

Judicial Profile

ROBERT F. KRAVETZ

Hon. Joseph J. Farnan Jr. U.S. District Judge, District of Delaware

JOE FARNAN HAS spent a career doing the public good. Over the past 40 years, Judge Joseph J. Farnan Jr. has served as a grade-school teacher, university professor, assistant state public defender, county attorney, chief deputy attorney general of Delaware, and U.S. attorney. On July 31, 2010, Judge Farnan will retire from the job he has held for the past 25 years: U.S. district judge for the District of Delaware.

Judge Farnan's path to Delaware began at a dance during his junior year in college. He grew up in a working-class Irish and Italian family in Westville, N.J. As an undergraduate, Judge Farnan attended King's College in Wilkes Barre, Pa. He spent his first two years as a member of the basketball team and, by his own admission, he did not distinguish himself academically. His focus changed following the school dance, after Judge Farnan met his future wife, Candy, a native of Delaware. Now on the straight and narrow, Judge Farnan excelled in his studies and in various school activities during the remainder of his time at King's College. He graduated in 1967 with a degree in government. Imbued with an interest in social change, Judge Farnan decided to go to law school.

In the late-1960s, few law schools offered part-time programs. Judge Farnan enrolled at the University of Toledo School of Law in Ohio, because it allowed him to attend law school while maintaining employment. Judge Farnan excelled as a law student while holding several part-time jobs, including teaching at a local Catholic grade school, acting as a resident adviser, and working for UPS. Judge Farnan also earned an alumni scholarship and served as a graduate assistant, teaching social science courses to undergraduates. Between his second and third years of law school, Judge Farnan and Candy married. They decided to move to Delaware after his graduation from law school.

Following law school, Judge Farnan passed the New Jersey bar exam but did not begin to practice law immediately. Rather, having caught the teaching bug while at the University of Toledo, he accepted a position at Wilmington College (now Wilmington University) as a professor and basketball coach. Over



the next three years, Judge Farnan served as the dean of students and director of athletics. He also established the fledgling college's Criminal Justice Program, through which he met a number of Delaware police officers who had enrolled in the program to earn college degrees. Reflecting on his experiences with the program nearly 30 years later, Judge Farnan recalled that his interactions with the students helped motivate him to pass the Delaware bar exam, become a practicing attorney, and apply his classroom experiences to the practice of law.

Over the next 12 years, the former college professor and coach served in a variety of public service positions. For someone who started practicing law almost accidentally and who had no aspirations to become a federal judge, Judge Farnan's career trajectory was as improbable as it was remarkable.

As an example of the impeccable timing that has marked his legal career, Judge Farnan first met Lawrence Sullivan, Delaware's legendary public defender, when

Sullivan was teaching a class as an adjunct professor at Wilmington College. The two men struck up a friendship and Sullivan, also a fellow King's College alumnus, invited Judge Farnan to serve as a part-time assistant public defender. Sullivan's young protégé rose through the ranks to try more than 100 criminal cases, ranging from misdemeanor offenses to homicides. That extensive trial experience helped shape Judge Farnan's views when he assumed his position as a trial judge.

In November 1976, Judge Farnan was appointed as the county attorney for New Castle County in Delaware. Only 31 years old and with virtually no experience in civil law, Judge Farnan reorganized the county's legal department. He also opened a high-profile public corruption investigation, which led to the conviction of an employee who had supervised the county's landfill operations. That investigation caught the attention of Delaware's new attorney general, Richard Gebelein, who, in 1978, tapped Judge Farnan to be his chief deputy attorney general, a position in which Judge Farnan supervised office operations statewide.

Three years later, following the election of President Ronald Reagan, a search committee approached Judge Farnan to inquire whether he would be interested in serving as the U.S. attorney for the District of Delaware, and, in August 1981, Judge Farnan became Delaware's youngest U.S. attorney at the age of 36. In that role, Judge Farnan served as the top federal law enforcement officer in Delaware—a position that gave him his first exposure to federal court, where he tried a number of civil and criminal cases in addition to performing his supervisory responsibilities. Judge Farnan also demonstrated an eye for legal talent, selecting as one of his first assistant U.S. attorneys, Sue L. Robinson, who later would join him as a U.S. district judge. Judge Robinson recalls Judge Farnan as a supervisor who never sought the limelight for himself, but rather always gave credit to his assistants. She adds that Judge Farnan continued to be a teacher while in his role as U.S. attorney, providing firm leadership and direction to everyone in the office.

Fate again intervened in 1985, when Congress approved an additional judicial seat for the U.S. District Court for the District of Delaware. Judge Farnan, who had a growing family and plans to leave public service for private practice, was asked by Sen. William Roth to fill the new position. Judge Farnan informed the senator that he had to consult with his family first. As Judge Farnan recalls, the family's position was summed up by his son, Brian, who said, "Dad, will you just pick one of these jobs and stick with it?" In July 1985, at the age of 40, Judge Farnan was sworn in as a district judge.

And stick with it he did. In the 25 years since his appointment to the district court, Judge Farnan has served with distinction. He has presided over complex commercial litigation matters, including high-profile corporate and antitrust disputes; noteworthy cases involving the First Amendment; and numerous criminal trials and sentencing hearings. During his tenure, the



Judge Farnan speaking at a conference for the American Intellectual Property Lawyer's Association (AIPLA) on May 15, 2009, in San Diego, Calif.

