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Special Edition
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Delbert Wong

First Chinese American Judge

By Marshall Wong

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P.O. Box 862647, Los Angeles, CA 90086.
Phone: 323-222-0856. Fax: 323-221-4162.
Email: chssc@earthlink.net Website: www.chssc.org

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PREFACE

The Chinese Historical Society of Southern California - in this special issue of Gum Saan Journal - is honored to present this biography of a great role model: Judge Delbert Wong. This project is the culmination of years of research by Delbert and Dolores' son, Marshall Wong, of the Los Angeles County Commission on Human Relations.

We share the story of Delbert, the grandson of a woman who knew nothing of her origins, and the son of an immigrant houseboy. After a distinguished World War II record, Delbert was the only person of color in his 1948 class at Stanford Law School. He began his career in the Office of the Legislative Counsel and Los Angeles' Attorney General's office.

In 1959, Delbert Wong was appointed to be the first American judge of Chinese descent. After a brief period in the Municipal Courts, Judge Wong served for over twenty years on the Los Angeles County Superior Court. Judge Wong's definition of "retirement" includes service on the Superior Court Arbitration Panel.

Our Chinese Historical Society - like so many others in the Asian Pacific American communities - is truly indebted to Delbert and Dolores Wong for their continuing leadership, commitment, and contributions.

Linda Wong Smith
President
Chinese Historical Society of Southern California

Delbert Wong is an inspiration and hero to me, to the broader community, and to the Asian American community in particular. His accomplishments as a judge, lawyer, and community leader are significant and have motivated many people to enter the legal profession.

I have had the benefit of growing up with Delbert. I commonly refer to him as Uncle Del. His wife, Dolores, and my mother were as close as sisters even before I was born. That close relationship between my family and theirs continued as we lived in the same Silver Lake neighborhood in Los Angeles, and went to many of the same community, fellowship, and church functions together.

From an early period in my childhood, I knew Delbert was special. He was one of the first Chinese American lawyers in Los Angeles. He was the first Chinese American judge in the U.S. He was and is always approachable, helpful, and compassionate.

Of all of his attributes, I am inspired most by his consistent devotion to community and to justice. There were many occasions when he made comments or speeches that were knowledgeable or articulate. But it was his actions that truly changed my life. I was a pre-med student at UCLA at the time of U.S. wars in Vietnam and Cambodia. I was president of the Asian American student organization on campus. We did a lot of community service and were involved in the peace movement. One day we held a peace rally on the campus. On the same day there were sit-ins and other rallies on campus and later the National Guard troops came onto campus. There was no trouble at our rally, but later I learned that a couple of our members had been arrested in a different part of campus, and there were a number of students who were seriously injured. That night, I called Delbert to ask for advice on how to help these students. He was extremely concerned and helpful, and his advice led to the students being released. That experience led me to change my plans; I later went to UCLA Law School instead of medical school. Besides my parents, Beulah and Edwin, there is probably

no other couple that has been more supportive of my legal career than Delbert and Dolores.

Delbert's compassion and sense of justice can be seen in his legal career and his community service. I will always admire that combination. His involvement in many community organizations has strengthened the community and its residents. I am extremely grateful that he and Dolores were amongst the first individual donors for the new offices of the Asian Pacific American Legal Center, which is the largest legal service and civil rights organization focused on Asian Americans in the U.S.

Delbert's legacy lives on through his family, his career, and the many people and institutions that he has helped to shape.

Stewart Kwoh
President and Executive Director
Asian Pacific American Legal Center

”Pioneer: a person who goes first, or does something first, and so prepares a way for others.”

Judge Delbert Wong must be recognized as one of the most important pioneers for Chinese Americans as well as Asian Americans in the United States. He was born at a time in America when there was widespread and institutionalized discrimination against Chinese Americans and other minority groups. The Chinese Exclusion Act, signed into law in 1882, prohibited the entry of many Chinese into the U.S. and made Chinese immigrants ineligible to become naturalized U.S. citizens. Dozens of other restrictions against Chinese preceded and followed the Chinese Exclusion Act, which was not repealed until 1943.

Judge Wong served as a pioneer in many ways - from his distinguished military service as a U.S. Air Force officer in World War II where he completed thirty bombing missions over Europe, earning a Distinguished Flying Cross; to becoming the second Chinese American lawyer in Southern California when he moved to Los Angeles in 1951.

In 1959, Judge Wong became the first American judge of Chinese descent. When he retired in 1982 from the Los Angeles Superior Court, he was revered and the senior Superior Court judge in terms of service in Los Angeles County. Since retirement from the bench, Judge has earned a great reputation of yet another kind, as one of the most sought-after mediators in Los Angeles for complex U.S. as well as foreign litigations. Judge Delbert Wong by doing things first, has indeed prepared the way for other Chinese Americans and minorities in the U.S. He is an important role model for young lawyers and young Americans because of his enduring commitment to justice, duty, honor, and country.

Phillip H. Lam
President
Southern California Chinese Lawyers Association

Delbert Wong
First Chinese American Judge
By Marshall Wong

What's in a Name?

I was born in 1959, a few months after my father, Delbert, was appointed to the bench. To mark this accomplishment, he named me after two prominent American jurists, John Marshall and John Jay, who were, respectively, the fourth and the first Chief Justice of the U.S. Supreme Court. My father considered John Marshall to be one of the nation's greatest jurists because he wrote the decision in several historic cases, such as *Marbury v. Madison*, 5 U.S. 137 (1803) that first declared that the judiciary has the right to declare acts of Congress unconstitutional, a significant check of the legislature's power.

In a similar vein, my grandfather, Earl, gave me my Chinese name, "Douh-Jeng." "Douh(道)" meaning "the path to" and "Zeng(正)," roughly meaning "justice," or "goodness."

My father, being a modest man, did not boast about his position. I grew up under-appreciating the significance of his work and achievements. He rarely talked to his children about his job. I believe that I only visited his courtroom twice in my life, once on a school field trip.

I recall once, on a family vacation, when my father was asked to introduce himself to a roomful of University of California alumni, he simply said, "My name is Delbert Wong and I work for the County of Los Angeles." I was taken aback by his vague response. "Dad," I told him, "People might think you're a garbage collector." Later in life, I learned that such modesty had a practical rationale: strangers who learned of his position had a tendency to complain bitterly to him about their latest traffic ticket, summons for jury duty, or divorce proceedings.

I undertook this oral history project because I wanted to better understand his experiences as an unlikely, and perhaps even accidental, trailblazer. I realized that my father would never write about his years on the bench, organize his papers, or otherwise try to document his

experiences. It would require someone he trusted to coax the stories out of him. So, beginning in 1998, I began conducting a series of taped interviews with my father. I wanted to learn the answers to two broad questions:

1. What were the key life experiences that informed his sense of justice?

2. Having served on the bench during the turbulent decades of the 1960s and 70s, how did his career reflect the great debates of those times?

And in some fundamental way, I wanted to learn the story behind my name.

About the author:

Marshall Wong is the youngest of Judge Delbert and Dolores Wong's four children. He has worked as a social worker, political aide, museum educator, and currently coordinates anti-hate crime programs for the L.A. County Commission on Human Relations. His articles have appeared in *Social Justice*, the *Washington Times*, and *Asian Week*.

The Wong Family

Earl Q. Wong left the Southern China's Guangdong Province, Hoiping District in 1914 at the age of fifteen to join his father who had emigrated to America years earlier. Earl's father worked as a cook on a ranch in Sonoma County in Northern California. He arranged for Earl to live with an American family, the Simmons. Mr. Simmons, was a local pharmacist and drug store owner. He and his wife had recently lost a son and agreed to retain Earl as a houseboy. The couple and their teenage daughter taught Earl English and American ways, such as eating with a fork and knife. They also enrolled him in high school for two years, which was his only formal education. Earl was very fond of the Simmons and viewed them more as surrogate parents than employers. They enjoyed a life-long friendship and Earl felt deeply appreciative of their kindness and tutelage. In his adult years, Earl would bring his family to visit the Simmons family, bearing gifts of appreciation to them.

When he was about nineteen, Earl moved to the Central Valley farming town of Fresno where he worked as an interpreter for a Chinese herbalist. He joined the local Baptist church that rented rooms to single Chinese men. The church provided an array of services to immigrant newcomers and attracted into their fold a number of Chinese, exposing them to Western religion. It was there that he met Alice Mar, who was a rarity for the time: an American-born Chinese woman.

Alice was born in 1901 in the gold mining town of Weaverville, California, near the Oregon border. Having lost her father, a grocery and supply merchant, at an early age, she and her four siblings were raised by a single mother, G. Mar, a woman who knew literally nothing about her origin. She was raised by a Chinese couple whose three "daughters" were unrelated. The girls did not know how they came to be part of this family -- by informal adoption or if sold as child servants, a common practice in China. Mrs. Mar grew up in the 1880s in an isolated world of Chinese immigrants in Central California who largely lived as though they were still in rural China. Mrs. Mar never

attended school and never learned English. In her entire lifetime, she only wore Chinese clothes and wore her neck-length hair cut bluntly, in a style that was popular in China. She knew her birthday and her age, but when asked where she was born, sometimes she would answer, "California," other times, "Canada," and occasionally, "China." The fact is, she never really knew. But what's even more interesting is that she probably never asked.

