in Oregon. Green had spoken with Multnomah County Circuit Court Judge Herbert “Herb” Schwab and attorney John C. “Jack” Beatty, Jr., who both recommended him for the position. She told Lezak that his name was at the top of a short list of candidates for the Oregon U.S. Attorney position.

Initially he wasn’t interested in the job. “I remember saying, ‘Look, I might only do it for a couple of years and I want to make sure that it’s cleared’—I knew about battles within the delegation. I said, ‘I want to make absolutely certain that my name is completely acceptable to everybody in the delegation,’” including Sen. Maurine Neuberger, who had recently been elected to fill her late husband Richard Neuberger’s term. Lezak was assured that it was.

As a young plaintiff’s lawyer, Lezak had received an AV rating fairly quickly and he had tried cases against his primary supporters, Jack Beatty and Herb Schwab. “I had an opinion of myself as a reasonably competent trial lawyer. I won my share of cases.” He had good results in cases before two of the three federal court judges in Oregon: Judges Claude C. McCulloch and William East. He found Chief Judge Gus Solomon to be extremely difficult. “What little knowledge I had

about this job would indicate that if there isn’t a good opportunity for at least mutual respect and a working relationship between the Chief Judge and the U.S. Attorney, the job could be both unpleasant and it would hinder my effectiveness.” Lezak spoke with Judge Solomon after he was offered the position. Judge Solomon was surprised to learn of the offer. “I remember him saying...‘I know enough about you to know that you have a yen for public service, and my recommendation is, that you take the job and I don’t think the problems you’re concerned about...ought to deter you from taking the job.’”

Lezak took the job. Then power issues split the Oregon congressional delegation. Senator Neuberger believed that Representative Green was being given greater rights of recommendation and patronage than was she as a senator. Senator Neuberger blocked all new Oregon appointments that required senatorial approval. Lezak recalled that “the battle raged, from about February to about July, in a set of events that I guess could be called rather dramatic. I had at one time said, ‘Look I just can’t take it under these circumstances.’” He was offered the appointment as Acting U.S. Attorney which officially was an appointment as an Assistant U.S. Attorney, with power designated by the Attorney General to act as U.S. Attorney. Lezak resented being made to look like a pawn in this game and initially was going to turn it down. Then he said “To hell with it, I’ll do it.” On July 1, 1961, the 36-year-old Lezak found himself sitting in the U.S. Attorney’s office as Acting U.S. Attorney. In that capacity, he earned \$15,000 a year, so the Sidney Lezak Bill was passed in Congress to raise his salary to the \$17,500 he would have earned if he had come in as U.S. Attorney. The difficulties between Neuberger and Green did not resolve until 1964.

U.S. Attorney for Oregon

Lezak decided early on that his office would not run along partisan political lines. Of the seven assistant attorneys who were working there, he let only one person go after several months. His predecessor, Ed Luckey, became a bankruptcy referee and was helpful as Lezak made the transition. “It was still the fashion in most small- and medium-size offices to replace the assistants on a patronage basis. So I think it made it a lot easier that I quickly established that there was going to be some continuity. And I just sort of settled down.” Settling down meant 75 to 80 hours a week reading files to find out what was going on in the office. “It took me a while to learn that I couldn’t read everything that came in.” Ed Luckey was known for personally signing every piece of paper that went out of the office. “I had a completely divergent view. I concentrated on working with the people. And I think probably the first order that I made was that what was going out of the office, if a case [was] be[ing] handled by an assistant, was to have the name of that assistant.”

Lezak had to navigate his role with the FBI. This was at a time when, in effect, there were two FBI operations going on. “You had that FBI operation which related to the courts and criminal charges or civil investigations in things like tort claims cases or applicant matters, and those things the U.S. Attorney would be consulted about.... we had a good deal of control over what the FBI could do in that kind of case....the FBI could not bring complaints in criminal cases without clearing with the U.S. Attorney’s office.” There was another part of the FBI “which we called the ‘deep snow boys.’ They were the COINTELPRO [Counter Intelligence Program] unit and the U.S. Attorney had nothing to do with that operation unless it resulted in a criminal

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Sid Lezak

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charge.” During Lezak’s tenure, very few criminal charges resulted from the activities of the COINTELPRO people. “Those things that may have been done were done simply because they were supposed to be done away from us, without notification to us and, in fact, I’m sure the instructions were to keep them from us.”

