



Hon. P. Kevin Castel

U.S. District Judge, Southern District of New York

by Phil Schatz



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Judge Kevin Castel gets things done. “He’s persuasive and astute, and not afraid of offending the powerful,” says St. John’s University School of Law professor Vincent C. Alexander, a law-school classmate. He has a “great practical intuition” and a “unique ability to help parties find common ground,” says Samuel Estreicher, a former colleague at Cahill, now the Dwight D. Opperman Professor of Law at NYU and the director of its Center for Labor and Employment Law. “He sees through posturing and is wise to every trick,” says Cahill partner Tom Kavaler. “He’s trusted and respected around the court. He handles different personalities adroitly and delicately, and is a very good leader,” says fellow SDNY Judge Denise Cote. A Queens kid with a Jesuit education, he’s streetwise but sophisticated, diplomatic but determined, and thoughtful but purposeful. He cuts to the chase, discourages waste, and runs his chambers and his courtroom with efficiency, courtesy, and good humor.

Taking the Kid Out of Queens

Judge Castel grew up in Jamaica, Queens. His father, Peter, was born in Cognac, France, and came to the United States via Buenos Aires. His mother, Mildred, was from an Irish-American family. Unusually for the time, both were college graduates (his mother was a middle-school guidance counselor). He grew up a Brooklyn Dodgers fan, until Walter O’Malley betrayed the faithful and absconded to Los Angeles. He switched allegiance to the Mets and has fond memories of seeing them play at the old Polo Grounds and their first season at Shea.

Queens kids get streetwise pretty fast, particularly when navigating the NYC subway system. Beginning at age 14, Judge Castel commuted 45 minutes by F train from 179th Street in Jamaica to 14th Street to attend Xavier High School, an academically rigorous, all-male Jesuit military school in Manhattan that was founded in 1847. Xavier has a long line of distinguished alumni, including NYC Mayor Jimmy “Beau James” Walker, celebrity chef Bobby Flay, and Supreme Court Justice Antonin Scalia. Judge Castel rose to first lieutenant and played the alto sax in the band. He laughs at the memory, observing that W.C. Fields’



definition of a gentleman is someone who can play the saxophone, but does not. He worked throughout a variety of jobs, each imparting their own life lessons: dry cleaner dogsbody, camp counselor, Christmas tree salesman, and Canadian National Railways ticket clerk, which made him a proud member of the Brotherhood of Railway Clerks.

Going to University and Law School

From Xavier he went to St. John’s University. Elected to the student judicial board as a freshman, he became president of student government by senior year. Student government taught him how to navigate a bureaucracy, build a consensus, and construct a convincing argument. These skills served him well at St. John’s University School of Law, a Catholic law school in Queens with its own list of distinguished alumni—Govs. Hugh Carey and Mario Cuomo, Congressman Charlie Rangel, and New York Court of Appeals Chief Judge Janet DiFiore, to name just a few. He received a full tuition scholarship as a St. Thomas More Scholar.

Professor Alexander, now-retired nine-time Professor of the Year at St. John’s University School of Law, first met Judge Castel in the fall of 1972. He was the editor in chief of *St. John’s Law Review* when Judge Castel was articles editor. He remembers Castel

as a “gregarious learner” and “student of the law” who “was always a calming influence during office crises—able to step back and put things in perspective.” One story illustrates Castel’s gift for persistent persuasion. The law library closed early, denying students of the resources they needed to prepare for classes and study for tests. Castel tracked down the dean’s home phone number and successfully convinced him open the library at night. When night security refused entry, Castel called the dean at home again and persuaded him to call the guards personally. “That’s Kevin all around,” laughs Alexander, “a people person and go-to sort of guy. We knew he was destined for great things.”

Working in the Law

During law school he clerked for Joe Marcheso, a noted white collar criminal defense lawyer, and attended his first federal court proceeding before the great Judge Jack Weinstein. After graduation he clerked for two years for Hon. Kevin Thomas Duffy, a humane and plain-speaking Southern District of New York (SDNY) district judge noted for his wide learning and perceptive wit, who retired in 2016 after 44 years on the bench. He also was clerk-by-assignment, for two sittings, for legendary Second Circuit Judge J. Edward Lumbard. Judge Castel credits Judge Duffy with being “the most significant professional influence in my life.”

After his clerkship, he interviewed for Cahill Gordon & Reindel (then, as now, the home to litigator’s litigators) over rice pudding at the old Lawyer’s Club on Broadway. His interviewers were Loretta Preska, later the chief judge of the SDNY, and Tom Kavalier, now a Cahill partner, noted raconteur, and husband of Judge Preska. He “was a wide-eyed kid” fresh from his clerkship with Duffy, remembers Kavalier, “a straight arrow and very astute.” “He learned fast and became known for his intelligence, hard work, and attention to detail.”

