

JUDITH GIERS

1960 Olive Street, Eugene, Oregon 97405
(541) 484-9386, jgiers@GOappeals.com

PROFESSIONAL HISTORY

Giers Olsson PC **Eugene, Oregon**
January 2007 - present

Shareholder. Practice limited to appeals—civil, criminal and administrative.

University of Oregon School of Law **Eugene, Oregon**
Fall 2008 - present

Visiting Professor, Adjunct Professor, O'Connell Conference Organizer. Spring 2009 - teaching Constitutional Law II, and class on Drafting Settlement Agreements for Conflict Resolution program. Fall 2008 - organized the O'Connell Conference on Challenges to the Judiciary in the 21st Century, and taught Advanced Persuasive Writing in Environmental LLM program.

Hershner Hunter LLP **Eugene, Oregon**
May 2004 - February 2009

January 2007 - February 2009—Of Counsel. Practice limited to consulting on appellate issues or representing Hershner clients on appeal.

May 2004 - January 2007—Of Counsel. Trial and appellate practice, largely civil commercial issues.

University of Oregon School of Law **Eugene, Oregon**
July 2000 - May 2005

Adjunct Professor of Law and Instructor. Taught upper-level practice-simulation courses in federal civil trial procedure, and 1L courses in appellate advocacy, legal research and legal writing. I also coached the school's National Appellate Advocacy Competition team for three years, and served as the 2003 O'Connell Fellow, organizing a conference on the New Federalism for the appellate bench and bar.

Harrang Long Gary Rudnick PC
October 1992 - May 2000

Eugene, Oregon

Shareholder: January 1997 - May 2000
Associate: October 1992 - December 1996

Worked in and eventually managed the firm's very busy complex litigation and appellate practice. Served as City Prosecutor for the City of Eugene, trying criminal cases before the municipal and district courts and handling the resulting appeals.

Oregon Court of Appeals
June 1990 - August 1992

Salem, Oregon

Judicial Clerk for William L. Richardson, (then) Presiding Judge. Researched issues raised by the parties in their briefs (or identified by the court) and wrote memoranda for decisions in appellate cases.

Legal Aid Resource Center
1988 and 1989 academic years

Boston, Mass.

Volunteer. Provided telephone advice to legal aid clients (part time, during my second and third years of law school).

Civil Liberties Japan
October 1983 - March 1985

Kyoto, Japan

Newsletter Editor. While living in Japan, I edited the English edition of a Japanese civil liberties organization newsletter.

EDUCATION

Suffolk University Law School
J.D. *cum laude*, June 1990 Class Rank 3/292

Boston, Mass.

University of Colorado School of Law
I completed my first year of law school in Boulder in 1983. I left law school to accompany my spouse to Japan for a teaching position at Kyoto University. I later transferred to Suffolk University Law School to accommodate my spouse's entry into the Ph.D. program at the Massachusetts Institute of Technology (MIT).

Boulder, Colorado

University of Colorado
B.A., Philosophy, *cum laude*, May 1982

Boulder, Colorado

**ADMITTED TO
PRACTICE BEFORE**

All Oregon courts, the U.S. District Court for the District of Oregon and the U.S. Court of Appeals for the Ninth Circuit.

BAR SERVICE

OSB Appellate Section, Chair

OSB Disciplinary Board Member for Region 2

Certified Mediator for Court of Appeals Mediation Program

OSB Constitutional Law Section, Executive Committee (former member).

Lane County Bar Association, Pro Bono Committee (former co-chair).

**COMMUNITY
SERVICE**

Save Civic Stadium, Member

Director, Lane County Legal Aid Board, 1998 - 2007.

Trustee, Oak Hill School Board, 1995 - 2004.

Coach for UO Law School teams in 1999, 2000 and 2001, for the National Appellate Advocacy Moot Court Competition, sponsored by the ABA.

Volunteer Attorney for Lane County Legal Aid Service, 1994 - 1998.

Girl Scout Leader, Brownie troop, Western Rivers Girl Scout Council, 1992 - 1995.

Volleyball Coach for Kid Sports Girls Volleyball team, 1995.

Frequent volunteer instructor for "Success in the Middle" and other middle-school programs designed to introduce middle-school students and minority students to the legal system.

Frequent volunteer attorney for United States District Court's "Open Doors to Federal Courts" program designed to introduce high school students to our federal judicial system.

