

## Retiring Greenberg Traurig lawyer recalls civil rights suits

By Malcolm Maclachlan  
Daily Journal Staff Writer

**S**ACRAMENTO — Gene G. Livingston Jr. joined the Civil Rights Division at the U.S. Department of Justice straight out of law school in 1965 because he wanted to get early trial experience.

Within days, he helped sue the Ku Klux Klan in Louisiana.

As the year ends, Livingston is retiring after half a century in the law. Earlier this month, he was packing boxes in the Sacramento offices of Greenberg Traurig LLP, the statewide powerhouse that bought up his longtime firm in 2005.

Among the memorabilia coming off the walls were photos from his involvement in the murder case that inspired the film “Mississippi Burning.” Another is a framed poster commemorating the 1987 “napkin deal” at Frank Fat’s in Sacramento, in which attorneys and other parties spelled out a multimillion-dollar pact on one of the restaurant’s serviettes. It’s a career he could never have predicted growing up as a farm boy in the Oklahoma panhandle. He carries a lifelong reminder of that time: a missing right index finger, claimed by a piece of farm equipment in an accident he said could easily have taken his life.

His family stayed behind during the “Dirty Thirties,” the local name for the Dust Bowl.

“When the Okies left Okla-



Malcolm Maclachlan / Daily Journal

Gene G. Livingston Jr., a former U.S. Department of Justice civil rights attorney, poses with a photo of a church burned down by the Ku Klux Klan in the 1960s and a poster of the 1987 “napkin deal.”

homa and moved to California, it raised the IQ of both states,” Livingston quipped, quoting the classic line by Will Rogers.

Drought returned during his teen years, dubbed the “Filthy Fifties.” His baseball games were sometimes interrupted by dust storms so strong “you couldn’t see the outfield.”

In high school, he wrote for the school paper and developed an interest in the law. Later, one of his professors at University of Oklahoma College of Law suggested Livingston apply to a U.S. Department of Justice program recruiting young attorneys.

The DOJ’s Civil Rights Division was established after the passage of the Civil Rights Act of 1957. From 1960 to 1967, it was led by John Doar, who would later gain fame as the

chief counsel to the U.S. House of Representatives Judiciary Committee investigating the Watergate break-in.

“He liked hiring people from the southern and border states,” Livingston said. “That was lucky. I made a career decision that I wanted to be a litigator. That put me in the middle of the incredible social change going on in the country at the time.”

Livingston soon found himself in the archives of the newspaper in Bogalusa, Louisiana, trying to identify local Klansmen. The editor was surprisingly helpful. He’d taken his own risks by covering Klan threats against not just African-Americans but local businesses that wanted to comply with the public accommodation demands of the Civil Rights Act of 1964.

“Immediately, you realize there are whites who want change, but they’re hamstrung as well,” Livingston said.

Doar’s idea was to use the law to sue the Klan itself. A case went to trial in the federal courthouse in New Orleans’ French Quarter, but most of the defendants were John Does.

A couple of days after Hurricane Betsy hit, Livingston and another DOJ attorney drove around downed trees in the backwoods of Mississippi trying to serve a subpoena on a Klan leader who kept a membership list. After those 125 names became part of the trial record, he said, Klan activity plummeted in the area.

Livingston later worked on witness preparation and jury research for the team prosecuting the 1964 murders of three civil rights workers in Neshoba County. Among his mementos he keeps a black-and-white aerial photo of the earthen dam where the bodies of James Chaney, Andrew Goodman, and Michael Schwerner were found.

But most of his work was the nitty-gritty civil rights lawsuits, including police brutality cases and suits against a hospital and a public swimming pool. Livingston said he developed a friendly relationship with some of the defense attorneys he frequently faced across the Southern District of Mississippi. Many told him their clients would never give in voluntarily.

“I’m going to tell you to go to hell, but I’m going to do it in a very nice way, because what I want you to do is sue us,” Livingston said, describing a typical exchange.

At 27, Livingston was overseeing attorneys in their 40s and doing work that felt “significant.” The presidential campaign of former U.S. Attorney General Robert F. Kennedy promised to bring more resources to the Civil Rights Division.

“When he was assassinated in June of 1968, some of my enthusiasm waned,” Livingston said.

At the invitation of a former DOJ colleague, Livingston moved to Modesto, once the epicenter of the Okie migration. He spent the next six years serving the newer, Spanish-speaking migrants as an attorney for Cal-

ifornia Rural Legal Assistance, often citing many of the same federal civil rights laws.

That led to a post in the California Employment Development Department. Livingston became an expert in state regulations, catching the eye of a young Gov. Jerry Brown. He rose to become acting director of the department in 1979. Livingston was named the first director of the new state Office of Administrative Law the next year.

In 1982, he became a founding partner of Livingston & Mattesich Law Corporation. He added lobbying to his repertoire, often representing companies and trade associations arguing Proposition 65 issues.

While serving as president of the Association for California Tort Reform in 1987, he joined

other lobbyists gathered in Frank Fat’s in downtown Sacramento and created a kind of five-year peace treaty around changes in tort law. Then-state Sen. Bill Lockyer immortalized the moment with a poster, a copy of which hung on Livingston’s wall.

“I’ll tell you how well it worked. In 1988, the trial attorneys put Prop. 103 on the ballot,” Livingston said. The insurance rate measure should have been out of bounds under the deal, he added.

His early years still hold an outsized place in his memory, even as recent divisions have caused him to question how far the country has come on racial issues.

He described visiting the sons of two of his civil rights

plaintiffs in rural Mississippi in the early 2000s. The dirt road to their farm had finally been paved, a sign someone finally valued the votes of the African-Americans living there. And the men were greeted warmly when he ate with them at a once-segregated restaurant.

“Culturally, there was a time when I thought we had made substantial progress,” Livingston mused.

In February, Livingston and his wife joined a tour with the Sojourn Project, which leads student groups around civil rights landmarks in the South. The organization was founded by Jeff Steinberg, brother of Sacramento mayor and former Greenberg Traurig partner Darrell Steinberg.