

# Oregon BENCHMARKS

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

*What's in a Name?*

## Barrie Herbold's Path: Peter Pan to Learned Hand

By Heather Van Meter

*(This article is based on Lisa Kaner's oral history of Barrie Herbold and supplemented with information from her family. The oral history was completed in September 2001, a month prior to Ms. Herbold's death from breast cancer. The U.S. District Court of Oregon Historical Society and its oral history subcommittee are grateful for the efforts made in preserving this important historical information.)*

As was her style, Barrie Herbold described in exquisite and entertaining detail the origin of her name. Throughout her career, attorneys and others assumed that "Barrie" was a man. "My mother selected my name after expecting a boy because I was so different in the womb than my sister [Cynda] was. The name she had selected was Christopher, and I have frequently asked her why she didn't call me Christine or something rational and logical like that, and she said she wanted me to have an unusual name, so she named me after James Barrie, the man who wrote *Peter Pan*, whose last name is spelled the same way my first name is spelled."

"I've relentlessly, throughout my career as a trial lawyer, been referred to by people that I know and don't know when they're writing to me with the salutation 'Dear Sir' or 'Dear Mr. Herbold.' I invariably respond to those communications, because I feel it would probably be malpractice not to, even though I think people should probably check the sex of the person to whom they are writing before they actually choose the gender that's going to go into the letter."

### The Early Years

Barrie's father Jim Herbold joined the Marine Corps in the year before Pearl Harbor, and fought in the South Pacific, receiving the Silver Star for his service. He became engaged to her mother Barbara before going overseas and they married as soon as he returned, in November 1944, and remain mar-

ried more than 58 years later. A few years after they were married, Barrie's older sister Cynda was born, and Barrie came along two years later. The Herbold family lived in the Washington, D.C. area, Philadelphia, and Southern California at least twice each, and Honolulu once, while Barrie's father was in the Marines. Both girls were born at Bethesda Naval Hospital in Maryland.

Growing up in a military family was challenging for Barrie, "You have to become accustomed to changing your whole group of friends at school, like putting on a new coat." Barrie graduated from a high school outside Philadelphia, with a 4.0 grade point average. An excellent high school writing teacher supported her love of, and highly regarded skills in, writing. She served as editor of the school newspaper and yearbook, writing most of the text for both publications. Barrie also wrote quite a bit of poetry, "especially if [she] had a boyfriend."

For college, attending Stanford was her first choice, but her guidance counselor convinced her to apply to the University of Pennsylvania as well, just in case. She also considered Mt. Holyoke, but rejected it because she didn't want to attend an all women's college. She chose the University of

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Barrie Herbold (center) with her sons Robyn (left) and Jamie in Kauai in 1991.

## President's Message



On May 1, our Society put on yet another excellent presentation in our continuing Famous Cases series, this one being *Arguing Before the Supreme Court: District of Oregon Cases Before the Supreme Court*. Speakers included Professor Stephen Wasby, Judge James Redden, University of Oregon President Dave Frohnmayer, and Portland lawyer, Tim Volpert. Thanks to the efforts of Bill Long and his committee, this was, in my opinion, the best presentation I have ever seen on appellate argument. That it concerned cases out of our District made it all the more meaningful. Thanks to Jenifer Johnston, these presentations now qualify for MCLE credit (1.75 hours). For those of you who missed the presentation, please contact me to make arrangements to see the video and to get copies of the materials.

The committee is already planning its next Famous Cases presentation in late September on little known **Foreign Intelligence Surveillance Court** and the **Foreign Intelligence Surveillance Court of Review**. Established in 1978, it has become the subject of interest following the events of September 11 and the publication of the Court of Review's first opinion last November [*In re Sealed Case No. 02-001*, 310 F. 3d 717, (For. Int. Surv. Ct. Rev. 2002)]. This is a program that no one will want to miss.

By the time you read this, we will have held our joint Summer Associate Program with the Federal Bar Association on June 18. This annual program introduces summer clerks to the operation of the U.S. District Court. This was followed by our Bench and Bar Social at the Courthouse. Thanks go to Jenifer Johnston, Kelly Zusman, Karen Saul, and the Events Committee for all their work on this.

