

FEATURE

What practitioners need
to know about NFTs / p. 32

NEWS

2020 WSBA Discipline System
Annual Report Snapshot / p. 50

FEATURE

Three big developments
in IP law / p. 28

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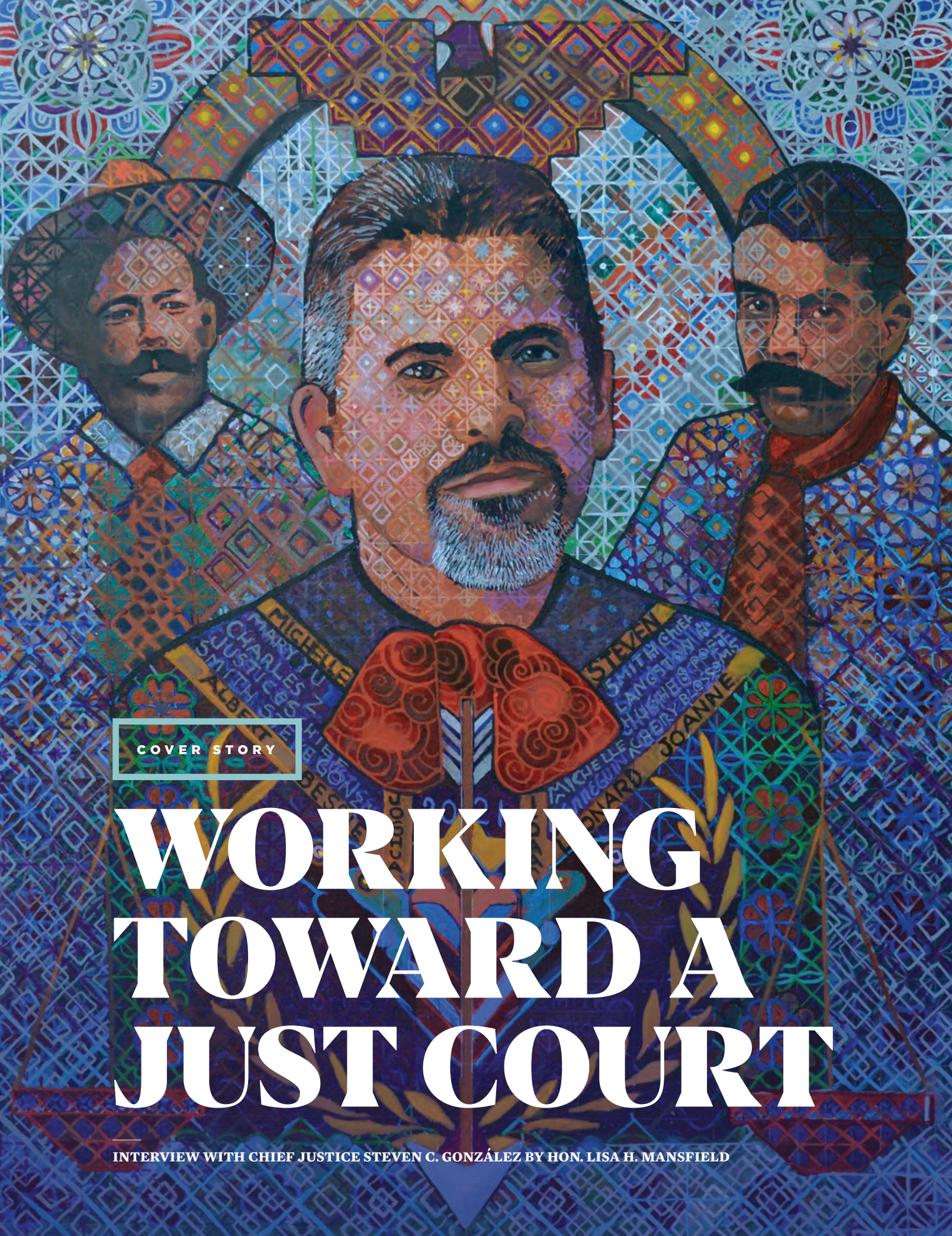
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Working Toward a Just Court

A wide-ranging interview with
Chief Justice Steven C. González
by Hon. Lisa H. Mansfield / p. 38

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COVER STORY

WORKING TOWARD A JUST COURT

INTERVIEW WITH CHIEF JUSTICE STEVEN C. GONZÁLEZ BY HON. LISA H. MANSFIELD

Following a vote of his peers, Justice Steven C. González was sworn in as the Washington Supreme Court's 58th Chief Justice on Jan. 11. Lisa H. Mansfield was sworn in as the Lakewood Municipal Court Judge on Sept. 22, 2020. Recently, Judge Mansfield sat down (virtually) with Chief Justice González to discuss issues pertaining to access to justice. What follows is an excerpt of their wide-ranging conversation.

