Judicial Profile

by Andrew R. Sarapas

Hon. Peter G. Cary
Chief U.S. Bankruptcy Judge for the District of Maine

Who among you commutes four to five days a week on your bicycle to your job as a bankruptcy judge, devotes long hours to your service to the bench and bar, and still finds time to be outdoors with your family—enjoying the Casco Bay region, paddleboarding in the Atlantic Ocean, and cross-country skiing with your 90-pound dog? We in Maine are all fortunate to have a judicial officer—Hon. Peter G. Cary, chief U.S. bankruptcy judge for the District of Maine—who does just that and more.

When Chief Judge Cary took his oath of office at his May 9, 2014, investiture ceremony, the entire Maine bench and bar—along with the chief judge’s family, close friends and colleagues—were proud, honored, and humbled that he did so. He brings significant skill, compassion, fairness, dedication, and humility to the bench, character traits that benefit us all.

During his time in private practice, Cary was not only a trusted and respected colleague but also someone many lawyers considered a good friend they could call if they or a family member needed help. Everyone knew Cary as a lawyer who put his clients at ease when they faced serious financial and emotional difficulties, a lawyer who would consider all aspects of a dispute and listen carefully to everyone’s positions, but always advocate zealously, without sacrificing his standards of fairness. When asked about this now, though, Chief Judge Cary gives the credit for his accomplishments to his wife, Janine Bisaillon Cary, and their sons, Luc and Justin Cary, and to his parents, Bob and Clare Cary, for standing by him through thick and thin. He also says he was lucky enough to have practiced in Maine, where the bar is well-known for its collegiality. Although we in Maine sincerely appreciate his humility, we also know that the chief judge had something to do with becoming the person he is today.

The chief judge grew up in Springfield, Massachusetts, one of six children. His father, Bob—from Jamaica Plains, Massachusetts—was the first person in his family to go to college. His mother, Clare, lost her dad very young and,
from the age of 10, took care of her siblings while her widowed mother worked. (Her mother received an education in the late 1800s, when it was very rare for women to go to college.) Bob and Clare met very young. Bob was a pilot in World War II. He went to Harvard and was going to be a history teacher but, after the war, decided to go to work for a small insurance company in Springfield. The Cary family lived in a Victorian house (with, the chief judge notes, “no real yard”) for 25 years. Peter Cary attended parochial schools from first grade through high school. He describes the student body as “a very homogeneous population of all Catholics,” but he points out that the employment background of the families in his neighborhood and in school varied significantly, from plumbers and postmen to lawyers and doctors.

The young Cary’s parents always emphasized the importance of education and working for yourself. His dad was hard-working and generous and volunteered many nights working on projects from housing for the poor to the creation and support of drug rehabilitation centers. Both his parents were devout but liberal Catholics who were active in the church and taught through example the importance not only of doing well in school and working, but also in thinking beyond the self and beyond making money, to contribute as much as possible to the community.

Chief Judge Cary’s interest in being a lawyer goes back to his childhood. From an early age, he remembers that lawyers were always there to help people and to protect and advance people’s rights. While growing up, many racial wrongs were being righted by lawyers. The feminist movement had begun, and the rights of women were being advanced. Busing had been ordered by Judge Wendell Garrity in Boston. These legal-related matters were constantly in the news. In his neighborhood, Mr. Ryan, a father to 11 kids, was a lawyer, and Mr. Donnellan was a policeman who took the initiative to become a lawyer and later helped many people who found themselves in positions of need. The chief judge maintains this vision to the present day and believes that the point of law and lawyering is to right wrongs and help people.

The chief judge received his bachelor’s degree in history from the University of Massachusetts at Amherst in 1982. He began college as an engineering student but after one semester realized engineering was not for him, so he studied English, meteorology, and history. At graduation, he was elected to Phi Beta Kappa. He explains that, when he received the letter asking him to join, he thought it was a fraternity and so was going to throw it away. His dad thought he was joking when he said he had been invited, but when he learned it was no joke, he insisted that his son accept. Membership in Phi Beta Kappa is a high honor, but it is most meaningful to Chief Judge Cary because of how much it meant to his mom and dad.

After graduating from college, he ran a small painting business and researched a book on Pioneer Valley, Massachusetts. He then moved to Boston with Janine (whom he met in college) and worked for a year in the shipping department of a software reseller. Thereafter, he found a job teaching a LSAT prep course and, eventually, took the test himself. Chief Judge Cary believes that his lifelong interest in the law brought him to seek a teaching job and ultimately led him to the bench.

He enrolled in Boston College Law School in 1984 and earned his J.D. in 1987. The chief judge now says that when he was looking into law schools, Boston College stood out as a “cooperative law school” where “they let you strive to achieve the most possible, and encourage you to compete with yourself but not necessarily with the person next to you, and overall provide a very supportive environment.” If he had to pick the most interesting law school class he took, the chief judge says it would be Federal Courts, “which was a deeply intellectual theoretical course that was very difficult.” As with his college experience, however, what he remembers and appreciates most from law school is how much his wife helped him through the process: “Janine did a really good job encouraging me to keep my focus on law school,” he reports. As he said at his investiture, Janine is the person to whom he “owes it all.” “I was thisclose to quitting law school, thisclose to living in Springfield until you didn’t want to live with all of my childhood friends. You’ve carried me all of the way through, and I owe you,” he told her.

During law school, the chief judge worked as a legal research assistant for Tom Ford, a prominent Boston attorney whose clients ranged from murder defendants to personal-injury plaintiffs to businesspeople involved in commercial disputes. He learned a great deal—not only about the different fields of law but also about the nature of a small practice.

