

# 10 QUESTIONS

## for Judge Bonnie Brigance Leadbetter

PENNSYLVANIA COMMONWEALTH COURT

INTERVIEW BY ALICE BUGGY

**P**ennsylvania Commonwealth Court Judge Bonnie Brigance Leadbetter served as president judge of the court from 2007 until 2011. Her legal career began as an assistant district attorney in Philadelphia and then as an assistant U.S. Attorney for the Eastern District of Pennsylvania. She has worked in private practice as well as counsel to an insurance company. She was first appointed to Commonwealth Court in 1996 and elected to a full term on the court in 1997. She was retained in 2007. She was also a judge on the Court of Judicial Discipline from 1999 to 2003.

**ALICE M. BUGGY:** You've had a wide range of positions from prosecutor to private attorney to counsel for an insurance carrier. You've been a Commonwealth Court judge since 1996. What experiences as an attorney have been the most helpful to you as a judge?

**JUDGE BONNIE BRIGANCE LEADBETTER:** I think all of our life experiences translate into our view of the world that translates into how we perform as judges. What has been the most substantively helpful to me has been the trial practice and appellate practice that I had when I was with the government. I did an extensive amount of appellate work and a lot of trial work as well.

But I think there's something from every part of what I did. Certainly as a prosecutor I developed a real feel for the courtroom and what happens in the courtroom and I came to appreciate how difficult the job of a trial judge is in having to make decisions quickly – someone stands up and says “I

object” and a ruling has to be made immediately.

As appellate judges we have the ability most of the time to do ample research before we have to decide. We don't have that kind of “decide it in an instant and the whole case could go away” because a wrong decision is made. I learned the dynamics of the courtroom, a lot about evidence and what the practice of law is like and thinking on my feet. From the private practice, working with clients and opposing counsel, and I have to say I was lucky.

I think one of the things that I learned in private practice even more than as prosecutor was people skills because you're dealing with clients. Sometimes clients can be very difficult and learning to guide them and help them and work with them even when you may not agree with what their goals are is very important. People skills are very important on an appellate court because we aren't single actors like trial judges. Particularly as a president judge, you need to have good people skills in order to keep things moving in a productive and collegial way. And that, I think I learned there.

**What were the most significant changes that occurred during your time as president judge?**

The Judicial Center was a big change. I had chaired the building committee so I was with that long before I became president judge. We not only worked with architects on design, but two of [executive administrator] Nick DiLorenzo's assistants – Jeanine Orlando and Karen Sherriff – who worked night and day on the project for years were over there every day checking



on the building as it was going up.

And we would have to wear hard hats and goggles and boots. There are some photographs of us on what were just like girders really, and plywood, before the building was built in these crazy outfits, you know, with a business suit with boots and hard hat. And I have to say, if Jeanine and Karen hadn't kept on it, a lot of things would have fallen between the cracks.

The architects and contractors worked with us very closely and were very receptive to our ideas. They made a mockup of the bench and the witness box and the crier's box in the courtroom so that we could see if the sight lines were right, if the feel was right. And in fact, we moved some things. We moved the seating up and fine-tuned it.

The building was (late Chief Justice) Ralph Cappy's project and something that he was very devoted to. Unfortunately, he did not live to see it dedicated. He died I think about six months before the dedication and just a couple of months before the building opened.

But through his vision and the architects', it was designed to be a building that would be a representative to the people of the Commonwealth. They would see our branch of government as an independent branch of government. It's a building designed to last 100 years as old courthouses were and to be an edifice that represents the independence of the judiciary. It's something that the people can look to as stable and permanent and that bespeaks the judiciary itself, as a counterbalance to the other branches of government. It's a visible reminder of the part the judiciary plays in state government.

Probably one of the biggest challenges to me was that shortly after I took over as president judge, the financial downturn hit. And it hit state government particularly hard and so my challenge was having to do more with less. Although our budgets tended to remain pretty much the same, the costs kept going up, particularly medical benefits and salaries for staff.

One thing I did was change from paid mediators in our mediation program to using only our senior judges and that saved us about \$80,000 a year. And that means our senior judges have to work harder. The Commonwealth Court has nine commissioned judges and then senior judges, as appointed by the Supreme Court. When I started with the court in 1996 we had six senior judges and two visiting judges.

The visiting judges are not full-time members of the Commonwealth Court. They're retired from Common Pleas

courts. They remain attached to their Common Pleas court but they spend about one week a month working with us. Every week in Harrisburg, there is a judge of the Commonwealth Court on what we call duty, hearing mostly motions. In 2009, we had something like 7,500 motions that had to be decided. And visiting judges take nearly half of the duty weeks.