Hon. Lisa H. Mansfield [hereafter LHM]: You have said that the law is a blunt instrument to use to fix the ills of society. If that is true, what role does the judiciary have in addressing societal problems?

Hon. Steven C. González [hereafter CJG]: We have to provide justice to everyone who comes to court, but I would rather prevent them from having to come at all, especially in juvenile court. As for working with the other branches of government, I have a presumption of good faith. There are good, well-meaning people in the legislative, judicial, and executive branches. The question is what is the objective and what will get us closer to that objective? We are facing great challenges. But my hope is that we can change the nature of the dialogue and address issues squarely. Issues like the racial reckoning which the nation is confronting now more than we did in the past; issues like access to justice, the lack of which has been exacerbated by the pandemic. We are learning many lessons that can carry over even after the pandemic. For example, we recognize that making people come to court repeatedly is a heavy burden that falls disproportionately on people who can't get time away from work or find child care or transportation. If we recognize that and learn from the lessons that have been given to us at this time, we can continue to improve the promise that we've made to each other

AT LEFT: This portrait of Chief Justice González, painted by Alfredo Arreguin and commissioned by the Washington Supreme Court earlier this year, will likely hang in the library along with portraits of Justices Charles Z. Smith and Mary Yu, also painted by Arreguin.

Portrait courtesy of Alfredo Arreguin

that we are all equal and respected in this nation. That was a promise that was made, imperfectly, at the inception of this nation. I believe that our job is to get us closer to the reality of that promise.

LHM: Do you think our time [living with] COVID-19 will have lasting implications with regard to the judicial system and, if so, what are they?

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Our job is to see the deep principles articulated in our founding documents and apply them to the world today as we understand it.”

CJG: COVID-19 will have a lasting effect on the justice system and I hope that we really think about that. There will be pressure, once the vaccines are widely available, to go back to the way we were before the pandemic. I don't think that's the right way to go. This pandemic has required us to question the fundamentals of everything we do in the justice system. I want us to think deeply about the answers that we give to those questions. Why do we hold people in jail the way we have? Why is our jail population the size that it was before the pandemic? Have our release decisions during this pandemic led to better or worse outcomes both for the people involved in the cases and the community at large? We need to study these questions carefully and if we find that we don't need to lock up as many people as we did be-

fore, we shouldn't go right back to doing that again once there is more room in our jails and prisons. This is the question that has come to us right now. Tradition is not so important; what is important are the fundamental principles we share about what a democracy is and what freedom is.

LHM: You speak about fundamental principles upon which our democracy was founded but some of the same people who signed the Declaration of Independence were also slaveholders. Perhaps notions of freedom and democracy are plastic, fitting the aims of whoever is propounding [them].

CJG: I don't believe that. I do believe that they were wrong about some important things. They promised great liberties but they meant to hold them tight to themselves and to their kind. That was wrong. They were progressive thinkers with new, bold ideas but they were still people of their time. They were still supremacists, misogynists, homophobic; all of those things existed at that time. Our job is not to imagine ourselves to be them to understand what justice is. Our job is to see the deep principles articulated in our founding documents and apply them to the world today as we understand it. Those principles are only plastic to the extent that we have grown and developed as a people and we more deeply understand those principles that they gave to us in those documents. I believe in the idea that we all deserve respect, liberty, and due process. All of those things are embedded in our founding documents; I just believe that they apply to more people than the founders thought.

LHM: It's said that we all stand on someone's shoulders. Whose shoulders do you stand on and what motivates you to stay the course?

CJG: None of us got here by ourselves. We all got here because other people moved us closer to those principles that we just talked about. When I look directly at the Supreme Court, I know that there was only ever one justice of color before me, Justice

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Working Toward a Just Court

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Charles Z. Smith. He was a mentor to me early on and encouraged me to both apply to the King County Superior Court bench and to put my name in for the Supreme Court as well. I valued his advice and guidance through that process. I also look to my family. My mother and father were high school graduates. I was the first one in my family to go to college and law school. But the values that I learned from my family, such as hard work and integrity, have carried me through. Those lessons are very important and I try to carry them with me.