Frequent volunteer judge for appellate moot court exercises at UO Law School.

Frequent volunteer judge for trial practice class and other simulated trial programs at UO Law School.

Volunteer judge for negotiation and mediation competition at UO Law School, 2000 and 2001.

Volunteer judge for "We the People" competition, constitutional law competition for high school students, January 2005.

**PUBLICATIONS/
SPEAKING
ENGAGEMENTS**

Editor: 2009 Oregon Appellate Almanac

Speaker: Undertakings on Appeal, a CLE program for the Medford Bar Association, 2008.

Speaker: The Nuts and Bolts of an Appeal, a CLE program sponsored by the Appellate Section, Portland, 2007

Speaker: Women Lawyers Achieving Success. Lane County Women Lawyers, Eugene, Oregon, May 19, 2005

Author: Providing Procedural Context: A Brief Outline of the Civil Trial Process. *Perspectives*, Vol. 12, No. 3, Spring 2004.

Speaker: Best Practices in Teaching: Organizing the Discussion Section of a Legal Memo. Northwest Regional Legal Writing Conference, Seattle, Washington, August 14-15, 2003.

Author: Betty Boop Goes to Law School. *Perspectives*, Vol. 11, No. 1, Fall 2002.

Speaker: Did We Recognize the New Frontier in Legal Research When We Crossed into It? WESTPAC (Western Pacific Chapter of the American Association of Law Libraries) Conference, Anchorage, Alaska, September 19-20, 2002.

Author: New Legislative Effort to Reduce Waste in Massachusetts. *The Environmental Law Report*, Suffolk University Law School, April 1989.

PROFESSIONAL MEMBERSHIPS

Oregon State Bar

Lane County Bar Association

Lane County Women Lawyers Association

Oregon Women Lawyers

American Bar Association

American Constitution Society

PERSONAL INFORMATION

I am married to David Olsson. We have two children: Marika, 23, and Ben, 10. Hobbies: Ballroom dancing, gardening, walking the puppy, reading hard science fiction.

REFERENCES

David B. Frohnmayer
President, University of Oregon
(541) 346-3036

Margie Paris
Dean and Associate Professor of Law
University of Oregon, School of Law
(541) 346-3880

The Honorable Susan Leeson
Former Associate Justice, Oregon Supreme Court
(503) 588-0535

The Honorable David V. Brewer
Chief Judge, Oregon Court of Appeals
(503) 986-5662

The Honorable David Schuman
Judge, Oregon Court of Appeals
(503) 986-5672

Jeff Batchelor
Partner, Markowitz Herbold
(503) 295-3085

Jerry Lidz
Oregon Solicitor General
(503) 378-4400

Sivhwa Go
Associate, Harrang Long Gary Rudnick PC
(and former student)
(503) 242-0000

David Wade
Gartland Nelson McCleery Wade
(541) 344-2174

Ilisa Rook-Ley
Public Defender's Office
(541) 484-2611

John Fisher
(541) 485-3153

Marc Brown
Office of Public Defense Services (Appellate)
(503) 378-2401

Lynn Shepard
Shareholder, Shepard Law Offices PC
(541) 485-3222

Keith Garza
Law Office of Keith Garza
(503) 344-4766

Brad Litchfield
Partner, Hutchinson Cox
(541) 686-9160

Patricia Chapman
Partner, Gleaves Swearingen
(541) 686-8833

Wm. Randolph Turnbow
DCIPA General Counsel
Former partner at Hershner Hunter
(541) 345-8865

Kate Fisher
Associate, Hershner Hunter
(541) 686-8511

Susie Staats
Legal Secretary, Hershner Hunter
(541) 686-8511

Linda Kessel
Attorney, Oregon Department of Justice
(541) 686-7561

Larry Sutton
Retired High School teacher
(Long-time friend and occasional dance partner)
(541) 344-0198