**Have you noticed any distinctions about the types of cases that you hear coming from various parts of the state?**

The great bulk of the election cases that I've seen have been from the Philadelphia area. I can't tell you why. We hear a lot in Harrisburg. Of course, that's where state government is. We get quite a number in the Pittsburgh area. I don't know whether that's because there are a lot more state legislators in those areas because they're the population centers. I suspect it is. There may be more of a tradition of scrapping within parties in places like Philadelphia than there might be in some other places. But you certainly see it more and more in the Philadelphia suburbs. Most of this litigation involves the primary election in the spring. It's not Republicans versus Democrats versus independents. It's the internal disputes and for one reason or another, we see more internal disputes in the population centers, and of course more filings.

We tend to get more land use cases in, oh the swath from Monroe County down through the Philadelphia suburbs through Chester, Berks – places where there's a lot more growth. We also see a lot in the Pittsburgh area. We tend to see, of course,

more government, more state government kinds of cases in the Harrisburg area.

**How do you view your role as a judge knowing the effect that the Commonwealth Court has on such a large amount of people in the state?**

I think it's true for every appellate court but even more accurate for Commonwealth Court. We have to do a serious balancing in every case of the outcome in the particular case and doing justice to the particular parties and making good law going forward. There are a handful of cases that are just fact-intensive cases and that don't make any law.

But in most of our cases, and particularly the ones that are en banc, we are making law, not just for the parties to the particular case, but that may affect the interpretation of a statute that will affect everyone who has any connection with the government. That will really affect how the law develops





and so we always have to have in the backs of our minds not only how this case is resolved, but what it will mean for the future.

**The majority of Pennsylvania's elected appellate judges are women. Do you believe that the balance among male and female judges has had an influence on the jurisprudence of each of these courts?**

I have to say no. As you look at the personalities of the women on our court, they're very different, as are the men. They're very diverse and they have different backgrounds. Some come from administrative backgrounds. Some come from big law firms. Some come from sole practice or community-type work. There are a few things that women, at least of my generation, bring to the table. When I began practicing law, women generally were expected to run a household. They had the primary, if not sole, child-rearing responsibilities. They did the cooking. Unless they were able to hire somebody from the outside to do chores, women had to basically run the household. And even if you had help with somebody with cleaning or cooking or – you were the manager of it and a man's role was looked at as, you go to work and you come home and then you relax.

The women of my generation, the professional women who went to work or the women who worked at any kind of job, became very good at multitasking and at juggling responsibilities. I think that is a help to a busy judge, whether you're a trial court judge or an appellate court judge, to be able to go from an original jurisdiction matter to an argument list to administrative responsibilities, running a chambers. I think child rearing and dealing with children, gives you people skills that help when you're dealing with colleagues and staff. So I think to some extent, women bring some of these skills to the table. Now, that said, the younger men have a lot more responsibilities in the home than they once did. And so the differences are diminishing.

We have a broad range of easygoing people and hard-driving people on both sides of the gender gap. We're very proud. I think we were, if not the first, one of the first appellate courts in the country that had a majority of women and that would have happened in 2002.

**As a judge who was first appointed and then elected and retained to Commonwealth Court, do you believe that Pennsylvania should continue to elect judges?**

No. I have always supported some

kind of appointive process. I think you find very good judges and very bad judges in both elective and appointive systems. But I think that the money that is involved in the elective process is a problem and it gets worse because the amount of money it takes to run is enormous these days. We see more and more money coming into campaigns and it's not going to come for the most part from people who have no interest whatsoever.

I have never seen a situation like we read about in some other state where there are elections where a huge amount of money is contributed by a single donor and then a judge will hear that donor's case. I think our judges, certainly on my court, are very careful about recusing when appropriate. Our judges, certainly on my court, are very careful. I have never seen any kind of bias, but, that said, it's hard for the electorate to understand that. It's hard for the citizens to read about big money being given by an interest group to a judge or a judicial candidate and not suspect that there might be some influence, even if it isn't justified.

But I must add that I have never seen a hint of any kind of partisanship among my colleagues. It's wonderful to respect the people you work with and I do. And it makes for a very good relationship.



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**What kind of cases do you find most interesting or most satisfying to decide?**

I think some of the most intellectually challenging cases that we have to decide are tax cases that involve changing technology, where a statute is written based on the way things were in 1942 and we have to apply it to the Internet – that kind of thing. I had a case a few years ago about downloaded software and whether that was a commodity subject to sales and use taxes. I enjoy those because of the challenge. I enjoy the election cases because it's fun to be a trial judge for a little while. And you get some of the craziest scenarios.

