

# 2007 Margaret Brent Awards

## Marsha S. Berzon



Judge Marsha S. Berzon of the United States Court of Appeals for the Ninth Circuit did not intend to become a lawyer when she graduated from Radcliffe College in 1966. Only after trying out careers as a historian, journalist, and community organization official did she decide to attend law school at UC Berkeley.

Judge Berzon excelled at law school but at first had a difficult time being selected as a judicial law clerk, as several San Francisco judges had never hired a female clerk, much less a mother with an infant son. Judge James R. Browning, now Judge Berzon's colleague on the Ninth Circuit, did employ her; he still maintains, fondly, that she returned to him briefs speckled with baby formula. Judge Berzon then clerked for Justice William J. Brennan on the United States Supreme Court, as his first woman law clerk and one of the earliest female clerks on the Court. While working at the Court, Judge Berzon was featured in an article in *Mademoiselle* magazine on professional women juggling careers and children, the first of many opportunities to encourage young women lawyers.

Judge Berzon next embarked on a union-side labor law practice when almost no women practiced in that area. She represented the AFL-CIO coalition of labor organizations, as the first woman to appear on behalf of the national labor movement in the Supreme Court and in appellate courts throughout the country, filing dozens of briefs in seminal labor and employment and First Amendment cases, among others. Judge Berzon's appearances on behalf of labor unions and employees in landmark Supreme Court and appellate cases, her role as an organizer of and lecturer at conferences on labor and employment law, and her exemplary professional skill in representing largely male unions opened the door for women attorneys as union attorneys.

In her legal practice, Judge Berzon continually advanced the interests of women. She provided much of the intellectual capital and legislative strategy for both the Pregnancy Discrimination Act and the Family and Medical Leave Act, working closely with groups of women's rights attorneys to balance two sometimes conflicting principles—equal treatment based on gender and accommodation of women's family obligations. Judge Berzon also worked on Supreme Court cases dealing with women's pension rights, pregnancy disability, sexual stereotyping, and sexual harassment, and she briefed and argued in the

Supreme Court both *UAW v. Johnson Controls* (which established the principle that employers may not remove fertile women from the workplace rather than cleaning up the work environment) and *Blessing v. Freeston* (dealing with whether custodial parents may enforce federal child support obligations).

During her private practice with Altshuler, Berzon in San Francisco, Judge Berzon also represented women academics in tenure disputes, seeking to ensure that young women attending universities have female teachers and mentors. Over 20 years ago, Judge Berzon helped organize a group of 25 women lawyers, including two other Margaret Brent award winners, who were struggling with balancing family lives and fulfilling legal careers and who continue to meet annually, laughing together, sharing their stories and supporting each other. Judge Berzon was active in the organized bar as well, serving as an officer of state and local Labor and Employment Law Sections and as co-chair of the Appellate Practice Committee.

Judge Berzon was appointed to the federal appellate bench in 2000, with broad support from all sectors of the employment bar. At her investiture, one woman law clerk commented that learning of Judge Berzon's career was an inspiration, both in demonstrating that women can reach the pinnacle of the legal profession and in emphasizing that they need not sacrifice family and friendships to do so. Since joining the Ninth Circuit in 2000, Judge Berzon co-authored the court's opinion in *Hibbs v. Dep't of Human Resources*, later affirmed by the U.S. Supreme Court, which permitted suits against states under the Family and Medical Leave Act. Judge Berzon has been honored by a wide range of organizations, including the California Women Lawyers' Association (the Fay Stender Award), the American Jewish Committee (the Learned Hand Award), and the Louisiana State University Law School (as the Alvin and Janice Rubin Lecturer).

Throughout her career, Judge Berzon has achieved legal breakthroughs that have improved the lives of women across all economic strata and has served as a mentor, model, friend, and supporter of women lawyers across the country.

Margaret Brent