

northwest

Judging Virginia Linder

Appellate judge aims her gavel at Supreme Court seat
by Jack Turteltaub

Judge Virginia Linder is making a historic bid for an open seat on the Oregon Supreme Court. The veteran judge, who has served for almost nine years on the Oregon Court of Appeals, twice winning re-election, would become the first woman to join the state's highest court by election if she defeats her opponent, former state Labor Commissioner Jack Roberts, in November.

Linder would also be the first out lesbian to serve on the high court. If elected, she would fill Position 6, which will be vacated by Wallace Carson Jr. in January 2007, and she would become the only woman to sit on the court. At least three other women have previously served on the high court, but all were appointed, including Betty Roberts.

If Linder wins, she would join six other justices—including Rives Kistler, the only openly gay state supreme court justice in the United States—on the nonpartisan court in the 2007 session. Justices serve six-year terms, unlike U.S. Supreme Court justices, who enjoy lifetime appointments.

As the state's highest appellate court, the Supreme Court is, in effect, the "court of last resort" (although decisions can be appealed to federal appellate courts or the U.S. Supreme Court).

Coming out of the May primary, Linder managed to finish second with approximately 38 percent of the vote to Roberts' 42 percent. Because no one won a majority, the two top opponents are now in a battle for the seat. Gene Hellman, who came in third, was eliminated.

Linder points out her role as the financial underdog of the election. "I was outspent four to one" by her two opponents. But she came in second with a grassroots approach and a heavy reliance on use of the Internet.

Linder says her experience will earn her the Supreme Court seat. "I'm the most experienced appellate judge in Oregon. I've done this for 26 years. I think that is the single biggest difference with Mr. Roberts. I'm an experienced judge."

Though Roberts has run unsuccessfully for governor and served as Lane County commissioner, he has no judicial experience. But his name recognition and the money he can raise from conservative backers and organizations make him a formidable opponent.

Linder's statements are backed up by the facts. Former state Attorney General David Frohnmeyer hired her at the judiciary's appellate department in 1980, the year she graduated with a law degree from Willamette University. In 1986 she became Oregon's first female solicitor general, with many legal and administrative duties, including supervision of a large staff of state attorneys. In 1997 she was appointed to the Court of Appeals by Gov. John Kitzhaber.

Initially, Linder did not intend to run, but she believed the court needed a woman to bring more diversity.

During her time on the Court of Appeals, Oregon's second-highest court, Linder has heard thousands of cases and written almost 300 legal opinions. Most people don't know that the Oregon Court of Appeals is consistently rated the first- or second-busiest state appellate court in the country, so the workload is tremendous, even relative to much more populous states.

Linder has also been an adjunct professor at nearby Willamette University since 1998. She teaches upper-level law students about the appellate process.

Linder also frequently speaks and writes for the Oregon State Bar and other professional organizations about appellate, constitutional, criminal and administrative law and practice.

As a measure of her reputation, she earned endorsements from the states' most influential newspapers, including *The Oregonian*, Eugene's *Register-Guard* and Salem's *Statesman Journal*. Smaller newspapers, including *The Daily Astorian* and *The Bend Bulletin*, have also backed her.

In addition, Linder scores high among her fellow attorneys. She received 52 percent of the vote in the Oregon State Bar's Judicial Preference Poll and has received strong endorsements from various district attorneys and both sitting and retired justices, including Betty Roberts.

Short, neat and slender, Linder looks and sounds like a judge, but she could also pass for a businesswoman pausing for a Frappuccino break.

Linder's natural curiosity and mental discipline dovetail with strong views about the role of the judiciary and individual jurists. It is also in direct contrast to Roberts, a Republican by history, who claims to support a "balanced judicial philosophy."



MARTY DAVIS

Judge Virginia Linder aims to become the first out lesbian on the Oregon Supreme Court.

Without directly criticizing his position, Linder said: "You get asked about judicial philosophy; I think it has become a code for political leanings. I think a judge with an agenda is a bad thing." She notes that law is an "intellectual discipline." It requires more than just understanding common law, statutes and previous court or judicial rulings, known as precedents. It requires an open mind, a willingness to go into a case ready to listen and learn. "The reality is that I don't have an overarching philosophy or ideology that applies to all cases."

Linder emphasizes her commitment to the process involved in making a decision. For example, she said, "I listen to the arguments, try to understand them, but I'm open to being changed by the process—that goes right up to the point of writing the opinions."

Linder first came to Oregon for her undergraduate education. After completing her bachelor's degree at Southern Oregon State College (now Southern Oregon University) in 1975, she took a short break before entering law school. She began working for the appellate division part time as a second-year law student.


As a lesbian in the appellate system, Linder makes the observation that things have gotten

much better for women in Oregon's judicial system, including the appellate branch, where women and sexual minorities are well-represented. "It has never been a real issue—from the time of my appointment as solicitor general. I made sure officials knew my personal status before I accepted the seat on the court; I made sure that [Kitzhaber] knew. When I ran for re-election, it was not an issue, and it has never been a liability. It is wonderful to be open—to be known and knowable."

Finally, Linder shares a personal perspective on her work, a lesson she's learned about individuals that will continue to shape her approach. "What's powerful is our realness as people, regardless of race, gender, sexual orientation or disability." Given her long, distinguished career and the many precedents she has already set, those words could apply with even more power to the personal and professional life of this judicial pioneer. **10**

For more information about VIRGINIA LINDER visit her election Web site, www.judgevirginialinder.com or the Oregon courts Web site, www.ojd.state.or.us.

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