

## Oregon State Bar Judicial Voters Guide 2010

1) Full name:

**Thomas Andrew McHill**

2) Office Address and Phone Number:

**Morley, Thomas & McHill, LLC**

**80 E. Maple St.**

**Lebanon, OR 97355**

**541-258-3194**

3) Web site (if applicable):

[www.mchillforjudge.com](http://www.mchillforjudge.com) or our Facebook page is Friends of Tom McHill for Judge.

4) List high school, college and law school attended, including dates of attendance, degrees awarded and your reasons for leaving each school if no degree from that institution was awarded.

**Hillsboro Senior High School, Hillsboro, Oregon 1968-1971**

**Willamette University, Salem, Oregon, Bachelor of Arts in History and Political Science, 1971-1975**

**University of Puget Sound School of Law, Tacoma, Washington; JD, 1977-1981**

5) List employment since graduation from law school, including dates employed, your position and the nature of the practice or activity.

**I have been an attorney for my whole career, since September 1981, in Linn County at Morley, Thomas & McHill, LLC. Since 1995, I have been the managing member of the firm. This firm is a general practice firm, which means that we see cases that present varied issues. Since 1988, I have been the City Attorney for the City of Lebanon, which includes advising the City on issues such as prosecuting criminal cases in the Lebanon Municipal Court, public records, public contracting, land use and other issues concerning**

**Municipal Law. I have represented the City in cases in the Circuit Court, Land Use Board of Appeals and the Oregon Court of Appeals.**

**Otherwise, I maintain an active practice concentrating in litigation. I represent clients in criminal defense in the Circuit Court, family law matters, general business cases (including forming businesses) and civil litigation of cases such as auto accidents or other negligence cases. In my past, I have experience in participating as lead counsel and co-counsel in two cases where the defendants were charged with aggravated murder. One of those cases included a sentencing hearing, before a jury, while the case that I was lead counsel on resulted in a negotiated settlement of the case.**

6a) List state and federal bars, courts and administrative bodies to which you are presently admitted and the date of admission.

**I was admitted to the Oregon State Bar on September 14, 1981. I was admitted to practice in the federal district court for Oregon on October 16, 1981.**

6b) List any previous admissions, including dates, and the reason why you are no longer admitted.

**None**

7) List publications and/or articles you have authored.

**None**

8) List community, teaching or civic activities.

**Lebanon Fire District Budget Committee; Linn County Arbitration/Mediation Commission; Former Member, Linn County Jail Advisory Committee; Former Member, Board of Directors for Lebanon Elementary School District 16C; Former Member, Board of Directors for Lebanon Community School District; Peer Court Judge, 1999 to 2008**

**Board of Directors for Willamette Valley Rehabilitation Center; Board of Directors for Willamette Manor Assisted Living; Linn County Bar Association President, 1987-88; Former Member Lebanon Boys and Girls Club Board of Directors; President, 1985-86. Lebanon Strawberrians;**

**Distinguished Service Award: Lebanon Junior First Citizen, 1992. Former Member Lebanon Area Chamber of Commerce Board of Directors; Lebanon Rotary Club. Ethics Committee, Lebanon Community Hospital**

**Member, First United Methodist Church, Lebanon**

9) What is the general character of your practice? Indicate the nature of your typical clients and mention any legal areas in which you concentrate.

**Morley, Thomas & McHill, LLC, in one form or another, was established in Lebanon in 1940 by Laurence Morley. The firm has always been a general practice firm, with the philosophy that we will attempt to assist clients in all of their legal needs, or refer cases with expertise required outside of the firm. Consequently, the firm, and my practice, consists of providing assistance in many areas: family law, estate planning and probate, business law, criminal defense, civil litigation, real estate matters and land use.**

**Personally, as indicated elsewhere in this questionnaire, my practice has focused on municipal law, primarily in the representation of local governments and general litigation. Municipal law includes advising the local government on legislative matters, public contracting, criminal prosecution, land use issues and governance.**

**From a litigation perspective, I represent individuals involved in family law matters, negligence cases, business issues, land use issues and real estate. I do maintain an active office practice and advise clients on such things as general estate planning, appellate work, wills and trusts, real estate sales, purchases or foreclosures and business formations.**

10) What percentage of your practice is litigation?