Alice was the oldest daughter of Mrs. Mar's children and assisted her mother in managing the household and caring for her younger sisters and brother. Chinese tradition did not value education for girls. Consequently, Alice only attended school from the third to the eighth grades. The family left Weaverville when Alice was young, moving first to Sacramento and later to Fresno, in California's Central Valley. As a teenager, Alice joined the Baptist Church because it was the center of social activity for the town's Chinese young people.



Earl and Alice Wong in 1919.

In Fresno, almost all Chinese couples married at City Hall. Earl and Alice became the first Chinese couple who married in the local Baptist church. They took pride in this minor milestone -- a symbol of embracing American ways and Christianity. Earl donned a formal suit and Alice made herself a white western-style wedding gown. (This was a notable departure from tradition as white is the color of mourning in China.)

The young newlyweds moved to another agricultural town, Hanford, California where they opened a restaurant that offered simple Chinese and American dishes. Alice gave birth at the age of nineteen to their first son, Delbert, in 1920.

A year later, the Wong family moved to Bakersfield, two hours north of Los Angeles, where Earl and a partner opened a modern business, the Lincoln Market. Three other children followed, but only one, Ervin, survived infancy.

Bakersfield was the seat of Kern County and had a growing population of 50,000. It was an oil town with rich farmlands that produced cotton, fruit among other products. There was a close-knit population of 500 Chinese residents with a Chinese congregational church being the community's hub. The Chinese Consolidated Benevolent Association informally governed the community and helped resolve disputes among its members. Nearly all of the residents originated from four rural counties near Canton and spoke Sze-yup, the lingua franca of the region. There was a small Chinatown where grocery stores, herb shops, and restaurants were clustered on two streets.

The Wongs lived on the edge of Bakersfield about seven blocks from Chinatown in an ethnically-mixed, working class neighborhood. The grammar school which Delbert attended had a student population that was three quarters white with the remainder a mixture of Chinese, blacks, and Mexicans. Many of the Mexican and white children came from migrant farmworker families, some of whom were Dust Bowl refugees, and lived in primitive housing literally on the other side of the railroad tracks. Delbert vividly remembered one of his elementary

school classmates was cleaning clothing with a flammable liquid that ignited. His tinderbox house went up in flames and he died in the fire.

The Lincoln Market survived the Depression during which time Earl extended credit to many customers who had lost their jobs or otherwise fallen on hard times. Earl Wong's generosity to his new neighbors left a big impression on his son. Delbert also remembers distinctly that the majority of the market's customers eventually paid their debts after years of poverty because of gratitude for Earl's compassion. Earl Wong's charity to the less fortunate was partly a result of his own poverty-stricken childhood in China. He would tell Delbert stories about his family's struggle to survive in their ancestral village. During winter months his family could not even afford to eat rice so they boiled sweet potatoes to mix with and to extend the precious grain. Because of this unpleasant association, as an adult, Earl would never eat sweet potatoes.

Delbert also grew up with stories of the discrimination which his parents and other Chinese pioneers experienced. For instance, his mother Alice was a U.S. citizen by birth but lost her citizenship when she married Earl, because he was born in China and therefore considered an alien. She became, in essence, stateless, knowing no other home besides America. Years later, when the law was changed, she studied the Constitution and applied to become a naturalized citizen.

Delbert's own childhood in Bakersfield was also marked by race-based restrictions that were daily reminders of the inequities of the times. In first-run movie theaters, Chinese and other ethnic minorities were only permitted to sit in the balcony. The local public swimming pool was only available to non-whites on Fridays, before it was drained on Saturdays and re-filled with fresh water. Many barber shops were off-limits to people of color, so the Wongs had their hair cut at a Filipino-owned shop.

The Chinese community in Bakersfield followed the diasporic tradition of creating institutions for cultural preservation, such as Chinese language schools. Beginning in elementary school, Delbert and his

younger brother Ervin attended Chinese language classes for two hours every day after school and again on Saturdays.

Delbert spent his childhood summers with his grandmother in Fresno, helping her tend the garden and sell vegetables to Chinatown markets and restaurants.

During the 1930s, despite the Great Depression, Earl Wong prospered as a grocer, and when Delbert was fifteen, he decided to bring his family back to his hometown in China for an extended stay. It had been twenty years since Earl left China for America, and the visit was intended to expose his two sons to their ancestral village and to share his prosperity with his extended clan and neighbors. And perhaps, additionally, to impress his kinfolk with his success.

Instead of traveling in third class or steerage as was common among returning Chinese sojourners of the day, Earl Wong booked first class passage for his family on the President Hoover ocean liner. His cargo included ten to twelve steamer trunk-sized pine boxes bursting with clothing, canned asparagus, soap, toothpaste, and other precious gifts from Gold Mountain (as California was called in China) for all his relatives. The Wongs even brought a refrigerator and a short-wave radio for Earl's brother and sister-in-law.

Earl bragged to Caucasian passengers on the ship that China was the most beautiful country in the world, with delicious food and rich, cultural offerings. When they docked in Shanghai, small sampans surrounded the ship full of people begging for food. Earl was mortified, because after living twenty years in America, selective memory permitted him to imagine a China without poverty, famine, or war.

The Wongs stayed with relatives in Canton, but arranged to hold a banquet several hours away in Earl's childhood village of Wong Oak. Earl extended an invitation to the entire village, including the beggars. As there was no site large enough to accommodate five hundred persons, he had a structure built of bamboo, a thatched roof and woven mats especially for the occasion.

Delbert and his brother Ervin enrolled in Ling Nam University in a class for overseas Chinese students. There were only six students who originated from the U.S., Europe, the Philippines, and Malaysia. Progress was slow because the students did not share a common language. The teacher tried to use Mandarin as the standard language in the class, but would need to have each lesson translated into English, Cantonese and Malay in order to be understood. Because of the painfully slow progress, Delbert returned to the U.S. after one semester.

Delbert's parents, especially his father, valued education for their sons, but having had little schooling themselves, could do little to help them with practical matters, like their homework. Delbert's maternal uncle graduated from college as a marine engineer, but most of his other relatives had limited formal education. Yet for all the barriers that existed, he excelled in school and was encouraged by his high school counselors to attend college, not a common recommendation in a town like Bakersfield during the Depression.

Upon graduation from Kern County Union High School, Delbert enrolled at Bakersfield Junior College. After two years, he transferred to the University of California at Berkeley. He moved into the International House, which was a residence for foreign students and Americans who had an interest in learning about other cultures.

In December, 1941, during his third semester at Berkeley, Delbert was studying with a group of classmates on a Sunday morning for a psychology final exam scheduled for the following day. An hour into the session, at eleven a.m., the news broke that Japan had bombed Pearl Harbor.

Soon thereafter, the U.S. formally entered World War II. Delbert and his classmates graduated a few months later in May and most of them followed the President's call to enlist in the armed forces.

World War II

Both Delbert and his younger brother Ervin, who had just graduated from high school, signed up for the Army Air Corps in June 1942 to become aviation cadets. The local Bakersfield newspaper lauded the enlistment of the two young brothers as heroic.



First Lt. Delbert E. Wong
of the 8th Air Force in
1944.

Not all branches of the military were open to Asians. The Marines did not accept non-whites. Delbert initially attempted to join the Navy but was rejected, again the assumption was for racial reasons.

However, even though the Air Corps was less discriminatory than other branches of the military, barriers existed. African Americans served in completely segregated units, while Chinese and Latinos served with white recruits. Chinese enlistees were rarely trained as pilots (who served as the crews' commanding officers) and instead became flying officers, navigators, or bombardiers.

After completing training, Delbert was assigned to a combat crew on a B17 and immediately sent to Fort George Wright in the State of Washington. Of 360 flying officers, he was the only Asian. In November 1943, he was sent overseas to a base near Kettering, England. Within a month, Delbert began flying bombing missions over Germany and the occupied countries of France, Holland, Belgium and Austria.

Bombing missions would consist of hundreds of planes departing from different bases at dawn, with no communication among the crews or with the ground. A mission was completed after a plane had dropped its load of bombs or engaged in fire. When Delbert enlisted, crewmen were required to complete twenty-five bombing missions before returning stateside. Shortly thereafter, to his consternation, the Air Corps raised the number of required missions to thirty.

The crewmen were issued packages in the event that they were shot down containing items that would aid in their escape from enemy controlled countries: local currency, a water bag, a first-aid kit, and passport photos that could be pasted into fake documents provided by the underground resistance. In one Kafkaesque episode, along with his crewmen, Delbert was required to take a photo disguised as a French peasant wearing a beret and striped shirt. As ludicrous as this seemed, Delbert knew that questioning his commanding officer about the credibility of his costume would prove fruitless. He mused, "Obviously, it wasn't a very good disguise."

The casualty rate for the bomber crews was high. Missions over German targets averaged eleven percent and those over occupied territories, five percent. Of the eighteen navigators who graduated with Delbert at Mather Field, only three completed their thirty missions. The remaining fifteen were shot down with several taken as prisoners of war.

Delbert commented that the fear of being killed or wounded was mitigated by the enlistees' sense of collective mission and team spirit. "It just didn't seem that unusual because everyone was doing it. I mean, it was a fact of life."

Delbert flew his thirtieth mission on June 2, 1944, four days before D-Day. He was returned stateside and was stationed at a redistribution center in Santa Monica, California. Delbert was given time off to accompany his mother to visit his brother Ervin in Shreveport,



Bombing mission to KIEL in Germany in December 1943.