The Rule of Sidney’s Mother

On taking office Lezak told his staff, “‘Look, my mother is a very nice Jewish lady who has never, to my knowledge, told a lie in her life.... And I don’t want you to do anything in this office that you wouldn’t want my mother to see on the front page of the *Chicago Tribune*.’...I said, ‘That’s the primary rule in this office. We don’t have a lot of written guidelines and ground rules, and I guess that if you’re not the kind of person who can appreciate and understand what that means in terms of what your conduct is, then you probably shouldn’t be in this office.’”

Robert Kennedy/David Robinson

In August 1961, Lezak went to Virginia for training with other recently appointed U.S. Attorneys. He met



Attorney General Robert F. Kennedy (left) listens as his brother Pres. John F. Kennedy addresses a group of 90 U.S. Attorneys in October 1962. Acting U.S. Attorney Lezak is circled. Photo by Abbie Rowe, courtesy of Oregon Historical Society, Sid Lezak Scrapbook.

Attorney General Robert Kennedy for the first time at his home in McLean, Virginia. Due to the fight between Representative Green and Senator Neuberger, Kennedy had not met Lezak face-to-face up to this point. Lezak lined up with the other U.S. Attorneys to meet him. It was a hot day and they weren’t wearing their coats. Lezak noted that the Attorney General’s fly was unzipped. “But all these other guys, many of whom must have noticed the same thing that I did, obviously didn’t say anything about it—but I thought I was doing him a favor. I told him his fly was unzipped.” Kennedy took in the information with a distinct coolness. Later that afternoon, as Lezak stood in a group talking with the Attorney General and others, he heard someone in the group say, “Fire David Robinson.”

David Robinson was an Assistant U.S. Attorney on Lezak’s staff. When Portland went through a series of vice scandals between 1955 and 1958, David Robinson was vigorous in prosecuting James “Big Jim” Elkins, a prominent Portland gambling figure. Elkins would later appear as a star witness for Robert Kennedy. In 1956 Robert Kennedy was chief counsel for a U.S. Senate committee investigating racketeering associated with Teamsters activity in California when he learned about allegations of corruption in Portland.

“I remember asking ‘Why?’ I was told there’d be some information available. I mentioned that I was really reluctant to do that.” The next day Lezak went into the office of Byron White, who was then the Deputy Attorney General, and was given a document “that only an extremely bright person using the thinnest of reeds could put together as an enormous conspiracy in Portland involving the federal judges, involving David Robinson who had prosecuted this fellow, involving Ron Sherk, an FBI



A skit at the September 1961 Oregon Bar Convention. Future Oregon Supreme Court Justice Edwin Peterson (second from left) sings into the mic while Acting U.S. Attorney Lezak shows he is one of the “Good Guys.” Courtesy Oregon State Bar

Agent who was kind of a liaison to our office.”

Lezak told White that he would investigate the allegations, “‘but I want to tell you, I cannot continue as U.S. Attorney, or running this office if my office is going to be run by the desires of James Elkins, as to who should be an Assistant U.S. Attorney....I’ll look into it, but I have to be convinced that this is the right thing to do.’” White responded, “That’s fine.”

On his return to Oregon Lezak had conversations with Portlanders in whom Kennedy had confidence. This group included Elkins’ own lawyer, Walter “Cap” Evans, and also Bill Lambert and Wally Turner, two *Oregonian* reporters who won Pulitzer Prizes for their reporting on the Portland vice scandals. “When Bobby Kennedy came out to visit [October 1961], that fight had just then been resolved. I’d just then been told, ‘Okay, you can retain David Robinson.’” In the interim, thinking he couldn’t win and that he was going to have to embarrass the administration, Lezak talked to Senator Morse, who encouraged him to stick to his guns. Lezak believed that Senator Morse had let it be known that he “would raise one hell of a stink about this if it happened. I think that may have helped clear it up.”

Phillips v. the U.S.A.

In 1962, a mail land fraud case came into the U.S. Attorney's office (356 F.2d 297, 9th Circuit 1965), the first remote land fraud case successfully prosecuted in the U.S. Abraham Koolish, who has been described as the father of U.S. mail fraud, sent out brochures showing a development called Lake Valley. It covered 14,000 parcels of land in an area 22 miles south of Burns, Oregon around Harney and Malheur Lakes. Malheur Lake was a swamp and Harney Lake was dry, rarely did it have water in it.

