

IN MEMORY OF
THE HONORABLE THOMAS PENFIELD JACKSON
1937-2013

JUDGE ROYCE C. LAMBERTH , THE FORMER CHIEF JUDGE OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA,
DELIVERED THESE REMARKS AT A MEMORIAL SERVICE FOR JUDGE JACKSON ON JULY 10, 2013.

I'm honored to be here today to speak, on behalf of all of my colleagues at the U.S. District Court for the District of Columbia, about our dear friend, Judge Thomas Penfield Jackson.

Among the public, the bar, and his colleagues, Judge Jackson was known to be a hard working jurist of sound judgment, who tried his cases efficiently and competently, while treating everyone who came before him with dignity, equanimity, and fairness. He handled some of the most difficult and complex cases of the day – the Microsoft antitrust case, the prosecution of Marion Barry, and the Ethics Committee's pursuit of Senator Bob Packwood's diaries.

Through all the tribulations, Judge Jackson remained gracious and composed, always aiming toward the highest aspirations of the law. He set a standard for me and many of the judges who followed him on our bench.

But beyond his public persona, those of us who had the good luck of being able to spend lunch with him each day in our judges' dining room got to know a warm-hearted gentleman, who could entertain us for hours with his keen knowledge of history, his incredibly detailed memory of the historical novels he had just read, and, most of all, his priceless sense of humor. I will never forget those lunch-time conversations, and for them will be forever grateful.

As federal judges, we are often lightning rods for criticism when a ruling doesn't go the right way for a litigant. With the many high-profile cases he handled, Judge Jackson had his share of critics. But I've found it interesting, while reading his many obituaries, to see how many of them portray him as an outspoken, but principled, judge who most often turned out to be right. And as he neared retirement, his advocacy for the right of judges to be able to communicate with the media to rebut public misperceptions and foster more informed and thoughtful reporting, set off a healthy debate that I believe has led to a more open and transparent judiciary.

Judge Jackson's public persona was that of a larger than life figure who presided over some of the most complex and difficult cases in the Court's history. With his white hair and stage-quality deep voice, he was once described as being sent from central casting for the part. But for those of us who knew him well, he was a genuine and highly respected friend who day in and day out was hard working, intellectually honest, and scrupulously fair in every decision he made. His presence will be greatly missed.

U.S. District Judge Thomas Penfield Jackson, 76, Dies

By Zoe Tillman

Retired U.S. District Judge Thomas Penfield Jackson, who died over the weekend, was known for pushing boundaries, on and off the bench.

As a judge in the District of Columbia's federal trial court, he famously ordered the breakup of Microsoft Corp., for antitrust violations. A year later, a federal appeals court vacated his order and removed him for public comments made about the case. As a litigator at Washington's Jackson & Campbell for nearly 20 years before joining the bench, he had a reputation as a fierce trial lawyer who landed big wins in medical malpractice cases.

"Judge Jackson's public persona was that of a larger than life figure who presided over some of the most complex and difficult cases in the court's history," U.S. District Chief Judge Royce Lamberth said in a statement today. "With his white hair and stage-quality deep voice, he was once described as being sent from central casting for the part. But to those of us who knew him well, he was a genuine and highly respected friend who day in and day out was hard working, intellectually honest and scrupulously fair in every decision he made."

Jackson died of complications from cancer on June 15. He was 76.

Jackson was confirmed to the city's federal trial court in the summer of 1982. A 1989 profile in the *Legal Times* quoted lawyers describing him as a "no-nonsense" jurist who was fair and, given his litigation background, appreciated a well-trying case.

U.S. District Senior Judge Thomas Hogan Jr. said Jackson was "formidable, both as an opponent in court...as well as a judge, in the sense he made decisions and people knew where he stood and he stood by them." Hogan joined the D.C. federal court bench the same year as Jackson and had gone up against him in court when the two were still practicing attorneys.

In 1991, Jackson presided over the criminal prosecution of D.C. Councilmember and former mayor Marion Barry (D-Ward 8) for cocaine possession. Barry was sentenced to six months in prison.

In the late 1990s, Jackson oversaw the United States v. Microsoft Corp. antitrust trial. In the summer of 2000, he ordered the company to break up into two separate companies after finding Microsoft exploited federal antitrust laws. On appeal, though, Microsoft pointed to Jackson's public statements about the case – in one instance, he compared Bill Gates to Napoleon – as proof of bias.

A year after Jackson's ruling, the U.S. Court of Appeals for the D.C. Circuit found the judge acted improperly and sent the case back to the trial court, this time in front of a different judge. The appeals court vacated Jackson's order to break up the company, but affirmed the judge's finding that Microsoft violated antitrust laws.

In 2002, Jackson published a column in *The National Law Journal* defending the right of federal judges to speak publicly about their cases. "I know of no good reason why a judge who has made a decision, in a case of obvious interest and concern to many people, should not at least be willing, if not expected, to respond to legitimate inquiries about it from responsible interlocutors, whether they are lawyers, academics, students, journalists, historians, or the local garden club," the judge wrote at the time.

Hogan said Jackson was motivated by a "good faith" desire to make sure the press accurately reported on court proceedings. "He wanted to contribute to the better understanding of some of these mega cases," he said.

Jackson took senior status in 2002 and retired in 2004. After leaving the court, he returned to Jackson & Campbell to establish an international commercial arbitration practice. "I know he loved doing the work," firm director and former managing partner Nicholas McConnell said, noting Jackson had been working until recently.

Even after leaving the bench, Jackson continued to make headlines. In 2007, he testified for an embattled former D.C. federal prosecutor, G. Paul Howes, who faced ethics charges and was eventually disbarred. The judge had presided over the gang prosecution that landed Howes in trouble and recused himself in 2000 after allegations of misconduct surfaced against the prosecutors.

Jackson, who was born in 1937, was a native Washingtonian. After earning his law degree in 1964 from Harvard Law School, he went to work for Jackson & Campbell, which his father had helped establish. McConnell said Jackson was a "star" of the local bar, noting he had just been elected president of the D.C. Bar when President Ronald Reagan nominated him to the bench.

McConnell recalled a malpractice case Jackson defended on behalf of Georgetown University Hospital. McConnell said American International Group Inc., or AIG, was closely following the case because the financial services company would be on the hook if Georgetown lost. Given the "potentially explosive" verdict at stake, McConnell said the AIG representative urged Jackson to settle, but Jackson refused. Jackson won the case, and McConnell said that because of that one case, AIG became a regular client of the firm.

Jackson "was the best law partner, mentor of young attorneys, and consummate professional imaginable," McConnell said via email. "Although Tom left thirty years ago for appointment as a United States District Judge, this law firm, the work we do, and the way we go about it still proudly reflect his time among us."