**Excluding representing the City of Lebanon in the Lebanon Municipal Court, my rough estimate would be that approximately twenty-five percent of my practice is active litigation. To include my prosecution of city cases in this total would probably increase this percentage.**

11) Do you regularly appear in court?

**Yes**

12) What percentage of your litigation practice in the last five years was in:

**Federal Trial Courts: none**

**Federal Appellate Courts: none**

**State Trial Courts: 90%**

**State Appellate Courts: 5%**

**Administrative Bodies: 5%**

13) Describe your litigation practice in the last five (5) years and address both the courts and types of cases.

**In the last five years, most of my litigation practice has been in family law, negligence cases and other tort cases. With the requirement of mandatory arbitration for claims of less than \$50,000, many of the negligence cases are resolved at arbitration rather than proceeding to circuit court trials. My practice over the last five years has been in courts primarily in Linn County, but I have recently litigated cases in Polk, Marion and Benton counties as well in family law matters, landlord tenant cases and automobile accidents.**

14) Describe any appellate court experience not included above.

**In addition to appellate court cases that are covered in other questions in this questionnaire, I have also been involved in cases before Oregon's Land Use Board of Appeals while representing the City of Lebanon. We have had several cases before LUBA over the last five or six years, primarily dealing with land use issues surrounding the construction of two WalMart stores in Lebanon. Also, as a part of my experience early in my career handling court appointed cases, I did represent matters appealed from the Linn County District Court to the Oregon Court of Appeals. Some of the reported cases from that experience are listed elsewhere on this form.**

15) Describe any experience serving as an arbitrator or mediator.

**While I have not served as an arbitrator or mediator, I currently serve on the Linn County Arbitration/Mediation Commission. This is a commission which oversees the Linn County program for arbitration and mediation, recommending arbitrators and mediators for appointment by the court, reviewing budgets and filing fees in domestic relations cases which are served by arbitrators and mediators, as well as civil cases subject to arbitration.**

16) State the approximate number of cases you have tried to conclusion in courts of record during each of the past five years (or longer period, if you desire), indicating whether you were sole, associate or lead counsel.

**Over the past five years, as an estimate, I have tried the following approximate number of cases to conclusion:**

**Civil cases 8**

**Criminal defense 3**

**Domestic Relations 22**

**Jury trials 8**

**Trials to the Court 20**

**In my career, I would estimate that I have been sole counsel for 13 civil trials, 18 criminal defense trials, 32 domestic relations trials, 25 jury trials and 30 trials to the court. This would be my recollection as to trials which I have been sole counsel in my career.**

**These trials are to courts of record. In my career as the Lebanon City Attorney, prosecuting violations and misdemeanors which occur within the city limits, I would have no accurate approximation as to the total of trials, jury trials or hearings that I have tried in the Municipal Court.**

17) State the approximate number of cases you have handled in state and federal appellate courts in the last five years, indicating whether you were lead or co-counsel. Include citations of reported cases.

**I currently have two cases pending in the Oregon Court of Appeals as a result of two cases that I have tried within the last year. Prior to the past five years, I have been involved in, or argued, cases in the Oregon Court of Appeals, including *Just v. City of Lebanon*, 193 Or App 155 (2004), *Just v. City of Lebanon*, 193 Or App 159 (2004), *Just v. City of Lebanon*, 193 Or App 132 (2004) and *Westerberg v. Mader*, 182 Or App 150 (2002). Earlier in my career, I handled cases which were reported: *State v. DeKuyper*, 74 Or App 534 (1985), *State v. Hunter*, 67 Or App 783 (1984) and one case before the Oregon Supreme Court, *State v. Goff*, 297 Or 635 (1984). I have also handled a handful of cases, fewer than ten or so, in my career which were not reported cases.**

**I have been lead counsel on all of these cases, though I have assigned an associate in my office to argue the *Just v. City of Lebanon* and *Westerberg* cases listed here. I tried those cases before the Land Use Board of Appeals and the Linn County Circuit Court.**

18) List any experience you have as a pro tem or municipal judge, and the names of the courts you have served.