The case was tried in Pendleton with Judge John Kilkenny. Lezak and Assistant U.S. Attorney Donal Sullivan were concerned about fitting all the people in the courtroom. Thinking they were doing the court a favor, the night before the case they started rearranging tables. "It's about 9:00 o'clock at night...and in walks Judge Kilkenny, and you would have thought that we were sitting in his favorite lounge chair at home in front of his fireplace. I have never had a stronger feeling about turf in my life. 'WHAT ARE YOU DOING IN MY COURTROOM?!' It was like finding the bear catching Goldilocks."

After that rough start the case proceeded. The jury convicted Koolish and the case made a major contribution to the law. It was established that jurors or witnesses could get on the stand and tell the jury what their impression of the land they were buying was, based on the advertisement or brochure they had seen. The purchasers of these parcels came from many places in and outside the U.S., and included people of different races and national origins. During the proceedings Lezak asked Koolish how come, among these many purchasers, none were Jewish? "Too far from a kosher delicatessen" was the answer that became a byword for the family.

Part Two will be published in the fall issue of Oregon Benchmarks.

Lifetime Member

Ron Lansing: Showing Us His Love of Teaching Through His Artful Lens

By Jennifer Jill Esmay

Lewis and Clark Law School Emeritus Professor of Law Ron Lansing graduated cum laude from Willamette University College of Law in 1960 and was the founding editor in chief of the Willamette Law Review. He has been chair of the Torts Section of the Association of American Law Schools, faculty member of the American Academy of Judicial Education, vice chair of the American Bar Association's Special Committee on Law School Faculty Liaison, and a member of the Portland City Club's Research Board.



In private practice 1961-67, he was the first executive director of the Oregon State Commission on Judicial Fitness and served on the Oregon Legislature's Law Improvement Committee. He has published several books: *Juggernaut: The Whitman Massacre Trial, 1850*, the account of the Whitman Massacre trial, (1993); *Nimrod: Courts, Claims, and Killing on the Oregon Frontier*, the saga of Oregon's first reported murderer in the 1840s and 1850s (2005); and *Crystalling the Legacy: Stories and Reflections on the Accreditation Era of a Law School, 1965-74*, the true story of the accreditation era of a law school (2011). He has more recently been elected to serve as a board member for the U.S. District Court of Oregon Historical Society.

As an attorney and writer of history, Lansing has given his readers stories of law; and, as an artist, he has captured life. In addition to his life-long career as a professor, he has created caricatures of faculty, colleagues, students, and friends. He also paints and sculpts the world around him—he is truly a remarkable human being who has learned to put eloquent story to lessons of law and art. He embraces the U.S. District Court of Oregon Historical Society because, "In the title of this organization, three words stand out as meaningful: Society, Court, and Historical." He went on to explain: "The value of 'Society' means much to me because of its strength, friendship, and unity—all essential to survival of personal spirit. The value of 'Court' means much to me because of its function within the separation of governance where the Judiciary secures balance by measure of law. The value of 'History' means much to me because knowledge of where we're headed is grasped by where we've been."

*We court the future,
Not the past;
But we count on the past
To serve the future.
Past is dusk and gone
But is the way to dawn.*

It is clear that Lansing has made many contributions to Oregon's legal culture. He notes: "But head and shoulders above all of that has been my job for 43 years as teacher of thousands of law students. The contribution is vicarious—a dubious post at having known alumni when they were in law diapers—an advantage that now allows me to share shamelessly in all of their contributions, but not without bowing in respect and in pride for them."



The U. S. District Court
of Oregon Historical Society
740 U. S. Courthouse
1000 S.W. Third Avenue
Portland, OR 97204



Everyone has fun at
the annual USDCHS picnic!

Join us
August 4, 2013



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Annual Picnic

Celebrating Oregon's Criminal Law Practitioners

The Society will honor Oregon's Criminal Law Practitioners at its Annual Picnic on **August 4, 2013 at 1:00 pm.**

The picnic will be held at Judge Leavy's hop farm, located at 22675 Butteville Road, N.E. Come celebrate with us by enjoying an old-fashioned barbeque, pony rides, inflatable jumps, tractor rides, and a craft table all afternoon.

RSVP to 503-326-8150 or linda.schroeder@klarquist.com by July 26 with the number of adults and children in your party.