Louisiana, where he was in the final phase of his training as a radio operator before being shipped overseas. Delbert and his mother met Ervin's crew and bid them farewell.

Upon returning home from the trip, the Wongs were notified that Ervin and his entire crew had been killed in an airplane accident on one of their final training flights. The loss of Delbert's brother on American soil was a deep blow to the Wong family. Still in their forties, Earl and Alice had lost three of their four children.

Once, as a child, during a family visit to Bakersfield, my parents took me to visit the gravesites of my three deceased uncles and aunt. We first visited Uncle Ervin's grave at a military cemetery. It seemed like endless rows of identical white gravestones, lined up perfectly like a huge formation of disciplined troops on a green sea of manicured grass.

From there we made a short trip to what seemed like another world: the cemetery's non-white section where my other uncle and aunt were buried. There was little, if any, lawn, mostly weeds, dirt clods, and dust. There were randomly scattered markers, some no more than wooden boards fashioned into crude crosses bearing hand-written names. I saw scorpions and odd insects scuttling around the nightmarish scene. It was the first time I had ever seen segregated facilities.



Delbert E. Wong and Crew 66 members stand in front of the historic B-17 in 1943.

The Decision to Go to Law School

In 1945, the Air Corps sent Delbert to the Harvard School of Business for training as a statistical officer where he served in that capacity until the end of the war. He was then transferred to a base in San Bernardino, California, awaiting discharge when he had a fateful conversation. He had become acquainted with the legal base officer who was preparing to be shipped overseas. The officer expressed envy that Delbert had completed his tour of duty and would soon return to civilian life. He asked Delbert if he had considered a career in the law. Delbert considered the notion, without the slightest idea where the suggestion would eventually lead him. He did a mental inventory of the fields he was not interested in pursuing, such as medicine, and recalled the business law classes he'd taken as an undergraduate. Law school seemed to hold some promise.

Delbert's decision to study law was neither intended to please his parents nor was it an act of rebellion. As an undergraduate student at UC Berkeley, he and his parents had assumed that upon graduation he would return to help operate the family grocery store. However, after three years in the armed forces, completing his required missions over a period of six months overseas, and studying at the Harvard Business School, the prospect of working at the family business seemed less than fulfilling.

Although it is difficult to imagine today, the Wongs were not supportive of Delbert's choice of careers. Ironically, they worried that there would be limited opportunities for a Chinese attorney and that the legal community would never accept their son.

In August 1945, the U.S. declared victory over Japan. After four years at war and losing more than 400,000 young soldiers, the entire nation was ready to return to the bliss of marriage, child-rearing, and simple routine. The military discharged enlisted men according to the number of points they had accumulated, based on the number of months spent overseas, and for decorations earned. Delbert had accumulated a large number of points based on his receiving the

Distinguished Flying Cross and four Air Medals, and also his length of service in the European Theater. He became immediately eligible for discharge.

Armed with the support of the G.I. Bill of Rights, Delbert first inquired at the University of Southern California's School of Law and learned that their fall semester had already begun. He immediately traveled northward to inquire about enrolling at Stanford University School of Law. The law school had been turned into a virtual ghost town during the war years. With so many men having joined the war effort (and there being no draft deferments for law students), the incoming class of 1944 had numbered six.

There he met with Professor Lowell Turentine, acting Dean of Stanford's Law School, who was also an expert in aviation law. Turentine was thrilled at the prospect of recruiting returning Air Force and Navy pilots and encouraged many to apply. Within one month after being discharged, Delbert began classes. Of the class of fifty students who enrolled that September, one third were returning veterans. Compared to the other law students, the veterans tended to be older, more mature and serious, less affluent, with many married.

Federal government support was key to providing Delbert and other veterans opportunities that they would otherwise not have had. The G.I. Bill provided five hundred dollars annually for veterans, approximately the cost of tuition at Stanford Law School. In addition, the student veterans received an allowance to purchase books and fifty dollars monthly to cover living expenses. This aid allowed a broader array of students from diverse socio-economic backgrounds to attend expensive, top-notch schools such as Stanford. Still, Delbert was the only person of color in his law school class which included only two or three female students. Furthermore, all of the faculty members were white males.

As part of this special class, Delbert socialized with his classmates, but on weekends attended bridge and poker games and other activities sponsored by the Chinese Students Club. Chinese American students

numbered about forty on the large campus. They were nearly all American-born like Delbert because restrictive federal laws had nearly halted immigration from Asia for half a century. There were virtually no other Asian students on campus as Japanese Americans had been evacuated from the West Coast during World War II under Executive Order 9066.

When asked if being Asian presented any barriers in law school, Delbert answered matter-of-factly, "No. Other than not being able to join any legal fraternity, I felt there was no problem..." At that time, fraternities excluded racial minorities and Jews. During the post-World War II 1940s, an Asian American who crossed ethnic lines understood what limitations existed and adapted expectations accordingly. Some things were not questioned.

Similarly, envisioning a future legal career required conforming to certain realities. Delbert always presumed that public service was the only viable option. "Civil service was the only available avenue for (Chinese) people interested in law." At the time there were no more than a dozen Chinese attorneys practicing in northern California. Most were practicing immigration law and a few handled business cases for clients in Chinatown, but there were none employed by mainstream law firms.

These obstacles were evident in other ways, as well. During summer breaks, Delbert's white law school classmates had a range of employment possibilities, including working for corporate law firms. That route was not an option for Delbert, so after completing his first year in law school, Delbert worked at the District Attorney's office in his hometown of Bakersfield.

Mirroring the optimistic mood of the country, the post-war years brought many good opportunities for young attorneys. During this period, Stanford Law School produced a number of prominent jurists. The entering class that followed Delbert's included future Secretary of State Warren Christopher and Shirley Hufstедler who

would one day serve as the first Secretary of Education under President Jimmy Carter.

During Spring break, before his last quarter of law school, Delbert married Dolores Wing, a psychiatric social worker from the tiny Navy town of Vallejo, California. The two had met as undergraduate students at UC Berkeley. Their wedding reception was held at the historic Claremont Hotel in the Berkeley Hills, a short distance from their alma mater.

In weighing his own options, Delbert considered practicing law in the then-territory of Hawaii, which, based on its large concentration of Asian Americans of diverse backgrounds, provided an array of opportunities not available on the U.S. mainland. During his honeymoon in Hawaii, Delbert visited the law office of Hiram Fong, the Chinese American Speaker of the Territorial House. Fong urged him to move to the islands where there were a number of Asian territorial judges and successful lawyers who pursued their career goals unfettered by racism. Delbert recalls being impressed by the sight of Fong's waiting room full of clients, something unthinkable for a Chinese lawyer in California. But the temptation of living in an environment where Asians faced considerably less discrimination was outweighed by consideration of being close to family and friends on the West Coast.

Office of the Legislative Counsel

After graduating from law school in 1948, Delbert passed a civil service exam and received an invitation to work at the Office of the Legislative Counsel (OLC) in Sacramento. Fred Wood headed the office, a position he had held for more than fifteen years. The thirty lawyers on staff were unusually diverse for the 1940s, and included an African American woman, an African American man, and three white women.

Delbert was hired as junior counsel just before the opening of the legislative session in January 1949. The workload was extremely heavy and attorneys were allowed only one weekend day and one week night off. Otherwise, they were expected to be at the office from eight a.m. until ten p.m. -- a seventy hour work week for the princely salary of \$295 a month.

The governor of California, Earl Warren, was a Republican, and his party controlled both houses of the legislature. When the houses were not in session, the office staff was responsible for responding to requests for legal opinions that arose during committee meetings. Attorneys served all legislators regardless of party affiliation and might provide confidential legal opinions to both supporters and opponents of the same bill.

During his tenure at this office, one of Delbert's primary assignments was to provide legal support to the state's Un-American Activities Committee that had been born of the anti-Communist sentiment of the McCarthy Era. Once, he was asked to draft a new loyalty oath for public employees that had been requested by Governor Warren. The request came to the office one day at four p.m. and was to be on the governor's desk by ten the following morning. Delbert, assisted by two secretaries, worked until two a.m. and returned to the office at six a.m. before the deadline in order to write a legal opinion on the constitutionality of the change. The ultimate product amended the existing oath of office to include a provision, "I am not, nor have I

ever been a member of any organization which advocated the overthrow of the government by force." Although some liberals in the legislature opposed the amended language, the outbreak of the Korean War ensured its passage. The oath is still in effect today.

Delbert also helped to research and to write the Public Utilities Code, the Health and Safety Code, and the Business and Profession's Code. Requests from legislators were routed to attorneys with expertise in the required fields, such as education, criminal law statutes, water rights, and professional regulations.

Although civil service provided relatively more opportunities for minority attorneys, it was not discrimination-free. At one point the Los Angeles branch of the OLC was expanded from one to two attorneys. Delbert applied for a transfer to the new position but was told that he would not be "appropriate" for the smaller Los Angeles office. Apparently, some members of the legislature wouldn't want a Chinese American as one of only two attorneys available to them in Southern California. A year later, when one of the Los Angeles positions again became vacant, Delbert re-applied. There was a new chief-deputy in charge of personnel who approved Delbert's transfer. Los Angeles would become Delbert's home for the rest of his career.