In just a few weeks, on **Sunday August 3**, we will hold our **annual picnic, co-sponsored by the FBA and the Attorney Admission Fund**. Once again, the picnic will be held at Judge Leavy's family hops farm. For those of you who have not attended before, I would encourage you to do so. It is a very relaxed affair, great for families, and a wonderful opportunity to renew old acquaintances and make new ones.

Finally, be sure to mark your calendars for our **annual dinner**. It will be held a little earlier this year, on **Thursday, October 30**. The location is still to be determined, but we'll update you in the next *Benchmarks*.

—John W. Stephens

## Do You Know the Judge?

By Leah Lively



This judge is a third generation Oregonian whose grandmother climbed Mt. Hood. In high school he played football and in college (as a third generation Duck) he played the guitar and sang. His favorite recently read book is *John Adams* by David McCullough. He has in his office a surveyor's compass that was likely used to map Baseline Road in Oregon (which served as the basis for mapping much more). It was given to the Judge's uncle by Metzger of Metzger maps.

Do you know the judge? (*Answer on page 6*)

## Remembering George Dysart

By John Stephens

*In every line of business there are men who are able to see further than others. By some, this is called intuition, by others, good judgment, but call it what we may, the fact remains that the farseeing men are those who become by natural right, leaders in their community. This applies to law as well as to anything else. It applies to such men as George Dysart of Centralia, Wash., as one of the best qualified lawyers in the northwest.'*

Written in 1922, these words referred to the grandfather of long-time Oregon lawyer George Dysart, but they could have just as easily been written about him. George Dysart (the grandson) was born in Centralia, Washington in 1923. A 1943 graduate of the University of Washington, he served with the U.S. Marine Corps at Peleliu, Okinawa, and Kyushu during the Second World War. He attended Harvard Law School, where he graduated with honors in 1949, and then moved to Portland where he went to work for the Bonneville Power Administration. From there he went to the Department of the Interior where he served as a regional solicitor. He finished his career with the Department of Justice as a Special Assistant U.S. Attorney, continuing in areas he'd worked on in the Department of the Interior. George Dysart, a lifetime member of our Society, died on November 25, 2002 at the age of 79.

It was in his capacity as lawyer for the Department of the Interior that George made his mark by helping secure for the Northwest tribes their treaty fishing rights. In 1968, David Sohapp, a member of the Wanapum band of the Yakima Indian Nation proceeded to fish outside the state-imposed fishing season.<sup>2</sup> For this, he was arrested. This Here-I-stand act was the culmination of decades of discontent by the Columbia River tribes, and the beginning of a long

legal battle that continues today.

Sohappy, along with his cousin, commenced an action in U.S. District Court for the District of Oregon to define their treaty rights. This is where George Dysart's critical role began. He persuaded the Department of Interior that the Columbia River tribes were correct, that their treaty right "of taking fish at all usual and accustomed places in common with citizens of the Territory" meant something more than simply "giving" the treaty Indians the same rights as given to all other citizens; that it meant preserving for them rights to fish that had existed since time before mind. Dennis Karnopp, who represents the Confederated Tribes of Warm Springs said, "George was the key to the whole thing. Fishing rights were one of the most important things to Indian people. No one understood that better than George."<sup>3</sup> George persuaded the department that the United States should commence its own action against the State of Oregon to vindicate the Tribes federally-secured treaty rights—the result, *United States v. Oregon* filed in 1969.

In October 2002 at a presentation by this Society, "From Chaos to Quotas: Sohappy and the Columbia River Salmon Wars," Judge Owen Panner, who represented the Confederated Tribes in these proceedings, explained that the intervention by the United States in the controversy gave the Tribes' position a credibility with the court that thereafter changed the whole dynamic of the proceedings.

Judge Robert Belloni ruled in that action that the "treaty Indians, having an absolute right to that fishery, are entitled to a fair share of the fish produced by the Columbia River system."<sup>4</sup> In 1974, in the Washington action, Judge George Boldt ruled that "in common with" meant "sharing equally the opportunity to take fish," and therefore, treaty right fishermen had the right to have the opportunity to take up to 50% of the harvestable fish.<sup>5</sup>

George's involvement did not end there. An expert on Indian law, he continued as the lead government attorney, representing the United States in these cases, and in the related cases in the State of Washington, all the way up to the U.S. Supreme Court<sup>6</sup> and all the way back down again.

