



Judicial Profile

by Julie Fenton and Tamar Karsh-Fogel

Hon. Sidney I. Schenkier U.S. Magistrate Judge, Northern District of Illinois

"Justice, Justice Shalt Thou Pursue." צדק צדק תרדף

A painting with this commandment from Deuteronomy 16:18 hangs on the wall of Judge Sidney I. Schenkier's office, along with photographs of his family and framed artwork drawn by his children when they were young. This wall displays two central themes of Judge Schenkier's life: his commitment to justice and his love for his family.

Judge Schenkier was born and raised in University City, Mo., a suburb of St. Louis where his father, a Holocaust survivor, owned a jewelry repair shop. As a child, his passions included glazed donuts and baseball, although not necessarily in that order. Upon graduating from high school, he decided to study journalism at Northwestern University, aspiring to be a sports writer. But there he met and married his college sweetheart, Bess Glickson, who was intent on going to law school. So the Judge's career plans took a fortuitous turn. As Judge Schenkier explained, "In the mid-seventies, during the time of Watergate and Archibald Cox, lawyers were rock stars standing up for the Constitution, while cub reporters had to pay their dues at small town local papers," so he decided that law school sounded good to him, too. Eager to keep up with his talented wife, he blazed through his undergraduate education in three years, and the couple entered Northwestern University School of Law together, earning their law degrees in 1979. One of their classmates, Hon. Ruben Castillo, Chief Judge of the Northern District of Illinois, recalled that they were serious, conscientious students who were destined to be outstanding lawyers.

Having distinguished himself in law school, serving on the law review and graduating *magna cum laude*, Judge



Schenkier became the first law clerk to the Hon. Marvin Aspen, then newly appointed to the federal district court in the Northern District of Illinois. Judge Aspen recalled that when they began, he was assigned 450 civil cases and close to 30 criminal cases; Judge Schenkier's photographic memory and facility for numbers was invaluable in helping them keep track of the voluminous docket. Judge Schenkier became Judge Aspen's "template" for hiring law clerks; Judge Aspen observed that "a few others have met the standard he set, but no one has surpassed it." Beyond Judge Schenkier's intelligence and gifts for writing and organization, Judge Aspen emphasized, "Best of all, he's a very good person. Others may have the skills, but it is

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nice to see someone who is also congenial and a person of outstanding character.”

In 1981, Judge Schenkier entered private practice as a litigation associate at Jenner & Block in Chicago. Jeff Colman, a Jenner partner and long-time colleague and friend, fondly recounted tales of sharing the litigation trenches, with one memorable story arising from the Judge’s early days at the firm when he took on his first *pro bono* criminal appeal. After extensive preparation, with his carefully prepared notebook and outline in hand, Judge Schenkier stepped up to the podium at the Illinois appellate court, ready for his first oral argument. Before he began, however, the panel announced a recess. Upon returning to the courtroom, the Judge discovered, to his dismay, that his materials were no longer on the podium or anywhere else in the courtroom. Notwithstanding this shock, Judge Schenkier launched into his argument and proceeded to cite cases and specific pages in the record from memory. He won the case and achieved legendary status in the lore of Jenner & Block. Like Judge Aspen, Colman reiterated that Judge Schenkier is “tough, he’s courageous, and at his core, he’s just a decent human being.” He added, “I have never met a more decent person in my life than Sid.”

In 1986, Judge Schenkier became a partner at Jenner, and that same year he became an adjunct professor at Northwestern University School of Law in the clinical trial advocacy program. Professor Steven Lubet, Edna B. and Ednyfed H. Williams Memorial Professor of Law and director of the Fred Bartlit Center for Trial Advocacy at Northwestern, explained that Judge Schenkier “is a gifted teacher, and the students adore him. He is extremely precise, extremely incisive, and extremely kind. Two out of three would be sufficient, but he is all three.” In addition, Professor Lubet praised Judge Schenkier’s dedication to providing detailed, careful feedback and emphasized, “He really, really takes the time to make sure the students understand. That’s the highest praise I can offer a teacher.” Sunil Harjani, an assistant U.S. attorney in the Northern District of Illinois who externed for the Judge in 2000 and has taught with him in the trial advocacy program since 2007, explained that the students love “the real interest he takes in their development,” not only in their understanding of the rules, but in their ability to conduct themselves and be effective courtroom lawyers. Harjani stated that he, too, has valued the Judge’s mentoring throughout his career. Judge Schenkier continues to enjoy teaching, because “seeing students’ eagerness and enthusiasm is always a source of renewal for me.”