Judge Castel was a Cahill partner for 20 years. He was a first year with Reena Raggi, now a Second Circuit judge. He had many great mentors: First Amendment maven Floyd Abrams, Tom Curmin, Matt Mone, Jack Vaughan, City Opera philanthropist Irv Schneiderman, and former firm chairman Immanuel “Ike” Kohn. He was a litigation generalist, covering a broad array of subject matters—antitrust, commercial law, securities, international trade, employment, products liability, you name it. Bill Dahill, now a partner at Wollmuth Maher & Deutsch, worked with Castel as a young associate. “He was generous and open, and encouraged teamwork,” says Dahill, “he taught by example the value of hard work, keen analysis, and impeccable ethics.” Castel became a member of the Departmental Disciplinary Committee, a volunteer mediator, and the president of the Federal Bar Council.

Taking the Bench

President George W. Bush nominated Judge Castel to the SDNY bench in March 2003. His confirmation hearing was an abbreviated and drama-free affair. When asked to describe the proper function of the courts, he said:



“I think an affection for the rule of law in our constitutional system means a tremendous respect for the separation of powers. ... I would view my job, if I were confirmed, as not only following the precedent handed down from the Supreme Court and the Court of Appeals, but also at the same time, respecting the boundaries, not trying to play amateur legislator in any respect.”

On the Bench

When Castel took office in November 2003, Judge Duffy administered the oath. Castel agrees with the late Judge Weinfeld that the SDNY is the “greatest trial court in the nation bar none.” His judicial colleagues are “very smart” and “extremely hard working.” Their common goal is to get it right, and they are joined by respect for precedent and tradition. Judge Cedarbaum came to his chambers to welcome him, as Judge Weinfeld had welcomed her, and Judge Hand had welcomed Weinfeld before that. The unbroken line of black robes extends back to 1789, the beginning of the republic.

Judge Castel is as pragmatic and savvy a judge as he was a lawyer. “On the bench, you know he was a real practitioner with real clients who had real problems. You can’t pull the wool over his eyes,” adds Kavalier. “He was a real lawyer for 31 years, so it’s not going to work on him.” Like the great Milton Pollack, famed for going “straight to the essence of every case he ever handled,” Castel “is wise to lawyer stratagems because he invented so many of them,” agrees Preska.

He has been an active participant in many SDNY programs. Judge Preska praises his organizational expertise and “exquisite political skills” which “helped move the

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volving securities not traded on a domestic exchange to be “domestic” if title passes or irrevocable liability is incurred in the U.S.

- *Souratgar v. Lee Jen Fair*, 818 F.3d 72 (2d Cir. 2016)—Because Lee established that Souratgar had committed multiple, unilateral acts of intimate partner violence against her, and that her removal of the child from the habitual country was related to that violence, an award of expenses to Souratgar, given the absence of countervailing equitable factors, is clearly inappropriate.
- *Aris v. Mukasey*, 517 F. 3d 594 (2d Cir. 2008)—Alien received ineffective assistance when he was misinformed of hearing and was not told of deportation in absentia.

The importance and judicial history of the Second Circuit cannot be overstated. Under the guidance and direction of Chief Judge Robert Katzmann, its legacy and future influence are in as capable hands today as they were during the tenure of Thurgood Marshall, for whom the 40 Foley Square Courthouse is named. ☉

Endnotes

¹<https://www.youtube.com/watch?v=jsKzWJBSAwk>
<http://www.law.nyu.edu/news/annual-survey-american->

[law-honors-judge-robert-katzmann-second-circuit](http://www.citybarjusticecenter.org/wp-content/uploads/pdf/Katzmann_Lecture.pdf)

²https://www.citybarjusticecenter.org/wp-content/uploads/pdf/Katzmann_Lecture.pdf

³<http://justicecorps.org/>

⁴<http://justiceforall.ca2.uscourts.gov/>

⁵<https://www.nytimes.com/2016/11/10/nyregion/teaching-students-that-judge-judy-is-not-a-supreme-court-justice.html>

⁶Robert A. Katzmann, *Judging Statutes* (Oxford University Press 2014).

⁷<https://www.c-span.org/video/?321130-1/qa-robert-katzmann>

⁸<https://www.brennancenter.org/video/judging-statutes-robert-katzmann-conversation-michael-waldman>

<https://www.youtube.com/watch?v=76ONyZbP9Gw>

<https://www.youtube.com/watch?v=aPmZNYmew4Y>

⁹<https://harvardlawreview.org/2016/06/response-to-judge-kavanaughs-review-of-judging-statutes/>

<https://harvardlawreview.org/2016/06/fixing-statutory-interpretation/>

¹⁰Bloomberg BNA May 2014 profile pp.1758 -70. pp. 32-44.

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court through challenges without losing its collegiality.” Even by the high standards of the court, she says, “he’s a star.” He chaired the planning committee for the 2008-2009 Second Circuit Judicial Conferences and co-chaired, with Judge Deborah Batts, the SDNY’s year-long 225th anniversary. He has chaired the SDNY Grievance Committee. He’s taught professional responsibility as an adjunct professor at NYU Law School for seven years.

Judge Cote, a frequent lunch partner on culinary explorations in Chinatown, hit it off with Judge Castel on a personal level. “We have a very nice friendship that evolved organically,” she says. Asked for some adjectives to describe his style, she said “thoughtful, reflective, and open-minded.” Katherine Lemire of Lemire LLC, an investigative consulting firm, has tried major racketeering cases and run complex corporate investigations. She first met Judge Castel during a huge prosecution of over three-dozen gang members. “He was sharp as a tack,” she remembers. “He welcomes the challenge of new issues.” More importantly, “There is a human element to him.”