Sid Lezak, the U.S. Attorney in Oregon from 1961 to 1982, noted that George Dysart's integrity gave him great credibility with judges. "George was the kind of guy, if he told you something, believe it. There were no mistakes. He was the consummate legal craftsman."<sup>7</sup> On the occasion of George's retirement in 1992, former Executive Director of the Columbia River Inter-Tribal Fish



Photo by Owen Schmidt

*"It was not simply the law he understood, he grasped much of what was in our hearts."*

Commission Ted Strong wrote "It was not simply the law he understood, he grasped much of what was in our hearts.... We honor this man, his energy, his self-sacrifice, his strength of mind and character and for being a friend in our time of need."

George is survived by his wife Jan, who frequently attends our Society's events, three sons, and four grandchildren.

1. H. James Boswell, *American Blue Book, Western Washington* 163 (1922).
2. The name of the Yakama Nation was spelled "Yakima" in David Sohappy's lifetime but was officially changed to "Yakama" in 1992.
3. "George Dysart, Legal champion of tribal fishing rights, dies at 79," *Oregonian*, Nov. 27, 2002, p. D5.
4. *Sohappy v. Smith*, 302 F. Supp. 899, 911 (D. Or. 1969).
5. *United States v. Washington*, 384 F. Supp. 312, 343 (W.D. Wash. 1974).
6. *Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n.*, 443 U.S. 658, 679 (1979).
7. "George Dysart, Legal champion", *op cit*.

## Famous Cases Series

### Surveillance!

### The Foreign Intelligence Surveillance Court

By Bill Long

On Thursday, September 25 between 4:00 and 5:45 at the Hatfield Federal Courthouse, the District Court of Oregon Historical Society and the Federal Bar Association will sponsor a program on government surveillance and focus specifically on the **Foreign Intelligence Surveillance Act and Court**. The workings of this Court, removed from public view, came to the attention of many people in the last year when, for the first time in its 24-year existence, the Surveillance Court issued a written opinion declining to honor investigative techniques proposed by the United States Department of Justice. This decision was then reviewed, and reversed, by the Surveillance Court of Review which had not yet met before the decision. We are very fortunate in that this program presents the unique opportunity of having both a judge from the Surveillance Court (**Judge Harold Baker**) and a judge from the Court of Review (**Judge Edward Leavy**) as well as a United States attorney (**Charles Gorder**) and the defense attorney (**John Cline**) who wrote an amicus brief in this case. They will describe what they can of the work of the court as well as its decision and review in 2002.

\* \* \*

#### Famous Cases CLE credit

Those who attended the May 1 "Arguing Before the United States Supreme Court" Famous Cases lecture can receive 1.75 credits.

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Pennsylvania, but later learned that she was technically enrolled in Penn's College for Women. "I found out later, when I started having my dawning realization of sexual discrimination, that Penn had a quota on women. The College for Women was not to be more than 25 percent of the size of the College for Men. So they basically did not accept women who otherwise met their standards but they did accept men who were less qualified and that in conjunction with the difference between the College for Women and the College for Men pretty much outraged me."

### Law School and the Early Years of Practice

In 1970, Barrie's father retired from the Marine Corps after 30 years. Some family friends encouraged him and her mother to move to Oregon. She graduated in 1971 from Penn with a B.A. in sociology. After college, she spent some time in San Francisco working as a secretary for a sandblasting company, then came to Oregon to join her



*Barrie Herbold hitting the books in college.*

parents. In Portland she worked as a receptionist for Oregon National Insurance, then lived in Corvallis for a couple of years where she was a secretary at Linn Benton Community College. On returning to Portland, she heard about a job requiring a sociology degree, but at the interview she found 500 applicants for one opening. She realized then that she needed more education to distinguish herself and that led her to law school. She attended the University of Oregon School of Law, part

of a class that was 25 percent women. The U of O did not have any quotas, and, in fact, the class two years ahead of hers was only two percent women. Many of the women admitted with her were in their mid- and late-twenties, women who had some life experience prior to law school. She appreciated their views on life and law school and remained lifelong friends with many women classmates. "It was very much a benefit (as I felt it would be) to the system of justice to have more women in law school." The mostly male members of the law school faculty were slow to adapt, frequently addressing the class as "gentlemen." The law school text books were also slow to change. One property book included the advice "As you draft your [real estate] document and you're not sure whether the ordinary person would understand it, read it to your wife, and if she understands it, anybody could."

