

A TRIBUTE TO JUDGE MARK KRAVITZ

by
*Jeremy Fogel**

It is my great privilege to contribute to this memorial to Judge Mark Kravitz. Unlike most of my fellow contributors, I didn't know Judge Kravitz for all that long, and he was fighting his heroic battle with ALS for much of the time that I did know him. Yet it was apparent to me from our first meeting, and throughout the subsequent months that we worked together in the often arcane but vitally important arena of judicial rule-making, that he was a remarkable judge and a remarkable person.

One of the principal roles of the Federal Judicial Center (FJC), of which I am honored to serve as Director, is to carry out applied research for the committees of the Judicial Conference of the United States. Our professional staff, many of whom have advanced degrees in both law and social science, assist the various rules committees in assessing the practical effects of existing or proposed provisions, hopefully helping them to avoid the unintended policy consequences that often accompany changes in procedural rules. Judge Kravitz was one of the first people I met when I became Director, and I later spent a significant amount of time interacting with him and watching him work.

Another major responsibility of the FJC is education of federal judges. Every new judge attends our intensive orientation programs, and most judges participate in the workshops and seminars that we offer for experienced judges. I'm often asked what qualities define a great judge. The answer actually is fairly complicated, as no two judges are exactly the same, and the judges I've known who've touched me and others most deeply have had a wide variety of talents and personal traits. But three characteristics of every great judge I've known are competence, integrity, and good judicial temperament.

Competence includes intellect, substantive knowledge, analytical ability, and the ability to express oneself well. But I think that it also includes the ability to see the big picture, to understand the relationships among people and interests, to have the maturity of judgment to weigh the consequences of one's actions carefully. Getting the legal or logical answer right is necessary but not always sufficient. Context matters.

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For a judge, integrity involves honesty, courage, transparency, and a commitment to the process—to making decisions on the basis of legal principles rather than one's personal views or preferences. But in its fullest sense it also means questioning ourselves, doing our best to insure that we avoid biases and intellectual or emotional shortcuts, and making decisions as thoughtfully as we can.

A good judicial temperament requires courtesy, patience, the ability to listen well, and a delicate balance of flexibility and firmness. But it also reflects humility, an understanding at one's core that an individual judge is not the central figure in the legal narrative but rather a symbol of our society's aspirations for justice and fairness, and a channel through whom those aspirations are imperfectly but meaningfully realized.

Judge Kravitz exemplified each of these qualities. He was extraordinarily competent. He rendered nearly a decade of distinguished service as a district judge in New Haven, Connecticut. And he helped both of the Judicial Conference committees he chaired—first the Advisory Committee on Civil Rules and then the Standing Committee on the Federal Rules of Procedure—navigate a multitude of difficult conversations, invariably cutting to the heart of the issue and keeping the broader implications of the rule-making process in mind.

He led with unfailing integrity. There were no hidden agendas, power plays, or quick fixes. He encouraged and facilitated a process in which all points of view, even those at the margins of the discussion, were considered fully and thoughtfully.

And he did this, even after he had become ill and struggled painfully to express himself clearly, with remarkable decency and civility. Watching him one always had the sense that something deeper than the practical task of writing rules was at work, that his leadership always was grounded in the vision of a just legal system that the rules are intended to support and serve.

Both rules and the people who make them always are a work in progress, and the rule-making enterprise to which Judge Kravitz gave so much of his time and talent will continue to play a critical role in the development of our courts. The accelerating pace of social and technological change—not least the profound transformation of the ways in which people communicate—has made strong, thoughtful leadership in this effort particularly important. Mark Kravitz has left us with an enduring example of what such leadership looks like. He will be greatly missed and fondly remembered.