

2018

# Julie H. McFarlane Lifetime Achievement Award Katherine O. “KO” Berger

by Emily Simon

At our first meeting, when I heard KO talk about her clients, I knew this was someone who had “defender’s blood” from her toes to her fingertips.

This was 1994, when the entire practice of juvenile law was changing because of the passage of Ballot Measure 11. KO was working with the Juvenile Rights Project (JRP) (it didn’t hurt that it just so happened she went to Hamilton, my undergraduate college, although neither of us knew it at the time—I graduated in 1975 and she in 1983). What I came to learn about KO is that not only does she have defender’s blood, she has defender’s brains. She will look at every situation as something to learn from, and has the patience to do so. She will read every article, follow every lead, chase down every expert, attend every legislative hearing, sit in on Oregon Supreme Court arguments and contact national experts if she thinks it will help the case.

Most importantly, KO never gives up on a kid. She genuinely likes her clients. KO has reminded me of the unique characteristics of representing children, such as pointing out to me when I have been “teenagered” and, just like that, my client’s conduct— what had seemed baffling—made perfect sense.

Public thanks and recognition from OCDLA and the juvenile defenders are long overdue for KO, without whom the Ballot Measure 11 project in 1998 would have been a non-starter. OCDLA and JRP were a great help, but KO was key. She helped me by playing the role of a 16-year-old girl in our school presentations (and had everyone believing it), being a sounding board for what was going on at the legislature,



**KO Berger**  
*will receive her award on*  
**Friday, April 20**  
**Hallmark Resort, Newport**

— casual reception to follow at 5:30 p.m. —

## **Julie H. McFarlane Lifetime Achievement Award**

Created in 2017 following the retirement of Oregon’s legendary juvenile law defense attorney — Julie McFarlane — the eponymous Lifetime Achievement Award recognizes the long-standing commitment and significant achievements of juvenile delinquency and dependency defense attorneys who have made substantial, important, and enduring contributions to the administration of justice for their clients.

“KO will do whatever it takes to get juveniles treated just a bit better or get a slightly fairer shake in a world that often wants to forget the kids among us.”

helping us beat a Kevin Mannix ballot initiative, and doing my practice Soros grant interview. I know that this is rather personal, but my point is that KO will do whatever it takes to get juveniles treated just a bit better or get a slightly fairer shake in a world that often wants to forget the kids among us. I will never forget KO in those years, decked out in her UO sweatshirt, taking it all in and then saying, “It seems to me...” And coming up with the perfect strategy for us to bat around.

KO’s traits are best recently exemplified by her trial court work of *JCNV (State v. J.C.N.-V. (In re J.C.N.-V.), 359 Or 559, 380 P3d 248 (2016))* where she simply would not give up, (and in Washington County yet), with a kid that very few people would describe as sympathetic. But like I said, KO never gives up on a kid, and the ultimate win in the OSC has changed the way trial court judges look at waiver issues. KO’s motto will often be “it’s the brain science” and in forcing the Oregon Supreme Court (with a huge assist from Angela Sherbo) to recognize that juveniles are inherently different than adults, she has made waiver very, very difficult for Oregon prosecutors.

I am honored to be presenting KO with this award at the Annual Juvenile Law Conference April 20–21 in Newport.

OCDLA Life Member **Emily Simon** practices law in Portland.