When I got to the Supreme Court, it was clear that this was not an institution that people of color had been a part of. Apart from the one photograph of Justice Smith outside the Clerk's office (among more than a hundred photographs of white men and four photographs of white women), there was very little evidence that we'd be welcome there. Our then-7-year-old son asked, "How come none of these pictures look like us?" We are changing that. I worked to commission a painting of Justice Smith that now hangs in the Temple of Justice and I also commissioned a painting of Justice [Mary] Yu that will hang in the Temple of Justice so that when visitors come, they will see that there is more room here. A duplicate copy of Justice Smith's portrait hangs at the University of Washington [School of Law] and a duplicate of the one of Justice Yu is going to hang at Seattle University [School of Law]. Both paintings are by the artist Alfredo Arreguin.

LHM: Visual representation is important and it is poignant that those portraits will be in the law schools so that students may see that their chosen profession encompasses diversity at the highest level.

I would imagine that goal-setting is a high priority for a new chief justice. Do you have a set of strategic goals that you would like to achieve in your tenure?

CJG: I want us to be more timely in our decisions. Although we have improved timeliness a great deal in the last five years, I think we can do even better. I want us to

continue to work to write opinions in plain, accessible, clear language so you don't have to be a lawyer or a judge to understand what we're saying and why. I want us to be transparent about what we do. I want us to be clear that we are encouraging cultural competency, diversity, and inclusion. I want us to be willing to examine ourselves, our organizations, our rules and make changes where it's necessary to make sure that we really are living up to the promises we've made to each other. I've talked about the principles of our democracy; we need to make sure that we apply them in our own spheres. I think we have a lot more authority and ability to improve than we have acknowledged in the past.

LHM: As far as being sure that the actions match the principles, how do you quantify that or check that?

CJG: That's a great question. We fortunately have a number of allies to assist with that and hold us accountable to these promises, to these atmospheric words that sound nice but actually have to mean something. I harken back to the lyrics of

"We encourage those with expertise to step forward to tell us where they think that we're falling short and we listen to those voices."

the song *Glory* by John Legend and Common. One of the lines of the song is, "Justice for all just ain't specific enough." And that's true. You can [talk about] these great umbrella ideas, but then you have to apply them to everyday conduct. So we work with groups like the Minority and Justice Commission that can review the juvenile justice [system] and the burden of Legal Financial Obligations. We have advocacy groups that file Friend of the Court briefs urging us to consider different aspects of a case. Sometimes that's the Association of Prosecuting Attorneys, sometimes it's the



ABOVE: Then-Justice González at a law clerk swearing-in ceremony in 2018.

AT LEFT: Justice Charles Z. Smith and his wife, Eleanor Smith, Justice Mary Yu, and then-Justice Steven C. González next to artist Alfredo Arreguin's portrait of Justice Smith at a reception attached to a Minority and Justice Symposium in May 2014.

defense organizations or the Korematsu Center or some other organization. It's not just from one part of the political spectrum; everyone has something to say about how we conduct our business and how we can be even more transparent and fair to everyone involved. So we encourage those with expertise to step forward to tell us where they think that we're falling short and we listen to those voices. One of those areas where we can improve is accommodating people with physical or mental limitations who also deserve respect, due process, and access to the court system. Technology is another area that requires attention. The advances we've made in technology are spectacular, but we need to make sure when we implement them, we are not actually impeding access to justice for those who don't have the technology.

LHM: The digital divide is real. How does the court plan to deal with that? If folks don't have phones or access to the internet, what do you do?

CJG: Well, there are lots of answers to that. An example would be how some courts have leveraged CARES [Coronavirus Aid, Relief, and Economic Security] Act funding to purchase burner phones for litigants to use so that they can be contacted during the period of their court involvement. Providing technology to bridge the digital divide, as you called it, is a step that the court can take. I think we need to be

very creative in working with our partners as well. When we go back to being able to be together, community centers and public libraries can provide internet access and a quiet space to appear. We also need to make sure that each neighborhood has public transportation to those spaces.

LHM: What is your vision of a just society; more specifically, what is your vision of a just court?

CJG: A just court would be one where outcomes were not disproportional. Where court participants both were heard and felt like they had been heard. Where everyone believed that the process was fair. It would be one based on research and evidence, not tradition and anecdote. It would be one that's culturally competent and provides language access fully to everyone who needs it, which includes those who don't speak, read, or write the

Judge Lisa H. Mansfield

presides over Lakewood Municipal Court, which serves the cities of Lakewood, Steilacoom, and DuPont, and proudly hosts a Veterans Treatment Court. Judge Mansfield is a member of the Remote Jury Trials Work Group and she sits on the Community Advisory Board of University of Washington Tacoma Legal Pathways.