While Delbert successfully overcame discrimination in the legal profession, he faced unexpected obstacles in his personal life as well, which strengthened his commitment to equal justice.

During the 1950s, Los Angeles had entered a growth boom. Opportunities abounded. Industry was flourishing. Rents were reasonable. Many veterans received government assistance to purchase homes. Construction was underway of the Hollywood Freeway, a symbol of the region's rapidly expanding infrastructure.

In 1951, when preparing to move from Sacramento to Los Angeles, Delbert and his wife heard about the Park La Brea, a 176-acre apartment development designed to accommodate ten thousand

residents. Park La Brea was owned by Metropolitan Life Insurance Company which operated similar planned communities in other states. The fashionable art deco style complex was conveniently located in the mid-Wilshire neighborhood and appealed to the Wong family for its safety, affordability, and attractiveness.

When the Wongs wrote to the Park La Brea management, they received a prompt response that there were no vacancies. Disappointed, they rented an apartment in the working class, more ethnically-diverse neighborhood of Echo Park. Upon moving to Los Angeles, they noted, however, that the Park La Brea was still advertising vacancies. They suspected that their Chinese surname had led the management to deny their application.

In 1953, with a growing family, the Wongs began to search for a larger house. They found a vacant lot in the Silver Lake neighborhood, a middle-class neighborhood named for its large, picturesque reservoir. Delbert contacted the realtor who informed him that he was not willing to sell the property. In a face-to-face meeting, he candidly told Delbert that it was policy to keep the neighborhood white. Angry, but resourceful, and armed with an extensive knowledge of the law, Delbert visited the County Hall of Records to look up the identity of the seller. He then contacted the owner and inquired if the realtor's statement was true. The seller was shocked by the realtor's actions and threatened to fire him unless he conducted business with the Wongs.

Delbert purchased the property with two other families, one Jewish and one Chinese American, and partitioned it into three lots. There was strength in numbers.

Years later, the Wongs learned that some of their neighbors had circulated a petition to bar them from moving into the neighborhood. It was a great surprise, especially because the instigator of the petition had become quite friendly with the Wong family. Her fear and hostility of integrated housing had softened as they came to know the newly-arrived strangers.

In a remarkable coincidence, ten years later, when Delbert was sitting on the Superior Court, the same realtor appeared in his court in a civil case because of a real estate fee dispute. When Delbert entered the court he recognized the realtor's name and informed his attorney that he had had prior dealings with his client. The realtor and his attorney conferred briefly and then informed Delbert that it would not be necessary to disqualify him from hearing the case.

Delbert pondered the situation and considered his options. If he heard the case and found for the opposing party, the realtor could always accuse him of failing to be impartial. On the other hand, it would be unfair, and frankly, galling to bend over backward on behalf of the realtor to avoid the slightest appearance of impartiality. Delbert's only real option was to recuse himself from the case.

Office of the Attorney General

After serving one year in the Los Angeles OLC office, Delbert learned that the local office of the Attorney General was recruiting several deputies to assist with a major case. The suit *Arizona v. California*, 373 U.S. 546 (1963), concerned the Golden State's efforts to increase its share of water from the Colorado River, a move that was bitterly opposed by its neighbor. Delbert took a promotional exam and was hired to join the thirty attorneys in the Los Angeles Office under the second-term Attorney General Edmund G. (Pat) Brown. Frank Mackin, a former law partner of Brown, headed the office. Mackin had developed a reputation for being a fair and inclusive manager and had assembled an ethnically diverse staff that included women and African American attorneys. Staff morale was high and the attorneys and administrative staff lunched together nearly every day, played softball on weekends, and celebrated holidays together.

After six months working on the water rights case, Delbert found the work "too dry" and yearned for more trial experience. (*Arizona v. California* was not resolved for another ten years and was ultimately appealed to the U.S. Supreme Court which apportioned the water between the two states.) He transferred to appellate work, writing criminal briefs, and initially trying minor cases, such as car forfeiture and narcotics cases.

During the 1950s, the drug trade from Mexico increased and law enforcement attempted to stem the flow by seizing cars. From July 1950 to June 1952, authorities seized 540 cars in Southern California alone from both dealers and users, including celebrities such as jazz singer Billie Holiday. Banks and car dealers joined the fray because they argued that vehicle impoundment punished them for the actions of their customers. They successfully lobbied the legislature to pass an exemption, permitting lien holders to preserve their liens if they made a reasonable investigation of the background of a vehicle's buyer. Delbert represented the State of California throughout the

Southland in disputes relating to such investigations and as to whether or not the impounded vehicles were used to transport illegal narcotics.

Delbert also assisted with the enforcement of California's Milk Control Statute, which sought to regulate the price of milk to ensure its quality. During the 1950s, the milk industry was highly competitive and there was a need to protect small dairy farmers against large corporate milk distributors who could sell their product for lower prices. On a number of occasions, Delbert represented the Department of Agriculture against suits by business people who charged that the government was trying to prevent lower prices for milk and ice cream. These problems were eventually resolved by the state legislature.

Delbert also represented the state's Athletic Commission when boxing champion Art Aragon, known by his fans as "The Golden Boy," was suspended along with referee Abe Roth. Aragon had been sanctioned for deliberately defying the Commission's rule that boxers were not to wear any protective covering. He was also charged with wearing collodion on his brow in his championship fight against Cisco Andrade, causing the fight to be cancelled. The Court upheld his suspension.

Another of Delbert's significant cases involved third party participation in elections. Secretary of State Frank Jordan was sued by the Socialist Party and Christian Nationalist Party over Election Code provision, Section 2540 which prevented minor parties from participating in state primaries unless they met certain criteria: a) having received at least three percent of the vote in the previous election, b) having one percent of all voters registered with their party (at that time 4,100); or c) collecting signatures from ten percent of California voters in order to be listed on the ballot. The case eventually went to the California Supreme Court where Delbert represented the Secretary of State and A.L. Wirin, a prominent civil rights attorney, represented the two minor parties. Delbert argued that although the requirement of having one percent of all registered voters appeared onerous, it only represented two voters per voting precinct. The

ostensible reason for the rule was cost effectiveness, but many people suspected that it was an effort by the two major parties to prevent the growth of third party movements, particularly given the lasting anti-Communist sentiment that had lingered since the McCarthy Era. The Supreme Court agreed with Delbert's argument and held that the legislation was reasonable.

Defending the election code put Delbert at odds with the American Civil Liberties Union (that submitted an amicus brief in support of the plaintiffs) and other liberal advocates, with whom he had much in common. In retrospect, he commented, "I think when you take on a case as a lawyer, you have to espouse the viewpoints of your clients, irrespective of your personal feelings. At that time I did not have any strong feelings about it one way or the other, but in subsequent years I could just see that it was important that minor parties have a voice in government. That is my point of view." Ultimately, the Supreme Court upheld the validity of the numerical limitation. Ten years later, the legislature modified the election code to make greater accommodations for the inclusion of third party candidates on ballots.

Delbert represented an array of defendants, including state officers, doctors in state hospitals, highway patrol officers, and prison officials who were sued by individual private citizens. He took on a number of cases that required him to travel to courthouses in the Central Valley which many of his colleagues were loath to accept. Many local judges resented the presence of "outsider" state attorneys in their jurisdictions, but Delbert's credentials as a native son of Bakersfield, Kern County helped him to gain judges' trust.

Perhaps the most unusual issue decided in cases handled by Delbert related to the independence of the judiciary. This issue was raised in two cases in which he represented six justices of the California Court of Appeals who were named as defendants under Penal Code, Section 1505, which provided that any judge who improperly refused to issue a writ of habeas corpus upon proper application shall be civilly liable in the amount of five thousand dollars. This provision was contained

in the Criminal Code since its enactment in 1878, and was based upon a similar act of the English Parliament enacted at the time of the signing of the Magna Carta.

Since the defendants were justices of the Second Appellate District, on appeal the case was transferred to the Court of Appeals, First Appellate District, which held that the statute imposing civil liability upon judges was unconstitutional. The Court noted that while the English Parliament had the power to restrict the power of judges, the State Legislature could not do so because of the separation of powers doctrine in the state constitution which created three equal branches of government. Lincoln v. Fox, 168 Cal.App.2d 31 (1959); Oppenheimer v. Ashburn, 173 Cal.App.2d 624 (1959).

Although Delbert enjoyed his work in the Attorney General's Office and his performance was more than competent, many found a Chinese American attorney a novelty in the capacity of representing the State of California. Delbert fondly remembers one opposing counsel who, upon completion of a trial, complimented him by saying, "You speak pretty good English." Taken aback, Delbert turned to him and quipped, "So do you."

Appointment to the Bench

Veteran politician Goodwin Knight served as Lieutenant Governor under Earl Warren. When President Eisenhower appointed Warren to the Supreme Court, Knight became Governor. In 1958, fellow Republican and U.S. Senator William Knowland as well as California Attorney General Edmund "Pat" Brown challenged him. Knight, realizing that the Republican Party leadership did not support him, announced his candidacy for Knowland's Senate seat. Voters responded to the power play by delivering victory to the Democrats in both races.

Delbert had helped to form the Chinese American Committee to Elect "Pat" Brown and organized a fundraising luncheon in L.A. Chinatown's Golden Pagoda restaurant in Fall, 1958. "Fortunately for us, there were no other big issues that weekend. There were no fires, no floods, no big accidents, and so both the television and the radio and the newspapers just concentrated on the campaign."