While at Jenner, Judge Schenkier worked on a wide variety of complex civil litigation and *pro bono* criminal matters at the trial and appellate levels. In an extremely challenging *pro bono* matter, the Judge and Jenner partner Richard Steinken represented Charles Hattery, who had been convicted and sentenced to death for the 1982 murder of a woman and her two young children. The Illinois Supreme Court had reversed the case for ineffective assistance of counsel and remanded for a new trial, at which time the Judge and Steinken agreed to handle the retrial

and any subsequent appeals. The pair spent two months of “pitched battle” in the criminal court at 26th & California, and after a bench trial for the guilt phase resulted in another conviction, they focused all of their efforts on averting what frighteningly seemed to be an inevitable death sentence. At the end of an eight-day penalty phase hearing, in which they presented evidence of Hattery’s childhood physical and sexual abuse, Judge Schenkier told the jury that the prosecutors “appeal to your instincts of vengeance. ... I appeal to your instincts of justice and mercy.” Two hours later, the jury returned a verdict, declining to impose the death penalty. In a less emotional but similarly high-profile case, the Judge researched, wrote, and argued issues concerning political patronage as a member of the team who represented the State of Illinois in *Rutan v. Republican Party of Illinois*, which ultimately went to the Supreme Court. In addition, in 1994, he was one of the attorneys who represented American Airlines in a case involving the tragic crash of American Eagle Flight 4184 in Roselawn, Ind. Chief Judge Castillo, who presided over that multidimensional, complex case, recalled that Judge Schenkier was “a model lawyer” who was able to move the case forward carefully and compassionately toward settlement.

On Oct. 30, 1998, Judge Schenkier was sworn in as a U.S. Magistrate Judge in the Northern District of Illinois, where he is currently serving his second, eight-year term. He served as presiding Magistrate Judge from January 2008 to January 2012 and on the court’s executive committee as an *ex officio* member. Judge Aspen explained that Judge Schenkier is well-suited to his role on the bench, “As a judge, Judge Schenkier has a calm demeanor; he understands people; he is intellectual but pragmatic and understands the nuances of how to get things done.”

The Hon. Sara Ellis, District Judge in the Northern District of Illinois, has a unique perspective on Judge Schenkier’s judicial skills. Before elevating to the federal bench, she appeared before Judge Schenkier in what, under the most generous of descriptions, could be called marathon settlement negotiations. Judge Schenkier hosted more than 50 settlement conferences in that complicated case, where the parties were divided on both substantive and financial issues. Judge Ellis attributes the resolution of the case to Judge Schenkier’s ability to cut through the posturing and break big issues down to smaller pieces. Judge Ellis appreciated his creative methods for jumpstarting stalled talks and recalled that he was fair, patient, respectful, and calm—maintaining his composure even in the most intense and frustrating situations. Harjani, who has also appeared before the Judge, agreed that he treats everyone with respect and hears everyone out before coming to an informed decision.

Judge Schenkier describes settlement as “a very sat-

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isfying process,” which gives litigants the opportunity to be heard and to feel respected. He observed, “When I was in practice, I didn’t love mediation and didn’t have the patience for it. From this side, I now understand why it’s often a slow dance, not a fast one.” Chief Judge Castillo feels confident referring cases to Judge Schenkier for settlement or discovery because he knows that if the case is in Judge Schenkier’s hands, “it is going to be done right, and it is going to be done well.”

Judge Schenkier’s experience with the *Rutan* case made him unusually well-suited for one of the most demanding and high-profile projects he has faced, as the Magistrate Judge assigned to the long-standing *Shakman* litigation. In 1969, the *Shakman* case was filed against multiple city and county agencies in Chicago, alleging that elected officials were improperly using politics to influence hiring and promotion decisions. Over the years, the federal district court entered consent decrees and supplemental relief orders creating a network of outside oversight to root out and interdict those illegal practices. The Hon. Wayne Andersen was the last federal District Court Judge assigned to supervise the litigation. He initially referred the case to Judge Schenkier for discovery matters, but in 2006, he asked the Judge to mediate the case with him so that the city (and later, several county agencies) might achieve substantial compliance with the consent decrees and eventually conclude the decades-long judicial involvement in their employment practices.

When Judge Andersen retired from the bench in 2010, the choice for successor to his role managing the *Shakman* litigation was obvious. As Judge Andersen explained, “Every single party consented to having Judge Schenkier take over this longstanding, hotly contested case. They disagree on everything. But they all agreed and signed the consent to proceed before Judge Schenkier. It was the most elaborate consent I’ve ever seen—perhaps over 30 parties signed. They had all seen that Judge Schenkier is smart, fair, and diligent, and no litigant was afraid to consent.” Since Judge Schenkier has taken on the lead responsibilities, he has found two entities—the Cook County Sheriff’s Office and the Forest Preserve District—in substantial compliance with the *Shakman* decrees and dismissed them from the suit. Judge Andersen added, “The best part of my last five years on the bench working with Judge Schenkier was getting to know him and become his friend. He’s really exceptional.”