SELECTED CASES/PRACTICE HISTORY

- 1992** *Alsea Veneer v. State of Oregon (Oregon Supreme Court)*
Drafted State's Petition for Review and Reply Brief in case related to \$81,000,000 transfer of funds out of SAIF trust fund to state general fund.
- 1993** *Gillette v. City of Eugene (United States Supreme Court)*
Drafted City's Opposition to Petition for Certiorari in 42 USC §1983 action.
- Firemans' Fund v. Centennial Bank (9th Circuit Court of Appeals)*
Represented bank on appeal in negligent misrepresentation and fraud case. Dave Frohnmayer was oral advocate. Drafted Appellant's Brief and Reply Brief.
- 1994** *Haupt v. Las Vegas Metropolitan Police Dep't (U.S. Dist. Ct. Nevada)*
Represented Plaintiff in 42 USC § 1983 civil rights action against the Las Vegas Police Department. Obtained \$1,000,000 verdict. Second-chaired three-week trial in Las Vegas. Drafted all post-trial briefing including Petition for Discretionary Review and Attorney Fee Petition.
- Withers v. State (I) (Deschutes County Circuit Court)*
Represented Eastern Oregon schoolchildren in case challenging State's school funding scheme as violation of Article I §20 of the Oregon Constitution. Drafted Motion for Summary Judgment.
- 1995** *City of Eugene v. Blum (Lane County Circuit Court and Oregon Court of Appeals)*
Represented City at trial and on appeal against a constitutional challenge to City's Prohibited Camping ordinance.
- Withers v. State (I) (Oregon Court of Appeals)*
Appealed trial court ruling that State's school funding scheme did not violate Article I §20 of the Oregon Constitution. Drafted Appellant's Brief and Reply Brief.
- Bocci v. Key Pharmaceuticals (Oregon Court of Appeals)*
Represented drug manufacturer on appeal of (then) largest personal injury verdict ever reached in Oregon. Drafted major section of brief on issue whether Mary Carter Agreements are valid under Oregon law, and if so, whether the trial court properly handled the disclosure of the Mary Carter Agreement to the jury. Drafted Reply Brief.
- Morrissey v. Dennis (Lane County Circuit Court)*
Trial counsel for defendants in an action concerning a landsale contract and a disputed easement.

- Kindt v. Mueller & Yuva, PC (Lane County Circuit Court)*
Trial counsel for defendant accounting firm in malpractice case.
- Northwest Reforestation Contractor's Ass'n. v. Summit Forests, Inc. (Oregon Court of Appeals)*
Represented reforestation company in business dispute. Assisted in trial. Handled appeal.
- 1996** *Withers v. State (II) (Deschutes County Circuit Court)*
Second round of school funding case in trial court. Drafted Motion for Summary Judgment.
- McCarthy v. Oregon Freeze Dry (Oregon Court of Appeals)*
Represented Defendant/Respondent in appeal of dismissal of employment discrimination case. Court of Appeals affirmed without opinion. Then moved for attorney fees on appeal on basis that appeal was frivolous. Drafted briefs in both proceedings.
- In re Board of Klamath County Commissioners v. Engelhard (Klamath County Circuit Court and Oregon Court of Appeals)*
Represented County at trial and on appeal in case involving the termination of a high-level county employee. Drafted County's Motion for Summary Judgment and County's Respondent's Brief.
- Engelhard v. Klamath County (District Court for Oregon and 9th Circuit Court of Appeals)*
Represented County in related federal case arising from same facts as above case. Drafted and argued Motion for Summary Judgment. Drafted County's Respondent's Brief.
- Stovall v. State of Oregon, City of Eugene, et al (Oregon Court of Appeals)*
Represented the City in case arising out of state's decision to tax the retirement benefits of PERS retirees. Drafted Brief for City of Eugene.
- 1997** *League of Oregon Cities v. State of Oregon (Marion County Circuit Court)*
Represented League in case challenging Ballot Measure 47 for violation of state "single subject" requirement and federal due process clause. Drafted Motion for Summary Judgment. Argued preliminary motions. Case became moot with passage of Measure 50.
- Ross v. City of Eugene (Oregon Court of Appeals)*
Represented City on appeal in case in which two young black men, detained as suspects in a bank robbery, sued police under 42 USC § 1983. The trial court entered judgment for the City notwithstanding the verdict. Drafted Brief.
- Silvermoon v. Infotec, Inc. (9th Circuit Court of Appeals)*
Drafted Respondent's Brief in this employment termination case.
- 1998** *Withers v. State (II) (Oregon Court of Appeals)*
Second Round of school funding case in Oregon Court of Appeals. Drafted Respondents' Brief.

