

Judicial Profile

ELIZABETH RICCI

Hon. William C. Sherrill Jr. U.S. Magistrate Judge, Northern District of Florida

U.S. MAGISTRATE JUDGE William C. Sherrill Jr. believes the Golden Rule—"Do unto others as you would have others do unto you."—is the most important of life's ethical edicts. The maxim is quite apropos for the 1965 Princeton University graduate who served on the university's Honor Committee, as secretary-treasurer of his fraternity, in the Army ROTC, and as a chapel deacon while he was an undergraduate student.

Long before he began his education, however, this Florida native, outdoorsman, and avid reader was introduced to the concepts of justice and service by his father and mentor. William C. Sherrill Sr. was a major in the U.S. Army, a 1937 graduate of the University of Florida College of Law, president of the Blue Key Society and the student body, and a friend to the likes of many Florida leaders—ranging from district judges to members of Congress and governors. Judge Sherrill's paternal grandfather, whom the judge also admires greatly, taught himself law through correspondence courses after moving to Florida from Iowa in 1890. He took the bar exam from the state's Supreme Court in 1914 and was a sole practitioner in West Palm Beach until three months before his death at age 87.

Judge Sherrill credits his father and his grandfather as his inspiration to pursue a career in law. Had he not become an attorney, the judge suspects he would have sought a career in medicine, like his maternal great grandfather, or a career in academia. Following in his father's footsteps, Judge Sherrill attended the University of Florida College of Law, where he was the editor of the Notes section of the *Law Review*. He graduated first in his class in June 1968.

Upon graduation from law school, the judge served as a law clerk for George C. Young, a celebrated senior U.S. district judge for the Middle District of Florida. Sherrill says that "Judge Young served as the highest example of excellence as a judge," a model that has served Judge Sherrill for many years, and afforded him an early opportunity to observe



how an attorney can become an effective advocate.

Judge Sherrill learned the politics of law while serving in the U.S. Army as a captain in the Judge Advocate General's Corps from 1969 to 1973 and as counsel to Florida House Speaker Terrell Sessums for the 1973 and 1974 legislative sessions. As for his passion for the law, Judge Sherrill credits Tobias Simon and Bill Sheppard, Florida civil rights attorneys and death penalty opponents, as well as Sandy D'Alemberte, a former state representative, former president of the American Bar Association, and former president of Florida State University.

As for the practice of law, Judge Sherrill, who is serving his 18th year on the bench, believes it to be "an exceptionally honorable two-way dialogue between judges and lawyers. ... One of the greatest moments for me ... is when a lawyer shows me the error of my thinking. I don't mind being wrong, ... but I really hate it when no one tells me," he adds.

Before being appointed as a U.S. magistrate judge

for the Northern District of Florida, Sherrill headed the civil litigation section of the Florida Department of Legal Affairs, served as the department's chief trial counsel, spent five years in private practice, and presided over hearings at the Florida Division of Administrative Hearings. Today Magistrate Judge Sherrill conducts preliminary hearings in criminal cases, trials and dispositions of misdemeanor cases, various pre-trial matters and evidentiary hearings on delegation from the district judge as well as civil cases upon the consent of litigants.

Like many modern judges, Judge Sherrill does not use a gavel. He says the traditional courtroom tool should not be necessary in an effort to maintain order. Rather, he believes that it is his responsibility to be attentive and to resolve problems immediately. Judge Sherrill also sees his job as a position that gives him the authority to bring quick focus to bear on the particular problem before him. If, for example, practitioners appear to be manipulating discovery as a way to wage a collateral attack, "the case

comes to the top of [his] list," he says. Sherrill's practice pointer: "Think haiku, not harangue."

When not presiding over cases, the judge serves the legal community and local students. He was president of, and is now a pupilage team leader for, the William H. Stafford Inn of Court, an amalgam of judges, lawyers, and law students named for the former senior district judge with whom Judge Sherrill sat on the district court. Judge Sherrill takes part in the activities of the Inn of Court in order to get acquainted with state judges and practitioners to whom he would otherwise not be exposed. Magistrate Judge Sherrill also devotes time to judge mock trial and moot court competitions and conducts naturalization ceremonies each year at local elementary schools. **TFL**

Elizabeth Ricci is a partner with Rambana & Ricci, P.A., an immigration firm in Tallahassee, Fla. She is president of the FBA's Tallahassee Chapter and an adjunct professor of legal studies at Barry University.

SOX continued from page 25

fication, however, is the exception rather than the rule. Merely showing, for example, a lack of prejudice is not enough.¹⁶ Nor is the employee's or his or her attorney's lack of familiarity with the act and its requirements usually sufficient to justify extension of the filing deadline: "[I]gnorance of the law will generally not support a finding of entitlement to equitable modification."¹⁷ Instead, the Administrative Review Board has identified three instances in which equitable tolling may be appropriate:

1. when the employer has actively misled the employee respecting the cause of action;
2. the employee has in some extraordinary way been prevented from asserting his or her rights; or
3. the employee has raised the precise statutory claim at issue but has mistakenly done so in the wrong forum.¹⁸

In all cases, the employee bears the burden of demonstrating that he or she is entitled to equitable tolling under this standard.¹⁹

Specifically addressing this issue last year, the department's Administrative Review Board provided valuable insight into the limited availability of equitable tolling in *Carter v. Champion Bus Lines Inc.*²⁰ After he was fired, Carter filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) stating that he had undergone various forms of discrimination with the company and that he was terminated "for opposing several prohibited practices."²¹ The EEOC rejected his claim, however. Thereafter, Carter filed a complaint with

the Department of Labor and, after being informed that OSHA administers whistleblowers' complaints, he filed with OSHA 140 days after his termination. Concluding that Carter had not filed his complaint in time, the administrative law judge dismissed the complaint, a decision that Carter appealed.

On appeal, the Administrative Review Board agreed that Carter's complaint had been properly dismissed as untimely. The fact that Carter did not file his complaint with OSHA within 90 days of his termination is undisputed. Instead, Carter argued that the clock should be equitably tolled, because he had simply filed his complaint in the wrong forum. Carter's argument failed. The Administrative Review Board found that he had not filed "the precise complaint in the wrong forum," because the EEOC charge of discrimination did not raise an issue involving § 806 of the Sarbanes-Oxley Act. The Administrative Review Board explained that "the EEOC complaint must demonstrate that Carter engaged in SOX-protected activity prior to his discharge."²² In the end,

since Carter's EEOC complaint does not demonstrate that Champion retaliated against him because his complaints to Champion's management provided information regarding Champion's conduct that Carter reasonably believed was defrauding shareholders or violating security regulations, Carter has not established, as a matter of law, that he filed the precise statutory complaint in the wrong forum.²³

SOX continued on page 30