

Oregon State Bar Judicial Voters Guide 2018

1) Full name:

Rex Armstrong

2) Web site (if applicable):

None

3) List college and law school attended, including dates of attendance, degrees.

University of Oregon Honors College, 1968-70

University of Pennsylvania, 1971-74, BA *cum laude*

University of Oregon School of Law, 1974-77, JD

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

Law clerk for Oregon Supreme Court Justice Hans Linde, 1977-78

Private law practice in Portland from 1978-94, focusing on civil litigation and appeals

Judge, Oregon Court of Appeals, 1995-present

5) List state and federal bars, courts and administrative bodies to which you are presently admitted and the date of admission. If desired, list previous admissions.

Oregon State Bar, 1977

United States District Court for the District of Oregon, 1978

United States Court of Appeals for the Ninth Circuit, 1978

United States Supreme Court, 1980

6) If desired, list publications and/or articles you have authored.

State Court Federalism, 30 Val. U. L. Rev. 493 (1996)

Free Speech Fundamentalism--Justice Linde's Lasting Legacy, 70 Or. L. Rev. 855 (1991)

Probing the Limits of Legislative Power to Regulate the Bar, 56 Or. L. Rev. 387 (1977)

Chapters in Oregon State Bar Continuing Legal Education publications on Oregon Constitutional Law, Land Use, and Oregon Legislation

7) List community, teaching (Continuing Legal Education or otherwise) or civic activities.

Adjunct Law Professor, Willamette University College of Law, 1978

Adjunct Law Professor, Northwestern School of Law of Lewis and Clark College, 1987

Speaker at Oregon State Bar and Oregon Law Institute Continuing Legal Education programs

8) Prior to your becoming a judge, what was the general character of your legal practice? Where appropriate indicate any legal areas in which you concentrated.

Before I became a judge, I was involved in a broad range of civil trial and appellate work in state and federal court in Oregon and in federal courts throughout the western United States. I also did *pro bono* appellate work in cases involving freedom of expression and religious liberty under the Oregon Constitution.

9) List your judicial experience, including as a pro tem, and/or service on an administrative tribunal, or justice, municipal, tax, circuit, or appellate court.

I have been an Oregon Court of Appeals judge since 1995. Before becoming a Court of Appeals judge, I served as a volunteer *pro tem* circuit judge for summary judgment motions in Multnomah County.

10) Describe the general character of your judicial work over the past five years. Indicate the nature of the cases over which you preside, any specialty courts or court programs, and any legal areas in which you concentrate.

The Court of Appeals decides cases in panels comprised of three judges. I am the presiding judge of one of the court's panels. Cases are assigned among the panels without regard to subject area, so I have participated in cases over the past five years that cover the full range of the court's work, including criminal law, family law, juvenile dependency and delinquency, administrative law, land use, labor law, workers' compensation, and civil law.

11) Describe any judicial experience in appellate courts not included above.

Service as a Justice *pro tempore* on the Oregon Supreme Court, 2017-18

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

None

13) List any bar association memberships. Where appropriate, list officer positions, committee assignments or other notable work.

Oregon State Bar

Multnomah Bar Association

Oregon Women Lawyers

14) Describe any bar association or judicial department committees, task forces, or special projects in which you have been involved.

Member, Oregon Council on Court Procedures, 2009-17

Member, Oregon Appellate Rules Committee, 1990-94

15) 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 parking offenses or traffic violations for which a fine of less than \$500 was imposed.

No

16) Have you ever been the subject of a formal disciplinary proceeding as an attorney or judge? If so, please give the particulars and the result. *Include formal proceedings only.*

No

17) What attracted you to a judicial career?

I care deeply about our shared legal heritage, which includes a commitment to the rule of law and to ensuring that the government complies with the law. Courts play a critical role in preserving that heritage, and I came to believe that I have the analytical ability, temperament, and desire to contribute to the important work done by the Oregon Court of Appeals to ensure the fair and equal application of the law to everyone.

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

I believe that the role of judge in our governmental system is to give honest effect to the policy choices made by others, specifically the policy choices made by the people, through their adoption of the Oregon Constitution, initiative measures, and referenda, and by the members of the legislative and executive branches of government. Judges need to approach their work with humility and to guard against equating their personal policy preferences with the policy choices made by others.

19) 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.

The opinion that I wrote for my court of which I am most proud is my opinion in *Sims v. Besaw's Café*, 165 Or. App. 180 (2000), [12344.pdf](#) which upheld a Portland civil rights ordinance that, among other things, forbade discrimination on the basis of sexual orientation in public accommodations, housing, and employment against a challenge that Portland lacked authority to create a private cause of action that could be litigated in state court. Among other things, the case led me to examine the authority of cities to regulate private activity and to reject the view on that subject expressed by the principal legal treatise on municipal law in the United States.

I also am particularly proud of a dissenting opinion that I wrote in *Lincoln Interagency Narcotics Team v. Kitzhaber*, 188 Or. App. 526, 554 (2003), [9972.pdf](#) which involved a challenge to an initiative measure that imposed constitutional limits on the authority of the government to forfeit

property connected with criminal activity. The challenge to the initiative measure was based on the separate-vote requirement of the Oregon Constitution, which requires a separate vote to be held on each proposed amendment to the constitution. The proper construction of the separate-vote requirement has bedeviled courts, and I sought in my dissent to develop a sound and comprehensive understanding of the requirement. The Oregon Supreme Court ultimately agreed with me that the forfeiture measure did not violate the separate-vote requirement, but the court did not adopt the comprehensive analysis of the separate-vote requirement that I had proposed, which would have brought needed clarity to this important area of constitutional law.

20) Briefly describe an issue, related to Oregon's justice system, that is of particular interest or concern to you, or that you have interest in working toward improving.

The Oregon Court of Appeals is one of the busiest appellate courts in the country. My colleagues on the court and I are committed to deciding cases as fairly and efficiently as we can in light of the resources that we have been given. We have received periodic support from the National Center for State Courts to evaluate our work and to consider alternative ways for us to do our work while maintaining the quality standards to which we are committed.

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

I have profound respect and affection for Oregon Supreme Court Justice Hans Linde, who was one of my law professors at the University of Oregon and for whom I worked as a law clerk after he became a judge on the Oregon Supreme Court in 1977. Justice Linde has a rare ability to think both broadly and deeply about legal questions, especially those bearing on the structure and function of government. I have sought to emulate him in my work as an appellate judge.

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

Oregonians elected me in 1994 to an open seat on the Oregon Court of Appeals. I was endorsed in that election by every newspaper that made an endorsement and by lawyers from every county in the state. Since joining the court, I have worked to reach a shared understanding of the legal questions presented in each case and to write opinions for the court that explain the applicable legal principles as simply and clearly as possible. I am honored to have been elected to serve the people of Oregon, and I pledge to continue to be a fair and impartial judge and to treat everyone with respect.