Clearly, Judge Schenkier has forged strong relationships with his colleagues on the bench. Magistrate Judge Mary M. Rowland, however, is reluctant to refer to Judge Schenkier as her colleague, preferring to refer to him as her mentor. She trusts his creative, effective, and constructive advice, his great wisdom borne from the depth of his experience, and his refusal to shy away from hard issues. Judge Rowland believes that the Judge mentors and supports his colleagues because he understands that what is good for the bench is good for the court and its litigants.

The Judge’s interest in fostering collegiality led him to become involved in the Federal Magistrate Judges

Association (FMJA). Judge Schenkier values the FMJA’s role in providing a collective voice for Magistrate Judges, as well as its ability to bring Magistrate Judges of different courts together to share resources, which improves their ability to serve the court system. Judge Schenkier jokingly recalled that when the FMJA director from the Seventh Circuit stepped down in 2003, “I raised my hand, and I guess everyone else took a big step backward, so I got it.” His commitment to the FMJA was no joke, however, as he was later elected to serve successively as secretary, treasurer, vice president, and president-elect, before assuming his current role as president of the FMJA. The Hon. Alan J. Baverman, Magistrate Judge in the Northern District of Georgia and FMJA treasurer, described Judge Schenkier as a mensch, who “does everything for the right reason and in the right way.” Judge Baverman believes the Judge has done a superb job in his leadership role because he is able to include people in the process while keeping a cool head and taking the long view.

Judge Schenkier is also a leader in the pioneering James B. Moran Second Chance Re-Entry Program. The program brings together judges from the Northern District of Illinois, attorneys from the U.S. Attorney’s office and the Federal Defender Program, two probation officers, a U.S. marshal, and a social work graduate student, with individuals on supervised release who present a high risk of recidivism and have a history of drug abuse that requires drug aftercare. The individuals who join the program have all expressed a willingness to work with the group to try to increase their chances of successfully re-entering society. The Re-entry Program embarked on its twice-monthly meetings in April 2010, with Judge Schenkier and the Hon. Joan Gottschall, District Judge in the Northern District of Illinois, sitting down at a conference table together with this diverse group of individuals. At these meetings, participants give updates on their efforts to stay sober, find jobs, and manage their lives outside of prison. If they remain sober and meet other goals set for them, they can earn up to one year off of their supervised release time. However, as Judge Schenkier explained, “There’s real desire, but it’s hard to escape the past. Success doesn’t always come quickly, easily, or in a straight-line progression.”

Nevertheless, Judge Gottschall believes Judge Schenkier was “the best possible person” for a leadership role in the re-entry program and that the program could not have gotten off the ground without his unique range of abilities and perspectives, from a respect for the rules, structure, and organization of the program to an understanding of and compassion for the participants. Judge Gottschall explained that the judges must be able to earn the participants’ trust while maintaining authority to reward and sanction, as well as encourage and push them to reach their goals, and Judge Schenkier has excelled in this role.

The program’s positive, pro-active, and constructive approach to preventing recidivism appealed to Judge Schenkier. Indeed, the participants also value the program, often describing it as the only opportunity they have ever had to be surrounded by positive people who offer encour-

ment and hope for them to lead law-abiding lives. In 2012, when Chief Judge Castillo joined the re-entry program team, he observed with “wonderment” Judge Schenkier interacting with participants and imparting fatherly, human, common-sense wisdom with a compassionate and personal “magic touch.”

Beyond the responsibilities of his professional life, Judge Schenkier treasures his time with his growing family. Married nearly 40 years, he and his wife Bess have two sons and a daughter, now all adults, and six grandchildren, three boys and three girls, ranging in age from newborn to five years old. With the kids, the Judge sets aside the solemnity of the robe. “All the kids just love him. He’s really playful,” Bess revealed. And, since ascending to the bench, greater

control over his schedule has yielded even more family time. Says Bess, “He has worked very hard to have a career he loves and to spend time with the family.” Bess highlighted several aspects of his personality, including his “intense ability to focus on the task at hand, as well as an extremely competitive nature” that fuels his tenacity. But one attribute in particular has proven valuable in both his roles as a father and as a judge—his ability to understand others. As their children have grown to adulthood, Bess observed, “Even when they have taken the roads we might not have chosen, he’s incredibly supportive of their choices—very affirming. He brings that same quality to his role as a judge. He can find the good in people’s choices and find a way to help them move forward however they can.” ☺