



THIS LAWYER IS TOUGH

Jim Goetz doesn't shy away from controversy

A book and a crumpled legal paper lie on the oriental rug; a disheveled man is sitting at an oak desk where a single brass lamp bathes piles of open books and papers in yellow light.

On this particular day, the quiet and unassuming Jim Goetz, 42, is packing a briefcase full of legal bullets for the state Board of Public Education and assorted other state entities. He says they have not met their constitutional obligations to adequately and equitably fund education throughout Montana's school districts. It is a typical Goetz case — one that has legislators and numerous special interest groups in the state in a tizzy.

The late U.S. Supreme Court Justice William O. Douglas is smiling down from a photo on the wall as Goetz sweats in preparation. It is a behind-the-scenes glimpse — a day in the life of a man who might be the best young lawyer in Montana.

Timer Moses, renowned Montana lawyer, lists Goetz in his top 10 young lawyers in the state. "Jim's reputation is simply that he plunges in and does it to the hilt — he amazes people with what he comes up with in extremely complex and difficult cases," acting University of Montana Law School Dean Margery Brown says. "He has a fine and firm knowledge of constitutional law."

Bozeman's Sen. Dorothy Eck noted Goetz's substantial influence over state laws and issues over the last 10 years.

"They (other lawyers) know when he's handling a case, that he's formidable and that they have to take the case seriously," Eck says. She pondered how many cases had been dropped after people found out Goetz was representing the other side.

"I don't always agree with him," she adds. Goetz likes to rock the boat. The bigger the boat, the better. A typical Goetz case either pits an underdog against a senseless behemoth or improves something in the public interest. He courts the federal and state constitutions into battle like the Ark of the Covenant.

The Goetz record includes numerous environmental cases: the Bob Marshall Wilderness oil and gas leasing case during the James Watt days; the Montana Supreme Court's first Montana Environmental Policy Act case over a Gallatin County subdivision; the first Ski Yellow-

stone case; and most recently the suit against the state Gas and Oil Conservation Board for not complying with MEPA in permitting the Soho well in Bridger Canyon.

The 1978 Libby dam environmental case was one of Goetz's favorites. He represented a small group of citizens opposing the building of a re-regulating dam by the U.S. Army Corps of Engineers that would make Libby into a peak power-generating facility.

Goetz argued that the dam had not been authorized by Congress as required and that it did not comply with the National Environmental Policy Act, requiring that the Corps show that it was needed.

Initially, the Corps regarded the suit as an annoyance unworthy of much attention as it continued to build a bridge for hauling gravel across the river preceding dam construction.

But by the time the case got to the Ninth Circuit Court of Appeals, the Corps was playing ball. And Goetz, arguing that the needs for additional power in Montana had not been properly analyzed and predicted, won.

"They had two pilings or supports of some kind out in the river (from the building of the bridge) — they're still out there," Goetz laughs. "They're kind of an environmental monument out in the Kootenai River."

"It was just a small group, facing seemingly insurmountable odds," because they cost money and are just so hard to win on a permanent basis. You may win victories, but with the money on a corporation's or the government's side, it just seems like they have the staying power and can find enough experts that they can get their way in the long run."

Goetz likes variety — there have also been sizable labor, damages and criminal cases.

Goetz's favorite criminal case was that of a Livingston man charged with possessing and selling amphetamines.

Goetz picked up the case after it had bombed in the Montana Supreme Court 5-0 on appeal from a district court. Goetz was so con-

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Clockwise from top left: A signed portrait of former Supreme Court Justice William O. Douglas, Goetz's self-professed hero, adorns the office of Bozeman's leading attorney.

From the district court to the basketball court, Goetz and his associates at the law office function as a team. Lunch time pick up games at Beal Park have become a ritual for the group.

In addition to his duties at the office, Goetz takes part in education a new generation of lawyers by teaching a law course at Montana State University.

"Coach!" Goetz also trains the Zephyrs of the Bozeman Youth Soccer League, of which his son Thaddeus, 11, is a member. Here, the coach retrieves a ball for Zephyr Todd Cochin.

Goetz's offices are filled with antiques, giving the Victorian Ketterer Building on Grand Avenue a classic feel.

Story by LAURIE LeMAUVIEL

Photography by ALBERT DICKSON of The Chronicle

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vinced that the convicted man was innocent, that he took the case to U.S. District Court, where he first won and was then reversed; the Ninth Circuit Court where he lost; the U.S. Supreme Court, where his petition was denied; and finally back to the Montana Supreme Court — where he won, 5-0.

And who can forget the Montana stream access cases that forced the issue before the last Legislature? Dillon rancher and stream access defendant Lowell Hildreth sure won't. And he isn't one of Goetz's fans.

"I have such a terrible feeling about him that it really shouldn't go in the paper," Hildreth says. "I don't doubt his ability, but I'm violently opposed to him and his principles as far American philosophy and freedoms and the Constitution go. As far as I'm concerned, he's just way out in left field."

Hildreth is embroiled in a court battle to test the constitutionality of the law the Legislature eventually passed.

In another case, extremely unpopular among many Bozeman people, Goetz defended former MSU professor and Catholic priest John Bauer's constitutional rights to open his Ms. Kitty's adult bookstores in both Bozeman and Helena.

"He practices law with a purpose and he does it very well — he knows that difficult cases can make good law," says longtime friend and former office partner Rick Applegate, who now lives in Oregon. "He has a quiet sense of fearlessness to him. He doesn't shy away from

controversy — he never has."

