

# From Harper Lee's Book to Idaho's Highest Court

*A BYU Law Alum's Ascent*

BY EZRA VAOIFI

For most people, 10th-grade English class is anything but life changing. But for Gregory Moeller, '90, that is where it all began. His journey to becoming the 58th Idaho Supreme Court justice commenced with Harper Lee's novel *To Kill a Mockingbird*.

"When I was in 10th grade, I saw the movie and read the book," Justice Moeller says. "There is a scene right after the trial is over when Tom Robinson was wrongfully convicted of a crime he didn't commit. The courtroom had cleared, except for the black folks who were still sitting up in the balcony, which was unfortunately the segregated part of the courtroom. Atticus's children were sitting up there with them,

and as Atticus was putting his briefcase away and getting ready to leave the courtroom, all the people began to stand.

"His young daughter was wondering what was going on, likely because she knew that in court, the only time people stand is when the judge or jury enters or leaves the courtroom. She asked the minister standing next to her, 'Why are they standing?' and the minister told her, 'Because your father is passing.'

"When I experienced that as a 10th grader, I felt a chill go up my spine and the hair on the back of my neck stand up, and I knew at that moment that someday I was going to be an attorney. I also somehow knew at that moment that someday I

would be called upon to represent an innocent person in a big case, just as Atticus Finch had."<sup>1</sup>

After graduating from South Fremont High School in 1981, Moeller left Idaho to serve a two-year mission in Nagoya, Japan. He later graduated magna cum laude from BYU with a bachelor's degree in political science, and in 1990 he received his juris doctorate from BYU Law.

After law school, Moeller worked for the Rexburg law firm Rigby, Andrus & Moeller, where he became a partner in 1994. Prior to taking the bench, Moeller tried cases across Idaho. One of his most notable cases included working for 16 years (pro bono for five of those years) to free a

man wrongfully convicted of first-degree murder—a case incredibly similar to the one that had inspired him to become an attorney over a decade earlier.

Justice Moeller is married to Kathy Keck of Ashton, Idaho, and they are the parents of five children and seven grandchildren. He enjoys running, gardening, making family videos, cooking, and eating. He has coached many youth sports teams and has been a member of the BYU Cougar Club since 1990. Justice Moeller is rumored to have the largest hot sauce collection in Idaho (more than 135 bottles and counting).

The following is an excerpt from a Q&A with Justice Moeller.





**Q.** What was your initial reaction when you heard of your appointment to the Idaho Supreme Court? What were you doing?

**A.** Frankly, my initial reaction was relief. It was such a long process—it lasted for almost 18 months. I was actually a candidate for the Supreme Court three times because there were an unprecedented three vacancies in the Idaho Supreme Court in a year and a half. While it's an unfortunate reality of life that you become accustomed to dealing with a lot of uncertainty about your future when you're in your 20s, it's a little more difficult to cope with in your 50s.

I was nominated as one of four finalists for the first two

positions. But when the third position came up, I had serious thoughts about not applying again. You know how you always hear that "the third time's the charm"? Well, there's a competing version of that phrase that goes "three strikes and you're out." With a lot of encouragement from good friends and colleagues, I figured I would test these two hypotheses, and I discovered that, at least for me, the third time was the charm.

I was driving home from Boise when I got the call from the governor's office. After the initial feeling of relief, my next reaction was gratitude for all the people who were instrumental to me along the way. It had been almost 30 years since a sitting

judge from eastern Idaho was appointed to the Idaho Supreme Court, and I was very mindful that I didn't have the ability to change that myself. I spent the rest of the drive home reflecting on all the decisions, cases, mentors, clients, and serendipitous things that had happened in my life over the years that had led to that moment.

**Q.** As an alum of BYU Law, what advice do you have for current students and recent graduates who are seeking to make a difference in their community?

**A.** There are all kinds of ways to make a difference. The easiest way is to get involved in your community and grow wherever you are planted. As a new lawyer, you will be imbued with knowledge that other people don't have—knowledge that they need. You will meet people at parties and community events who will ask you questions about important decisions in their lives. In hindsight, I realize that some of the most important legal advice I ever gave to people I gave informally, without even billing for it. As a young attorney, the most important thing you can do is network and make connections. Join a service club and volunteer for local boards, like the chamber of commerce or a free medical clinic.

I'd like to put in a plug for the advantages of working in a small-town practice. I know that most law school graduates have their sights set on big cities, which is understandable, but one thing I have learned is that you can get a lot more opportunities to make a difference, and can do so more quickly, by working in a small community. Small communities need good,

young attorneys. I handled some very big cases from my six-person firm in Rexburg, and I learned that, contrary to conventional wisdom, you can do big things in small places. Of the five justices on the Idaho Supreme Court right now, all our careers began in relatively small, rural towns in Idaho.

