

Judge Harry Pregonson: bringing head and heart to the legal world

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Landreth Visiting Fellow
Water in the West
HP's Century Fwy Legacy
Southwestern Law School
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Background: the connection

Clerking for the Judge as entering a fabulous family

The Century Freeway—with disclaimers that do not diminish the inspiration

What does sewage have to do with it?

The height of compassion: the Felicia Grunfeder story

Caring about justice, not just at work

Impact on a generation

Clerking for the man

- ▶ Entering a family, really
- ▶ Being a clerk for life
- ▶ Being challenged to be the best you can be
- ▶ Being in service to a greater good for life
- ▶ Being mentored and called on to be a mentor
- ▶ Inspired for life to be a better person



Harry Pregerson, a judge on the U.S. 9th Circuit Court of Appeals, poses in 2015 in front of photos of the 136 former law clerks who worked for him during his career. (Patrick T. Fallon / For The Times)



Century Freeway case

- ▶ A view from the sidelines
 - ▶ Clerking but not lead
 - ▶ Fellow at the Center for Law in the Public Interest
 - ▶ Observation as Angeleno and member of the “family”
- ▶ Observations
 - ▶ Involved clear sense of the equities involved
 - ▶ Clear sense of the enormity of the task
 - ▶ Created an architecture and framework that engaged people in that task. Understood as few do that it is the people that make the difference.
 - ▶ Massive mobilization of human energy in community, former combatant public interest law firm, housing and transportation communities
 - ▶ Enormous commitment of time, over time. In for the long haul.
 - ▶ Judge as coach, umpire, cheerleader.

Hyperion

- ▶ Not “open” when I clerked
- ▶ Background
- ▶ The case reopens mid 80s
- ▶ Classic Pregerson convening, engaging, challenging, cheerleading, and umpiring.
- ▶ Massive impact on biggest environmental turnaround in US in the 80s
- ▶ Changed LA environmental politics forever
- ▶ Made current hail Mary possible to envision



Felicia Grunfeder

A story of head and heart
How it started
What the Judge did
What the Judge saw
How it embodied "justice" in ways that
exemplifies the spirit of the man



Survivor of Nazis Fights to Regain Benefits Lost Because of Reparations

By DAVID MARGOLICK
Special to the New York Times

LOS ANGELES, Feb. 19 — In 1943, shortly before the Nazis liquidated the Warsaw ghetto, a 4-year-old Jewish girl named Felicia Grunfeder was placed in a makeshift wooden coffin and smuggled to the Polish section of the city. There, a childless Christian couple took her into their home.

But soon her new family was sent to a Nazi labor camp in Germany. At 10, after spending time in an American facility for displaced persons, Miss Grunfeder came to the United States in June 1949 with her mother, the only other member of her family to survive the Holocaust. Years of death and dislocation had taken their toll, and she is now largely incapacitated by serious psychiatric problems.

Like thousands of survivors, Miss Grunfeder receives no reparations from the West German Government. The payments, about \$10 a month, are hardly enough to compensate for the loss of childhood and family, she says. But now, she says, the United States Government has reduced their value still further.

In 1980 the Social Security Administration ruled that because of the reparations Miss Grunfeder was too wealthy to qualify for the Federal assistance given to needy aged, blind or disabled people under Supplementary Security Income. As a result, it stopped her S.S.I. payments of \$13 a month.

Decision is Uplifted
Last year a Federal appeals court in San Francisco upheld the Government's decision, ruling that under the law German reparations were so different from workmen's compensation, private pensions or veterans benefits, all of which count as "income," Miss Grunfeder's lawyers have asked the court to re-consider its ruling.

Attorneys for Miss Grunfeder contend that by counting war reparations as income, the Government is shifting its own financial obligations and frustrating the intent of the reparations program, which Chancellor Konrad Adenauer of West Germany described in 1961 as "a spiritual purging of unburdened suffering."

"The U.S. Treasury is enriching it-

self by virtue of the German reparations program," said Terry Friedman of the Tadek Legal Services of Los Angeles, who is representing Miss Grunfeder. "It's the height of injustice that the United States of America is profiting by the Holocaust."

When her Federal benefits were terminated, Miss Grunfeder automatically lost state medical assistance, which had gone toward psychiatric help, as well. Because she still receives regular Social Security payments, however, she says the lost income is more "pocket money" than subsistence money.

But for many other victims of the Nazi era who now live in the United States, the implications of the policy could be more far-reaching.

Up to 30,000 Survivors in U.S.
Though exact numbers are difficult to determine, there are as many as 30,000 Holocaust survivors in this country, according to Peter Rabinovich, a lawyer who has worked with the Conference on Jewish Material Claims Against Germany. Most of them, he said, have received some reparations from the West German Government. He estimated that as many as 10,000 of these people, primarily recent Jewish immigrants from the Soviet Union and Eastern Europe, were eligible for S.S.I. benefits.

Though Government enforcement until now has been uneven, Mr. Rabinovich said, these reparations, generally one-time payments of about \$2,000, are "income," and could be cited to suspend or temporarily withhold the supplemental benefits from those other beneficiaries also suspended, an even more serious development, since many survivors are in poor health.

