

THIS ISSUE OF THE LEWIS & CLARK LAW REVIEW IS DEDICATED  
TO THE MEMORY OF

RONALD B. LANSING

JANUARY 28, 1932 – MAY 28, 2021



## FACULTY TRIBUTES

*Dean Jennifer Johnson*

Lawyer, professor, author, dedicated public servant, and family man Ron Lansing passed away on May 28, 2021. He was 89 years old.

Professor Lansing began teaching at Lewis & Clark Law School in 1967 and was one of the first five full-time members of the faculty. He was pivotal in helping the law school gain accreditation from the American Association of Law Schools and the American Bar Association.

Ron's dedication to the law school, to fellow faculty, and to his students is legendary. Ron's students will vividly recall his brilliant lectures accompanied by storied illustrations on the dusty chalkboard of his Torts classes. He loved his students and wanted nothing more than to see them succeed.

Professor Lansing chaired the Torts Section of the Association of American Law Schools, served as a faculty member of the American Academy of Judicial Education, and was Vice-Chair of the American Bar Association's Special Committee on Law School Faculty Liaison.

He also published numerous books, including *Skylarks & Lecterns: A Law School Charter*; *Juggernaut: The Whitman Massacre Trial 1850*; *Nimrod: Courts, Claims and Killing on the Oregon Frontier*; and *Crystalling the Legacy*.

Aside from his academic achievements and contributions to the legal field, Professor Lansing also leaves a humorous legacy—75 hand-drawn caricatures of Lewis & Clark faculty and staff members that line the halls of Lewis & Clark Law School's Legal Research Center.

Ron was instrumental in making our school the nationally renowned institution it is today. We will miss his inspiration, his wit, his humor, and his friendship.

*Associate Dean Robert Truman*

Ron Lansing was one in a million. Through the years he was always generous with his time, advice, and a boundless recall of and enthusiasm for the school's history and its people. I cannot begin to count how much the Boley Law Library gained from Ron's support.

The Law Library has created an archive of Ron's sketches on our beta digital archives site. The site itself is not a completed project, but we are pleased to be able to temporarily make Ron's wonderful sketches available to all:

<http://lawdigitalcollections.net/collections/show/3>

*Professor Michael Blumm*

Ron Lansing, a colleague of mine for over four decades, had many talents. He was a memorable Torts and Evidence professor, a gifted artist whose faculty portraits will adorn the law school's walls in perpetuity,<sup>1</sup> a dedicated (if not supremely talented) member of the faculty basketball and baseball teams of the 1980s, an historian with many books to his credit,<sup>2</sup> and a civic-minded colleague, whose wife had a distinguished career as an elected auditor for both the City of Portland and Multnomah County.<sup>3</sup> Other colleagues will elaborate on those accomplishments, but I want to focus on an article Ron wrote for *Environmental Law* over thirty-five years ago with the arresting title of *The Motherless Calf, Aborted Cow Theory of Cause*.<sup>4</sup>

In the article, taking a page from Felix Cohen,<sup>5</sup> among others, Ron created an extended dialogue between two fictional characters, Pracon and Theocrato. His project was to dismantle causation-in-fact in Torts, a surprisingly radical approach for such a mild-mannered professor. Ron was not a fiery guy, but in this article he was challenging a bedrock principle of Torts doctrine.

According to Ron's dialogue, rangeland cows will not tend to any calf but their own, meaning that motherless calves will likely perish. Even mothers of stillborn calves will not intervene. So, cowboys drape the motherless calf in the hide of a stillborn calf to fool the mother of the stillborn into nourishing the motherless.<sup>6</sup> Ron's suggestion was that the law should emulate this sort of justice by replacing causation-in-fact with a requirement of what he called "harmonious coupling" that would connect plaintiffs and defendants in liability cases.<sup>7</sup> This criteria would re-

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<sup>1</sup> See *Ron Lansing Caricatures*, <https://law.lclark.edu/live/news/41623-bonus-online-content-the-drawings-of-professor>.