The luncheon was a modest success and drew one hundred to one hundred and fifty Brown supporters. As one of the committee members, Delbert helped introduce his boss to a number of businessmen and other professionals in attendance. Prior to this event, the most significant interaction they'd had was when Brown stopped by Delbert's cubicle to welcome him as a new deputy.

That November, "Pat" Brown won the governorship by a substantial margin. In January 1959, during his second week in office, Governor Brown telephoned Delbert at his office and said, "This is Pat." At the time, Delbert was embroiled in defending Assemblyman Pat McGee in a lawsuit. Not recognizing the voice as McGee's, Delbert replied, "Pat who?"

Brown informed Delbert that he was appointing him to the bench. Flabbergasted, Delbert could only mutter, "Well, I'd be very honored." The Governor admonished him, "Don't tell anybody except your

parents," because a press conference was scheduled the following day.

Without even notifying the Attorney General's Office, Delbert was told to fly to Sacramento the next morning. With no advance warning, the Governor announced his appointment of Delbert as the first American judge of Chinese descent.



Judge Delbert E. Wong in 1961 poses with Governor Edmund G. Pat Brown and Judge John Aiso, the first Asian American Judge in the continental United States.

The following day, the *Los Angeles Examiner* ran a front-page article entitled, "Brown Appoints Wong: U.S.-Chinese Judge in L.A.--Nation's First," and an editorial praised the appointment. The editorial, which reads awkwardly by today's standards stated, "Our growing company of scientists, physicians, and other savants of Oriental stock are a credit to California. The recognition also constitutes a tribute to the democratic process we cherish, because it

Two weeks later, on January 31, in a ceremony at the State Building in downtown Los Angeles, Delbert was sworn in as a municipal judge along with a Democratic member of the Assembly and the Republican former secretary to Governor Goodwin Knight. Delbert was administered the oath of administration by Justice W. Turney Fox of the Court of Appeal (whom earlier Delbert had represented in a lawsuit) and he was sworn in by Judge Elizabeth Ziegler, presiding judge of the Municipal Court.

Municipal Court

Delbert was immediately assigned to a trial court, where several experienced judges took him under their wing. His first permanent assignment was at the city jail, in Arraignment Court. At the time, there was no judge's college or any formal training. Newly appointed judges learned on the job.

Delbert tried misdemeanor crimes such as public drinking, disturbing the peace, prostitution, gambling, and petty thefts. This was a far cry from the cases he'd handled as a deputy Attorney General, which were all felonies on appeal. It was an eye-opening learning experience for him. The court was open seven days a week because it was mandated that any defendant had to be brought before a magistrate within forty-eight hours after being arrested. Defendants would be informed of the charges against them, their constitutional rights including the right to counsel, and if defendants could not afford an attorney, one was appointed. The maximum sentence for these crimes was one year in a County jail. The steady parade of defendants brought Delbert into much closer contact with the public than had his previous jobs.

A typical day in Arraignment Court began with women defendants, usually from fifteen to twenty, who were charged with crimes such as prostitution, drug possession, shoplifting, and child endangerment. Once these were dispensed with, hearings for male defendants would fill the rest of the docket.

Many of the crimes were alcohol-related, so one of the two divisions at the jail in Lincoln Heights was devoted exclusively to defendants charged with public drunkenness or related crimes. Weekdays it was common that as many as three hundred defendants were arraigned. On weekends, the number could climb to six hundred. To speed the process, groups of fifty men would be brought in at a time and advised as a group of their options. Most entered guilty pleas and were sentenced on the spot. Thirty-day jail sentences were typical,

during which time those convicted would dry out, get fed regularly, and bathe. Many were sent to a farm where they would work in an alcohol-free environment for up to 180 days.

In reflecting on those early, mundane proceedings, Delbert commented, "This was not a form of punishment, but it was just a form of trying to help them. There were no other facilities for these people, and jail was the only possibility... It was a terribly expensive way of trying to rehabilitate, without the necessary tools..."

There was an endless parade of mostly low-income defendants who had been cited or arrested for assorted misdemeanors, ranging from dog leash violations to gambling to petty theft. The group included many repeat offenders who became familiar faces. Prostitutes were quickly bailed out by their pimps who wanted them back to work as soon as possible. It was a situation in which many judges and other court personnel easily became jaded and unsympathetic. Delbert realized that if arraignment judges were known as being overly severe in sentencing, defendants would plead "not guilty," hoping for a greater leniency from trial judges. Such an outcome could overwhelm the already overtaxed judicial system.

Delbert learned that the most important trait for Arraignment Court judges was to be consistent. The Municipal Court judges had a high degree of discretion, with sentences that ranged from modest fines of ten or twenty dollars to jail time. He learned that defendants had to be treated individually because of their range of life experiences and differing criminal histories. First time offenders could find a night in jail a sobering experience, whereas repeat offenders warranted more severe punishments.

Delbert learned quickly about the limitations of his role as an arraignment judge. He realized that he could not use his position on the bench to play social worker or as a platform for advocating public policy. But it was an arena in which a judge could display compassion and a realistic approach to social problems.

A bailiff once commented to Delbert, "Well, Judge, at least you smile when you sentence them to jail." Delbert wanted to be "an understanding judge, without gaining a reputation for giving away the courthouse." Apart from appearing personable, Delbert gained a reputation for being more lenient than many of his colleagues. He also drew a clear distinction between "victimless" crimes and predatory ones when rendering decisions. Consequently, he inadvertently gained a positive reputation amongst prostitutes, who would advise one another, "Consider yourself lucky if you appear before Judge Wong."

Leniency, however, did not always lead to desired outcomes. Once, a defendant appeared before Delbert charged with domestic violence while intoxicated. His wife pleaded that if her husband were jailed, he would lose his job and their family would lose their home. She begged Delbert to display mercy for her spouse. Moved, Delbert released him without bail. Within a month the defendant appeared before Delbert again, this time donning prison garb. He had killed his wife.

It was Delbert's first crisis of confidence since his appointment to the bench. In a near state of shock, he confessed his anguish to a fellow jurist, who responded, "This was unforeseeable. You don't have a crystal ball to look in the future...you can't keep everybody in jail just because of the possibility that something like this might happen."

Delbert also learned during this period that some of his ethical concerns were not necessarily shared by defendants. One was Frank "Blinky" Palermo, an underworld celebrity from Philadelphia who was under heavy surveillance when he arrived at the Los Angeles International Airport. He was immediately arrested for failing to pay for a newspaper and pack of chewing gum, a charge that he disputed. Realizing the potential for a circus atmosphere in a misdemeanor hearing, Delbert instructed the press not to photograph Palermo while

court was in session. However, as soon as he was released from the holding cell, he walked to the court waving to the press, smiling, and basking in the glory of publicity.

After a year in Arraignment Court, Delbert was transferred to Traffic Court, an equally grueling post. The volume of cases ranged from three hundred to six hundred, shared by four judges. Delbert was assigned to the drunk driving Arraignment Court, and when there was time he would try non-jury cases. During one weekend, he arraigned ninety-six drunk-driving defendants in a single day. He became



Judge Delbert Wong with Chinese American Citizens Alliance members (from left to right) Wilbur Woo, Judge Delbert Wong, Mayor Sam Yorty, Y.C. Hong, Earl Wong (father of Delbert) circa 1960.



Judge Delbert Wong poses with Bob Hope (left) and actress Anita Louise (middle) at the National Conference of Christians and Jews Brotherhood Dinner circa 1961.

friends with several other new judges in Traffic Court including Joe Wapner, who decades later gained fame on television in "People's Court," the pioneering "reality" courtroom program. The new judges gained an unanticipated reputation for ending special treatment for traffic violators who were well-connected. During Delbert's first week on the judge, the wife of a traffic court judge received a ticket and chose to stand in line with everyone else receiving no special treatment. This incident brought home to traffic court staff the importance of equal justice.

This even-handed treatment extended to family. Once, Delbert's own father Earl received a parking ticket. He asked his son to intervene and Delbert replied, "Dad, I can't. It's improper." The elder Wong understood his son's stance -- eventually.

Delbert and his wife Dolores were frequently reminded of the novelty of an Asian American judge presiding in the Municipal Court, sometimes in comical ways. Dolores was attending a tea when one of the other guests heard the news of Delbert's appointment. She commented, "Mrs. Wong, I heard that your husband was appointed to the bench. You know, I didn't realize that there were that many Chinese people who got into trouble."

A year later, Delbert was transferred to trial court where he presided over misdemeanor cases, such as drug possession, and civil cases.

During this time, Delbert balanced his career with raising the Wongs' four young children. He also became involved in numerous civic activities including the Boy Scouts, the Chinese American Citizens Alliance, the Chinatown Optimists Club, and the National Conference on Christians and Jews.

Superior Court

In November, 1961, Governor Brown elevated Delbert to the Superior Court, one of seven judges who were inducted at the same time. The others included Frank Mackin, for whom Delbert had worked in the Attorney General's office; Shirley Hufstedler, a former Stanford classmate; Vernon Spencer, a former president of the State Bar; Irving Hill; Avery Cray who went on to serve on the Federal District Court; and Alfred Boone, municipal court judge.