- Separation of Church and State Comm. v. City of Eugene (9th Circuit Court of Appeals)*
Represented City in post-appeal briefing on attorney fee matters in this case challenging City's display of a 50 foot Roman cross on Skinner's Butte overlooking the city. Drafted attorney fee briefs.
- Separation of Church and State Comm. v. City of Eugene (Lane County Circuit Court)*
Defended City in post-appeal challenge by Intervenor American Legion. Legion sought TRO to stop City's compliance with 9th Circuit decision requiring removal of the cross. Legion argued that the U.S. District Court had lacked subject matter jurisdiction and charged that City had been in collusion with the plaintiffs. Briefed and argued matter in Circuit Court.
- City of Eugene v. Nalven (Oregon Supreme Court)*
Challenge to City's Sewer Assessment policies. Drafted City's Brief.
- City of Eugene v. Jiggles (Oregon Court of Appeals)*
Challenge to City's tax on video poker machines. Drafted City's Motion for Summary Judgment, Appellant's Brief and Reply Brief. Argued case.
- Jefferson State Rock Products, Inc. v. Lane Regional Air Pollution Authority (Oregon Court of Appeals)*
Challenge to Lane Regional Air Pollution Authority's (LRAPA) decision to impose a civil penalty. Drafted LRAPA's Brief.
- Cook v. Employment Dep't and KFC, USA, Inc. (Oregon Court of Appeals)*
Drafted Employer's brief in case challenging denial of unemployment benefits.
- 1999** *Withers v. State (II) (Oregon Supreme Court)*
Drafted Petition for Review in Round Two state school funding case.
- Bocci v. Key Pharmaceuticals (Oregon Supreme Court)*
Drafted section of Petition for Review dealing with validity of Mary Carter Agreements in Oregon.
- Hyundai v. City of Eugene (Oregon Supreme Court)*
Drafted City's brief in this case challenging City's imposition of a public benefit contribution requirement on enterprise zone residents.
- Nash v. City of Lakeview, et al (Lake County Circuit Court)*
Drafted Motion for Summary Judgment in this 42 USC 1983 action challenging police officers' actions during an investigation and arrest.
- 2000** *McCarthy v. Oregon Freeze Dry (Oregon Supreme Court)*
Drafted Respondent's brief in case dealing with the imposition of attorney fees on appeal on the basis that the underlying appeal was frivolous.
- Snyder v. City of Salem (Marion County Circuit Court)*
Drafted Motion for Summary Judgment on behalf of City of Salem in this case challenging City's charter-imposed ballot title procedures.

- City of Roseburg v. John Hyland Construction (Douglas County Circuit Court)*
Trial counsel for City in case to determine which of five contractors was responsible for City's malfunctioning water treatment plant. Settled case in private mediation.
- 2004** *Generaux v. Dobyms (Oregon Court of Appeals)*
Trust law appeal raising issue whether Oregon common law allows rescission of irrevocable trust for mistake or frustration of purpose due to attorney malpractice. Drafted brief, argued appeal.
- Nazir Zahra v. Susan Ryan et al (Lane County Circuit Court)*
Quiet title action with multiple parties. Acted as trial counsel for title insurer and settled the foreclosure claim on the day of trial.
- Goodin v. Trans Union, et al (U.S. Dist. Ct. Oregon)*
Fair Credit Reporting Act case. Acted as trial counsel for Sallie Mae, Inc. and USA Funds, two of the three defendants. Case settled at judicial settlement conference after motions for summary judgment filed.
- Quas v. Orthodontic Centers of Oregon (U.S. Dist. Ct. Oregon)*
Declaratory judgment/breach of contract action. Represented two orthodontists in breach of fiduciary duty action against company that provided administrative services.
- Christensen v. Satterwhite (Lane County Circuit Court)*
Trial counsel in elder financial abuse case. Case settled two weeks before trial.
- 2005** *Brunswick v. Steltronic (U.S. Dist. Ct. Illinois)*
Represented manufacturer of bowling equipment in patent infringement case. Settled.
- Woodard Enterprises v. Black Oak Construction (Oregon Supreme Court)*
Drafted Petition for Review in commercial case dealing with conversion of bank checks.
- Lock N' Lift v. Silva (U.S. Dist. Ct. Oregon)*
Represented shareholder in family-owned business in breach of fiduciary duty, corporate dissolution case. Court supervised settlement process proceeding.
- View Heights v. Sterling Savings Bank (Oregon Court of Appeals)*
Represented Respondent Bank in appeal of summary judgment ruling on bad faith claims. Drafted successful motion to dismiss appeal for mootness.
- North Coast Electric v. Arizona Electric (Washington Court of Appeals)*
Drafted appellant's opening and reply briefs for Washington lawyer in case dealing with rescission of lien release for mistake.
- North Coast Electric v. Selig (Washington Court of Appeals)*
Drafted appellant's opening and reply briefs for Washington lawyer in case dealing with the recovery of fees for legal secretarial time.
- 2006** *McKay v. JF Investments (Lane County Circuit Court, Oregon Court of Appeals)*

Represented property owner in deed restriction case. Tried case. Drafted briefs and argued appeal.