District of Delaware has become one of the nation's leading forums for disputes over intellectual property rights. Currently, the court has the busiest per-judge patent docket in the country, and each year Delaware's district judges preside over an average of approximately 12 jury trials involving patent law. Judge Farnan's volume of patent cases is so high that it is not uncommon for him to preside over more patent trials in some years than entire judicial districts handle.

According to Judge Robinson and Chief Judge Gregory M. Sleet, Judge Farnan's spirit of innovation is one of the primary reasons for the growth of complex commercial cases in the district and also one of his lasting legacies. Both note that Judge Farnan is a voracious reader and that he constantly reviews the successful practices employed by other courts and practitioners across the country in order to infuse new ideas into Delaware. Among Judge Farnan's innovations in Delaware are the introduction of timed trials in civil cases, the separation of issues for the jury's consideration in complex cases, and the struck-juror method of jury selection. Judge Robinson explained that Judge Farnan's teaching background is responsible for instilling within him a spirit of innovation and a "wisdom that he uses in his everyday life and on the bench."

Judge Farnan's innovative spirit led him to reach out to the Delaware Chapter of the Federal Bar Association in 2007 in an effort to foster a spirit of cooperation between the federal bench and bar. The result of those efforts was the creation of a committee designed to plan and present continuing legal education (CLE) programs. Since 2007, the Delaware Chapter has hosted several free CLE programs featuring presentations by judges and nationally recognized speakers in the areas of trial and appellate practice, ethics, and other substantive areas of interest to FBA members. Judge Farnan has provided needed direction on CLE topics and has been instrumental in encouraging his judicial colleagues to attend CLE programs and other bench and bar events.

It is no accident that the increased interaction between the court and the bar has paralleled the growth of the FBA's Delaware Chapter, which is currently the largest FBA chapter in the Third Circuit and one of the association's fastest growing chapters nationwide. Anne Shea Gaza, president of the Delaware Chapter, credits Judge Farnan as being instrumental in helping to grow the chapter. Gaza explains that "Judge Farnan was the catalyst for increasing the dialogue between the federal bench and bar. He inspired the Delaware Chapter to begin hosting quarterly CLE programs and membership luncheons. The court's enthusiastic involvement in these and other chapter programs generated renewed interest in the FBA, which led our membership to skyrocket. We have been fortunate to work with Judge Farnan and are grateful for the mentorship and assistance he has provided to the Delaware Chapter and to the FBA as a whole."

According to Judge Farnan, that relationship has been mutually beneficial. "Since the court and the bar have been involved in growing their relationship," he says, "the growth of the FBA in Delaware has been nothing short of spectacular. The work of the FBA, in the truest sense, contributes in a major way to the fair administration of justice in the civil and criminal systems. I intend to be actively and energetically involved in the continued growth and relevance of the FBA as an entity following my retirement from judicial service."

One of the ways in which Judge Farnan intends to continue working with the FBA is through his latest brainchild: the Delaware Chapter's new Federal Trial Practice Seminar. Judge Farnan and his judicial colleagues elicited the FBA's assistance to create a unique, multiweek trial practice seminar designed for lawyers who have less than 10 years of experience and desire to practice in federal court. The seminar participants, who were chosen through an application process, benefit from a series of lectures and workshops culminating in a formal mock trial exercise. As with other CLE programs sponsored by the FBA, Judge Farnan recruited his judicial colleagues—in addition to experienced mentors chosen by the court—to participate in each session. Christopher J. Burke, chair of the Federal Trial Practice Seminar, explained that Judge Farnan's leadership in creating the seminar is an extension of his

"lifelong commitment to both education and the law." According to Burke, "Judge Farnan created the Federal Trial Practice Seminar out of a desire to teach younger lawyers how to be effective courtroom advocates. The seminar is a unique opportunity for federal practitioners in our district to learn trial practice skills from the judges of our district court and from experienced litigators. Thanks to Judge Farnan, we expect that the seminar will be a yearly event that will further the FBA's mission—to be a bridge between our Delaware federal courts and the lawyers who practice before those courts."

Judge Farnan's legacy of public service has had a profound impact on so many people: the students he taught at Wilmington College, where he remains a member of the university's board of directors; the individuals he represented as a public defender; the prosecutors he supervised and taught to dispense justice with dignity and fairness; his judicial colleagues, to whom he has been a trusted mentor and friend; and the Delaware bar, which has benefited from his intellect and excellence as a trial judge. "Judge Farnan is a larger-than-life individual, who has touched this court and this community with a broad stroke," reflected Judge Robinson. Chief Judge Sleet, echoing the sentiments of the entire court, as well as the Delaware legal community, remarked, "Judge Farnan not only has a great intellect but also an enormous amount of grace. We realize that we are losing part of our institutional memory as a court, but we will always have his friendship. And we know that he is only a phone call away."

Even in retirement, Judge Farnan will continue to serve the public good. And for that, all of us who practice in the District of Delaware remain grateful. **TFL**

Robert F. Kravetz is an assistant U.S. attorney for the District of Delaware. This judicial profile is written solely in the author's personal capacity and does not reflect the official views of the U.S. Department of Justice or the U.S. Attorney's Office for the District of Delaware. The author wishes to thank Christopher J. Burke, Anne Shea Gaza, Debbie Krett, and David C. Weiss for their valuable assistance in the preparation of this profile.