Photos by Laura Anglin

English language, whether they speak a foreign language or whether they are deaf or hard of hearing. That would mean true access to them. It would mean that when you go to the court webpage you can easily find the forms that you need which are in clear, plain, understandable language. It would mean that you could find resources to help you understand if you can't afford a lawyer. It would mean that people whose liberty or substantial rights are at stake would be provided counsel to assist them through the process. It would mean that the judges would provide timely rulings that could be clearly understood and followed.

The system that we have, the democracy as a whole, specifically the judicial branch, exists and works only if people are confident that the system is fair. We have work to do to make [sure] everyone believes the system is fair to them.

LHM: Are there international court systems that you look to that have aspects that you think are true to principles of fundamental fairness?

CJG: There are things throughout the world that we can learn from and we shouldn't be afraid of them just because they're foreign. Wisdom doesn't just reside in the United States. Other people have thought of interesting, innovative, creative things and we need to be open to that. I've had the extraordinary privilege

of working through USAID [United States Agency for International Development] and the Office of Overseas Prosecutorial Training and Development to work internationally with courts in Argentina, Venezuela, Colombia, and Mexico. Additionally, through my work as an assistant U.S. attorney I worked with the Department of Justice and its counterparts in Canada, England, France, Germany, and Algeria, and learned how different organizations, operations, and systems of justice work. We are also privileged to work with tribal courts within our country. Just because they're different, doesn't mean they are necessarily less just; they're simply different. I worked with Japan as they were developing a modified, limited jury system that includes both judges and lay jurors. It's very helpful to study and understand other systems to better understand our own. There are examples throughout the world from which we can learn. When we look to places that have also gone through serious racial divides such as South Africa, their work through Truth and Reconciliation is very instructive for us. Places that have gone through genocide are also instructive. I think these are important examples for us. We certainly have our history of the enslavement of Black people and genocide of Native Americans, and coming to terms with that and teaching it is an important part of our own reconciliation.

LHM: I had the privilege to travel to South Africa a few years ago and I learned about the Truth and Reconciliation effort that Nelson Mandela was such a large part of. I learned that truth is an essential part of reconciliation. However, it is often difficult for people to deal with uncomfortable truths.

CJG: Often the reaction of institutions when people raise concerns about gender bias or homophobia or racism is to say, "We're not like that. Everything is good. You should be reassured that we have your back." I think that is not a helpful message; in fact, I think it's counterproductive because when you see an institution that has excluded you and not treated you fairly and that institution tells you,

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“There’s nothing wrong here,” it does the opposite—it does not reassure [you] that there will be progress or that there will be reconciliation. So I think you’re absolutely right. We have to face the hard truths, which is why I mention things like the name of the county where our state capitol is, Thurston County, and I talk about who Samuel Thurston was. It is not a pretty history. Maybe we should think about whether we want to continue having our capitol in a county named after Samuel Thurston, given his views about Native Americans and African Americans. Perhaps there’s a better name we can choose. So learning that history and facing it is an important part of the truth that you’re referencing.

LHM: We started this conversation with the fact that there are well-meaning people out there who are willing to learn about, think about, and work for truth. But what about those who don’t want to learn? It is not as if we live here and they live there. We are all here together. How do we move forward together?

CJG: I think we have to start with ourselves. If I’m so sure that I’m right, maybe I’m not even listening. I have to stop and make sure I’m not the person you just described who’s so set in his ways that he’s not a good listener to other people. I don’t think there’s any one of us who has a 100 percent corner on wisdom or truth or the right path forward. Listening to each other matters. It doesn’t mean I have to listen to someone who says I’m less than they are. I don’t give my time or attention to those folks. But to those who say, “I just have a different view of it,” I think we need to talk that through and try to understand one another’s perspectives.