There was an original jurisdiction case in which a candidate knew, for reasons I won't get into, that his nomination papers were flawed. So he decided that he would avoid being served with the objection petitions that had been filed. So he was laying low. And his wife was a schoolteacher. So the objectors were looking for either him or his wife to serve. And so she called up a cousin or a friend and told that person to meet her in the school so they could switch car keys. She knew

the objectors were hanging around the parking lot waiting for her to get in her car. So she switched car keys with this friend. She got away unserved.

And the cousin goes up to the candidate's wife's car, and the process servers tried to serve her and she said, "That's not me. That's not my husband." And so they looked and they slammed the papers on the roof of the car and said, "well, this is service on vehicle." And so then they must have called back to their boss and told him what he had done and he said try again. You know, that's not going to work.

And so they then went to the house and managed to find the candidate's child's piano teacher and they served the piano teacher at the house and the end of the story is that the candidate was honest enough to testify when he was called that he had actually gotten the papers that were served on the piano teacher and so he was off the ballot.

**All judges are the subject of criticism and when judges act inappropriately or illegally, the public outcry focuses on judges in general instead of just the few bad eggs. How would you advise**

**on avoiding these situations when the media argues against judges in general instead of pinpointing the one judge that made the mistakes?**

Well, of course, judges obviously have to live their lives as though everything they did was going to be in the newspapers. Part of being a public official is that you can't think nobody will ever find out I did this. And so you just have to accept that part of public life is that you are going to be subject to scrutiny and you have to live your life the way you would want to see it portrayed in the newspapers.

It's kind of a golden rule of public life. If you don't want people to know about it, don't do it. That's the way we have to live and if you're not comfortable with that, then you're going to live your life hanging by your fingernails worrying if somebody is going to find out something you did. And it's just not worth it. That's the way to be a very unhappy public official, whether you're a judge or somebody else.

You have to go into it with the notion that "I have to have a dull life." I like having a dull life. So, it's easy for me.



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### What do you see for Commonwealth Court in the future?

I see more and more technology. I think our Supreme Court is now tweeting when a decision is out in a particular case. I know that the AOPC and the Supreme Court are working toward electronic filing and I think the Supreme Court is actually doing it as pilot project.

We have in our insurance cases, for years, required filings to be on disk as well as in paper. And for several years we have scanned all original jurisdiction filings and we now scan all documents. They're not publicly accessible yet, but eventually all public filings, I think, will be and I think that's where the Supreme Court's going.

We have a document management system that the AOPC has developed

where within the court, we can go to a docket and click on view on a document and we can pull up the document. That's not on the public docket yet but I think it eventually will be.

### Do you have anyone individually or any mentors who provided you with career and professional guidance?

Well, my mentor from very early on, and there couldn't be a better example and I could never live up to him, was Judge Edward Becker. My husband was one of his first law clerks when he was appointed in 1970 and my husband started working in 1971. And he was the absolute wonderful model of a judge. We lost Judge Becker a few years ago.

I went into practice with his wife years later after she went to law school and I practiced before him

as a prosecutor, both to handling the federal work for the district attorney's office and then as an assistant United States attorney and so I got to know him very well and I saw what he did. His characteristic instruction to staff – and I think it's so important – was no deference. He always wanted to know what you thought, not what you thought he wanted to hear. He wanted the truth. He made his own decisions, but he listened.

He had an incredible mind, incredibly hard-working, was just the greatest and I couldn't have had a better role model. ■

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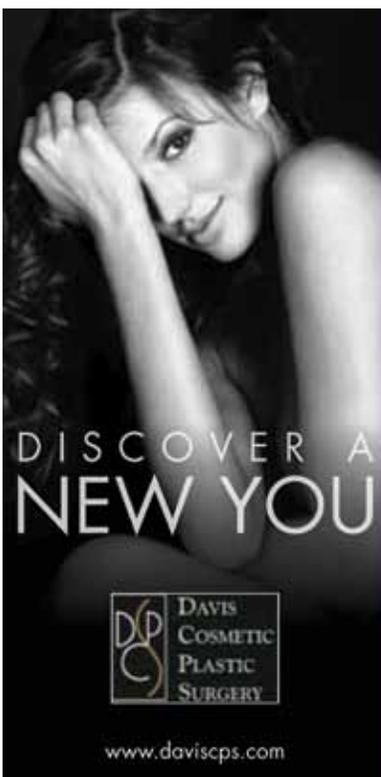
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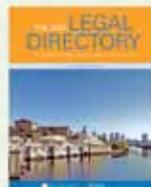
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