**Q.** As an adjunct professor at BYU-Idaho, you helped educate the next generation about law and politics. In your opinion, what is the best way that teachers, parents, and others can teach true, founding principles of freedom?

**A.** The thing we always hear about law school is that it teaches you how to think, and I believe that is really important in all aspects of education. Sometimes there is too much emphasis on teaching young people *what* to think instead of *how* to think. As a teacher, your goal shouldn't be to imbue someone else with your opinion; it should be to teach them true principles and then help them develop a framework for developing their own views on things. Teaching shouldn't be about conveying one-sided perspectives and ideological propaganda to the next generation. A teacher is a success not only when he or she objectively passes on their wisdom and knowledge but also, more importantly, when he or she passes on the ability to think critically and discern truth from error. Faith can play a vital role in this, which is why there is an important place for universities like BYU.

**Q.** During your swearing-in ceremony, you mentioned the Declaration of Independence and the

Constitution. How have these documents helped shape the values and principles you live by?

**A.** It is important to understand that there is a difference between the Declaration of Independence and the Constitution. The Constitution is the supreme law of the land. Every judge swears an oath to uphold it. The Declaration of Independence, although it contains no binding legal authority, is still a very important document because it contains the aspirations of the founders of our newborn nation. Like the goals contained in the preamble to the Constitution, many have been achieved while many are a work in progress. I remind myself of the content of both documents frequently and have tried to do my best in my roles as an attorney, a judge, and now a justice to defend the Constitution.

**Q.** As a guardian of our Constitution, do you believe that document can last another 230 years?

**A.** Our nation is still one of the youngest nations in the world—certainly one of the youngest among the traditional powers—so I don't see why it couldn't last that long or longer. However, given the exponentially increasing rate of change in the world, both technological and societal, I would be surprised if it lasts that long without some amendments. It has been amended only a few times over the last 230 years, which is a testament to the framers' wisdom and vision. The document itself is intended to survive and to be self-perpetuating. If it doesn't survive, I don't believe it will be because of a shortcoming in the document itself; rather, I think it will be because

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of a shortcoming in the people it was meant to serve and unite. As long as we don't abandon the principles enshrined within it, I don't see why it can't last another 230 years or longer.

**Q.** You said in your swearing-in ceremony, "I have no agenda but justice." Can you elaborate on what it means to have an agenda of justice?

**A.** I was trying to explain my judicial philosophy, which is that it is our job as judges to follow the law, and it is important that we do so. As an attorney, I found that you're often trying to decide *who* is right. As a judge, your primary function is to decide *what* is right. The questions of "Who is right?" and "What is right?" are a little different. I've always found that it is easier for me to determine what is right rather than who is right—and what is right is that we follow the law and apply it to the facts. Now, when the law is not clear on an issue, that is when the most challenging work of an appellate judge begins.

**Q.** In your new role, you will set the precedent for

other cases in the state of Idaho. Some would say that adds pressure to your position. What do you do that helps you execute sound judgment under this kind of pressure?

**A.** As a district judge, I handled many large and small cases, but those small cases were just as important to the people involved as the bigger cases. As an appellate judge, I still see both large and small cases, but the stakes seem to be much higher and the legal questions consistently more difficult. The added pressure I feel now is that the decisions I make have a statewide impact, and that naturally causes a lot more reflection in order to avoid unintended consequences and impractical legal precedents.

**Q.** As you have advanced in your professional career, how have you fostered an environment that is conducive to the Spirit of the Lord and invited others to come to our Savior?

**A.** Keeping balance in our lives and compartmentalizing as necessary is essential to maintaining a proper environment in our homes. Just

as decades of our lives pass through discernible seasons, the hours of our daily lives are constantly moving between our faith, our families, our jobs, and sometimes our hobbies and interests. While these things can often be successfully blended together, at other times they must be kept separate. However, the one thing they must always be is in balance. This cultivates an environment where we can find fulfillment and inspiration as well as opportunities to extend our influence to neighbors and friends.

I think that the biggest thing we can do to affect the world, from the perspective of our faith, is to be mindful of the manner by which we live our lives and raise our families. I've tried to live up to the values I've been taught and pass them on to my family. I have not forgotten (because I am often reminded) that no matter what my current job assignment or church calling is, my most important job is to be a loving husband and a good father. I have now been promoted to grandfather seven times, which is as fun as it is important. I love these assignments more than any other. My professional careers as an attorney and a judge have been fulfilling and have hopefully allowed me to extend my reach by serving my community in a positive way, but in the eternal scheme of things, they are simply what I do when I'm not being Dad or Grandpa.

#### NOTE

- 1 Justice Moeller's insightful account of his special connection with Atticus Finch in *To Kill a Mockingbird* can be found in Gregory W. Moeller, "Defending Innocence: How *To Kill a Mockingbird* Changed My Life," *Clark Memorandum*, Spring 2014, 22–31.