<sup>2</sup> Among Ron's books were *CRYSTALLIZING THE LEGACY: STORIES AND REFLECTION ON THE ACCREDITATION ERA OF A LAW SCHOOL* (Lewis & Clark Law School, 2011); *NIMROD—COURTS, CLAIMS, AND KILLING ON THE OREGON FRONTIER* (Wash. St. U. Press, 2005); *JUGGERNAUT: THE WHITMAN MASSACRE TRIAL, 1850* (Ninth Judicial Circuit Historical Society, 1993); and *SKYLARKS & LECTERNS: A LAW SCHOOL CHARTER* (Huddleston-Brown, 1983).

<sup>3</sup> Jewell Lansing was elected auditor for Multnomah County in 1974 and served from 1975 to 1982; she was subsequently elected auditor for City of Portland and served from 1983 to 1986. She also authored several books, the most notable being *PORTLAND: PEOPLE, POLITICS, AND POWER, 1851–2001* (Or. St. U. Press, 2003). See *Biography of Jewel Lansing*, <http://www.jewellansing.com/biography.html>.

<sup>4</sup> 15 ENV'T L. 1 (1984).

<sup>5</sup> See Felix S. Cohen, *The Pragmatic Meaning of Private Property*, 9 RUTGERS L. REV. 357 (1954).

<sup>6</sup> Lansing, *supra* note 4, at 1–2.

<sup>7</sup> *Id.* at 5.

quire the plaintiff to show that her injury was “sequential, contiguous, and consistent with the defendant’s tortious behavior.”<sup>8</sup> Ron proceeded to take the reader through how harmonic coupling, if satisfied, would alter the results in situations of multi-tortfeasors, criminal cases, cases of omissions, and the effect of his proposal on the burden of persuasion.<sup>9</sup>

Toward the end of the dialogue, Ron addresses the problem of toxic pollutants in the environment, and the difficulty of pointing to an identifiable cause for injuries due to radioactive contamination, asbestosis, lead poisoning, food and drug poisoning, and the like.<sup>10</sup> Using an example of a woman who developed vaginal cancer after her mother took diethylstilbestrol (DES) when she was pregnant, Ron focuses on the unlikelihood of the daughter showing that her cancer was the result of the DES, and asked, “[W]hat difference does it make whether the defendant drug company was in fact the cause of the concern?”<sup>11</sup> He maintained that under his proposal so long as there was “a reasonable possibility of cause—a consonance between a defendant who was tortious and a plaintiff in need of compensation, the jury can make the liability connection.”<sup>12</sup> Defendants creating an unreasonable risk of danger would incur liability even if they “caused” no harm because they were simply lucky, and “[n]o one should lay claim to luck.”<sup>13</sup>

Ron concluded his dialogue with a final, lyrical justification of his proposal to shelve causation-in fact:

Danger, when it’s bad, is just as bad whether it does or does not cause harm. Harm is just as harmful whether its cause can or cannot be found. Thus, there wander upon the rangeland two searchers: one looking for the harm it could have caused, the other looking for the cause of the harm. And the sadness of the search is this: Rigged with the finest equipment for sounding out hypothetical and probabilities, they nevertheless pass each other in darkness.<sup>14</sup>

Ron’s daring proposal to eliminate cause-in-fact did not generate a wave of adherents or even much commentary. Maybe that explains why he never pursued this profoundly interesting proposal, even though he acknowledged that his dialogue

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<sup>8</sup> *Id.* at 6–12 (elaborating on the meaning of these terms).

<sup>9</sup> *Id.* at 12–23.

<sup>10</sup> *Id.* at 24–25.

<sup>11</sup> *Id.* at 26.

<sup>12</sup> *Id.* at 26–27 (“Besides, defendant [in the DES case] has not only created a risk of harm, defendant has also muddied the proof of cause by commingling in the world of multi-cause possibilities.”).

<sup>13</sup> *Id.* at 30 (also suggesting that “apportioning indivisible harm should not be linked to the cause or coupling issue in the plaintiff’s claim”).