After graduating from law school, he served as law clerk to Maine Superior Court Chief Justice Morton Brody. Judge Brody’s chambers were in Augusta, where Maine Supreme Judicial Court Justice Daniel E. Wathen also had his chambers at that time. He was impressed by the good will and true friendship shared by the different judges in the various Maine courts and the seriousness with which they took their jobs. The chief judge says he is grateful for their mentoring and for the experience and inspiration he received from the justices that year. He also notes that the guidance he received from the many judges and practitioners he worked with over the years helped shape his career path immensely.

In 1988, he began practicing law with Robert “Bob” Mittel and Michael Asen at the Mittel & Heffernan firm
In fact, while in private practice, Chief Judge Cary often served as mediator and participated in a “fair bit” of mediations, mostly in the civil context (from two-party contract disputes to multiparty disputes with a financial or bankruptcy overlay, including mechanics lien, family law, “corporate divorce,” and property rights disputes).

He attended bankruptcy training seminars and accepted referrals from the Volunteer Lawyers Project (VLP). Before concentrating on bankruptcy and commercial law disputes, he also had an opportunity to work on many “fun cases at an early age,” including some interesting out-of-state cases and cases before the Maine Supreme Judicial Court.

He came to Mittel & Heffernan with the experience of having owned painting and lawn mowing businesses. He was made a partner at Mittel & Heffernan “pretty early on,” which was “very motivating”—not because it necessarily meant riches but because it gave him the opportunity to earn a fair living based on the work he did on his own, and also allowed him to help other lawyers help people. At the same time, he says, “Janine’s career was in the fishing industry and in the Maine International Trade Center, so I was very fortunate to have that support as well, which enabled me to start out my career in law.”

While at Mittel & Heffernan, he learned quite a bit about depositions, witnesses, and other aspects of trial. More than that, though, Chief Judge Cary recalls Mittel & Heffernan’s emphasis “on bar work and community service,” such as through the VLP, Pine Tree Legal, Kids First, and other public interest programs. The chief judge says Asen was instrumental in establishing Kids First, in which the court often requires divorcing parents to participate. Chief Judge Cary also had a role in that program, teaching about finances and the “mess” that can happen from a divorce situation, the “lousy situation that comes out of it.” Chief Judge Cary is also grateful to Susan Hunter and Diane Dusini, two lawyers at MittelAsen and past presidents of the Maine State Bar Association “who went out of their way to participate in bar activities and make the bar a better place for the entire bar” and “put their money where their mouth is in working for the benefit of the bar.” Hunter and Dusini also inspired him to become president of the Cumberland Bar Association and to work on different Maine State Bar Association committees, including the Alternative Dispute Resolution Committee and the Bankruptcy & Reorganization Section, in which Chief Judge Cary is now actively involved. Overall, Judge Cary emphasizes how much his former colleagues at Mittel & Heffernan inspired him, because they all “believed strongly in working with people to help people.”

While practicing law (primarily in Maine), in addition to his many VLP clients, his clientele was a “true mix.” At first, he handled the pieces of firm cases that had a financial aspect or contract issues, such as purchase and sale transactions, bankruptcy-related creditor work, and work for creditors in large bankruptcy cases. He then developed a practice serving as conflicts counsel in bigger and more complex cases, but he was always sure to give the client back to—and “didn’t poach” them from—the referring firm. That led to the growth of his bankruptcy practice representing individuals, corporations, small businesses, and some Fortune 500 companies, with a “fair amount” of mechanics lien and construction work. Meanwhile, his mediation practice continued to grow. In fact, while in private practice, Chief Judge Cary often served as mediator and participated in a “fair bit” of mediations, mostly in the civil context (from two-party contract disputes to multiparty disputes with a financial or bankruptcy overlay, including mechanics lien, family law, “corporate divorce,” and property rights disputes).

When asked what one thing he would want the world to know about him, the chief judge explains that he “would not be doing any of this without his parents and Janine and his children by his side,” who all were “so supportive” throughout his career and also in his present position as a judge. And, he says again, we are very fortunate in Maine to have so many lawyers who care enough about their clients to represent them fairly and thoroughly with true commitment to their duty to be zealous, but at the same time conduct themselves in a collegial manner with one another. As an example, Chief Judge Cary recalls working on part of a large national case in which mental health issues of the plaintiff were involved, and some of the defendant’s attorneys were highly aggressive with a nonparty child of the plaintiff. Ultimately, he recalls, scorched-earth conduct and demeanor did not serve the defendants well: “Their style was overzealous and not in the best interests of the client in the end.” Chief Judge Cary believes that, in Maine, “we are very lucky because the lawyers are very col-
“The other way of lawyering,” he says, “is exhausting and not necessarily productive.”

Becoming a judge has given the chief judge a vantage point from which to see the legal system from a different perspective—to understand that the public’s perceptions of the court and the law can be as broad as the media portrays, or that sometimes the judicial process is properly viewed more narrowly. Unlike working in a law firm, he says, the perspective of a judge must be much broader than that of an advocate. He notes that while the Bankruptcy Code provides specific treatment of particular issues, it is also tempered by equity. Chief Judge Cary is honored to serve the public, and is grateful to the dedication of the Bankruptcy Court Clerk’s Office, the court’s law clerks and staff, and the existence of judicial ethics, all of which have made him appreciate his big “responsibility to work hard” and do his best to retain the trust placed in him by the First Circuit Court of Appeals in appointing him to his new position.

Chief Judge Cary’s oldest son, Luc, recently went back to the house where his father grew up and saw written on the ceiling in the attic, “I am Peter Cary. I am ten years old and I want to be a lawyer.” Thankfully, his dream came true.

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