Barrie decided early on that she wanted to be a trial lawyer. She focused her education on trial practice, evidence, procedure, and similar classes, and looked for a summer clerkship at a large Portland law firm. At the time, it was standard practice to send one's resume to the head of the firm, but Barrie's special tactic was to personally deliver her resume to the six largest law firms. The receptionist at Dezendorf Spears Lubersky & Campbell immediately took her resume and showed it to U of O law school alumni in the office. One of them, Larry Janssen, came out and spoke with her on the spot. They had been hoping to hire more U of O graduates, and Janssen also wanted to increase the size of the firm's trial department. A few days later, Barrie received a letter in the mail from Dezendorf Spears offering her a job for the summer.

During her 1976 summer clerkship she worked with two fellow clerks, both male. At the time, the Arlington Club was an all-male club where women were barred even as guests. Towards the end of summer, some of the senior partners in the firm took the two male clerks to the Arlington Club for lunch and simultaneously Og

Young invited Barrie to go for 25 cent coffee at Eve's Coffee Shop. Over coffee, Young told her that the firm was quite pleased with her work and wanted her to return as an associate. She replied that she wanted to accept the offer, but could only do so if it was to work in the firm's trial department. Young was concerned that juries in Multnomah and other counties would not accept a female trial attorney, but he agreed to investigate it further. After asking around, he learned that several women were in fact trying cases in Multnomah County with very good results, including Janet Hoffman, Judy Snyder, and Carol Hewitt. The firm agreed to allow Barrie to work in the trial department and try cases in Multnomah County. They wouldn't allow her to try cases in other counties. For instance, it would be out of the question for her to meet with a group of railroad men in a motel in Klamath Falls for trial preparation. She accepted the job with the understanding that it would be in the trial department, and the firm simultaneously hired another female associate, so there were two females among the firm's 60 attorneys.

A significant amount of Barrie's work was for the Southern Pacific and other railroads. During her first year, the firm was planning a large gathering for the trial department with the Southern Pacific clients, to be held at the still all-male Arlington Club. Hearing of the event, she knew that she couldn't attend. She discussed it with other associates in the firm, and while several agreed with her that the exclusion of women from the Arlington Club was illegal, they were not in a position to do anything about the firm's choice of venue. Barrie and several male associates boycotted the event, refusing to participate due to its location. The next year the event was held at the Multnomah Athletic Club where all could attend.

Gender discrimination at the time and the fact that few women were in law school or became lawyers made Barrie feel like an "underdog," a feeling not alleviated when she began working at Dezendorf Spears, which

had never had a female partner. Characteristically, Barrie took this as a challenge and was determined to become the first female partner. After five years at the firm (which had a five-year partnership track at that time), she was passed over for partnership. Barrie later learned that, as she had two young children at the time (while in law school she married David Powell, with her elder son Jamie born in 1977, followed by Robyn in 1980), they justified postponing her consideration for partnership by a year due to her time off for maternity leave. In fact, she had only taken six weeks off for each child. When the decision was made, David Markowitz was a partner and Barrie's mentor at the firm. He knew before Barrie did that she was going to be passed over for partnership. He took time to consider the matter.

The day after learning of the decision, he took Barrie to coffee and told her the news. She was quite upset, as expected, but Markowitz suggested to her that the time had come for them both to leave the Dezendorf firm and create their own law firm. She readily agreed. "I thought that was wonderful, the best opportunity I could possibly have had because I knew he was a very good teacher, and I knew he was trustworthy, and I knew he was the smartest person that I think I had ever known, and without a doubt the best trial lawyer."