**As a City Attorney, I cannot serve as a pro tem or municipal judge because of the constitutional limitations for separation of the branches of government. The Oregon Supreme Court has ruled that a city attorney is a member of the executive branch and when I was invited to apply to be a pro tem judge for the Linn County Circuit Court, I would have had to resign as the City Attorney for Lebanon and Scio.**

19) List all bar association memberships, offices held and committee assignments.

**I have been a member of the Linn County Bar Association since 1981. I have served in the offices of President, Vice-President and Secretary. I was President of the Bar Association from 1987-1988.**

20) Have you ever been convicted of or pleaded guilty to a violation of any federal, state, county or municipal law, regulation or ordinance? If so, please give details. *Do not include or parking offenses or traffic violations for which a fine of less than \$500 was imposed.*

**No**

21) Have you ever been the subject of a formal disciplinary proceeding as an attorney? If so, please give the particulars and the result. *\*\*Include only proceedings that were authorized for prosecution by the SPRB.*

**No**

22) Why do you want to be a judge?

**With the retirement of two experienced Circuit Judges, which constitutes 40% of the judges, the citizens of the county need to have experienced trial lawyers on the bench. The experience that is needed should be in a wide variety of areas, with extensive trial experience in those areas.**

**As a general practitioner, I have the depth and breadth of experience which would allow me to "hit the ground running" if I am elected judge. I have a great deal of trial experience in my career as a prosecutor, criminal defense lawyer, municipal lawyer, and litigator in such cases as business law, negligence claims, contract law and family law. I have also written laws as the City Attorney.**

**This experience draws me to offer my experience as a Circuit Judge to serve for the citizens of Linn County.**

23) Briefly describe your philosophy of the judicial role, the qualities that are most important for the role, and the greatest challenges to the role.

**Judges need to always keep in mind that the court system is created and functioning for the benefit of the parties which come before the court. The judge's role is to be fair, considerate and respectful of all, and to follow the law, whether or not the judge likes or agrees with the law. The judge should allow parties to try their cases, making sure that the rules are followed, but remembering that the judge does not have the role of assisting either side or presuming that the judge would be better suited to try the case. An experienced judge should be able to deal promptly, but with due consideration, for issues which come before the court, making judgments without haste, but also remembering that delay has the effect of impacting the parties to the case.**

**I believe that the qualities which are most important to this role are even temperament when dealing with citizens who are experiencing a stressful**

situation with, perhaps, enormous impact on their lives. A judge must be respectful to all who are before the court, even when those persons have committed offenses or actions which are not to be tolerated in our society. A judge must have the experience of a broad legal background, and everyday life, which can be exercised in making those tough or routine decisions in court.

Trial attorneys, particularly with a great deal of experience, might lose sight of the role that they play as the "referee" when they are made judges. In my years of experience trying cases in Oregon, I have had the experience of appearing before judges who tend to forget that they are not expected to be the lawyer in the case. It is understandable that a trial judge who has perhaps tried case through a long career can forget that role. However, it has also been my experience in my own career that because of the varied types of legal matters that I handle, it is easier to remember the appropriate role that I must serve in a particular case. For instance, for almost 22 years, I have been in charge of charging and prosecuting criminal cases in the Lebanon Court. However, I have also maintained a practice that requires me to defend clients accused of crimes in other courts. I have found that I can stay true to my role. I am fair and pretty even tempered which I believe are traits that I offer for the bench which help in maintaining an appropriate judicial role.

I am also a strong believer in the idea that persons must be accountable for their actions and take responsibility for those actions. As a prosecutor, I am always looking for sanctions that cost less to our system, but make essential the idea that criminal defendants must be responsible for acting within the bounds of our society. With the recent construction of a new jail in Lebanon, the ultimate sanction of removing the defendant from general society, at least for a time, has also proved to be extremely beneficial for seeking this goal in people's behavior.

24) Briefly describe a case, or a legal issue on which you worked, of which you are particularly proud, or which is reflective of your legal ability, work ethic, judicial philosophy, or temperament.

