

## Judicial Profile

HEATHER VAN METER

# Judge Owen Panner *From Whizbang to the Bench*

**OWEN PANNER SPENT his youth in Whizbang, Okla. His father was a geologist, who hailed from Pittsburgh and worked in the Oklahoma oil fields. Along with two sisters, he spent his childhood in a strict but loving family during the hard years of the Depression and the Dust Bowl. Judge Panner retains vivid memories of**

the hard times his neighbors struggled through during this era. He remembers one local family sinking their sailboat in the middle of the lake because they couldn't afford the taxes on it. While Panner's family was not hit as hard financially as others in town were, it was during that period that Panner developed his strong work ethic and his appreciation for a hard dollar earned — ideals that he still carries with him today.

The Depression brought not only economic hardship to many families but also medical hardships. Disease struck the Panner family when an aunt contracted scarlet fever. At that time, the prevailing medical wisdom was to keep water and food away from patients; but the elder Panner, unable to watch his sister suffer, would slip her water every chance

he could. In explaining his actions to his son, Panner's father told him, "No matter what these professionals tell you, sometimes they're wrong. You have to use your own common sense."

Panner's youth in Oklahoma was not all hard times. Panner enjoyed participating in a range of sports, developing a special fondness for golf. He became an amateur champion, and, while he was still a young man, golf had certain remunerative aspects for him that served him well in later life. Years later, after he became a member of the bar, he found golf to be a useful connector with clients

as well as an enjoyable form of exercise.

While working in Arkansas one summer, Panner's views on segregation went through a new phase of development. As he was riding on a city bus in Arkansas, Panner watched a bus driver tell a black patron to sit in the back. The man flashed a look at the driver, and the driver immediately began beating him with a weapon. It was a graphic and immediate

illustration of the unfairness of segregation, which has stayed with Panner to this day.

### College and Military Service

After high school, Panner attended the University of Oklahoma, pledging the Phi Delta Theta fraternity, playing golf, and doing well until Pearl Harbor was bombed. As a 17-year-old freshman, Panner considered lying about his age and enlisting. His parents convinced him to stay in school for two years to see what happened with the war. After two years at the University of Oklahoma, Panner and two friends decided to enlist in the U.S. Army paratroopers. This was complicated by the fact that Panner was nearsighted. During the eye exam, he arranged to have a friend help him read the eye chart. A sergeant caught them and sent Panner to an infantry unit at Fort Benning, Ga.

After basic training, Panner was upset to learn that he was being sent to an engineering school at West Virginia University. When he finished engineering school, he was sent to the Transportation Corps officer training school in New Orleans. From there, Panner was transferred to Los Angeles as a second lieutenant loading officer to coordinate ship and troop transport loading. Panner regularly requested transfers in hopes of seeing some actual fighting, until his colonel threatened to send him to Guadalcanal if Panner persisted. The colonel said, "If you don't have enough sense to save your own life, why I'll have to save it for you."

Panner met his first wife, Agnes Gilbert, while he was in Los Angeles. Out of dental pain came pleasure, when he went in for treatment on an impacted and infected tooth and Agnes was the nurse who cared for him. After a brief courtship, Panner and Agnes were married, as Panner prepared to escort a troop transport to Europe. Because his overseas tour began after the Japanese surrender on Aug. 15, 1945, Panner mainly assisted in troop transport between Europe and New York. Agnes was from Long Island, N.Y., so she and Panner stayed at her parents' house when he was stationed in New York. Their first child was born on Dec. 13, 1946, and mother and child remained in New York while Panner completed his time in the military. After Panner completed his military service, the Panner family returned to Oklahoma so that Panner could attend law school. During law school, Panner took advantage of his father-in-law's employment with Grumman Aviation, and Panner worked for Grumman in the summers in New York. This also allowed Agnes and the children to visit her family each summer.

At the time of his discharge from the U.S. Army, the University of Oklahoma had a special program that allowed



those with two years of college to go directly to law school. Panner went straight to law school while still playing varsity golf on scholarship for the University of Oklahoma Sooners. Juggling family obligations and golf, Panner was very focused in law school, earning nearly straight A's and becoming a member of the Law Review.

