

Judicial Profile

RENISA A. DORNER AND CATHERINE GARCIA-FEEHAN

Hon. David A. Katz U.S. District Judge, Northern District of Ohio

FOR DECADES, U.S. DISTRICT Judge David Katz has carried in his wallet a quote authored by Henry David Thoreau:

If one advances confidently in the direction of his dreams, and endeavors to live the life which he has imagined, he will meet with the success unexpected in common hours.

Judge Katz further elucidates, “I never had time or the inclination to plan my life, and I might add I could never have envisioned that which I have been most fortunate to experience.” His life not only reflects his Jewish heritage, but also the values, principles, ideals and priorities that he understood from a very early age.

“I wanted to be a lawyer ever since I was a child,” explained Katz. “My uncle and my second cousin were lawyers and I idolized both of them.” In order to pursue his dream, Katz needed a college education which meant he needed money, something he lacked. His father was always able to provide for the family’s needs, but that did not include college tuition. So, after graduating from Findlay High School, a public school in a small Ohio town, Katz accepted that he would have to join the military in the middle of the Korean War. However, before he was able to enlist, a co-worker who attended The Ohio State University told him to take Monday off and insisted that Katz join him on a trip to OSU for early registration. Their journey included a stop at the Sigma Alpha Mu (known as “Sammy”) fraternity house. Katz entered the Sammy fraternity house destined for the military, and exited a college freshman. He agreed to work in the kitchen of the fraternity house to pay for his board. As for the \$30 per quarter tuition at OSU, Katz used the \$100 he won from a contest sponsored by *The Toledo Blade*, the area’s largest newspaper.

Katz, the student, studied hard and worked even harder. During his college years, he spent his summers back in Findlay, working for the same brewery as his father, Old Dutch Brewery. He volunteered



for the second shift because it paid a nickel more (\$1.30!) and, more importantly, offered the opportunity for significant overtime. In 1955, the brewery became automated and his hours were significantly reduced. Not a stranger to hard work, he took an additional job digging ditches. He worked 7:30 a.m.–4:30 p.m. digging ditches, went home to clean up, and then worked from 6:00–11:00 p.m. at the brewery.

In 1955, Katz received his undergraduate degree from OSU—which he completed in three years—with his final year of undergraduate studies also being his first year of law school. Then, in 1957, Katz graduated from OSU’s College of Law summa cum laude and was awarded the Order of the Coif. Judge Katz does not hesitate to point out that his greatest accomplishment at OSU occurred in 1952, when he met Joan, the sister of a fellow fraternity brother. Three years later, Joan agreed to be his life companion and they have been happily married for the past 57 years. They are the proud parents of two

daughters, Linda and Debbie, and a son, Michael, also a lawyer. Their children have blessed them with 12 grandchildren, who they intensely spoil as every grandparent should. Judge Katz is quick to acknowledge that his family is his greatest asset.

Upon graduation from OSU, Katz desired to return to Northwest Ohio, but job opportunities for a Jewish lawyer were scarce. He remains grateful that Spengler, Nathanson, Heyman, McCarthy & Durfee—now known as Spengler Nathanson—made him his only job offer. In August 1957, his first order of business as a new associate at Spengler Nathanson came from partner Joe Nathanson, who asked “Do you know anything about consolidation agreements?” Katz, confidently following his dream, answered that he did. In his final year of law school, he obtained a sample of a consolidation agreement from forms provided by an OSU professor. Katz engulfed himself in the factual background concerning the client involved, and less than 48 hours later, handed Nathanson a fully developed consolidation agreement. The confident and dedicated manner in which he approached his first legal assignment exemplifies his career as a business lawyer.

Can you, or any lawyer, recall the first time they acted as a notary public, not just the situation, but the actual day? For Katz, it was Sept. 25, 1957, and five men, including Wally Iott, were creating Seaway Food Town Inc., a large grocery establishment. The young Katz was tasked with notarizing the various documents as part of this transaction. Five years later, attorney Katz assisted in taking the company public, and six years thereafter helped take the same company through a second offering. Katz established himself as a business lawyer who was uniquely talented in the negotiation of sales and purchases of businesses. As one of his former partners Tim Greenwood recognized, “his legal acumen was always superlative. He could analyze a problem in a minute, but, more importantly, find the solution which always benefited his client, but was also acceptable and fair to his adversary.”

Judge Katz remembers negotiating a deal on behalf of a client to purchase a bankrupt business for \$41 million. A few years later, he negotiated a deal that allowed this client to sell the same business for over twice the original purchase price. As a counselor, Katz viewed his clients as friends first and foremost, and reveled when they were successful in their business ventures. He often stated “not all of my friends are clients, but all of my clients are friends.” His personal connection to others was the real secret to his successful law practice.