**A great deal of my job as the Lebanon City Attorney concerns the management of criminal cases, including screening and charging complaints after review. My predecessor simply allowed police officers to make those decisions, and while I tend to defer to the officer and to respect the officer's opinion, it was my determination that as the chief law enforcement officer in the city, it should be my responsibility to make those decisions. As a result, the process that we follow in Lebanon differs greatly from that which I found when I became the City Attorney and relieves the police officer from dealing with those decisions or from criticism for what happens to a case after the officer has finished the job of investigation. The officer no longer has to be responsible for the prosecution of the case. That is my responsibility. This process not only requires me to exercise professional judgment, it also allows me to deal with cases on a human level, particularly with victims of crime. Colleagues have told me that they enjoy dealing with me on cases because I know the case better as a result of this early screening and I am fair in the disposition of cases.**

**Additionally, the City Attorney is in charge of drafting laws and legislation as directed by the City Council, staff or citizens. I have found this rewarding in not only the enforcement of the law, but in the creation of the law itself in many occasions. Using my legal experience, I am proud of the fact that after almost twenty-two years as City Attorney, I have impacted quite a bit of the Lebanon Municipal Code in its creation, enforcement and then modification where required. I am proud of being able to work with staff and citizens to identify a problem and then attempt to create a solution to the problem with the use of legislation. In this regard, we have created the Lebanon Enforcement Code, helped to re-draft the Municipal Charter of 2004, drafted ordinances which have created the Alcohol Enhanced Enforcement Area and continue to work on other ordinances for the benefit of the community.**

25) Briefly describe an issue, related to Oregon's justice system, that concerns you, or that you have interest in working toward improving.

**I have a great interest in maintaining the availability of the justice system for all Oregonians. However, the expense of litigation and the delay which may occur in the management of cases can result in a lack of justice for many citizens.**

**I am interested in looking for ways to make sure that the justice system is available for more Oregonians by improving management and using my experience to work hard, "hit the ground running" and assist in ways to help participants realize that there may be alternate ways to resolve disputes. It is important that a person with real broad trial experience share that experience in the resolution of issues in ways other than trial, such as settlement conference and in encouraging mediation.**

26) Briefly describe a legal figure, personal, fictional or historical, whom you admire and why.

**There are at three figures that I would say that I admire most. First of all, I have an abiding respect for Thomas Jefferson for his ability to participate in the process of creating governance, recognizing and protecting the rights of the individual. Jefferson's role in the formation of the government and the relationship between the citizens and the government provides protections that we need to preserve.**

**Second, I would list John Adams, for the courage that he displayed as an attorney representing British militiamen who were charged with causing the deaths of patriots at the Boston Massacre. As a lawyer, we are sometimes called upon to participate in legal matters which are not popular. As a judge, one may be called upon to decide a case, based upon the law, which is likewise unpopular. While Adams risked public outcry and vehement opposition, he recognized that the one of the truths of our infant country, the right to an adequate defense, is paramount. I would wish that I, too, could have acted in the same or similar way as Adams did in that representation.**



Finally, my mother, Georgia Ouzts, was something of a “pioneer” in Oregon legal circles and she has always been someone whom I admired. In the 1950’s, my mother was admitted into what is now the Northwestern College of Law at Lewis and Clark, even though she had not attended college. With the responsibility of her family, my father and her two small children, she worked during the day and attended Law School at night. In 1960, she graduated second in her class. After passing the Oregon State Bar, she started her own practice of law in Washington County. While I am told that her law practice showed her independence, I suspect that she was not able to get work with established law firms. However, in the mid-1970’s, she was appointed to the Washington County District Court bench. According to local newspapers of the time, she was the first woman judge in Washington County. Retiring from the bench, she returned to practice as a Deputy District Attorney. In 1982, having moved with her husband to South Carolina, she then passed the South Carolina Bar Exam and went to work as a lawyer for the state. She retired from private practice from her work as general counsel for the South Carolina Human Affairs Commission in 1999. She died in April 2006. However, her spirit, independence, work ethic and integrity continue to guide me. She was not only my mother, but she was a great lawyer whom I have always admired.

27) State any other information that you regard as pertinent to your candidacy.

**This election is of utmost importance to Linn County Citizens. While non-partisan judicial elections seem to lack interest from citizens, it is important for us to realize how important it is to elect persons to the bench with a wide range of professional and community experience, real-life experience and leadership, with sound judgment, integrity and even temperament. I believe that considering my broad background, I am the best qualified to be the next Circuit Judge for Linn County.**