



by Hon. Johanna Bender and Laura Salerno Owens

## Hon. Marsha J. Pechman Chief U.S. District Judge Western District of Washington

Anyone who knows the Hon. Marsha Pechman, chief judge for the Western District of Washington—with chambers in Seattle—is well aware of her knowledge of the law; her experience handling significant, complicated cases; and her intellectual curiosity.

In 2001, Judge Pechman presided over a Jones Act case involving injuries incurred by a fisherman during a scallop harvest. The plaintiff's attorneys erected an unusual illustrative exhibit in the middle of Judge Pechman's courtroom: a scale model fishing boat, outfitted with bushel baskets of plastic seafood. During a trial recess, Judge Pechman required that her staff join her "on the boat" to practice scallop harvesting. This wasn't one of the bigger cases Judge Pechman heard during her career. It received no press attention, resulted in no published opinion, and involved a fairly modest sum of money, but none of that mattered. There was an opportunity to learn something new, and Judge Pechman was not going to pass it up.

More than 10 years later, Judge Pechman is now chief judge of the Western District of Washington. She brings to this role her signature inquisitiveness and unwavering work ethic. She envisions herself as the steward of the court, responsible for keeping it functioning efficiently and productively. To fulfill that obligation, she has set out to learn how every facet of the institution functions. She has visited every facility and met with every department in the Western District. She consistently poses the question: "What can I do to help you do your job more efficiently and with more satisfaction?"

### State and Federal Court Experience

Judge Pechman's role as chief judge is not the first time that she has, as she puts it, set out to "build a better mouse trap." When she took over the position, she added another



highlight to a remarkable legal career. On the King County Superior Court bench, she was among the first judicial officers to adopt the "Donahue" method of *voir dire*. She then created an educational program to encourage her colleagues to do the same. As head of the court's Individual Calendaring Project, Judge Pechman oversaw the transition from a master calendar to an individual civil calendar system. As the first judge to preside in the County Unified

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Family Court, Judge Pechman identified protocols for selecting the most at-risk families to participate.

Judge Pechman sat in the King County Superior Court from 1988 to 1999, when women were just starting to assume judicial roles in large numbers. She was the first King County Superior Court judge to be pregnant while serving on the bench. As Judge Pechman remembers it, she was appointed by the governor on a Wednesday, and she found out she was pregnant the next day. In King County, judges run for election, and her due date was, coincidentally, also the last day to file to retain her seat. So Judge Pechman hit the campaign trail while visibly pregnant and told voters that judges, like the rest of the community, come in all shapes and sizes and with all sorts of life experiences. She took her seat on the bench during the day while campaigning at night. The members of one jury, apparently also recognizing

this pregnancy as a watershed event, collectively knitted Judge Pechman a baby sweater.

President Bill Clinton (D) appointed Judge Pechman to the federal bench in 1999. Once sworn in, she immediately assumed a leadership role. She served on the Ninth Circuit Jury Instruction Committee for four years and recently completed two terms as chair of the circuit's Education Committee. Always interested in improving trial practice in her court, she instituted a number of model changes. She was the first judge to use Seattle Attorney Russ Aoki as a coordinator for managing complex electronic discovery in criminal cases. Aoki's services are now used in a large portion of the complex criminal cases pending in the Western District and nationally. Judge Pechman also introduced the practice of providing complete jury instructions at both the beginning and end of all trials, to enable juries to understand the law as they hear evidence. Finally, Judge Pechman instituted the use of electronic exhibits during jury deliberation. As a result, jurors in her courtroom may now search documents and more efficiently locate relevant facts.

### **Humble Beginnings**

Judge Pechman went to high school in the small agrarian town of Sumner, Wash. At the time, Sumner grew more flower bulbs than Holland and only had about 3,000 residents. She worked in the bulb sheds starting at age 14 for a dollar an hour. (At that time, the boys made \$1.25). Her parents were not lawyers, and she never remembers meeting a lawyer before law school.

