

# NOS DISPARUS

## The Honourable Judge Russell MacKay

Visitors to Russ MacKay's judicial chambers in Chilliwack were instantly treated to his famous sense of humour, as they walked across a doormat at the entrance to his office which read "Come Back with a Warrant!" Russ was always a practitioner of what is known in 12-Step circles as "Rule 62" (never take yourself too seriously). He took his commitment to his family, his obligation to help others and his duties as a Provincial Court judge seriously, but never himself. For Russ MacKay life was meant to be enjoyed, not endured.



Russell Cameron MacKay left us on December 22, 2015 after a four-month battle with esophageal cancer. Russ was everything that one could hope for in a judge, member of the legal profession and human being. He was kind, compassionate, unselfish, someone who placed others ahead of himself, and someone who truly loved life.

Russ loved his family tremendously. He was a loving partner to Nora (whom he referred to as his "dearly beloved"), a loving father to his son Ryan, a wonderful father-in-law to his daughter-in-law Shellee, a proud and doting grandparent to his grandson Duncan, a devoted son to his mother Joan, a good (but teasing) big brother to his sister Janie, and a kindly uncle to his nephew Cole, with whom he shared a love of music and with whom he loved to joke around. In the course of over 30 years as a lawyer and judge, the theme of caring and concern for others was a constant, in the way that Russ MacKay lived.

He was born on August 9, 1955 in Saskatoon, Saskatchewan, where his DNA instantly became embedded with the gene that causes a person to bleed green and white while cheering for the Saskatchewan Roughriders.

Last summer, as a 60th birthday present, Russ received a bobble-head likeness of himself in the garb of a provincial court judge, stylishly accessorized by the watermelon helmet that is ubiquitous among Rider fans. Russ also proudly boasted another aspect of his DNA: his Scottish roots. He quickly corrected those who mispronounced his surname as MacKay (rhyming with day). "They were the sheep stealing branch of the family" he would tell them. He was most definitely a MacKay (rhyming with eye).

Russ came from good prairie stock. His maternal grandfather, Foster Matheson, served his country honourably in the Second World War as the officer in command of the Regina Rifles at Juno Beach on D-Day. Russ was also proud of his uncle, Bill Matheson, who was Mr. Justice Matheson of the Saskatchewan Court of Queen's Bench, and he loved his jovial uncle, Bud Matheson. Both uncles helped him in his time of need. Russ was very happy when Uncle Bill made the trek from Saskatchewan to Chilliwack to attend the ceremony welcoming Russ as a member of the Provincial Court.

A series of family moves deposited this prairie boy on the west coast and in 1982 Russ graduated from the UBC law school. He was called to the B.C. bar in 1983. Russ experienced problems with alcohol and substance abuse during this chapter of his life. As these flaws were replaced with wisdom, Russ made no secret of these issues, which were destroying him, and he later learned that from this weakness would come his greatest strength to help others. In the parlance of the recovery community, Russ "hit bottom" on March 1, 1987, and with the aid of compassionate friends and a program of recovery, he remained clean and sober from that time on. He found sobriety too late to rescue his legal career, and he was forced to resign from the Law Society in 1988, as an alternative to being kicked out of the profession. He humbly went about doing whatever was asked of him to place his recovery first, taking work as a Vancouver taxi driver and later as a GST collections officer for the federal government, a job he did not enjoy.

A fortuitous meeting with Tim Kerr and Art Vertlieb, Q.C., in 1989 placed Russ where he was meant to be. With their assistance, he became the new Lawyers' Assistance Program's first and only staff member, a position he held until 1996. In an era when the LAP did not have the funding and counsellors that it does today, Russ worked from scratch to create a network of volunteers across the province that has grown into the successful organization that it now is. Many lawyers in the province today echo the refrain "Russ MacKay saved my life." This was a comment frequently overheard at the memorial service held for Russ on February 28, 2016. It is neither hyperbole nor exaggeration to say that Russ saved the careers of hundreds of lawyers in this province. If his assistance was based solely on academic

knowledge, he would not have been able to accomplish this. It was the sharing of his own past troubles, and his experience, strength and hope, that enabled him to create a large network of peer support among the province's legal community and allowed Russ to be able to give back what he had received. What Russ appreciated more than anyone was that in helping others, he was really helping himself.