Induction ceremony for eight superior court judges in November 1961. Front row from left to right: Delbert E. Wong, Shirley M. Hufstedler, and Charles C. Stratton. Center row: Alfred D. Boone, Irving Hill, and Vernon Spencer. Back row: Frank J. Mackin, and E. Avery Cray.

The social upheaval of the 1960s was mirrored in the American court system, as the nation's body of law was held up to scrutiny time and time again. In the Superior Court, Delbert found himself trying cases that reflected the great debates of the times: the right to free speech, equal protection under the law, and the definition of obscenity, to name a few.

As a young Superior Court judge, Delbert tried a precedent-setting case that ultimately led to the amendment of hearsay laws. In People v. Spriggs, 60 Cal.2d 862 (1964), a defendant was arrested when police officers discovered heroin stashed under a bush in his front yard. At the time of arrest, the defendant's girlfriend admitted that the drugs belonged to her. At trial, when Spriggs' defense attorney attempted to admit that statement into evidence, prosecutors argued that it was inadmissible. At the time, if a person made a statement that was contrary to his financial interests it would be deemed admissible; but if it would subject him to a penal statute, it was not.

Delbert indicated that he would have to sustain the prosecution's objection because he was bound to follow the law, even though he disagreed with it. He explained that even as a law student, his professors had resoundingly criticized this law as being inconsistent. The defendant appealed the ruling all the way up to the California Supreme Court, citing the reasoning Delbert had articulated. The Supreme Court reversed the law, making declarations against pecuniary as well as penal interests admissible.

The definition of obscenity was another area that was re-examined during this period. Local anti-pornography statutes used to outlaw the sale or distribution of certain books, magazines, and movies were increasingly being challenged as unconstitutional. On numerous occasions, Delbert was asked to determine whether such material violated "local community standards," a far from precise notion.

Delbert soon suspected that his ethnic background played a factor as to which cases he was assigned. In several instances, the presiding judge

gave him cases that were potentially racially volatile. For example, Delbert tried a group of black Muslims who were charged with engaging in a shoot-out at a mosque. Again, when a case involving school desegregation came before the Court, lawyers for the plaintiffs and the Los Angeles Unified School District selected Delbert as one of three judges from a pool of 206 Superior Court jurists.

Garrett v. Pacific Telephone Company

In an adversarial judicial system, rarely are both sides of a lawsuit pleased with the outcome. However, there are occasional cases in which parties disgruntled with a court's decision go the extra mile to express their dissatisfaction.

In 1965, Delbert heard the case of Arthur Garrett v. Pacific Telephone Company in which the plaintiff, a public interest attorney, charged that the telephone company had negligently or purposefully provided him poor service, causing him a loss of clients for a period of six weeks. Everyone connected with the trial assumed that it was a nuisance suit brought by a litigious lawyer. Mr. Garrett had a history of bringing individual and class action lawsuits against the phone company with a David and Goliath bravado.

In his final argument, Garrett admitted to the jury that he could not estimate the amount of damages he had sustained and was therefore only asking for one dollar in compensatory damages. But he did claim he was entitled to punitive damages.

The jury agreed, awarding him one dollar in compensatory damages and one and a half million dollars in punitive damages. Upon hearing this, Garrett nonchalantly remarked, "Win some, lose some."

The astonishing verdict and award was widely covered by news media across the nation and Garrett emerged as a folk hero to some.

Delbert found the verdict outrageous and felt duty bound to set aside the verdict and grant Pacific Telephone a new trial. Garrett, basking in the glory of his moral victory, did not even attempt to retry the case.

However, a few months later, in yet another grandstanding gesture, Garrett filed nomination papers against Delbert who was up for re-election to the Superior Court. It was the judge's first and only contested election. Unfortunately for him, Garrett failed to collect the necessary number of signatures to qualify for the ballot.



Aetna Casualty and Surety Company v. Underwriters at Lloyds of London and Other Insurance Companies, 56 Cal.App.3d 791 (1976)

On January 28, 1969, an oil well owned by Union Oil Company in the Santa Barbara Channel "blew out" and discharged thousands of barrels of oil, killing wildlife, damaging beaches, and ruining County parks. Union Oil had a policy with Aetna Insurance Company to cover all liability, including gas stations, trucks, pipelines, and wells. Aetna was the primary insurer up to fifty thousand dollars per occurrence. Should a claim exceed that amount, Aetna had two surplus carriers, Lloyds of London and Harbor Insurance Company that would equally share pay-outs up to one million dollars. Above that limit, Lloyds of London would cover claims up to twenty-one million. The policy included both the duties to pay for damages and costs of defense that included the investigation, negotiations for settlement, and attorneys' fees.

Following the spill, Aetna, as the primary carrier, immediately sent investigators to appraise the damage and settle the claims quickly for reasonable amounts. As liability was clear, such action could prove to be the most economical way of resolving an expensive environmental and public relations disaster.

Aetna quickly exhausted its fifty thousand dollar obligation and notified both surplus carriers that it had fulfilled its obligation. Both companies refused to accept responsibility for the remainder of the settlement and filed lawsuits for declaratory relief asking a judge to resolve the dispute. Both retained large law firms: Gibson, Dunn and Crutcher; and Hancock, Rother, and Bunshoft, respectively, to prepare elaborate briefs denying liability. The case was assigned to Delbert.

Because this issue had never been litigated in California, he studied decisions in other jurisdictions. There were at least four

"models" employed by other states to determine liability. Delbert pondered the options, and determined that Aetna, was the *de facto* agent of the consumer (in this case, Union Oil) and ultimately responsible for the company's interests throughout the course of the settlement. Delbert devised a percentage formula that assigned proportionate responsibility for legal fees and all related expenses according to the percent of damages covered by each of the insurance companies. In other words, he required both of the surplus carriers to pay their fair share.

Both Lloyds of London and Harbor Insurance Company appealed the ruling. In a twenty-four-page decision, the Appellate Court in Aetna Casualty and Surety Co. v. Underwriters at Lloyds of London, 56 Cal.App.3d 791 (1976), discussed the various theories used throughout the country to calculate the levels of insurance carriers' obligations and affirmed Delbert's decision. Since then, the ruling has stood unchallenged in the state of California.

Superior Court, Appellate Division

The Chief Justice of the California Supreme Court appointed Delbert to the Appellate Department of the Superior Court in 1968. There he served on a three judge court and heard civil and criminal cases that had been appealed from the municipal court.

One of the cases of which Delbert was most proud was *People v. Cohen*, 81 Cal.Rptr.503 (Cal.App. 1969), a landmark First Amendment case that was tried during the Vietnam War. The defendant was a college student, Paul Robert Cohen, who had been convicted in Los Angeles Municipal Court of disturbing the peace. Cohen entered a courthouse to observe the trial of fellow students who had been arrested for participating in anti-war protests. He proudly wore a jacket bearing the words, "F--k the Draft," but removed it before entering the courtroom. When he left the courtroom he donned the jacket again and was arrested in the corridor. A Municipal Court sentenced him to thirty days in jail.

Represented by the American Civil Liberties Union, Cohen appealed his conviction to the Superior Court where the case was heard by Delbert and two judges who were appointees of Republican governor Earl Warren: James White and Beach Vasey. Delbert often differed with his more conservative colleagues, but usually they found a common meeting ground or agreed to respectfully disagree. A key factor in Delbert's ability to maintain productive, professional relationships with politically conservative judges was using the rulings of higher courts as a foundation. After much deliberation, the three agreed to reverse the decision of the lower court on the basis that wearing the jacket fell within Cohen's constitutional right to free speech.

Undaunted, the District Attorney's Office took the case to the Court of Appeal, where Cohen's conviction was upheld on a vote of three to zero. From there the case went before the seven-member California State Supreme Court which, voting four to three, refused to hear it. Ultimately, the case was appealed to the U.S. Supreme Court as *Cohen v. California*, 403 U.S.15 (1971). In 1971, the Court voted five to four

to overturn the conviction. On behalf of the majority, Justice John Harlan wrote, "One man's vulgarity is another man's lyric." The Supreme Court pointed out that the defendant had not engaged in nor threatened to engage in any violent or illegal act, nor made any loud or unusual noises. The conviction had been based solely on the content of his speech, protected by the First Amendment.

Altogether, twenty-two appellate court judges heard the case and split exactly eleven to eleven. It just happened that the distribution of the judges resulted in a one vote margin of victory in the U.S. Supreme Court. The decision was cited in subsequent rulings as a significant narrowing of the statutory definition of disturbing the peace. To Delbert's delight, *Cohen v. California* is frequently taught in constitutional law classes.

In 1971, around the time of the Cohen case, I distinctly remember a certain party that my parents hosted for some of their more liberal friends. Growing up at such gatherings I often helped out by taking guests' jackets and handbags, serving food and beverages, and clearing and washing dishes. I recall that after dinner, the guests had moved into the living room and my father was talking about first amendment cases in an unusually candid fashion. He never used profanity around the house, but on this particular occasion he made an exception. "You know, I think these young people got it right. You can write long editorials, even books about the war in Vietnam. But some of these young people say it all in a few words. It's f--ked up."

During this period of time, Delbert and his colleagues heard a number of cases related to political speech. In one, a defendant was arrested for wearing a shirt his girlfriend had sewn using an American flag.

