

# The Docket

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- 2 On the Bar Tab
- 4 Machu Picchu:  
New Perspectives
- 9 FYI
- 10 P90X: At-home Work-  
out for the New Year
- 11 Balancing Two Lives:  
Home and Work
- 12 Teaching  
and Lawyering
- 13 DBA Conducts  
Judicial Survey
- 16 Legal Affairs
- 18 2011 Court  
Assignments
- 23 Dates on the  
Denver Docket
- 26 First Light
- 30 Picture This

Inside

## The Highest Calling: Serving on the Highest Court

By Nicole M. Mundt

Now-retired Chief Justice Mary Mullarkey told *The Learned Lawyer*, “Public service is the highest calling for an attorney,” in an interview in October. I had the opportunity to sit down with two people whose careers and new roles with the Colorado Supreme Court suggest they would agree with Mullarkey’s statement.

Chief Justice Michael Bender and Justice Monica Márquez spoke with me in December about being lawyers,

people, and justices. Just a week after taking over as Chief Justice, Bender’s chambers housed only a table, a few chairs, and his computer, but he graciously hosted a wannabe journalist-lawyer and her Docket entourage.

After making it very clear that he refused to answer questions about policy (which I had no intention of asking him) the Chief sat back in his chair, relaxed, and spoke about his experience as a lawyer and a justice, as well as his anticipation and excitement over his future role as Chief Justice.

**Highest Calling**, *continued on page 24*

## The Law Club Adds Some Razzle Dazzle to Lawyers’ Lives

By Natalie Lucas

Attorneys looking for a creative outlet need look no further. The Law Club, one of the oldest legal associations in Denver, provides opportunities for any individual who has musical or comedic talent, and even for those who don’t.

Originally formed in 1914, the Law Club began as an activity for young lawyers who wanted to be more involved in the Colorado Bar Association.

Several young lawyers started the group to perform a spoof act at the annual bar association conference. When the annual



**Law Club**, *continued on page 15*

## Highest Calling, *continued from page 1*

Márquez, who was sworn in on Dec. 10, arrived at Bender's chambers with a smile and handshake for everyone there. She carries herself with humble confidence and exudes the spirit of public service. In her whirlwind transition from the Colorado Attorney General's Office to the Supreme Court, I was flattered to see that she had prepared for our interview by compiling bullet-pointed notes for each of my questions.

I began by asking when they first knew they wanted to be lawyers. Bender's father was an attorney, and Márquez is the daughter of a judge. Interestingly, however, neither had a clichéd response. Bender admitted that he began pursuing a law degree without really knowing he wanted to be a lawyer. By his second semester at the University of Colorado School of Law, however, he was convinced he did. He was interested in the human rights movement and "saw the value and the use of law as it relates to human beings." Márquez nodded as he finished his response, and said that it wasn't until she was in the Jesuit Volunteer Corps that she knew she wanted to make a difference by being an attorney.

"I saw a number of [people in] community organizations who had all the talent in the world, but none of the credentials," she said. She noticed that people listened to the lawyers, as though having "Esq." after one's name gave him or her a stronger voice.

After becoming attorneys, both Bender and Márquez served in the public sector and also practiced in the private sector. The Chief Justice was a public defender and part of the Equal Employment Opportunity Commission before going into private practice, while Márquez clerked for two federal judges, practiced in the private sector, and gained extensive experience with the AG's Office.

When asked to compare the two, Bender said he believed the private and public sectors had more similarities than differences. In his view, despite being a business where you have to make a payroll, the private sector is much like the public sector in that the attorney "provides a systemic way to resolve disputes or give advice." He added, "When you use your skills and your training on behalf of a corporate client, a business client, you're performing a major public service." Márquez agreed.

"Ultimately you're always going to strive to give quality representation, regardless of who your client is," she said.

It was the opportunity to serve on the Supreme Court that brought Bender out of private practice. In 1993, Justice Joseph Quinn retired from the Colorado Supreme Court; he called Bender and encouraged him to consider applying. Though he did not apply at that time, Quinn's suggestion got him thinking about it. A few years later, another vacancy occurred; meanwhile, Bender was looking for a way to participate in the legal system that was broader than his private practice. He noted how much he enjoyed legal research and writing and how little he got to do it in private practice. Bender was appointed to the Supreme Court on Jan. 1, 1997, and says he has been "absolutely honored and delighted ever since that time."

Márquez began her career as a clerk in the federal courts, so her first practice experiences were at the appellate level. Like Bender, she enjoyed the legal research and writing process. Over the course of her career, she found herself gravitating back to appellate work. Márquez also was fascinated by the Supreme Court's docket and the difficult questions they were called on to address. She smiled as she said, "having a chance to stick your hands and fingers in that – that's an exciting challenge."

