



Justice Mariano-Florentino Cuéllar and Wisconsin attorney Jessica Mederson at Comic Con, July 2016, San Diego.

PHOTO: JACK YANG

The Supreme Court Justice Who Went to Comic Con

BY JOSHUA GILLILAND*

HOW DID A California Supreme Court justice, a former federal judge, and five attorneys find themselves on a Comic Con panel discussing *Star Trek* in front of hundreds of devotees? The voyage began when I asked then-U.S. Magistrate Judge Paul Grewal if he would like to speak on *Star Trek* at San Diego Comic Con in July.

Judge Grewal agreed and asked what I thought of inviting California Supreme Court Justice Mariano-Florentino Cuéllar, a huge *Star Trek* fan, to join us.

My exact reply was, “That would be pretty awesome, Your Honor.”

San Diego Comic Con (SDCC) started in 1970 and has grown to one of the largest celebrations of pop culture. For fans of science fiction, comic books, TV, or movies, this convention is the show of the year.

At last year’s Comic Con, Paul Grewal, Jessica Mederson, and I presented on the legal issues in *Star Wars*; we wanted to appear again to honor the 50th anniversary of *Star Trek*.

Justice Cuéllar is a long-time “Trekkie”; he grew up watching *Star Trek* on his grandmother’s black-and-white TV set in Mexico and remains a huge science fiction devotee. Among his favorites are the *Star Wars* movies, *Dune*, the novel by Frank Herbert, the *Foundation* series by Isaac Asimov — and of course, the *Star Trek* franchise.

For Cuéllar, science fiction is “more about the present than about the future or the past.” It’s about “the anxieties and concerns and possibilities people see in a given moment in history.”

Our panel was entitled, “*Star Trek*: Where Lawyers Boldly Go.” In addition to Justice Cuéllar and myself, the panelists included Neel Chatterjee from Orrick (lead trial counsel for Facebook in the lawsuit depicted in the film *The Social Network*), Jessica Mederson from Hansen Reynolds Dickinson Crueger LLC in Madison, Wisconsin, Christine Peek, from McManis Faulkner, and Megan Hitchcock, from Schaffer, Lax, McNaughton & Chen.

We focused on *Star Trek* episodes with trials from the five live-action television series. Our panelists prepared material on diversity in the practice of law, civil rights, trial advocacy, and due process.

Attorneys made up about a third of the 400 people who attended the MCLE-eligible panel (almost the crew size of the original USS Enterprise NCC-1701).

The show has long been a natural draw for lawyers because “it’s a lot about legal values,” Cuéllar said. “Some of the hardest questions in law are about how to live up to commitments that are not always spelled out in great detail, for example, constitutional provisions that seem vague and open-ended. There’s certainly some of that in science fiction and in *Star Trek*.” Moreover, he observed, many of *Star Trek*’s “iconic” courtroom episodes center on characters that have a “love-hate relationship” with rules.

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Cuéllar's comments focused on the implication of the Prime Directive, which explored the implementation of complex laws by organizations rather than courts. Cuéllar and Grewal also debated a legal issue that arose in "Measure of a Man," an episode from *The Next Generation* series: should artificial intelligence, in this case Lt. Commander Data, an android, have fundamental rights? "It's a bold and consequential thing to treat a piece of technology as having agency," Cuéllar noted.

Justice Cuéllar contrasted the *Next Generation* episode to the original *Star Trek* episode "Court Martial," where the key evidence against Captain Kirk was a computer record. Samuel T. Cogley, Kirk's lawyer, insisted that the computer should not be treated as a human. "It's intriguing to see both of these episodes together," Cuéllar noted.

Wisconsin attorney Jessica Mederson, from *The Legal Geeks* blog, and Justice Cuéllar analyzed legal issues that arose in the *Deep Space Nine* episode, "Hard Time." For instance, would it be constitutional to implant false

memories of having served a 20-year prison sentence in an individual instead of an actual prison term?

The panelists set their phasers to stun. Christine Peek analyzed the trial advocacy, evidence, and ethical issues from the *Enterprise* episode "Judgment." Ms. Peek explained how she would have cross-examined one of the Klingon Empire's witnesses, how the prosecutor violated his ethical duties by knowingly having a witness lie on the stand, and that the Klingon system did not allow for the right against self-incrimination. Megan Hitchcock compared the number of women lawyers in *Star Trek* episodes to the number of women actually practicing law between 1967 and 1996, concluding that *Star Trek* was far more progressive than the profession. In the episode "Court Martial," for example, a woman attorney prosecuted a court martial at a time when only 3 percent of U.S. attorneys were women.

It was a privilege to moderate our *Star Trek* Comic Con panel. Justice Cuéllar, Paul, Neel, Christine, Jessica, and Megan all have a deep respect for *Star Trek* and the law. Their analysis of the many legal issues was inspiring. And as Spock would say, "there are always possibilities" that we will return to San Diego Comic Con. ★