It’s an unfortunate byproduct of the internet age, the fears around COVID-19, and social distancing that people seem more willing to engage in hateful, ignorant speech. I think we’ve seen a proliferation of that. It’s very unfortunate and I don’t think we should go to that level. When somebody sends you an email telling you

how horrible you are and that you’re going to hell—and I’m getting a lot of those right now—I don’t think I need to respond to those ad hominem attacks. But when somebody says, “I’m really troubled by the Legal Financial Obligations [LFOs] that are being imposed by the courts on people. Why do you let that happen?” Maybe my defensive reaction is, “I didn’t do that!” But I think the right reaction is that the judicial branch did, so let’s talk about what we’re doing, the reforms we’ve passed, the ways we can address these issues. Let’s take a look at which issues are executive, which are legislative, and which are judicial and let’s try to tackle that very important point together.

So if you can listen to the kernel of truth in [the words of] someone who is angry, I think that is the right approach. One of the quotes I like very much is, “Any emotion, if it is sincere, is involuntary.” So if you assume that someone who is emotional isn’t doing that by choice, if you can put the emotion aside and look at the substance of what people are saying, I think you are much more likely to make progress and engage in a meaningful way.

LHM: Have you seen this principle in action?

CJG: Yes, the example of LFOs just mentioned illustrates this point well. We have gone through and changed the law on that issue. Look at the *Blazina* opinion as an example of how through our opinions we’ve made that change. The Legislature has made changes in LFOs and so has the court through rules, through the fee waiver process. The Access to Justice Board has been a real leader on this issue and they’ve addressed both the civil and the criminal contexts because the criminal context affects people’s civil justice as well.

Also, people are raising very important issues about racial disproportionality, for example, and they’ve raised them in ways that allow us to address the truth of our history around disproportionality and to find better ways to move forward.

LHM: This moment in history, though fraught with tension, feels very exciting. Many people are waking up and recognizing

the contributions that those outside of the mainstream have made. We have given so much, we continue to give, and we deserve recognition.

CJG: Frederick Douglass said, “Power does not concede anything without a demand.”

Sometimes even the demand is not enough.

LHM: But what do you think of the judicial branch being apolitical? Shouldn’t judges and justices shun the realm of politics and political speech?

“**It’s an unfortunate byproduct of the internet age, the fears around COVID-19, and social distancing that people seem more willing to engage in hateful, ignorant speech.**”

CJG: Let me say a few things about that. I think that attorneys as a class tend to be conservative. I’m not talking about party politics “Conservative.” I mean conservative with a small c—incremental in change, reticent to address or change things, focused on tradition. Our very method of education is to look at precedent. We are walking into the future backward, looking back to where we’ve been, trying to predict what we’re going to stumble over next. That’s not a great way to walk. Try walking through the forest backward: “There’s a stump there, maybe there will be another.” Perhaps we need to peep over our shoulder a little bit and try to see what’s coming and be willing to make some bigger changes and not be quite so afraid of that.

We have an obligation to administer justice. We have an obligation to provide access to justice. Sometimes fulfilling those obligations will be seen as political. That does not relieve us of the obligation. When I was a superior court judge, 15 or 16 years ago, the issue of immigration enforcement in superior court came up.

A number of my judicial colleagues said: “That’s a political question. We shouldn’t touch that.” And I said that justice and access to it is not a political question. It may be politicized, but it isn’t political. The point is everybody, everyone regardless of immigration status, should feel free to call 911 and ask for the police without fear of deportation. You should be able to come into court and get a protection order without fear that ICE [U.S. Immigration and Customs Enforcement] is going to be there and arrest you for it. If we don’t make it free and accessible for everybody regardless of those things, people will stop calling for help. They will stop using the legal system, and the system of justice that we treasure will not function. So my point there was: No, this is not really a political issue; it is an issue of justice. We should clearly say that our doors are open to everyone and we are going to do everything within our power, understanding what is circumscribed by who we are in our branch and our role in democracy, but everything reasonably within our power to say: “This is not our policy. We are not enforcing federal immigration law; we are enforcing state law and your rights to be free from harassment, to testify as a victim, to support your kids.” My view is that judges will be challenged. The tendency is to be afraid to act but I urge careful, thoughtful, but bold action.

LHM: Pre-COVID-19, I attended the Judicial College and you were a guest speaker. I think one of the reasons I wear a black robe today is because I really heard you when you said loudly and boldly that diverse judges were needed. It’s important that the bench be reflective of who we serve. It’s important that we are there in those positions.

CJG: Thank you for saying that. I have been encouraging people to consider the judiciary as a career, especially people from diverse backgrounds. And as you know, it’s not enough to just be there, it’s important to also bring a different perspective. It takes courage. You’ll meet resistance and you don’t get to just do whatever you want. You have to, of course, tether to the

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Working Toward a Just Court

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system that you are in, but don't be afraid to ask the hard questions: Why are you doing it that way? Why are you prosecuting this person? Why are you prosecuting this category of cases? Is that recommended sentence really going to meet the ends of justice? Is this really the best thing for the victim, for the family, for the defendant, for society?