In 1994 Russ applied for readmission to the Law Society. Such readmissions are rare, but a number of members of the bench and bar supported his application, including the late Honourable Justice Davie Fulton. Miraculously the benchers let him back in only six years after he had lost his right to practise law. Russ practised part-time with Vertlieb Anderson while continuing to serve as the sole staff person at the LAP. When it was decided that the LAP required a full-time director, Russ left the job to devote himself to the full-time practise of criminal law, though he never stopped working one-on-one with lawyers who needed his help. Russ was an outstanding advocate, representing clients who faced criminal charges ranging from shoplifting to murder. He was respected by bench and bar alike, and was later asked to appear as *ad hoc* Crown counsel, where he was known for his fairness and common sense. Russ was one of the founding members of the Criminal Subsection of the Trial Lawyers Association of B.C. and served on the executive of that organization.

In 2008, on the recommendation of the Judicial Council of British Columbia, Russ was appointed as a judge of the Provincial Court of British Columbia by Attorney General Wally Oppal. Russ was one of the first judges appointed to have been publicly identified as being in recovery. Much to the surprise of some, his appointment was met with universal support. He was appointed to sit in Chilliwack, B.C. where his father happened to be residing in a care home. Russ was not content with being the judge who dispensed justice in the 'burbs before returning home to the big smoke. He and Nora bought a home in the Sardis section of Chilliwack and immediately became a part of their new community. He also brought his recovery there, jumping into the local recovery groups with enthusiasm.

It seems incomplete to simply say that Russ was an excellent judge. Russ was respected by all segments of the bar, criminal, family and civil, for his fairness and courtesy as well as for his sound knowledge of the law and his wise application of it. He was also respected and beloved by his colleagues on the bench. Russ gave much back to the Court that he served. He was a member of the Court's Education Committee. He was a founding member of the Court's Peer Support Committee and he also served as the Court's representative on the Judges Counselling Program, a national organization

dedicated to offering support for federal and provincial judges in Canada. He also regularly attended a weekly LAP meeting for lawyers and judges in the Fraser Valley that was sometimes held in his home. Russ also served as a member of the executive of the Provincial Court Judges Association of British Columbia and was scheduled to become president of that organization in 2017.

Russ volunteered for an assignment to sit as the presiding judge on a northern circuit covering the communities of Atlin, Good Hope Lake and Lower Post. The sittings took place four times a year and the assignment gave Russ an opportunity to connect with the son of his good friend Brian Greer, as well as to pursue yet another of his many passions: fishing. When the volunteers in the restorative justice programs in these northern communities learned of Russ's illness, they were greatly saddened. It was quite apparent in the few years that he had been on the circuit he had a profound influence on the people in those communities.

Russ loved the court staff in Chilliwack and the feeling was mutual. He and Chilliwack court clerk Rita Chadsey organized a yoga group at the Chilliwack courthouse to keep everyone healthy. The back halls of the courthouse were always filled with happy and funny banter between Russ and his court clerks and sheriffs. When asked how he kept the Court's daily fare of dysfunction from getting him down, he pointed to a sign in his office with the legal maxim "Non Circus Meus, Non Simii Mei" (not my circus, not my monkeys). This philosophy allowed him to maintain a healthy detachment from the stresses of his job. One of his fondest moments at Abbotsford Regional Hospital was when a group of court staff from Chilliwack visited his room and serenaded him with a favourite Beatles tune, "With a Little Help From My Friends".

Amidst all of his other passions, what Russ loved most (after Nora, his family and his recovery) was music. He played in a number of bands including a group he named "The Mutts", as motley a crew as its name suggests. The other members of The Mutts were Ian Aikenhead on bass guitar, Tom Saunders on guitar and ukulele, and Brian Greer on drums. When Russ put together a group that performed at the annual LAP volunteers retreat at Harrison Hot Springs, he named them "The Self-Righteous Brothers"; the group included some of The Mutts along with Mark Tweedy and others. At all sorts of events, from retirements to going away parties to Christmas soirees, Russ usually provided the musical accompaniment to a song that he had either composed or rewritten the words to. He was once even the opening act for Elvis at the Provincial Court's 40th anniversary dinner (though Elvis sounded a lot like Vince Hogan).