Márquez has appeared before the Supreme Court many times and is arguably most well known for her work on TABOR (Taxpayer Bill of Rights) cases. When asked for her advice to lawyers who appear before the high Court, she quickly responded, "Prepare, prepare, prepare. And then prepare some more." She explained that what makes arguing in front of the Supreme Court different from any other court appearance is the bigger picture. Rather than simply advocating for a client, the attorney must consider how that client's case affects existing law and could shape future law. She said the justices often would ask appearing lawyers how they would craft a test or articulate a rule of law for their case, which could be applied to future cases. Bender added that the trick is to balance advocacy for a client while also stepping into the shoes of the justices, "and that's a hard mental gymnastic."

On Dec. 1, Bender was sworn in as Chief Justice, replacing Mullarkey, who retired on Nov. 30 as the longest-tenured Supreme Court Chief Justice in Colorado. Both Bender and Márquez spoke of the retired Chief with admiration and respect. Bender explained how "she had an emotional commitment to the third Branch [of government] because she believed completely in [the legal] system." He noted that she was very open to discussion and criticism, and he recalled the many times he went into her office to talk through legal issues with her.

Mullarkey battled multiple sclerosis through much of her time on the Bench.

"Her ability to fight through that and work the long hours that she did is unimaginable," Bender said. "I can't tell you how difficult that is."

In her interview with *The Learned Lawyer*, Mullarkey acknowledged the physical limitations of MS but said her fight has given her an appreciation for the help she receives from people every day.

"My experience gives me a better understanding of other people, including the people I encounter through my work," she said.

Although Márquez did not have the opportunity to work with Mullarkey, she often has been compared to the retired Chief Justice because of their pre-appointment backgrounds, experience in the Attorney General's Office, and dedication to public service. Márquez said she admired Mullarkey's ability to take on high-profile, controversial cases and remain fearless.

"I think that takes a lot of courage," Márquez said.

I then asked Bender what he thought of the Court's

newest recruit.

“She’s a first-round draft pick,” he said. “She has all the qualities you want in a justice.”

Bender advised her to be patient with herself in her new role and understand that being a justice will require her to rethink her own perspective, be willing to listen to others, and stay open to taking a different course. Márquez listened intently to his advice, joking that perhaps she should be the one taking notes, but she nodded seriously as he concluded that ultimately, serving as a justice requires sound judgment and the ability to sense the right thing to do in a given situation.

When asked about the Chief Justice, Márquez said that Bender brings lots of enthusiasm to his new role.

“All the members of the Court have been very welcoming to me,” she added.

With the business out of the way, we turned to personal questions.

When asked what brought them back to Colorado, Márquez said she had always hoped to come back, but it was a clerkship with the Tenth Circuit Court of Appeals that finally made it happen. Then, she met her partner here and decided to stay. Bender simply said he “saw a mountain and fell in love with it.”

When I asked Bender about being a grandfather, he smiled broadly.

“It’s absolutely delightful,” he said. “Children are so open to life and they have such a spirit and freshness. Just being with them is a rejuvenating experience.”

As to whether any of his grandchildren will grow up to be lawyers? “I ain’t got no idea about that,” he said laughing.

Márquez grew up the daughter of now-retired Colorado Court of Appeals Judge Jose D. L. Márquez, the first Latino to serve on that Bench. Like her father, Márquez is a cultural trailblazer, as the first Latina to be appointed to the Supreme Court.

So, what was like growing up with a judge for a father?

“As a teenager, it was tough,” she laughed, shaking her head. “There’s certainly pressure not to get in trouble.”

Márquez spoke of their wonderful relationship now. She said she considers her father a source of strength and support in her life. She also mentioned how happy she is to see him picking up old hobbies in his retirement, such as



Chief Justice Michael Bender and Justice Monica Márquez share a laugh (Photo by Jamie Cotten).

playing the saxophone.

Not only is Márquez the first Latina justice, but she also is the first openly gay person appointed to serve on the Supreme Court. She admitted to facing challenges in life because of the combination of her ethnicity and sexual orientation; however, she believes she can be a bridge to both communities.

“I see myself as lucky in that respect,” she said. “What may have started out as a challenge has become an opportunity.”

Márquez continued, saying that labels are tough, and she hopes any assumptions people may have of her based on those labels will fall away while she is on the Bench.

I asked each justice to share one non-legal talent not many people know they have. Bender revealed that he loves photography and almost became a photographer instead of a lawyer. Mullarkey had a similar response in her interview with *The Learned Lawyer*.

“I was headed toward a career in applied mathematics,” she said. “Receiving a scholarship to attend the Harvard Law School changed my life, as well as the direction of my career.”

Márquez revealed she inherited her abuelita’s (her grandmother’s) talent for rolling traditional tortillas and making *biscochitos* (butter cookies flavored with anise).

Both Bender and Márquez said their careers and positions as justices are the result of stars aligning—everything falling into place. To think, if things had somehow gone differently, three great lawyers and justices could have been a mathematician, photographer, and chef. **D**

*Read the full interview with retired Chief Justice Mary Mullarkey at [www.thelearnedlawyer.com](http://www.thelearnedlawyer.com) and click on the Asked and Answered button on the right of the page.*