Running Chambers

Running chambers “is like running a law firm” says Judge Castel. Every new year brings new personnel and new challenges. “It keeps me young.” Judge Castel has worked with courtroom deputy Flo Nacanther for 40 years and counting. She is “an amazing person and a real presence in chambers,” says Douglas Zolkind, a former clerk for Judge Castel and current SDNY assistant U.S. attorney who started as a litigator at Davis Polk & Ward-

well. Nacanther “makes the trains run on time, but also mothered us all,” he adds.

Zolkind felt an immediate connection to Judge Castel during his interview. “We talked about legal writing but he was more interested in me as a person,” Zolkind remembers. “It was a conversation, not an examination.” The connection was only strengthened during the clerkship. Chambers was “like a family.” He is “very serious about his mentor role.” Judge Castel hosts a clerkship reunion dinner every fall and every other summer hosts a clerks-and-family summer party on Long Island.

Jennifer Mintz, formerly a litigator at Debevoise & Plimpton and now counsel at D.E. Shaw group, global investment firm, says clerking for Judge Castel was “a terrifically fun job.” “Every day was fantastic,” she says. He is “really interested in teaching” and had an open-door policy. “We could just walk in and bounce ideas around,” she remembers; “he has a passionate and infectious interest in the law” as well as in his law clerks as people. Judge Castel officiated her wedding, as he has done for other clerks. His attitude was, “Have robe, will travel,” she says.

Advice From the Bench

“I enjoy good lawyering,” says Castel. “Credibility is key. Every word and action adds to or detracts from credibility, and over time adds up to a reputation.”

Good prosecutors don’t overreach; good lawyers don’t fight everything. “A good advocate concedes points

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In 2002, mathematics professor Dr. Paul Lockhart wrote a 25-page essay titled “A Mathematician’s Lament,” explaining the shortcomings of the American math education system. Lockhart’s essay explores the idea that mathematics should be an individual pursuit akin to art and music, in contrast with strict adherence to a set curriculum as in current American mathematics education. Lockhart suggests that the solution would be a complete overhaul of mathematical pedagogy.

Unfortunately, Lockhart’s solution is unrealistic. While his goals are admirable, Lockhart fails to offer a reasonable plan for actually changing the education system.

The good news is, since 2002, American education has evolved thanks to technology. In 2014, Project Tomorrow took a survey of school students and teachers and found that 66 percent of middle and high school students have access to laptops. Because students already have access to the necessary tools, I believe that teaching math indirectly through computer programming in schools is an effective, feasible means of solving the problems Lockhart described.

First and foremost, many of the same topics that are covered in the math curriculum today will still be covered. Because programming will be the focus, however, classes will focus less on rote calculations and derivations, and more on developing an understanding of how to use these calculations. Arithmetic will of course need to be covered, but it can be presented so students can see the utility

of addition and subtraction. Algebra, taught as part of programming, will discuss variables and equations in terms of their use in computer programs. Students will then use these equations in programs and SEE what they do. By teaching mathematics through programming, students are directly confronted with the answer to “when am I ever going to use this?”

I naturally hope to use my time at MIT to expand my personal mathematical and programming horizons, but I also hope to be able to establish myself within a network of people who are interested in teaching math well. I know that such a network already exists at some level.

I’ve personally already made heavy use of such resources. I believe, however, that teaching math through programming is a unique approach—one that stands out because it both solves Lockhart’s problems in theory and is reasonable to implement in practice.

While the goal of teaching math through programming is daunting, it’s surprisingly within reach. As I noted before, many students already have laptops, so the technology will not be a problem. I hope to use my college studies to create an accessible and exciting programming-based math curriculum, as well as an interesting, unrestricted approach to other kinds of math as an elective. By doing so, I hope to give students a view of mathematics which more accurately reflects its artistic, individualized nature that Lockhart—and I—love. ☺

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that can’t be won,” he says. A good advocate “doesn’t waste the court’s time,” and won’t “squander good will on things that don’t matter,” he adds. “He values honor,” says Lemire.

Pro bono is important. “It builds skills,” he says, “and is good for the soul.”

Judge Castel is a firm believer in the jury system and forever impressed by the hard work and dedication of his jurors. The jury system brings together people “who would never have met each other in their daily lives.” “In a world where 12 people can’t agree on a pizza topping,” he says, “their ability to work together to reach a unanimous verdict is amazing.”

In addition to running a courtroom, Judge Castel has had the opportunity to travel as a legal ambassador of sorts for the United States Department of Commerce. He’s visited Armenia, Bahrain, Kuwait, Tunisia, and Morocco, meeting judges, lawyers, and government personnel of all sorts of legal systems, some fully developed, and some starting afresh. The trips are challenging and demanding, but also deeply rewarding.

“The payback is the people you meet along the way,” he says. For the lawyers who appear before him, says Preska, the payback is a lawyer’s judge, who knows what it takes to resolve cases. ☺