<sup>14</sup> *Id.* at 32.

had “only scratched the surface.”<sup>15</sup> Instead, he contented himself with writing engaging history.<sup>16</sup> But I cannot help but think that Ron’s noteworthy proposal should have been followed by a symposium on the subject. He was not just an avuncular storyteller in his histories or a capable artist with his faculty caricatures. Ron was a serious scholar, with some radical ideas.

*Professor Steve Kanter*

Ron was the gumball dispenser extraordinaire, and the bridge from pre-merger Northwestern to our modern law school.

A distinguished graduate of Willamette Law School, he was also a bridge among the three Oregon Law Schools, and between our law school and Lewis & Clark College, even when relations were otherwise tense. He had so many friends at all of these institutions and throughout Oregon’s legal and judicial communities. He was the oral historian and scrivener, from the Whitman massacre through the history of our law school, and faculty secretary with comprehensive and hilarious minutes to prove the point. His *Skylarks and Lecterns* is in my opinion the finest novel about law school and the law school experience that has been written, way better than *One L* for example. His office gumball machine (official Ford gum only) was a welcome magnet for Deans (at least this one), faculty, students and our little kids. (He was held in high regard by dentists for sure.) In Ron’s way, he always had at the ready a drawer full of pennies so no one else would have to dip into their own pockets.

Ron was a great teacher; who can forget his metaphorical discussion of different judicial philosophies using the example of an umpire’s call of strikes—depending on the ump and the situation, within the actual objective strike zone, to move the game along, or to punish a player who disrespected the game. John Roberts’ confirmation balls and strikes analogy was a pale carbon copy, and owes what appeal it had to Ron’s more sophisticated story telling.

He was also an enthusiastic and adequate basketball player. When faculty members were young and good looking and justly won 4 of 5 yearly B league championships in the 1980s, Mike Blumm immortalized Ron at the biggest awards banquet at Jim Huffman’s house in Multnomah Village: “Ron dreams of baskets—that others simply make.”

Ron was a great friend, an invaluable advisor to a young faculty member and Dean, a patient sounding board, a legal and history scholar, and a wonderful professional role model exemplifying the highest standard of ethics mixed with compassion for those who erred. In short, he was a true professional in everything he

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<sup>15</sup> *Id.* (“[B]ut if we’ve scratched the mind, let that be enough for now.”). The dialogue included a six-page bibliography as an aid to those who would follow. *Id.* at 34–39.

<sup>16</sup> *See supra* note 2.

did. Wood carver, poker player, Jewell's sidekick, and a puzzle solver and giver—well, he never solved the twelve-ball problem I gave him one day years ago, but few have.

Ron was a central part of the law school's life, and he is missed by us all!

*Professor Robert Klonoff*

As dean, I was Ron's student when it came to the history of the law school. We had lots of sessions together. And I loved his sketches of faculty (although he made me look even more bald than I really am!). He was a treasure and will be missed.

*Professor Henry Drummonds*

Ron Lansing. Ron Lansing. Professor Ron Lansing, free-thinking man and intellect who contributed unique thoughts on divergent legal topics, like challenging the need for proof of individual causation in toxic tort cases, or revealing the white man's due process hypocrisy evident in the cold pages of the Oregon City trial transcript of the young native men charged and condemned in the "Whitman Massacre." Ron Lansing, at once an athlete (playing "pick up" basketball into his 70's), an artist (the faculty portrait gallery), a man of kindness and caring (as witnessed in many of the faculty remembrances)—a truly unique person hearing drums not heard by the crowd.

*Professor William Funk*

Ron was a great friend and colleague. When I was new, I sat in on his tort classes to view a master at work and perhaps pick up a few tips. We played poker together, and I well remember when he eliminated me from the final table at a law school poker tournament. I also will never forget Ron re-setting Larry Zelenak's finger after it was dislocated during a faculty softball practice. And this from a torts professor! We chatted often on various subjects from mathematical problems to Marilyn vos Savant's weekly column in Parade. I missed him when he retired, and I will miss him all the more now.