

Hal Cohen Hall of Fame Nomination

by Greg Wolff

Hal Cohen is the finest appellate lawyer you've never heard of. That's because he spent his entire career (more than 50 years) working behind the scenes as a judicial attorney at the California Supreme Court. In his book, Chief, retired Chief Justice Ronald M. George described Hal "as one of the most brilliant minds that I've had the pleasure of encountering in any venue, and not just limited to the California Supreme Court. His analytical and research skills and his thoughtful and open-minded approach to all matters were of enormous assistance to me in resolving my own position and in preparing the opinion for the court." (George, *Chief: The Quest for Justice in California* (2013) pp. 635-636.) Current Chief Justice Tani Cantil-Sakauye says that Hal "is truly a human marvel who possesses unparalleled intellect, poetry of the pen and what seems like infinite exacting knowledge of the law, chapter and verse," adding that Hal "is a legal giant among giants and I thank the universe that I had almost ten years to learn from him.'" (Dear, *Hal Cohen: Tributes to the California Supreme Court's Most Extraordinary and Influential Staff Attorney*, (Fall/Winter 2020) p. 18

<<https://www.cschs.org/wp-content/uploads/2021/01/2020-CSCHS-Review-Fall-Hal-Cohen.pdf>.> (as of Feb. 25, 2022), (hereafter *Hal Cohen*).

After graduating high in his class at Harvard Law School in 1969, Hal came to the California Supreme Court for a clerkship with Justice Matthew Tobriner. The clerkship turned into a permanent position and Hal went on to work for eight justices: Justice Tobriner, Justice Otto Kaus, Justice Joseph Grodin, Justice John Arguelles, Justice Joyce Kennard, Justice Allen Broussard, Chief Justice George, and Chief Justice Cantil-Sakauye. There were 36 different justices and six chief justices during Hal's tenure. As Chief

Justice Cantil-Sakauye puts it: “ ‘Hal served under 30 percent of the Court’s 117 justices, and for 30 percent of the Court’s 170-year history.’ ” (*Hal Cohen* at p. 18.) Although the details are confidential, Hal contributed directly to the drafting of hundreds of opinions and offered his brilliant insights and analysis on thousands more. In the words of Kyle Graham (a member of the Chief Justice’s staff), “ ‘if you were to name an important opinion produced by the Court from the [late] Traynor years to the present, odds are that Hal made some significant contribution to it.’ ” (*Ibid.*)

As the supervising attorney for the entire court under Chief Justice George, Hal performed innumerable administrative tasks that helped the court run smoothly and efficiently. All of the justices came to rely on him on a daily basis. The current supervising attorney for the California Supreme Court, Jake Dear, said in a recent profile of Hal for the California Supreme Court Historical Society: “Only the comparatively few justices and small cadre of appellate lawyers privileged to work here with him over those years know, understand, and appreciate the magnitude of his contributions and dedication.” (*Hal Cohen* at p. 10.)

Hal was my colleague for the nearly 30 years I was at the court. When he later retired, he stayed part-time as a retired annuitant and then continued to serve the court as a volunteer for several years without pay. I’ve heard people say they loved their job so much they would do it for free, but Hal is the only person I know who actually did that.

In addition to Hal’s prodigious intellect and his impressive research and writing skills, he is a warm, caring person. For him, serving the justices of our state’s highest court was more than a job, it was a calling. He was passionate about supporting the justices in their quest to produce decisions that were well-researched, well-reasoned, and clearly explained.

Hal belongs in the Appellate Lawyer Hall of Fame. No less of an icon than Bernie Witkin described him as “ ‘one of the greatest appellate lawyers that ever hit these parts.’ ” (*Hal Cohen* at p. 11.) Justice William Dato said “ ‘there are few individuals who have had a greater impact on the development of California law.’ ” (*Id.* at p. 13.) Paul Fogel added that Hal “ ‘has had an extraordinary influence on the law and on those fortunate to be his colleagues. All Californians should be grateful that he chose to use his talent to ensure that our Supreme Court has retained the stature it has.’ ” (*Id.* p. 14.) Retired Supreme Court Justice Joseph Grodin declared that Hal’s “ ‘quiet, unassuming brilliance, and articulate insight have contributed to the Court’s greatness, and his personal qualities have enhanced the lives of all of us who were privileged to work with him.’ ” (*Ibid.*)

Retired Justice Kathryn Mickle Werdegar worked with Hal as a fellow judicial attorney at the court and later as a justice. She praised Hal’s “ ‘depth of knowledge and excellent judgment.’ ” (*Hal Cohen* at p. 15.) “ ‘Along with his legal acumen, one of Hal’s most notable characteristics is his ability to respectfully and capably serve justices of markedly different temperaments, backgrounds, and judicial philosophies. Hal has been the consummate professional, dedicated first and foremost to the well-being of the California Supreme Court as an institution.’ ” (*Ibid.*) Justice Werdegar described Hal’s service to the court as “ ‘unprecedented.’ ” (*Ibid.*)

There are many ways to judge the contributions of an appellate lawyer. Although he never wrote a brief or signed an opinion, it is safe to say that no one, other than the justices themselves, have contributed more to the work of the California Supreme Court in the last half century than Hal Cohen.