As an undergraduate student at Cornell University, Judge Pechman worked as a volunteer probation officer. Her psychology courses included opportunities to work

with young people who were incarcerated and, later, transitioning back into the community. That experience directly influenced Judge Pechman's decision to attend law school. After working with incarcerated youth, Judge Pechman began to understand the tremendous power of our legal system. The law, she came to realize, had an almost infinite reach. When implemented fairly, the positive results could be profound. And when handled carelessly, the legal system could negatively impact entire communities. Inspired to act as a steward of the legal system, Judge Pechman went off to law school at Boston University.

### **Teacher and Traveler**

Judge Pechman has a particular love of teaching. She served as a full-time clinical faculty member at the University of Washington School of Law from 1979 to 1981. She joined the law firm of Levinson Friedman Vhugen Dugan Bland and Horowitz in 1981 and practiced there for six years. During that time, Judge Pechman continued to teach at the University of Washington. In 1987, she took a leave of absence from her firm to direct the Seattle University School of Law clinical program. She has taught in the National Institute for Trial Advocacy program since 1981 and has coached the Seattle Preparatory School mock trial program for more than a decade. In 2003, Judge Pechman was invited by Holly Hill (now a Superior Court Judge) to teach a legal skills program for members of the Women's Bar Association of Malawi. Judge Hill describes Chief Judge Pechman's warm demeanor and enthusiasm as captivating: "She connected with people really quickly and had so much to offer her students." Chief Judge Pechman has now returned to Africa eight times, accompanied by dozens of Seattle-area lawyers. Together, these teams have taught trial advocacy in Botswana, Uganda, Kenya, and Malawi. The chief judge and her colleagues receive no pay for teaching. Instead, they require students to sign a pledge promising to take at least one *pro bono* case in the coming year. Attorney Carl Forsberg accompanied the chief judge to Kenya in the summer of 2010 and says she "exudes passion" for teaching young lawyers. Mr. Forsberg describes Chief Judge Pechman as someone who "lives and breathes the notion of paying it forward."

### **Formation of Justice Advocacy Africa**

In 2011, Chief Judge Pechman joined with longtime friend and colleague Steve Fury and University of Washington Professor Joel Ngugi to form Justice Advocacy Africa (JAA). "Jaa" means "to make abundant" in Swahili. Through this nonprofit, the chief judge and her associates continue to teach trial advocacy in Africa. JAA has also begun to train African lawyers to serve as trial advocacy instructors.

In March 2010, JAA brought 20 African lawyers and judges to the University of Washington School of Law to participate in a program to become legal advocacy teachers. The goal of JAA is to put teaching infrastructure in place, making the program African-run, sustained, and promoted.

“We hope,” says Judge Pechman, “to make ourselves obsolete.” The program continues to grow, and more than 600 lawyers have now been trained in four countries.

When asked why she finds teaching trial skills in developing countries to be so compelling, the chief judge said she offers the following explanation to her African students: “If I were a doctor, I would come to work in a clinic to vaccinate babies. If I were an engineer, I would help dig a well. If I were a teacher, I would work in a school. However, I am an advocate and what I can do is help you to present your best argument so that even the smallest voice can be heard through you. Human rights can be vindicated, property can be divided, the innocent can be set free, and the guilty can be punished. No society can grow economically unless people and companies can trust that their contracts will be honored and statutes consistently applied. Advocacy is a skill set we can use for the common good. Teaching this skill is my personal *pro bono* contribution. I cannot represent individuals, but I can train the people who do.”

### **Balance on the Bench and in Life**

Chief Judge Pechman’s enthusiasm for great advocacy is equally apparent when she is on the bench. Never one to shy away from new issues, she can often be heard telling attorneys: “You are the teacher; I am the student. Help me understand this.” Says Mr. Forsberg, Chief Judge Pechman is well appreciated for “taking the very difficult and making it very practical.” Her enthusiasm for work is infectious and makes for a robust learning environment in her chambers. “It was such a delight,” says former clerk David Ward, “to work for a boss who cared about me and deeply respected the work I did.”