Goetz believes lawyers should be "public citizens."

A lot of people don't like (lawyers) because they cost money and they're only consulted when there are problems that they wish would go away; but lawyers are very important in terms of safeguarding constitutional individual liberties and consumer rights and just a whole range of critical liberties."

Goetz is also known for his imagination. Toward the end of the draft for the Vietnam War, he defended a man who refused induction on the grounds that the draft discriminated against men and women. He mentions, however, that the quickness with which the Ninth Circuit Court overturned the decision might have been a record.

Goetz may also have an impish streak. Take, for instance, "the case of the nosey neighbor."

A Gallatin County woman informed police that she had noticed through a fence that a neighbor was growing what she thought was healthy marijuana between rows of corn.

The police came and looked through the fence, but could not be sure that what they saw was marijuana, and therefore could not by law venture onto the property further. So, the nosey neighbor obliged police by clipping a bit of the weed for the police to identify. But Goetz successfully challenged the use of the "tainted evidence."

In a letter to then Gallatin County Attorney Don White, who was on a

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crime campaign, Goetz suggested that if he were sincere about fighting crime, he would arrest his informant — not just for trespassing, and not just for possessing an illegal substance, but for sale of an illegal drug. The Montana law includes giving or conveying drugs to another under its definition of what constitutes a drug sale.

Not all law appeals to Goetz. He doesn't like to appear before administrative bodies. "It's a dog and pony show." He said many administrative bodies do a good job at setting policy and other duties, but have no training or ability to know when they're hearing a bogus legal argument.

Likewise, Goetz finds divorce, child custody and property settlement cases distasteful. "They tend to bring out the worst in people. They're uninteresting intellectually."

Besides the schools case, Goetz is presently neck deep in a massive Indian water rights case for the Confederated Salish and Kootenai and other Indian tribes.

Goetz has a reputation for being meticulously thorough in his arguments. "He is a man who doesn't overlook any bets in presenting a case," former Montana Supreme

Court Chief Justice Frank Haswell says.

Every case has weaknesses, Goetz says. "It is a common human trait to try to put weaknesses in the back of your mind and not think about them." Finding the time to sit down and think thoroughly about a case, to consider the weaknesses and anticipate everything the other side might do is important, he said.

Ironically, when the 25-year-old Goetz returned to Bozeman with his Yale Law School degree and his then-long, curly locks, people either didn't pay him much mind or worried a little about him, observers say.

"For a long time when he was starting out, people used to be concerned because most of his clients weren't people that were going to pay him anything," Eck says.

District Judge Joseph Gary says local folks thought he was "kind of hippie looking" in the late '60s against the backdrop of sleepy little Bozeman.

"And then he started knocking people down — people started to realize how good he was," Gary says.

Goetz is a homegrown boy — born in Miles City, reared four years in the near-extinct town of Ismay and the rest in Ennis. It could be said that he thrived — there was track and football and basketball and band and chorus. He was Ennis High's valedictorian and a class president.

"In a small high school, one does everything," he explains.

But maybe it was a high school teacher in Ennis, who "started a little program in speech and debate," that turned Goetz into a lawyer.

L.A. Lawrence coached Goetz in debate at Montana State University. "Probably half of that group became lawyers," Lawrence recalls. Debating takes average intelligence, a logical mind, an adaptability to circumstances, but a lot of desire to win, he says.

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—Rancher Lowell Hildreth

"But the ones who excel are those who rise to competition, to the opposition, and Jim was one of those who rose. He got into an activity that allowed him to develop some potential. I'm not saying that Jim does this, but a good debater has a tendency to strike fear in others — they can win by intimidating the opposition."

Goetz does not have the most compelling voice in the world, nor is he a theatrical speaker. But he appears calm and his timing is good. His delivery is either captivating by way of originality or plausibility, or impressive like measured blows with a ball pen hammer. His eyes glitter and he sometimes smirks when he knows he has hit home.

Goetz took his first trip East with the MSU debate team to Princeton University. In 1965, he began law school at Yale. "I left to go East to law school with the idea that I wanted as different an experience as possible. The presumption was always that I

would come back. I'm not an urban person. It just flowed pretty naturally that I'd come back to Montana."

Goetz says that Bozeman people figured that he had "got politics" while at Yale — which was just blossoming with the anti-war and social movements of the 1960s.

But Goetz says he was "pretty liberal and political" in his views before he left. He was instrumental in getting MSU's policy requiring mandatory ROTC for all freshmen and sophomore men changed. "We were forced to take it, and every Thursday afternoon to march for two hours in these wool uniforms."

Goetz failed the Montana Bar exam the first time around. He says what he learned at Yale was mostly theoretical and he was unprepared for what he would find on the exam.

Though Montana has not offered the type of "securities and Wall Street-type work" that many of his classmates took up, Goetz says Montana had offered him plenty of opportunities to do legal work that he thought was "important."

He says he probably got to take significant cases far sooner than his classmates who joined larger firms. Goetz has taught classes in constitutional and environmental law at MSU since 1968.

"He has students all over the country who owe whatever legal keenness they have to the time they spent agonizing over his classes," says Applegate. "He teaches by the Socratic method — it is horrific, but instructive."

Doesn't Goetz have any "dirty laundry"?

It is behind his law books, according to Applegate, who shared office space with Goetz for five years during the 1970s. "His law library was completely disorganized then. One day I started to help him put his books in order by their numbers, and as I began pulling books off the shelves, I found a considerable amount of dirty laundry behind his books. There were old socks and pants and..."