



## Hon. Robert D. Mariani

### U.S. District Judge, Middle District of Pennsylvania

**E**ven as a young person growing up in the heart of coal country in Scranton, Penn., Robert Mariani had a keen interest in social justice, and particularly in organized labor. The grandson of a coal miner, son of a carpenter, and nephew of a steel worker, Judge Mariani grew up hearing first-hand accounts of miners injured or killed on the job. He witnessed first-hand the power of organized labor, and came to understand it as a way to raise the standard of living of those who might otherwise be in poverty. Thus began a lifelong interest in labor law and employee-employer relations.

Given his background and interests, Judge Mariani went to college and law school knowing he wanted to represent unions and individuals in labor and employment matters. After graduating from Villanova University and Syracuse University College of Law, he started a general practice with the goal of focusing on labor law and employee representation. He quickly built a practice representing a number of employees and unions, including the Teamsters, food workers, stagehands, iron workers, and steel workers. For nearly 35 years, Judge Mariani pursued social justice on behalf of the individual employee, the laborer, and the union worker.

At some point during his practice, though, Judge Mariani began to realize the limits of advocacy, and began to consider what he could do next. He had always admired the judiciary and realized the importance of being a judge. When a position on the bench of the U.S. District Court for the Middle District of Pennsylvania became available, he decided to apply. A little more than a year ago, near the end of 2011, Robert Mariani entered on duty as the next judge of the Middle District of Pennsylvania.

In reflecting on his first year on the bench, Judge Mariani notes the nearly complete shift in perspective from practicing attorney to judicial officer. After years of advocating for a cause, of building and creating fulfilling and satisfying arguments on behalf of a client, he finds himself in the position of scrupulously applying the rules of law put in place by judges before him. Judge Mariani



recognizes that there might always be an internal tension between his personal views and values, but he recognizes the nonexistent role they have in his new role as a district court judge. While conceding that he is allowed a fair amount of discretion in making certain rulings, Judge Mariani is quick to point out that his rulings “are not the place for personal views of what I might think the law should be” and that as a U.S. district court judge, his role is not to make law or policy. Rather, he is absolutely committed to following the specific precedent of the U.S. Supreme Court and the Third Circuit Court of Appeals, and applying the rules of that precedent to the case before him in a fair and just manner. This new perspective from

the bench is directly opposite from his years of advocating for a specific result for his client.

From a practical standpoint, Judge Mariani's years as a practicing attorney make him cognizant of the difficulties of practice. For example, while in practice, he rarely, if ever, sought extensions of time when filing documents with a court. However, he remembers the constant presence of deadlines in the life of an attorney. As a judge, he doesn't face those same deadlines. Always conscious and

considerate of the struggles of the practitioner, he has not yet denied a request for an extension of time by an attorney. From the bench, he is also witness to the importance of civility between lawyers, and is reminded of how keeping in accord with the Middle District's Code of Professional Conduct is imperative to the practice of law.

When signing the Code of Professional Conduct, a requirement of every attorney upon his or her motion for admission to practice before the Middle District of Pennsylvania, counsel avers, in part:

I will treat with civility and respect the lawyers, clients, opposing parties, the court and all the officials with whom I work. Professional courtesy is compatible with vigorous advocacy and zealous representation. Even though antagonism may be expected by my client, it is not part of my duty to my client.

On the bench now, Judge Mariani recognizes the utter absence of any value to uncivil, unprofessional behavior. "Not only is it disrespectful and dishonorable to the system, it is of no value to your case," he advises. "In writing, it does not help to routinely engage in *ad hominem* attacks on opposing counsel, or to suggest dishonesty." In a recent continuing legal education program, Judge Mariani admitted that as a practitioner, there were times when he was tempted to engage in such attacks, but he is quick to caution counsel against doing so. Such behavior is unacceptable, worthless to your case, and does nothing to enhance either the credibility of the case or the lawyer. "The rules of procedure are premised so much on cooperation. The system breaks down without it," Judge Mariani counsels. Unfortunately, too many lawyers mistake such reckless behavior as effective advocacy, when actually the opposite is true. Judge Mariani reminds practitioners that while you may not always have the high ground factually in a case, there is no excuse for being uncooperative or disrespectful of opposing counsel. Quite simply, it is not effective, and indeed damaging to your and your client's credibility.

Judge Mariani cites Attorney Richard Goldberg as

a model of professionalism and civility. Judge Mariani describes Goldberg as an "example of what every lawyer should be" and a personal mentor of his as well. The relationship between Judge Mariani and Goldberg is a perfect illustration of adversaries maintaining a professional and civil relationship, all the while remaining zealous advocates for their clients.

Goldberg is an established labor law defense attorney and a principal with the law firm of Hourigan, Kluger & Quinn in Wilkes Barre, Penn. Given his practice, and that of Judge Mariani's before his appointment to the bench, the two were frequent adversaries and almost always at odds in the legal arena. Despite having opposed each other in court, negotiated countless collective bargaining agreements, and resolved numerous grievances on behalf of their respective clients, they have a mutual respect for each other that is both professional and personal, and they would often spend time discussing a case and the legal process long after it was concluded. Goldberg describes Judge Mariani as having always had an eye toward improving the legal process, not just for the advocates, but for the clients and the others impacted by the matters they were handling. "His ultimate goal was to promote positive relationships so that advocates and litigation would only be utilized as a last resort in solving problems which the parties themselves could not." Goldberg further notes that Judge Mariani always refused to engage in tactics which would be unduly harmful or harassing to his opposition and always sought to achieve his clients' objectives as expeditiously and economically as possible. "The hallmarks of his professionalism were civility, courtesy, respect, and dignity toward his own clients and his opposition," remembers Goldberg.

In addition to Goldberg, Judge Mariani considers his fellow judges in the Middle District of Pennsylvania to be mentors. Describing the bench as "very collegial," he speaks to all of them on a regular basis. In particular, Judge Mariani has looked to Judges William J. Nealon, Richard P. Conaboy, and Edwin M. Kosik as models for him to follow. He admires Judge Nealon's ability to resolve difficult cases and to "save lawyers from themselves" at times. When preparing for a criminal sentencing, an aspect of his new job that Judge Mariani describes as "never a pleasant task," he recalls Judge Nealon advising him that sentences are never as straightforward or easy as some might believe, and take into account a number of factors. It is these words and those factors—deterrence, aggravating and mitigating circumstances, and justice—which weigh on Judge Mariani's mind when he must sentence a criminal defendant today. He has never heard Judge Conaboy raise his voice, and yet he is always just as compelling. He respects Judge Kosik's honest, straightforward approach to the issues and lawyers before him.

In reflecting on the importance of his mentors, Judge Mariani looks forward to mentoring in his new role. Although he has been cautious about making himself too available to lawyers on a friendly, casual basis in his first year because he feels he should be established on the

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bench first, he looks forward to mentoring younger attorneys in his new role, particularly on the importance of civility, cooperation, and professionalism.

Judge Mariani's dedication to his new role as judge and his desire to do the job well are obvious to anyone who talks to him or practices before him. He meticulously follows the letter of the law and the bounds of precedent in issuing rulings, and treats all those before him with justice and fairness. Although his perspective from the bench is very different than it was as a practitioner just over a year ago, it is clear that Judge Mariani is enjoying fulfilling the duties of his office and committed to the fair and equal administration of justice within the U.S. District Court for the Middle District of Pennsylvania. ☺