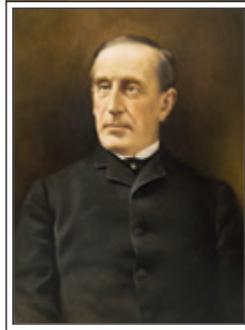

RESTORED PORTRAIT OF FIRST NORTHERN DISTRICT COURT JUDGE CELEBRATED WITH SKIT ABOUT HIS RIVAL

BY RICHARD H. RAHM*

JUDGE OGDEN HOFFMAN was the first Northern District of California judge, serving from 1851-1891. Judge Hoffman hated his rival and fellow New Yorker, Stephen Field, who served on the California Supreme Court from 1857-1863 (the last four of those years as Chief Justice) and as Associate Justice of the U.S. Supreme Court from 1863-1897. The hatred between the two was mutual, with Justice Field removing Judge Hoffman's own clerk and forcing him to use a clerk allied with Justice Field, instigating legislation to eliminate Judge Hoffman's jurisdiction over certain cases, and attempting to abolish the Northern District of California altogether. Yet when Judge Hoffman died in 1891, Justice Field insisted on being a pallbearer at his funeral, after which he went to Judge Hoffman's house (the Pacific Union Club), threw a party honoring himself and chose the person to replace Judge Hoffman as district judge. And this was before Judge Hoffman was actually buried.



Judge Ogden Hoffman
COURTESY U.S. DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

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How appropriate then that the restoration of Judge Hoffman's portrait in the Ceremonial Courtroom of the District Court (in the Phillip Burton Federal Building in San Francisco) should be celebrated on November 14, 2016 with Judge Hoffman (played by Ret. U.S. District Judge Marilyn Hall Patel) being confronted by his nemesis Justice Field (played by a balding and bearded, masked U.S. District Judge William H. Alsup) in a short skit scripted by Christine Van Aken and Richard H. Rahm, members of the board of directors of the Northern District of California Historical Society. U.S. District Judge Charles R. Breyer served as master of ceremonies (and referee) for the program, which included the two arch enemies making their entrances from the nether world through a cloud of smoke in the Ceremonial Courtroom. After the (mostly bloodless) verbal sparring ended, Judge Breyer introduced Anne Rosenthal, the artist who restored the portrait. The program concluded with Rosenthal unveiling the portrait to the applause of all attending, who were then feted with wine and cheese by the Northern District Historical Society. Rumors of a rematch could not be verified. ★

The Judge Who Went to Comic Con

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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. ★