Mentoring is an ambition for many, but it is a skill that Judge Katz mastered. In 1992, then attorney Katz was acknowledged for his willingness to mentor young attorneys. His ability to mentor not only those within his firm, but also within the legal community at large, was recognized by the Toledo

Junior Bar Association when it conferred upon him their highly coveted honor, the Order of the Heel. Of the various honors bestowed upon this man, this honor ranks among the highest and he proudly displays it in his chambers.

As a practitioner, he was generally the first one in the office and, as expected, typically billed more hours than anyone in the office. Early in his career, he recalled that the receptionist tracked the attorneys’ hours on a legal pad. Being the consummate competitor, he would sneak a peek to make sure that no one was going to beat him in the number of hours worked for any given month. If he woke up in the middle of the night and couldn’t get back to sleep, he went to the office, worked a few hours, and then returned home to have breakfast with the family. As a jurist, arriving at 6:30 a.m. to prepare for his day is not unusual but he admits that it is usually closer to 8 a.m. now that he has senior status.

So how does an established business and mergers-and-acquisitions lawyer obtain a lifetime appointment to the U.S. district court for the Northern District of Ohio? Quite honestly, as he will tell you, by the chips falling where they did. In November 1992, while attending a social event just days after President Clinton’s election, Katz learned that the Toledo legal community was buzzing about whether he would accept a federal judge appointment. For Katz, it wasn’t an issue of whether he wanted to be a judge, but rather a question of his loyalty to the firm that had given him his opportunity to practice law. It was this feeling of loyalty to the firm he loved, and where he sat as the managing partner, that made this decision difficult. He recalls, quite candidly, sending letters to Senators Metzenbaum and Glenn indicating that he was “throwing his name in the hat.” But he also remembers taking a vacation soon thereafter with his wife, Joan, where he spent many hours walking up and down the beach, wondering if this was indeed what he should be doing. He had a lucrative business practice, he was the managing partner of a firm that he had helped grow from seven lawyers to 35 lawyers, and his accomplishments were extensive. But after 37 years of practicing law, he was ready for a new challenge, even if such challenge meant a significant reduction in pay. Having made the excruciating decision to leave his firm, Katz believed going forward would be easy. What happened next was something that no one could envision.

A committee of the American Bar Association deemed Katz “unqualified” for the job because he lacked significant trial experience. The committee’s report, while mentioning that he “has integrity, possesses judicial temperament, has earned a solid reputation as a fine man and one who has contributed generously to civic and public service activities,” focused on him being a business lawyer and not a litigator. This determination shocked the conscience of

the Toledo legal community. Every living past president of the Toledo Bar Association—all 28—signed a letter rejecting the ABA's determination and asked the Senate to immediately confirm Katz. The letter enthusiastically supported Katz and commented that he is the type of person "who is able to find solutions to problems regardless of the obstacles placed before him" and is "eminently qualified." This letter and many others sent to then Sen. Joseph Biden, as chairman of the Judiciary Committee, touted Katz's integrity, intellect, skills, and abilities. Unfortunately, the ABA committee lacked the knowledge that every lawyer and every client already knew: David Katz would master any challenge put before him and exceed any expectation.

In the months following his decision and before his confirmation, Katz could be seen with the Federal Criminal Procedure and Civil Procedure books in tow. He recognized those areas he lacked immediate knowledge and gained the requisite knowledge before a single ABA interview occurred. Judge Katz remembers the time as devastating and has suggested that the question of professional competence involves "legal ability in its broadest sense." Despite the ABA's finding, David Katz was confirmed unanimously by the Senate on Oct. 7, 1994, and sworn in on Oct. 24, 1994. When sworn in, Judge Katz defined success as earning the respect of his profession, his peers, and those he serves in public service.

His "court family" extols his virtues of thoughtfulness and generosity. He unexpectedly shows up at hospitals to check on ill family members of his staff. On one particular occasion, Judge Katz and a law clerk traveled to Cleveland for a hearing, which ended up lasting far longer than expected. During the hearing, Judge Katz noticed that the law clerk was anxious about a family member who was hospitalized the day before. So, the judge suggested that the clerk drive the judge's car home and told the clerk he would either rent a car or take the bus to return to Toledo once the hearing was completed. There are numerous stories like this that demonstrate the generous heart and sincere concern that Judge Katz expresses to those who know him. When the issue of his portrait was initially discussed, Judge Katz commented, "a black and white photo will do nicely." Instead, the beautifully painted portrait reflects the welcoming expression one might get if they met him at his chambers or even back at his law office.