Delbert's perspectives on free speech during the Vietnam War were, in part, informed by the increasing acceptance of public protest demonstrations as legitimate expression. That shift was reflected among his own children. His oldest child Shelley, after enrolling at the University of California at Santa Cruz, participated in a number of

anti-war and civil rights activities. She attended one historic protest against the Vietnam War at the Century City Hotel in West Los Angeles where then-President Lyndon Johnson was speaking. Shelley saw the California Governor's limousine approaching and rushed forward to hand Edmund G. Brown an anti-war flier through an open passenger window. She told him, "I'm Del Wong's daughter. Please give this to President Johnson." Brown responded, "I think my daughter is out here, too," referring to his daughter Kathleen, who later was elected California's Secretary of State.

His eldest son, Duane, was also a product of the turbulent times. At Los Angeles' John Marshall High School, Duane helped to establish an underground newspaper that was critical of the school administration. The students who produced the newspaper were opposed to, among other things, the practice of army recruiters on campus. Because of its controversial views, the principal banned the newspaper and students had to distribute it off-campus. Duane was sent home repeatedly for refusing to cut his hair to conform to the campus dress code. In his senior year, he helped organize a walk-out of hundreds of students in protest of the Vietnam War. Although he did not always agree with his children's views, Delbert defended their right to express them.

But Delbert's commitment to the First Amendment did not always prevail. In another Vietnam-era case which was appealed to Delbert and his two colleagues, *People v. Uptgraft*, 8 Cal.App.3d Supp. 1 (1970). In this case, students at California State University at Northridge held a peaceful anti-war rally in a part of the campus designated by the college administration as a free speech area. The college president ordered them to disperse and, when they refused to do so, called the police. One hundred officers descended upon the campus to arrest the students despite a plethora of television news crews recording the events that clearly established that the demonstration was indeed peaceful. Some of the students were convicted in Municipal Court of having an unlawful assembly, receiving sentences as high as six months in jail, which they served. They appealed to the Superior Court, but in this case, Delbert cast the lone vote for reversal.

There were four other similar cases that were appealed to the Appellate Department, *People v. Horton*, *People v. Sanders*, *People v. Brown*, and *People v. Ratcliffe*. In all of these cases, Delbert cast the lone vote to reverse the convictions of student protesters and wrote dissenting opinions to support the students' First Amendment rights.

Another significant, but less politically controversial case, involved the constitutionality of Vehicle Code Section 17158, which prohibited anyone who was a passenger in his own motor vehicle but driven by another person with his permission, from suing the driver for injuries caused by his negligence. The driver could only be sued if he was intoxicated or guilty of willful misconduct.

The issue had been before the California Supreme Court on three previous occasions within a period of three years. On the first occasion, in *Schwalbe v. Jones*, 16 Cal.3d 514 (1976), the Supreme Court held that Vehicle Code Section 17158, was unconstitutional for violating the constitutional equal protection guarantee. It later granted a rehearing at the request of the losing party. While that rehearing was pending, Delbert was trying a case in the Los Angeles Superior Court, *Cooper v. Bray*, 21 Cal.3d 841 (1978). In *Cooper*, an elderly woman, Gertrude Cooper, sued the owner of an Arco Service Station for injuries she sustained while a passenger in her own car which was operated negligently by an employee of the service station. The jury awarded Ms. Cooper a substantial verdict for her injuries and the owner of the Arco service station appealed.

Thereafter, the Supreme Court in 1976 after rehearing the *Schwalbe* case, reversed itself and finally ruled by a six to one decision that Vehicle Code Section 17158 was indeed unconstitutional as violating the state and federal equal protection guarantees, and overruled the 1976 case of *Schwalbe v. Jones*. The Court also ruled that Delbert had correctly instructed the jury in the *Cooper* case and that the jury award must also be affirmed.

Retirement

In the Superior Court of Los Angeles County, it is common for judges to leave the bench for significantly more lucrative jobs in private law firms. Delbert, however, remained on the bench until 1982. At the time of his retirement, he had served as a jurist for twenty-three years and had the greatest seniority among the Superior Court's 223 judges.



Judge Delbert
E. Wong in
retirement,
2000.

In 1974, Edmund "Jerry" Brown, Jr. the only son of "Pat" Brown was elected governor of California. The younger Brown was a former Jesuit priest who became a career politician embodying California's liberal "new age" character. He quickly became known for continuing his father's practice of appointing large numbers of women and people of color to the bench. After eight years of Governor Ronald Reagan's

reign in Sacramento, Delbert finally thought that he had a good chance for elevation to the higher court under the new Democratic administration. The Southern California Chinese Lawyers Association and influential supporters of Jerry Brown recommended Delbert's appointment, hoping he would be the first permanent Chinese American judge to serve on the Court of Appeals. Aides to the governor reported that he was seeking to appoint younger judges. However, shortly thereafter, when Brown appointed Congressman George Danielson (who was four years Delbert's senior) to fill a vacancy on the Court of Appeals, Delbert realized that his prospects for advancement were unlikely.

Disappointed, Delbert consulted other retired jurists and one, Steve Wiseman, encouraged him to consider alternative dispute resolution as a field. Commonly known as "rent a judge" services, the field of arbitration gained popularity during the late 1970s as an alternative to lengthy, costly court trials. Complicated discovery statutes were increasing the volume of work for courts and causing logjams. Delbert mused, "The success of alternative dispute (resolution) relies chiefly upon the ability of the arbitrator to gain the confidence and respect of the lawyers... The judges who were considered fair and impartial by the lawyers would be the ones...more likely to get appointments." Having never been in private practice, Delbert had the advantage of not being identified with either plaintiffs or defendants in business or personal injury litigation.

Also, having served for more than two decades on the bench, Delbert had long-standing relationships with large numbers of judges who periodically appointed referees for discovery disputes and settlement cases.

This work also appealed to Delbert because arbitrators make short-term commitments to cases, whereas attorneys may be involved with clients for months or even years. At age sixty-two, Delbert was interested in having a flexible schedule with reduced hours.

On June 30, 1982, Delbert retired from the Los Angeles County Superior Court of Los Angeles County. At the time of his retirement he was the senior judge in terms of service, having served continuously since November of 1961 on the 223 judge court.

His fellow judges arranged a retirement luncheon at the Los Angeles Music Center with over two hundred in attendance. He was given another retirement party by the Chinese American Citizens Alliance in Los Angeles, and a third by friends in his home town of Bakersfield.

Delbert soon signed up for the Superior Court Arbitration Panel, which diverted smaller cases to arbitrators and paid for their fees. He also contacted several private arbitration agencies as a way of breaking into the field.

In 1982, cases assigned by judges to the Arbitration Panel involved claims of no more than twenty-five thousand dollars. Later that limit was raised to fifty thousand dollars. Decisions made by arbitrators were non-binding, but rulings were accepted by litigants in eighty percent of the cases saving the Superior Court large amounts of money.

Alternative dispute resolution is not without its critics. Some have charged that it has created a two-tiered system of justice with speedy trials available only to the affluent. Others oppose the privacy of arbitration proceedings. Finally, some complain that arbitration lacks regulation.

On this last point, legislation has been passed to establish certain ground rules. For example, arbitrators are now required to notify litigants of prior dealings with any of the concerned parties and of the results of those cases. This empowers potential clients to better evaluate the impartiality of an arbitrator.

In addition to saving money, most consumers of arbitration services are attracted by the prompt disposition of cases. A major factor that contributes to long delays in court proceedings has been inadequate judicial facilities. Delbert lamented, "The courts have been denied,

time and again, the request for additional funds by other branches of government. In the State of California, the past few governors have not been supportive of the judiciary...and have not given the courts the money needed to appoint new judges and to supply the people with better court facilities."

At the federal level, another factor responsible for delays in court proceeding is that under the Clinton and Bush administrations, the Senate Judiciary Committee refused to approve many of the President's nominees. Claiming that the appointees were unsuitable or unqualified, Senator Jesse Helms blocked discussion of candidates' merits by choosing not to hold hearings. This resulted in a huge backlog in the federal courts.

O. J. Simpson Trial

The most unusual legal experience Delbert had since retiring from the bench was acting in 1994 as the Special Master in the O. J. Simpson murder trial. In the "trial of the century," former USC football hero O. J. Simpson was charged with the June 13, 1994 murders of his wife Nicole Simpson and her friend Ron Goldman outside of her Brentwood townhouse. The lengthy trial contained elements for which news media executives dream: a vicious double homicide, a celebrity defendant, a widely filmed auto chase leading to an arrest, volatile, controversial issues involving race and gender, and grandstanding attorneys on both sides. It was a story that even tabloids couldn't have invented. In an odd and completely unexpected turn of events, Delbert was recruited to join the multi-racial cast of characters.

At the preliminary hearing, the prosecution presented their first two witnesses, two cutlery store workers who testified that they had sold Simpson a fifteen-inch stiletto knife six weeks prior to the killings. The police were convinced that the knife was the murder weapon and asked the coroner to compare the blade of a similar knife sold by the store with the victims' wounds. In a detailed presentation that included graphic illustrations of how the murder weapon penetrated the victims' bodies, the coroner concluded that the blades matched. The *Los Angeles Times* headline read, "Simpson Bought a Knife Two Weeks Before the Slayings, Court is Told."

The day after the murders, Simpson boarded an American Airlines flight to Chicago and returned to Los Angeles the same day. The *Los Angeles Times* reported that the airline alerted the Chicago police that, coincidentally, the handle and part of a knife blade had been found in a pit where lavatory wastes from airplanes were deposited.

