

## Oregon State Bar Judicial Voters Guide 2010

1) Full name:

**Michael B. Wynhausen**

2) Office Address and Phone Number:

**Linn County Courthouse, 300 4<sup>th</sup> Avenue SW, Room 100, Albany, Oregon 97321**

**541-967-3836**

3) Web site (if applicable):

**wynhausen.com**

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.

**1993-1996 University of Oregon School of Law, Doctor of Jurisprudence;**

**1990-1993 Santa Clara University, Bachelor of Arts (Philosophy);**

**1988-1990 University of Oregon;**

**1984-1988 Jesuit High School Graduate**

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

**Deputy District Attorney (2005 – Present) Linn County District Attorney's Office;**

**Deputy District Attorney (1999 – 2005) Benton County District Attorney's Office;**

**Deputy District Attorney (1997 – 1999) Linn County District Attorney's Office;**

**Deputy District Attorney (1996 – 1997) Union County District Attorney's Office;**

**Acting Deputy District Attorney (1995 – 1996) Lane County District Attorney's Office**

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

**Oregon State Bar; admitted 1996**

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

**Not applicable**

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

**Not applicable**

8) List community, teaching or civic activities.

**ODAA Legislative Committee 1997-2009**

**ODAA Instructor**

**National Advocacy Center Instructor (Columbia, South Carolina)**

**Linn/Benton Bar Association Vice President 2009-Present**

**ABC House Board Member 2009-Present (Currently on Executive Board)**

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.

**Criminal Prosecution**

**I do not have clients per se, I represent the citizens of Linn County in all types of criminal cases brought in the Circuit Court. In my capacity as a prosecutor, I have also been involved in cases of Juvenile Delinquency, Juvenile Dependency, Civil Commitments and forfeiture proceedings.**

10) What percentage of your practice is litigation?

**Over 50%**

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: Not applicable**

**Federal Appellate Courts: Not applicable**

**State Trial Courts: 100%**

**State Appellate Courts: Not applicable**

**Administrative Bodies: Not applicable**

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

**Criminal prosecution almost exclusively in the Linn County Circuit Court, though some special prosecution cases in neighboring counties.**

**Though I have tried hundreds of cases over my career some of the cases in last 5 years include.**

**State v. Danny Howard Kent, Linn County case number 06071640. Burglary and Felony Theft on 7/27/06. Convicted at trial held on 4/20/07, sole counsel before Judge John McCormick. Court of Appeals case A135883 affirmed without opinion 4/22/09.**

**State v. Wesley Wayne Martin, Linn County case number 07112543. Rape and Sodomy of a Child on or between 5/7/2007 and 11/12/07. Convicted at trial held on 1/15/09, sole counsel before Judge Rick McCormick.**

**State v. Bert Henry White, Linn County case number 06020294. Delivery and Possession of Methamphetamine on 6/13/2007. Convicted at trial held on 6/13/09, sole counsel before Judge Rick McCormick. Court of Appeals case A137089 currently pending in Oregon Supreme Court.**

**State v. Christina Marie Cowart, Linn County case number 05081647. Child Neglect and Physical Abuse of a Child on or between 12/1/2003 and 8/10/2005. Convicted at trial held on 7/18/2007, sole counsel before Judge Rick McCormick. Court of Appeals case A137364 affirmed without opinion on 7/22/2009.**

14) Describe any appellate court experience not included above.

**Not applicable**

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

**Not applicable**

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.

<b>In the past five years</b>		<b>In your legal career</b>	
<u>2</u>	<b>Civil (Commitments)</b>	<u>30+</u>	<b>Civil (Commitments, Delinquency, Dependency)</b>
<u>75+</u>	<b>Criminal</b>	<u>225+</u>	<b>Criminal</b>
<u>50+</u>	<b>Jury Trial</b>	<u>180+</u>	<b>Jury Trial</b>
<u>25+</u>	<b>Trial to the Court</b>	<u>75+</u>	<b>Trial to the Court</b>

**These are conservative approximations.**

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.

**Not applicable**

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

**Not applicable**

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

**Linn/Benton Bar Association Vice President 2009-Present**

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?

**Unlike most attorneys, I have not been bound by a duty to advocate for a client regardless of how that representation might negatively impact the community. As a prosecutor, it has been my ethical duty to seek justice within the bounds of the law and in so doing it has been my privilege to serve the citizens of this State.**

**As a judge for the Linn County Circuit Court I will be able to continue in that same vein. A judge has similar responsibilities. He or she is bound to follow the law but is also called upon to render final judgment and to do so in a just manner.**

**I feel that my experience as a prosecutor makes me uniquely qualified for the position of Linn County Circuit Court Judge.**

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.

**A judge has two basic roles. The first is as the fair and impartial administrator of the legal system and the second is to render final judgments consistent with the cause of justice.**

**Of primary importance to the first role is a judge's ability to fairly and impartially give full attention and to truly listen to all the parties that come before him or her. Key to the second role is conviction and perseverance to do what a judge believes to be right even in the face of criticism.**

**Practically speaking, one of the great challenges to any judge is to make certain that they are fully prepared on the law at issue. Because the potential array of legal issues that may confront a judge is so vast, it is virtually impossible to be an expert in all areas. That being the case, it is absolutely necessary that anyone who takes on the responsibility of being a judge put in the time and effort required to competently execute his or her duties.**

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.

**No answer**

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

**I am particularly concerned about issues surrounding the sentencing scheme in the State of Oregon. Beginning with the implementation of the Sentencing Guidelines, the independent judgment of Circuit Court Judges has deteriorated. As the public became dissatisfied with the brand of justice afforded by that sentencing structure we have seen the implementation of determinate sentences (ORS 137.635), mandatory minimum sentences (ORS 137.700) and property crime minimums (ORS 137.717).**

**All of these developments have marginalized the judiciary and if judges were lifetime appointees I suppose that would be reasonable, but that is not the system we have.**

**The fact of the matter is that judges in the State of Oregon are elected by the citizens, presumably because they feel that those they elect are the people they want making the hard decisions.**

**It seems to me that returning that discretion to the judiciary is the right thing to do as we head into the future.**

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

**Senior Judge for Linn County Jackson Frost.**

**I admire Jackson Frost, first and foremost, because he is a man of honor. Though I did not know him personally when he was the District Attorney for Linn County, by all accounts he conducted himself in that position with honesty, integrity and the strength of his convictions.**

**Both as District Attorney and as a Circuit Court Judge, Jackson Frost had a keen understanding of the law that he applied with practical sense of justice.**

**On the bench, he treated everyone who came before him with courtesy and respect but was unflinching when it came to making a final decision.**

**In my opinion, the standard set by Jackson Frost is what all judges should aspire.**

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

**I am strongly endorsed by leaders in the community, including State Representative Andy Olson, Linn County Sheriff Tim Mueller, Linn County District Attorney Jason Carlile, Linn County Commissioners William Tucker and John Lindsey and Benton County District Attorney John Haroldson. I am also endorsed by several public safety organizations including the Albany Police Officer's Association, the Sweet Home Police Emergency Services Association and Crime Victims United.**