During his nearly 18 years on the bench, Judge Katz has presided over almost every type of civil and criminal matter that comes before a federal court. In every case before him, Judge Katz prepares by reading each filing and thoroughly digests the legal arguments so that he can address those matters in the initial case management conference, a routine status conference, during oral argument, or at trial.

He prides himself on being prompt for conferences and not treating any conference or proceeding as *passé*, because he sees it as a positive reflection on the judiciary when lawyers and the public see the court prepared and considerate of their time. He views his role as managing the case as well as offering alternatives to the parties, either litigating the matter or finding a resolution short of the courtroom. Judge Katz enjoys, and is successful at, mediations; so much so that his fellow judicial officers often refer cases to him for settlement conference—often with success. His ability to listen and relate personally to the clients and lawyers, coupled with his background in business, has proven extremely valuable in commercial litigation cases as the parties often realize that he understands both sides of a business dispute.

As much as he enjoys dispute resolution, Judge Katz also loves to try cases, be it civil or criminal. A judge's judicial temperament is often tested during trials, especially when both adversaries are engaged in the heat of battle. However, Judge Katz is often the calming influence, injecting both humor and self-deprecation to lighten the mood when the atmosphere becomes too intense. He is able to manage multiple tasks and display consideration for all persons in his courtroom; the following example serves to highlight this: Judge Katz presided over a drug racketeering case involving the president of the Outlaw Motorcycle Club as well as its various officers and members. Thirty-eight defendants were charged. The first set of 14 defendants were tried together over a three month period with 18 defense lawyers. After multiple convictions were obtained, Judge Katz traveled to a hospital in Ann Arbor, Mich., to sentence one of the last defendants whose health was too poor to allow him to travel to Toledo from the federal penitentiary in Milan, Mich.

Despite his taking senior status in 2005, the Judicial Panel on Multidistrict Litigation chose Judge Katz to oversee a mass tort docket involving the Ortho Evra birth control patch. Judge Katz successfully managed approximately 2,000 cases from all over the country, and the lion's share were resolved short of trial. A good deed does not go unnoticed, so it was no surprise when in 2010, the panel again called on Judge Katz to take on another MDL docket involving the DePuy ASR Hip Replacement. At last count there were over 5,200 cases filed, and Judge Katz manages not only these cases but works cooperatively with state court judges all over the country handling these cases on their dockets. At a time when senior status would allow him to slow down, Judge Katz is invigorated at the challenges posed by this complex multidistrict litigation.

Judge Katz is equally considerate of lawyers' time and their role. He inquires as to the lawyers' schedules since he understands that they have multiple clients and other commitments. It is his consideration

of others, lawyer or laborer, that explains why he is beloved by not only those who have the privilege of working with him but also the legal community and most importantly, his colleagues. At his portrait presentation in 2007, Hon. David D. Dowd Jr., characterized Judge Katz as follows:

Judge Katz came to the bench as an accomplished attorney who handled many complicated business matters for his clients. He was, in a word, a seasoned and experienced lawyer and absolutely knowledgeable and prepared to take on the unique and challenging issues and problems that come before a Federal District Court Judge. He soon became a counselor and dear friend to all of his colleagues, not just in Toledo, but also in Cleveland, Youngstown, and Akron. Additionally, he has responded to requests from the Sixth Circuit to sit on that court. Judge Katz enjoys the admiration of the bar, not just the Toledo Bar, but the admiration of lawyers and judges throughout the country.

It is Judge Katz's intellectual curiosity coupled with his understanding of the human condition which has earned him the title by many in the legal community as a "judge's judge." While not leery of making a legal adjudication, he engages the parties by encouraging them to participate in reaching a resolution short of the courtroom. His example of treating everyone with courtesy and consideration is a powerful role model for other lawyers and jurists.

Judge Katz's words, spoken at his portrait presentation, truly sum up his philosophy on life: "It's been said that the only thing of value man leaves behind, his greatest gift to future generations, is a good name. Again, only time will determine that legacy." All who have the privilege of knowing Judge Katz understand that his example is the gold standard for all lawyers to follow. His legacy will certainly



Judge Katz with his family.

endure as the hundreds of lawyers he has mentored will emulate him by aspiring to uphold the ideals of professionalism.

From humble beginnings, David Katz followed a dream of being a lawyer. While this dream may not have initially included being a federal judge, success as a business lawyer translated into success as a judge. Judge Katz, grateful for the life he has been granted, recognizes that it exceeds anything that he could have dreamed. **TFL**

Renisa A. Dorner is a shareholder at Cooper & Kowalski in Toledo. She was an associate at Spengler Nathanson when Judge Katz was the managing partner and appointed to the federal bench. Catherine Garcia-Feehan has been Judge Katz's career law clerk for the past 17 years. © 2012 Renisa A. Dorner and Catherine Garcia-Feehan. All rights reserved.