While Panner was in law school, the Ada Sipuel segregation case arose at the school. Ada Sipuel, an African-American student, applied to attend the law school in 1946. The University of Oklahoma refused to admit her, and in 1948 Thurgood Marshall argued Sipuel's case before the U.S. Supreme Court. The Court ruled that University of Oklahoma must provide instruction for black students equal to that which was provided to white students. In response to this ruling, the Regents of the University of Oklahoma created the Langston University School of Law, located in the state capital. Local practicing lawyers were used as the professors in an effort to create a "separate but equal" campus for Sipuel. After one term at this campus, Sipuel's case returned to the Supreme Court with the argument that the facility was not "separate but equal." The regents asked an esteemed professor from the University of Oklahoma, Dr. Merrill, to argue the case. Dr. Merrill refused, because he did not believe that the Oklahoma City campus was "separate but equal." The regents then reversed their position and allowed Sipuel to enroll at the main law school campus at the University of Oklahoma.

For her first day of class, the carpentry staff at the law school built a two-by-four railing for Sipuel to sit on instead of in the regular lecture hall seats. Panner arrived in the classroom early that day and, upon seeing Sipuel's seat, Panner and several friends yanked out the rude railing and tossed it out of the window. When the law professor entered the classroom, he smiled to see the railing gone and told Sipuel to sit anywhere.

### Coming to Oregon

Following law school, the Panner family looked westward. They considered moving to Colorado or New Mexico, but a law school friend's uncle, Judge Claude McCulloch, had shared stories of the beauty of central Oregon. After winning a round of nine holes, Panner had enough money to make the trip to the Northwest. He took a position in Duncan McKay's law firm in Bend, Ore., but had to wait nearly a year to take the annual Oregon bar exam. While he waited, he sold cars and also helped with the 1950 Census. His census work helped him get acquainted with the terrain of his new home and he met many future clients. While he was selling cars, he met various members of the Confederated Tribes of Warm Springs, who would later become an important client. After he passed the bar, Panner decided he would like to do trial work.

During his career in private practice, Panner took on many difficult and unpopular cases. He also became general counsel for the Confederated Tribes of Warm Springs. Panner attended general council meetings, which, in the early

days, were held in their Great Hall, with dirt floors and one wood stove. Meetings were often conducted in Sahaptin and translated into English for Panner by an interpreter. Panner worked with the tribal council and worked closely with a loved but feared tribal member, Ella Wolf, the self-appointed "meanest woman on earth." His efforts on behalf of the Confederated Tribes of Warm Springs included establishing education trusts for children, investing in tribal development, overseeing the development of hydropower, overseeing sawmill operations, helping with electrification for the residents, providing protection of tribal fishing rights, and performing similar tasks meant to improve the tribes' future. Because of the success of his work with the Confederated Tribes of Warm Springs, Panner was asked to become commissioner of the Bureau of Indian Affairs under President Kennedy, a position that he considered taking but declined.

### A Member of the Bench

Panner's civic involvement and his contacts with national leaders through his work with the Confederated Tribes played a large role in his appointment to the federal bench. Panner was appointed to the federal bench in 1980 by President Jimmy Carter, and he became a federal district judge for the District of Oregon.

Owen Panner practiced as a trial lawyer in Bend for 30 years before joining the bench. In that time, he handled a range of federal and state litigation, including divorces, murders, and contract disputes. He was voted Trial Lawyer of the Year and became a member of the American College of Trial Lawyers. When his mother learned that he was being appointed to the federal judiciary, she said "I don't like it at all. He's always stood up when I come in the room, and now if I go to court, I have to stand up when he comes in the room."

Although he was saddened to leave his law practice and his horse farm in Bend, Judge Panner was honored to receive the judicial appointment, stating, "I felt very proud to have the chance to do something about what I had criticized for a long time — the amount of time it took to get a decision." Indeed, Judge John Burns had the same idea and immediately made Judge Panner chair of the Calendar Management Committee.

Judge Panner has had a strong influence on the Oregon federal court. He has encouraged succinct writing, collegiality among the judges, and apolitical decision-making — standards that remain today.

Some of the more noteworthy cases Judge Panner has decided involve the savings and loan crisis, federal wire taps, and one involving the now-infamous ice skater Tonya Harding. Now on senior status, Judge Panner is working slightly less than full time. He frequently sits, by designation, on the Ninth Circuit Court of Appeals. Judge Panner is conscientious about continuing to serve the judiciary. He regularly sends anonymous surveys to parties appearing before him to be sure his legal abilities remain at their superior quality.

Judge Panner currently resides with his second wife, Nancy, at his ranch outside Portland, Ore. His two daughters live

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in Oregon, and his son, a doctor, lives in California. Judge Panner frequently visits his grandchildren. He has spent more than 50 years in the legal profession — 60 percent of that time in private practice and 40 percent of that time as a judge for the U.S. District Court for the District of Oregon. **TFL**

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