The prosecution sought to prove through circumstantial evidence that the knife purchased by Simpson was, indeed, the murder weapon.

Simpson maintained that he had indeed purchased the knife, but lost track of it after he brought it home.

Simpson hired a three-attorney defense team comprised of Johnnie Cochran, Robert Shapiro, and Professor Gerald Uelman. Uelman was dispatched to Simpson's home to see if he could locate the knife. Following Simpson's instructions, he entered the master bedroom, observed two mirrors above the dressing table, and opened the right recessed mirror. He saw a knife, similar to those already depicted in television newscasts. Most importantly, it appeared unused and in pristine condition. He immediately realized that it would be exculpatory evidence that would prove that Simpson was not guilty. Uelman wanted the knife preserved for future use, but did not want to take possession of it (to avoid any suspicion of evidence tampering) or to become a witness. A lawyer cannot testify on behalf of his client in any case, except under very unusual circumstances (which would require the court's permission).

Gerald Uelman conferred with his fellow attorneys and decided that rather than move the knife, it would be preferable to have an independent person retrieve it. If necessary, that person could testify that it was found in the Simpson bedroom. Furthermore, the defense team could have it tested under court supervision to determine that it had never been used and therefore was not the murder weapon. So as not to disturb the evidence, Uelman simply closed the mirrored door and departed. The defense team then obtained permission from the court to have the knife retrieved by an independent party, or "special master."

The responsibility for selecting a special master fell on presiding Judge Lance Ito. The court contacted several judges and the first one who was available was retired Superior Court Judge Delbert Wong.

Judge Ito had known Delbert since childhood and had attended kindergarten with Delbert's daughter. The young Ito had also joined Scout Troop 527 at Ivanhoe Elementary School, headed by none other

than Cub Master Delbert Wong. As a matter of fact, in later interviews, Judge Ito recalled that meeting Delbert at a young age helped inspire him to pursue a legal career.

Without divulging the nature of the assignment, Judge Ito instructed Delbert to wait for a call from a member of the defense team. That evening not knowing what to expect, Delbert met attorney Robert Kardashian, a personal friend of Simpson, in the parking lot of the Brentwood Holiday Inn. Kardashian drove Delbert to the Simpson estate where they entered the home from the rear entrance to avoid the throngs of press and on-lookers in front. A Pilipino American housekeeper admitted them and Delbert accompanied the attorney to the upstairs bedroom, recovered the weapon, and placed it in a brown envelope. The next day he delivered it to the court.

Because Judge Ito was not available that day, acting presiding judge Cecil Mills received the envelope and immediately turned it over to municipal judge Kathleen Kennedy Powell who was conducting the preliminary examination of the O. J. Simpson murder trial.

In court, Judge Powell, surprised the defense attorneys by interrupting the proceedings, and, holding up the sealed envelope, she declared, "I don't know what the contents are. This is an envelope that was produced by retired Judge Delbert Wong..."

Immediately, the curiosity and speculation about the contents of the mysterious brown envelope engulfed Delbert and catapulted him into prominence as guardian of what could be the most important evidence that could determine the outcome of the trial. The media speculated about the envelope and it was widely assumed that it contained the murder weapon. For months, Delbert sat silently shielding the potential lynchpin of the trial's outcome, avoiding constant inquiries, playful and serious, wherever he went.

Judge Ito then arranged for Delbert to transport the knife to the laboratory, where a court-appointed forensic expert ran scientific tests

to determine if it had been used. The examination found no marks, no scratches, and no traces of blood. It was in impeccable condition and was a perfect prop that could be dramatically unveiled by the defense at a cliffhanging moment during the trial. Should the prosecution argue that circumstantial evidence proved that Simpson purchased the murder weapon from the knife dealer and later destroyed it, the defense team could reveal the contents of the envelope and humiliate the District Attorney's office. The anticipated revelation could have been the fantasy of Hollywood screenplay writers.

However, the cinematic moment was not meant to be. Judge Ito ruled that under the newly adopted criminal discovery statutes, the prosecution and defense were entitled to reciprocal exchanges of relevant reports to minimize surprises during the trial. He ordered the defense to furnish to the prosecution Delbert's report on the contents of the sealed envelope and the report of forensic experts who examined the knife found in Simpson's bedroom. After reading the reports, the prosecution abandoned any hope of building a circumstantial case involving the knife, which no longer was an issue in the trial. Nonetheless, Delbert had an obligation to remain silent throughout the remainder of O. J. Simpson's criminal and civil trials. For more than two years he could not divulge the contents of the mysterious brown envelope that had so intrigued the press and public. It was not disclosed publicly until defense attorney Uelman revealed the secret in his book entitled, *Lessons from the Trial: The People v. O. J. Simpson*.

Delbert's involvement in the case did not end with securing the envelope. Months later, the prosecution wanted to determine whether or not the luggage O. J. brought on his brief trip to Chicago contained clothing that he allegedly wore during the commission of the crime. Delbert was asked to retrieve Simpson's golf clubs and two suitcases from his home. Again, it proved to be irrelevant to the trial's outcome. Nonetheless, it was yet another titillating anecdote to add to the judge's career.

At the conclusion of the criminal trial, Simpson was found not guilty of the double murders by the jury as they could not find him guilty "beyond a reasonable doubt." In the subsequent civil case brought by the heirs and personal representatives of Nicole Simpson and Ron Goldman, the jury found that the plaintiffs had established "by a preponderance of the evidence" that Simpson was responsible for the homicides and assessed damages in several million dollars. To date, the plaintiffs have been successful in recovering only a small portion of that civil judgment.

Other Notable Cases

While involvement in the O. J. Simpson criminal trial was the most notorious of his assignments, Delbert was called upon to assist with other disputes relating to racial justice and to national and international commerce. In 1986, the Airport Department of the City of Los Angeles retained him to conduct an extensive investigation into allegations of racial discrimination in the Airport Police Bureau. A group of African American employees had filed charges with the Department that the Bureau maintained a glass ceiling that prevented their advancement. The L.A. International Airport (LAX) employed a police bureau of three hundred officers, of which more than half were people of color, but virtually no minority officers had been promoted to positions as sergeants, lieutenants, or captains. Delbert commented, "It was almost like a plantation where you had the white officers at the top and all the officers of color in the lower ranks." Following his investigation and report, the Department of Airport revised its promotional practices and retained an outside agency to conduct human relations training for all personnel.

In 1987, the National Conference for Community and Justice appointed Delbert chairperson of the Asian Pacific American Focus Program to combat the rise of violence against Asian Americans.

In 1989, there were a number of conflict of interest charges against public officials that included receipt of gifts, free travel, and tickets for sporting events from corporations and lobbyists. In response, Mayor Tom Bradley appointed Delbert to the seven-member Ethics Commission to draft a code for the City of Los Angeles. The work of this body, which included distinguished members such as then Archbishop Roger Mahoney, eventually led the voters of Los Angeles to adopt the city's first ethics code.

In 1996, the International Court of Arbitration appointed Delbert to serve as the neutral arbitrator in a case involving a dispute between

corporations of Japan and the United States pertaining to the right to distribute certain medical equipment in this country.

In 1997, a man sued the County of Los Angeles for injuries sustained as a result of his incarceration in the County jail. The plaintiff, who was of limited intelligence, claimed that without notifying his family, the jail released him in the middle of the night. He walked in front of a moving train and sustained serious injuries. He further contended that he received inadequate medical attention after being struck. Delbert served as the settlement judge in the case and the County of Los Angeles agreed to pay the plaintiff a record-breaking two and a half million dollars. Delbert was also the discovery referee in that case.

In 1998, Delbert was the presiding officer of a three-member panel appraising property damage and loss of income resulting from the Northridge earthquake. In 1999, he became a member of the panel of neutral arbitrators appointed by the Office of Independent Administrator to resolve medical malpractice claims between the Kaiser Foundation Health Plan and its members.

Closing

In 2004, at the age of eighty-four, Delbert continues to arbitrate disputes. Full retirement has long been an option that hasn't interested him. Despite his sense of accomplishment, he has no immediate plans to stop working. Although he enjoys civic involvement, travel, and golf, for more than half a century, nothing else has seemed more gratifying than the practice of law.



Judge Delbert and Dolores Wong pose with their children and grandchildren in 2000.

In one generation, the Wong family moved from escaping the desperate poverty of Guangdong province to producing America's first judge of Chinese ancestry.

During the course of his career, Delbert witnessed unimaginable changes in the composition of the legal profession. When he attended Stanford School of Law in the late 1940s, women students numbered no more than five percent. At the dawn of the 21st century more than half of law school classes were female. When he was elevated to the Los Angeles County Superior Court, there were only two or three women judges on that court. Today, there are more than eighty. Similarly, when Delbert moved to Los Angeles in 1951, he became the second Chinese American lawyer in Southern California. At the time of this interview, Chinese American attorneys in the region number nearly two thousand, something Delbert never dreamed he would see in his lifetime.

However, Delbert's pride in the progress of women and ethnic minorities in the legal profession is not solely based on a commitment to equal opportunity. He also believes that increased diversity has benefited the legal system's ability to administer justice. In his usual understated fashion, he simply comments, "I think that our judicial system is better for the greater number of women and minorities in it." Looking back, he hopes that his participation in that transformation has served the judicial system and the public well.