### The Markowitz & Herbold Firm

Markowitz & Herbold opened for business in January 1983 at the 811 Building, with Barrie's sister, Cynda, acting as business manager, Cindy Knowles as legal assistant, and Candy Barnett as secretary. Barrie began spending more time in trial, especially in federal court. Her first federal court case was with Markowitz, *Horizon Industries v. Westvaco*, before Judge Owen Panner. The case involved a breach of contract by a chemical company. The company, Westvaco, had breached a contract to provide certain products to the firm's client, Horizon Industries, for re-sale, and the breach could have destroyed Horizon's busi-



*Dave Markowitz and Barrie Herbold at the firm's annual open house in March 1994.*

ness. The parties testified that Westvaco's representative told Horizon's owner that he should be satisfied with the product they were giving him because "half a loaf is better than none." The jury eventually found for Horizon and awarded the company a half million dollars for the remainder of the loaf.

Barrie recalled that, during the trial, she was second chair and responsible for getting in a fair amount of rather dry evidence through a series of witnesses. After four or five of these, Judge Panner looked at her and said "You're taking too long with all this. You've made your point. I want you to stop asking these people questions about this." He scared the daylight out of her. So during a break, with Markowitz' assistance, she came up with one painfully long, probably leading question that got the remainder of the evidence they needed to prove their case. There were no objections to the question, the evidence came in and the rest of the witnesses were excused.

Barrie also remembered that in this case she had approximately one hundred exhibits that she felt needed discussion during her closing argument. While explaining the documents, one juror asked her directly to further explain a document, including the author, addressee and date. Barrie was thrilled that someone was paying enough attention to what she had to say to ask an intelligent question about it. She was also afraid to answer, as she feared it would draw an

objection or an admonition from Judge Panner. Nobody objected and she spoke with the juror directly to answer the questions.

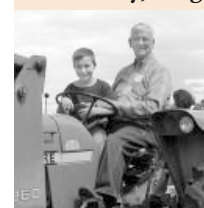
Soon after that case, Markowitz & Herbold began work on the *Diamond Investigations v. Farmers Insurance* case. The client, Peter Diamond, did Farmers' fraud investigations, and an issue arose regarding breach of contract in a case that Diamond was investigating. During discovery, she learned that some of Farmers' fraud investigators kept diaries, including one that was thought to have information relating to Diamond's case. Farmers failed to produce the diaries, which had been destroyed after the litigation was filed, and she filed a motion for sanctions, seeking the sanction of default. Judge Robert Belloni granted the sanction and, after presentation of evidence on damages, entered a judgment of approximately two million dollars. Farmers appealed the decision to the Ninth Circuit, which upheld most of Judge Belloni's award, including punitive damages.

Barrie assisted Don Willner on a Ninth Circuit appeal of a sex discrimination case. Though they did not prevail on appeal, it gave her a strong reputation for such civil rights litigation, as the case involved an issue of

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## CALENDAR

### ■ Sunday, August 3, 1—4 p.m.



Free Annual Picnic at Judge Leavy's family hops farm.

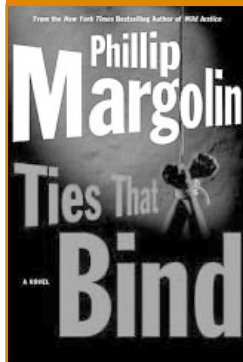
Sponsored by the Federal Bar Association, Oregon Chap-

ter and the U.S. District Court Attorney Admission Fund.

You won't want to miss this! RSVP to (503) 326-8009 or linda\_sherry@ord.uscourts.gov

■ October 30. . . Annual Dinner Location to be announced.

## ON OUR MEMBERS' BOOKSHELVES



### Ties That Bind

By Phillip Margolin

Published by HarperCollins, 2003

Reviewed by Mary Ellen Farr

Phillip Margolin's most recent mystery novel, *Ties That Bind*, reminds the reader why Margolin remains so popular. He spins a spirited plot line that just keeps moving. For Oregon readers, that plot line is always particularly fun, given the local settings of the novels. Like his prior eight mysteries, this novel is a fun ride for people who revel in fictitious murder, mayhem, gore and chaos all finally descending to order.