Russ's home and office were filled with guitars, both electric and acoustic, all with some happy memory attached to them. But in recent years his passion was the ukulele. At least one Tuesday each month, Russ headed off to his ukulele group in Vancouver for a night of fun, frivolity, friendship, and the finest ukulele music this side of Oahu. He brought his ukulele with him when he sat in other courthouses, and it was not unusual for judges to hear the pleasant strumming of the ukulele wafting down the hall. Russ was not just a ukulele enthusiast; he was the instrument's missionary, converting his colleague Steven Point and many others to this pleasant pastime. Russ often made the observation that it was a scientific impossibility for someone to play the ukulele and not be happy.

He was not always the most organized person. At the weekly practices of The Mutts, Russ was constantly "borrowing" Ian Aikenhead's pens to make needed musical notes, promising always to return them. He would occasionally get distracted by a lengthy thought and end up in a place he had not anticipated. He was remarkably generous with gifts to friends, but often his friends would be perplexed by just what the heck the gift was supposed to be for.

Russ had been the poster boy for a healthy lifestyle. He worked out regularly with a personal trainer, ate healthily and while he was on the Provincial Court's Education Committee, he was responsible for coordinating the wellness component of the Court's Spring Education Conference. The news of Russ's diagnosis shocked all of his friends and colleagues. When news of his condition reached his friend and colleague Judge Anne Wallace, she summed up everyone's feelings in a card that she sent to his chambers, which read: "Sometimes when God lets bad things happen to good people, it makes you just want to say 'WTF dude?!'" (Sadly we lost Anne soon after to an aneurysm. We suspect that the two of them have heaven in stitches.)

The treatment of his cancer was complicated by surprise kidney problems, which robbed him of the ability to fight his illness with chemotherapy. But a visit to the hospital to see Russ was never a glum experience. Sounds of laughter poured out of his room. Not nervous laughter, not gallows humour, but genuine heartfelt belly laughs. Russ was always genuinely interested in talking about what his visitors were up to and he always made his visitor feel as if he or she was the most important person in the room. This generosity of spirit persisted even as his illness progressed and as his family urged visitors not to tax his energy.

Russ was a follower of Buddhist teachings and lived a practical spirituality that persisted throughout his life. When he received news about the stage that his cancer had advanced to, he told his close friends that he was ready to embark on what he called "the great adventure" and he truly believed that



death was a transition and not a termination. It was his wish that his passing not be mourned, but that it be celebrated with more music than speeches. On Sunday, February 28, 2016, Russ's friends gathered together for a celebration of Russ's life at the St. James Community Square Hall in Vancouver. The gathering was filled with fond memories, with more laughter than tears. The Mutts played, ukuleles strummed, the crowd sang along when they knew the words. Selections from Bob Dylan, the Band, George Harrison, and even Monty Python set a mood that Russ most certainly would have approved of. Russ even made an appearance himself in the form of a video performance recorded at an old fishing lodge, while on holidays at Sproat Lake. In every respect, it was a perfect celebration of the life of a very special friend. As his sister Jane remarked, "Russ would be pissed about missing this."

Our friend Russ MacKay has gone off on the great adventure. We will miss his humour, his serenity, his compassion, his "attitude of gratitude". We will miss his wise counsel, his sharing and his powerful example. When each of us composes our own list of things to be grateful for, high on that list will be the gift of having had Russ MacKay in our lives.

God, we miss that guy.

The Honourable Judges Kenneth Stkilnick and Ian Aikenhead



## Judith Paula Mosoff

The University of British Columbia and the Peter A. Allard School of Law lost an important member of our community to cancer, on December 20, 2015. Judith died at home having been cared for by her devoted partner Jim Russell, her children Ben and Leah, her mother Sara and her lifelong friend Nancy Goodman. She is also survived by her brother Mark.

She fought this last battle with the same dogged spirit that enabled her to accomplish so much in her life—try everything and stop at nothing.

Judith began her career as a psychology instructor at Ryerson University in Toronto in 1970, having graduated with a B.A. in psychology from the Uni-