Koanui v. Cenveo Corp. (9th Circuit Court of Appeals)

Represented Appellant employee in appeal of negligent investigation claim. Appeal resolved through mediation program.

Peace River Seed Co-op Ltd. v. Proseeds Marketing, Inc. (Oregon Supreme Court)

Represented Petitioner on Review, a Canadian grass seed co-op, in case about the proper interpretation of international commercial arbitration agreements. Drafted Petition for Review and coordinated amicus effort.

Zahra v. Zahra (Oregon Court of Appeals)

Represented holder of trust deed in appeal of quiet title and judicial foreclosure case. Drafted briefs, case submitted without argument.

Philip M. Newman and Nick Shevchynski v. City of Eugene (Lane County Circuit Court)

Represented trustees in declaratory judgment action related to foreclosure of City liens on real property owned by Trust.

Diamond v. Land (Oregon Court of Appeals)

Represented mother in appeal of modification of custody order. Appeal dismissed by appellant.

Precision Machine v. Express Blower (Oregon Court of Appeals)

Represented Appellant seller in appeal of breach of warranty action. Resolved through mediation program.

2007 *King City Rehabilitation v. Smirnes (Oregon Court of Appeals)*

Represented Appellant long-term care facility in appeal dealing with proper interpretation of the lien for long term care statutes, ORS 87.501 *et seq.*

Kittredge v. O'Keefe (Oregon Court of Appeals)

Represented property owner in appeal dealing with proper procedure for partition under ORS 105.205 *et seq.*

State v. Hensley (Oregon Court of Appeals and Oregon Supreme Court)

Represented defendant in appeal of kidnapping conviction and constitutional challenge to requirement that he register as a sex offender.

Edwards v. Wilson (Oregon Court of Appeals)

Represented Plaintiff/Respondent in appeal of intentional interference with business relations and defamation action. Appeal (and other related outstanding trial court matters) settled through appellate settlement conference program.

Harper-Chapek v. Everett's Villa Pharmacy (Oregon Court of Appeals)

Represented Appellant in whistle-blower action. Appeal settled through negotiation between counsel.

2008 *Newman v. City of Eugene (Lane County Circuit Court)*

Represent Petitioner in writ of review action.

City of Eugene v. Newman (Oregon Court of Appeals)

Represent Defendant on appeal of lien foreclosure judgment.

Philip M. Newman and Nick Shevchynski v. City of Eugene (Oregon Court of Appeals)

Represent trustees of trust in appeal of declaratory judgment related to enforceability of lien foreclosure judgment obtained by City.

J.D. v. American Medical Response (Oregon Court of Appeals)

Represented Appellant in appeal of summary judgment decision in negligent training action. Appeal settled through appellate settlement program.

Stiles v. Stoner (Oregon Court of Appeals)

Represent Plaintiff/Appellant in appeal of adverse possession judgment on basis that trial court misinterpreted “hostility” and “honest belief” elements.

Stiehl v. Combs (Oregon Court of Appeals)

Represented Plaintiff/Appellant in Rescission and Undue Influence action related to buyer’s attorney’s relationship with unrepresented seller and related violations of rules of professional conduct.

Kyle James ads DCIPA (Oregon Court of Appeals)

Represent health plan in petition for judicial review of agency decision related to coverage under the Oregon Health Plan. Issue relates to interpretation of statutes and administrative rules governing Oregon Health Plan.

Roberts v. Amen (Oregon Court of Appeals)

Represent Husband in appeal of denial of motion to dismiss and contempt judgment entered in spite of Wife’s agreement to mediate all future disputes.

2009 *SAFE Inc. v. Lane County*

Represent peer-based mental health services provider against County in dispute over revocation of license.

Garner v. Garner (Oregon Court of Appeals)

Represent Respondent in appeal over modification of spousal support.

Newman v. City of Eugene (Oregon Court of Appeals)

Represent Appellant in writ of review action.