Margolin focuses on a nefarious group of aging preppies, who double as killers and drug pushers while conspiring to elect one of their members to the United States presidency. Their choice for president is Tim Kerrigan, a local boy who made good, a Heisman trophy winner who combines a penchant for being spanked by prostitutes with a listless career in the Multnomah County District Attorney's office. The conspirators come into contact with Margolin heroine Amanda Jaffe and her father Frank. Amanda is suffering from post traumatic stress disorder as a result of being tortured by a psychotic doctor in *Wild Justice*, the precursor to this book. Amanda is called to the chambers of an irascible judge who appoints her to represent a man accused of murdering a United States Senator who enjoys beating up prostitutes. The golden boy Kerrigan is tagged to prosecute the crime. Although Amanda is concerned that her present psychological distress may not combine well with the facts of the cases she is being asked to handle, her father convinces her that she needs to get "back in the saddle."

In fact, Amanda's client, the man accused of murdering the Senator, has made the prosecutors' case all the easier by apparently murdering the first lawyer appointed to represent him. This happened in the holding cell of the Justice Center under the eye of the jail guard. Amanda's client is now refusing to cooperate with her. It is her job to assume that her client must be innocent, then to figure out who the real murderer is and how the murders were accomplished. Along the way, Margolin includes Latin drug lords, good-hearted prostitutes, mean-spirited pimps, an orphaned child, a lovingly optimistic father, several unexplained suicides, abductions, tortures, shootouts, an ax murder, and a healthy dose of shady public figures. Since this is a Margolin mystery, you can assume that the murders will not be as simple as they appear, and you can expect a twist at the end when you think the murders have been solved.

**Warning:** You will enjoy this book more if you have read *Wild Justice* and *The Associate*. Margolin introduced the Jaffes and their somewhat off-beat criminal defense firm to readers in those novels. Although *Ties That Bind* stands on its own, the backgrounds of the various characters and many references are clearer with the other two novels in mind. Besides, they're also fun.

Answer to Do You Know the Judge? Judge Malcolm Marsh

## William White

Retired Portland attorney William F. White died March 11, 2003 at his Lake Oswego home of natural causes. He was 92.

White graduated from the University of California Hastings College of the Law in 1934, and began practicing law in San Francisco at that time. During World War II he served as a reserve officer in the U.S. Navy. In July 1945, White was aboard the U.S.S. *Callaghan* destroyer in the Pacific when it was hit by a kamikaze plane. The ship sank, and White received the Purple Heart for his injuries. White continued service in the Naval Reserve until 1970, when he retired with the grade of commander.

In 1950, White joined his cousin Tom White in Portland to practice admiralty law. The firm grew and was known during a period of time as White, Sutherland, Brownstein & Parks. He continued the active practice of law until 1985. In 2000, he was honored as a 50-year member of the Oregon bar.

White liked to write. A frequent contributor to the *OSB Bulletin* and other bar publications, he also published two books. His 1972 book, *Winning in Court on the Law of Facts*, was about sufficiency of evidence and findings of fact. After his retirement he collected funny law stories submitted by attorneys from all 50 states, which he published in various forms starting in 1987 and updated periodically. He brought out his newest edition of humorous courtroom anecdotes in 2002, entitled *A Trial Lawyer's Delight*.

White is survived by his wife of 55 years, Janet, and a son.

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## Barrie Herbold's Path

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equal pay for female professors and assistants for similar work. She went on to have many more large, successful cases for such clients as the May Department Stores Company (parent company of Meier & Frank) and Portland General Electric. These ranged from employment litigation to business torts. She particularly enjoyed a securities case before Judge Malcolm Marsh when he “schooled” some New York lawyers about local standards of professionalism. During one conference with Judge Marsh, the attorneys were arguing over when and where to take depositions, and Barrie told the Judge that she had canceled a trip to England to attend a long-time friend’s wedding so she would be available for depositions. Judge Marsh sternly admonished her, saying she shouldn’t have done that without coming to him first, because he wouldn’t have let her miss the wedding. He promptly ordered all the attorneys to take a one week vacation because they were all too intense about the case.

During the firm’s early years, Dave Markowitz focused on developing business, while Barrie managed the firm, which she enjoyed immensely. They agreed that their goal was to never lose an employee because they were unhappy with their treatment, and that any reasonable request would be granted. She was careful in hiring, in order to maintain a good staff and the firm’s reputation of winning cases in a professional manner. Over the years, many new associates and partners joined the firm, including Bert Stafford, Lynn Stafford, Peter Glade, Christine Herrick, Lisa Kaner, Jeff Edelson, Lynn Nakamoto and Bill Mehlhaf.