Congress has provided that some payments, including awards to Indian tribes in the Southwest and Alaska natives, are not to be considered "income" under the social security Act. No comparable exception has been made for German war reparations, though Representative Henry A. Waxman, Miss Grunfeder's Congressman, has introduced legislation to do so.

"The American nation's moral obligation to native Americans is not paralleled by a moral obligation to the victims of foreign persecution," Govern-

ment attorneys state in court papers. "The national decision whether to recognize a moral obligation to victims of Nazi persecution is a political, rather than a judicial decision."

Miss Grunfeder's attorneys maintain, however, that given this country's historic concern for Holocaust survivors, such an exception should be implied. This commitment, they say, dates from General Eisenhower's declaration in 1945 that the care of displaced people was a "principal Allied objective," to recent Congressional authorization of a Holocaust museum and memorial.

Shortly after her husband was shot by the Nazis in 1942, Miss Grunfeder's mother, Martha, said driver 2,000 zlotys to hide her daughter in a wooden box under the seat of his wagon, which was carrying the Jewish dead out of the Warsaw ghetto. He then threw her over a brick wall that divided the Jewish and Polish sides of the cemetery.

Miss Grunfeder spent the rest of the war years with a Roman Catholic couple named Arens.

When Miss Grunfeder arrived in this country in 1949, the story of her rescue became front page news. She appeared with her mother on the television program "We, The People," and Eleanor Roosevelt was among those paying tribute to her; she was named a model for Max Factor.

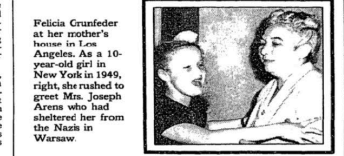
Miss Grunfeder's life came apart, however, in the early 1950's. In 1956, a psychiatrist retained by the West German Government found her 50 percent disabled, with symptoms of depression and schizophrenia, and concluded she would require psychiatric help for the rest of her life. Her first reparations payments came in 1968, and six years later she qualified for S.S.I.

\$1,732 Income Ceiling
Under the law, eligibility for S.S.I. benefits is based solely on need. A recipient's annual income cannot exceed \$1,732, and that amount includes annuities, pensions, prize awards, inheritances and gifts.

Last June, the three-judge panel from the United States Court of Appeals for the Ninth Circuit in San Francisco unanimously upheld the Government's position. "Counting reparations as income no more 'frustrates' the poli-



The New York Times/David Margolick



Felicia Grunfeder at her mother's house in Los Angeles. As a 10-year-old girl in New York in 1949, right, she rushed to greet Mrs. Joseph Arens who had sheltered her from the Nazis in Warsaw.

cies of the German Restitution Act that would counting award monies frustrate the goals of the Nobel Prize Committee," Judge Betty B. Fletcher wrote for the court.

Miss Grunfeder, who like many other refugees from Hitler's Europe lives in the predominantly Jewish Fairfax section of Los Angeles, has cut off the long blonde hair of her modeling days, and now looks much older than her age. She spends her time sleeping, making tele-

phone calls, writing letters and driving around Los Angeles. Repeatedly, she spoke of her ill-health, her distrust of doctors and her disappointment with her adopted home.

"They admitted me to the United States and then they avoid responsibility," she said. "I'm a naturalized citizen, I have earned money, I have contributed in my way. This is money that should come to me, that I as a small child earned."

Around the Nation

Boy, 12, Out of Bubble, Is in Critical Condition

HOUSTON, Feb. 21 (AP) — Doctors today found fluid in the lungs of David, the 12-year-old boy who until recently had lived all his life in a germ-free plastic bubble, a hospital spokesman said. The boy, whose last name has never been disclosed, was put in intensive care and his condition was listed as critical.

The boy developed the fluid problem Monday with an accumulation around his heart in an area known as the pericardial sac, according to Susanah

National news appears on pages A10-21 and D20.

More Griffin, a spokesman at Baylor College of Medicine. Today, she said, doctors detected the fluid in his lungs.

David was born without immunity to disease, a condition known as severe combined immune deficiency. He was taken from his last in a series of plastic bubble-like enclosures on Feb. 7 and was placed in a sterile two-room suite.

Four Hawaii Unions Reject Contract Proposal

HONOLULU, Feb. 21 — Leaders of four public employee unions rejected a proposed settlement of their contract differences early today and began planning a statewide strike involving 40,000 state and county workers.

The unions involved are the Hawaii Government Employees Association, representing supervisors, nurses and clerical, technical and scientific workers; the Hawaii State Teachers Association; the University of Hawaii Professional Assembly and the United Public Workers, representing blue-collar, hospital and prison employees.

The walkout could begin at 6 A.M. Wednesday, when a 10-day mandatory strike notice expires.

The unions' last demand reportedly was for a 3 percent raise retroactive to

“...the only problem with Harry is that he thinks his job is to do justice...”

- ▶ Homeless
- ▶ Immigration cases
- ▶ “Over-doing it” prosecutors
- ▶ Potholes and stormdrains

Impact on a generation or more

- ▶ Cases themselves—e.g., the Century Freeway legacy lives on
- ▶ Participants changed forever
- ▶ Truth to Power: Mayors, city council people, VA, Supervisors, you name it
- ▶ Clerks, litigants, plaintiffs, defendants, homeless vets





Thank you!