We need to think about those things deeply and not just assume, "Well my authority is circumscribed by the statute so I'm just going to put my head down and do exactly what it says." Some statutes are unconstitutional. So, as a trial court judge, don't be afraid to look honestly at the Constitution and make that determination. You may or may not get affirmed on appeal or in the Supreme Court, but your job isn't to say, "OK, the Legislature passed it," it's to do the hard work. Look at the Fourth Amendment, and at article 1, section 7 of the Washington State Constitution. I urge you to carefully read our state Constitution as you serve as a judicial officer because it often provides more protection of rights than the U.S. Constitution does. Understanding where that exists, where those differences are, is critical. So don't be afraid to say, "No, this part of the statute is wrong" if you really think that it is. Obviously, our job is to uphold those statutes when it can be done, but that doesn't mean we do so trampling on or ignoring the important rights enshrined in our constitutions.

LHM: How do you support the pipeline of people who aspire to become lawyers and judges?

CJG: Earlier you had referenced that you had heard me speak and that it made a difference in your life. That is my ultimate goal. When I was hired in Seattle for the first time at a law firm, I was the first attorney of color that they had ever hired.

LHM: Ever? This was in the 1990s?

CJG: This was 1991. When I was hired, I told them that I had a condition. I said that

if I was hired, I would like to be on the hiring committee. They said, "We don't put first-year associates on the hiring committee." I said, "But that's my condition." And so they put me on the hiring committee, which means I had an influence on who we hired as summer associates. So there are ways that I have tried to be involved in supporting the pipeline. I quickly joined the Northwest Minority Job Fair and I've been on that board since 1994. We work together to provide interview opportunities, internship opportunities, job opportunities for diverse candidates. This has provided great opportunities for people. Because of the reputation that I've worked hard to build, I get lots of applications from people who want to extern or clerk in my chambers. We hire the most qualified people and frequently they are from diverse backgrounds. I see them going out into the world and becoming judges themselves and it's very gratifying.

Justice and access to it is not a political question. It may be politicized, but it isn't political."

LHM: We have spoken about the importance of diversity in the judiciary, but I'd like to delve a bit deeper into why you have put this emphasis on diversity.

CJG: We know and the studies tell us that heterogeneous groups make better decisions than homogenous groups. We know it's true for juries. It's true for the judiciary; it's true for any group. The studies with juries found that when you have an integrated jury, they were more likely to read the instructions from the court. They were more likely to review the evidence. They were more likely to thoroughly discuss and reach judgment more carefully and more accurately than a homogeneous jury. If we know that to be true, then it needs to be of paramount importance to us that we have diversity

in all facets of the legal system.

I don't believe it's more efficient; I think sometimes it takes longer and it's more difficult, but I think the outcome is better. It's important to have students of color come into court and be able to envision themselves there one day. It's also important for the mainstream, and students who are not kids of color to come in and say, "Oh, judges don't all look like me." Judges can look like Lisa Mansfield or Steve González or [Washington Supreme Court] Justice G. Helen Whitener. That is an important lesson, not just for kids of color, people of color, but for everyone.

LHM: Regarding gender issues and marriage equality, is it true that you officiated the first same-sex wedding ever held at the Washington Supreme Court?

CJG: Yes, I did perform the first same-sex wedding at the Temple of Justice for my law clerk and his husband on Sunday, Dec. 9, 2012, the first day it was possible to do so.

LHM: I have focused a lot on diversity in this article. Is there an additional point that you would like to add?

CJG: I want to make the point that when we become members of the Bar, we are officers of the court and the defenders of the Constitution. Each and every one of us has a sacred obligation to keep those promises we've made to each other as a nation. That means being involved in the Bar Association. It means using the privilege that you have, the voice that you have as an attorney to speak out not just for your own group, but for other groups that may be facing challenges.

Disagreement is healthy, using your voice is healthy. We can do it respectfully, but it's important that we speak honestly, directly, with no gaslighting. This is about truthfully and forthrightly addressing the challenges we face. The challenges are serious. We have seen real rifts in this nation. We need to heal those; we need to come together over those. It can't just be, "We're on top now and you're not." It has to be that we find a way that we all work together. [BN](#)



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