### Professional Achievements

In 1996, Barrie was elected to the Oregon State Bar’s Board

of Governors and, in 1998, served as its Vice President and chaired its Public Affairs Committee. She worked with the bar and legislators to obtain additional funding for low-income legal services and for new judgeships statewide. After completing her term on the Board of Governors, she was elected to the Bar’s House of Delegates. She was a member and vice chair of the Judicial Selection Committee of the Multnomah County Bar Association. In 1999, Barrie became the second woman lawyer in Oregon to be inducted into the American College of Trial Lawyers. While she was a formidable opponent as a trial lawyer, she was also committed to promoting professionalism within the legal community, serving as chair of the Oregon State Bar Association’s Professionalism Task Force and helping found the Bench/Bar Commission on Professionalism, which has improved standards of professionalism among lawyers and judges. That same year, she received the Multnomah Bar Association’s Professionalism Award for demonstrating “the highest ethical standards and exemplary conduct in the practice of law.”

Second only to her drive to make her chosen profession more ethical and humane, Barrie was active in pursuit of social justice for all. For over twenty years she provided legal services to the poor and elderly as a volunteer for the Oregon State Bar’s Senior Law Project. In 1993,



*Barrie Herbold in 1999.*

Multnomah County Legal Aid acknowledged her contribution to this program by a Recognition Award for Volunteer Services to the Elderly. She was a strong supporter of the

Campaign for Equal Justice, which supplies funding to Legal Aid in Oregon. In 2001, the Portland Chapter of the American Jewish Committee recognized her dedication to human rights by choosing her for their Learned Hand Human Relations Award, honoring “leaders in the legal field for professional excellence and for their contributions to the legal community.”

Barrie devoted considerable energy to advancing the interests of women. This was acknowledged by the YWCA in 1993 when she received their Women of Achievement Award. She was a role model and mentor to those women lawyers she knew who followed her into the profession, and an inspiration to many more she never met. She was a founder of JEWL (Justice Endorsed by Women Lawyers), the Oregon Women Lawyers’ political action committee that has played an important role in promoting the appointment of women and minorities to the bench. In 1998, Oregon Women Lawyers selected her to receive its Justice Betty Roberts Award in recognition of her “outstanding contribution to promoting women in the legal profession and in the community.”

Barrie was active in other professional organizations. She was a Master in the American Inns of Court, Gus J. Solomon Chapter, belonged to the Federal Bar Association, and was a frequent contributor to Continuing Legal Education programs and publications for many bar organizations. She gave her time to her alma maters, interviewing young Oregon

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*From left to right: Candy Barnett, Barrie Herbold, Dave Markowitz and Cynda Herbold at the firm’s anniversary dinner in March 2000.*

## Barrie Herbold's Path

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nians applying to the University of Pennsylvania and serving on the Board of Visitors for the University of Oregon School of Law from 1991 through 1994.

Outside the practice of law, she continued her community efforts. She was active in her church, including supporting women in their path toward ordination, and served on the board of directors of various non-profit organizations, most recently the Dougy Center, an institution providing emotional support to grieving children.

### Peter Pan Flies Away

In July 1997 Barrie was diagnosed with breast cancer. Despite a mastectomy and chemotherapy, by the following year the disease had spread to her brain and bones. Throughout the years that Markowitz and Herbold

worked together, they always had a glass wall between their offices so each could see when the other was in the office. At a certain point during her illness, Dave told Barrie that he no longer liked the glass wall because now when he looked at it, he saw only her empty office. He asked her to promise that when she was able, she would come into the office and simply rest there so he did not have to see her empty chair.

In 1999, when her health looked particularly precarious, she invited her friends and supporters to share her joy by celebrating her marriage to Bill Gross with a traditional wedding. Throughout her battle with cancer she did her best to maintain an active life doing the things she loved—riding her horse, Roxie, tending her rose garden, and traveling, including camping trips to Crater Lake and the Oregon coast a few weeks before her death.

The Campaign for Equal Justice established an endowment fund in her name with the Barrie Herbold Fund of the Oregon Access to Justice Endowment.



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