Attorneys sometimes comment on Judge Pechman’s formal demeanor on the bench. Do not be fooled; she is a deeply funny and a profoundly loyal friend. Her former law clerks attest they cannot count the times they have turned to Judge Pechman for advice and mentorship. These conversations usually end with a useful plan of attack and a round of belly laughs. Her former clerks joke that escape is impossible. If life gets in the way of maintaining frequent contact, the chief judge will send an e-mail requesting a lunch date.

Chief Judge Pechman cultivates strong and lasting relationships with her clerks because she believes very strongly in the value of mentorship. She has benefited from mentoring throughout her career. One of her life-long mentors is Judge Barbara Rothstein. Chief Judge Pechman first met Judge Rothstein when she served as her law clerk at the Washington State Attorney General’s Consumer Protection Division. Over the years, Judge Rothstein counseled Chief Judge Pechman on job interviews, career moves, and even on marrying the man who has been her husband for 37 years. When asked what makes a good mentoring relationship, Chief Judge Pechman notes that it is not just about having the same gender, or working in the same office. She says it is a matter of trust. The person who wants to be the mentee finds somebody whom they trust to

reveal things about themselves—someone that exercises good judgment.

Chief Judge Pechman’s interests extend beyond the law, and they are both eclectic and heartfelt. She is a voracious reader. (Note to law clerk applicants: You will be required during your interview to describe your favorite books.) She loves to ski and, as she puts it, “knits like crazy.” She and her husband, Seattle attorney Bill Fitzharris, have raised two daughters.

The eldest graduated from the University of Michigan School of Law in December 2013. Chief Judge Pechman is very aware of the challenges many new graduates face, but she believes there will be places for people who go to the best law schools and do well. Chief Judge Pechman’s youngest daughter is an animal enthusiast; during

her daughter’s high school years, the family home sheltered 64 foster kittens and a somewhat rambunctious service dog in training. The dog ultimately flunked out of service training and now enjoys a peaceful existence in the home of a longtime family friend. Chief Judge Pechman, of course, tells this story with judicial restraint, describing the dog’s new placement as a “mid-life career change.”

### **Far-reaching Impact of the Law**

This profile ends with an event Chief Judge Pechman describes as a highlight of her judicial career. In 2002, Judge Pechman was assigned the case of *Ali Ali v. Ashcroft*. This was a petition brought by a group of Somali citizens living in the United States. Each had been targeted for expedited deportation because they had misdemeanor convictions. The petitioners presented evidence that they faced likely incarceration, torture, or death if they returned to their home country. They asked to be sent anywhere but Somalia. Somalia had no government to receive the deportees, and mercenaries were hired to fly into Mogadishu and dump the deportees on the tarmac. Chief Judge Pechman issued a nationwide temporary restraining order, enjoining the removal of anyone subject to deportation to Somalia. A nationwide ruling was necessary because the federal government refused to disclose where and how many detainees were subject to deportation. Chief Judge Pechman’s decision was affirmed by the Ninth Circuit Court of Appeals. The U.S. Supreme Court ultimately reversed it, but not until all of the original petitioners were released from custody. The following year, the chief judge was training attorneys in Kampala, Uganda. She went to an internet café to do some work, and was confronted by the proprietor, a man by the name of Elvis. Elvis shouted “You are the one! You are the one!” Alarmed, Judge Pechman asked “I am the one *what?*” “You are the one who saved the Somalis,” Elvis

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responded. It turns out that the chief judge had wandered into a cafe frequented by Somali expatriates. As news of her arrival spread, an impromptu celebration broke out. “The men lined up to shake my hand. To discover that one of my decisions had such a far-reaching impact,” says Chief Judge Pechman, “was deeply humbling and gratifying.”

When asked to reflect on her time as chief, Judge Pechman states, “You know you’re kind of in a sense of awe

that you’re going to step up and start doing things that you have not necessarily been trained to do in the past.” But she adds, “It’s fun to learn new things, and it’s a challenge.” Curiosity and a strong work ethic: trademark characteristics of Chief Judge Marsha J. Pechman. ☺