



by James W. Satola and Hon. Michael J. Newman

Thank You, William K. Suter

19th Clerk of Court, U.S. Supreme Court

William K. Suter spent more than 22 years managing the highest court in the land as clerk of court of the Supreme Court of the United States, a position he has held since February 1991. Now, after a long and distinguished career with the country's most storied court—following another long and distinguished career serving our country as a major general with the United States Army—he stepped down at the end of August. It is fitting to honor and recognize this great American, great clerk, and great friend of the Federal Bar Association on the occasion of his retirement. Thank you, General Suter.

This past April, the authors had the good fortune to meet with Suter in his office at the Supreme Court (the walls of which are graced with the portraits of many of his predecessors ... more on that later) to discuss his long career as clerk of court, hear a few stories recalling mileposts he's encountered along the way, and share his thoughts on moving toward a new chapter in his life after the Court. It was a memorable morning.¹

From Student to Soldier to a New Career

William Kent Suter was born August 24, 1937, in Portsmouth, Ohio, near the Ohio/Kentucky border. He soon moved to Millersburg, Ky., where he spent his pre-college years, including attending the Millersburg Military Institute from grades 1 through 12. He says, "I am a Buckeye, but I moved to Kentucky when my parents moved at four years of age. So I was an obedient child."²

The future clerk of court attended Trinity University in San Antonio, Texas, where he met Jeanie, his wife of 54 years. While at Trinity, Bill Suter lettered for three years in



basketball, including, as captain, helping the team beat the University of Texas in 1959 by scoring 11 points while not missing a single shot. It was one of his advisors at Trinity who convinced him to go on to law school:

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I had a wonderful advisor in college at Trinity University, Dr. Don Everett, who meant everything to my wife and me. He was just like a father to us. I guess he saw in me something I didn't see or know. But he thought I should go to graduate school or go to law school. We had no lawyers in my family at all. I didn't know what lawyers really did except what I saw on TV, I guess. But he single-handedly got me an academic scholarship to go to Tulane Law School. So I didn't know what was going on, but I liked it and decided to go to law school.³

While at Trinity, Suter became involved in the school's ROTC program. Part of his training included a summer at Fort Hood, Texas, where he met another new soldier, who went on to fame in different endeavors—Elvis Presley. Suter has a photo in his office from that summer, of him and Elvis, alongside another photo, from years later, of him standing with future Chairman of the Joint Chiefs of Staff and Secretary of State Colin Powell, bookending his distinguished military career:

Back in those days, if you didn't do something about it, you were going to be drafted. I wasn't afraid of it. I'd been in a military school. I took ROTC. Part of the training, there was one summer you went to summer camp. Mine was Fort Hood, Texas. While I was there, none other than private Elvis Presley was taking his advanced training. I got to know him. First, he was bigger than you think, taller. Not big around the middle. I have a picture of us both standing with our hands on our hips looking at the camera. He's in uniform. I'm not. I don't know what was going on that day. ... The picture I have in my office, a lot of people like to come and look at. Our hands on our hips as if we're saying, 'Thank you, thank you very much.' ... Next to it, I have a picture of Colin Powell and me. I was his judge advocate in the 101st Airborne division when he was a colonel and I was a lieutenant colonel. I like to say, 'Only in America do you serve with Colin Powell and Elvis Presley.' Is this a great country or what? Only in this country.⁴

On graduation from Trinity, he was commissioned as a second lieutenant through the ROTC and was soon off to Tulane University School of Law in New Orleans. At Tulane, Suter was named to the Order of the Coif and was a member of the *Tulane Law Review* Board of Editors. While on the law review, he published four notes. Later in his career, he was awarded an honorary doctor of laws degree from Campbell University in North Carolina.

Following his graduation from law school, in 1962, Suter was admitted to the Louisiana State Bar and began a career in the military that would lead him, 29 years later, to the rank of major general in the U.S. Army. While in the Army, Suter attended the Judge Advocate General's (JAG) School in Charlottesville, Va. Later, as a captain, Suter became a popular instructor of administrative law to many new judge

advocates attending their training at JAG School.

Along the way, Suter's military adventures took him overseas to Vietnam and Thailand, as well as duty posts in the United States, including Anchorage, Alaska; the Pentagon in Va.; Fort Campbell, in Ky.; and Fort Benning, Ga., where he earned his Parachutist Badge. He was also awarded a Distinguished Service Medal, a Meritorious Service Medal, and the Bronze Star.

In 1981, as a colonel, Suter was named commandant of the JAG School. Following promotion to brigadier general, he became commander of the U.S. Army Legal Services Agency and chief judge of the U.S. Army Court of Military Review. In 1985, President Ronald Reagan nominated Suter as the assistant judge advocate

general. By the time of his retirement from the military, in 1991, Suter had served for more than a year as the acting judge advocate general. In February 1991, Suter was ready for a new challenge.

Becoming the 19th Supreme Court Clerk

William K. Suter stepped immediately from a nearly 30-year career in the Army into the new adventure of becoming the 19th clerk of court of the Supreme Court of the United States. He is the first military person to serve as clerk. General Suter describes how he got the job:

It was interesting. I knew I was going to retire from the Army. A few months before I retired, I made the decision that I did want a second career. I was young enough that I had a lot of gas left in my engine, so I decided I wanted to do something, and I did decide after two interviews with law firms that I did not want to do that. It just wasn't in my heart to compete with 25-year-olds and 35-year-olds and 45-year-olds and financially it was not necessary to do that. But I wanted something to do. And as fate would have it, the wife of a retired JAG general called my wife and said that she saw in the *Washington Post* that my predecessor was retiring. So my sweet wife said, 'Why don't you apply for that job?' ... So I checked about the job and filled out the application and sent it in.

Lo and behold, I got a notice, a call to come down to be interviewed here at the Court. So I appeared at the appointed time—after my wife dragged me out to Nordstrom to get some new clothes—and was interviewed by Justices O'Connor, Kennedy, and Scalia. The very next day, Justice O'Connor called and asked me to come down and meet with the Chief Justice, which I did. She had taken my file around to the other

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(Above photo) William K. Suter, 19th clerk of the Supreme Court of the United States, in his office. Behind him is a portrait of John Tucker, the first clerk of court, who served from 1790-1791; (Above right photo) Gen. Suter with a photograph from his ROTC training days, posing with "the King," Private Elvis Presley, at Fort Hood, Texas. Gen. Suter is at right in the photo; (Right photo) Gen. Suter at his portrait unveiling ceremony in the Great Hall of the Supreme Court.



Thank You

Gen. William K. Suter

for your years of service as

19th Clerk of the U.S. Supreme Court



(Left photo) Authors James W. Satola and Hon. Michael J. Newman with Clerk of Court William K. Suter in his office at the Supreme Court following the interview for this profile; (Right photo) Gen. Suter at his portrait unveiling ceremony in the Great Hall of the Supreme Court. Admiring the portrait, at right, is Chief Justice of the United States, John Roberts, Jr.

six justices, and somehow they had selected me to be the new clerk, so they offered me the position. I said, 'With a great honor, I accept.'

He (Chief Justice Rehnquist) said, 'When can you start?'

I said, 'Well, I retire in about 10 days here. How about if I take a month off and then come at that time?'

He said, 'So you'll be here tomorrow,' in that stern voice of his. Kind of scared me a little bit.

I said, 'Mr. Chief Justice, it would be awkward. I'm still in the Army.'

He said, 'When are you free?'

I said, '10 days from now I retire.'

He said, 'We'll see you then.'⁵

Clerk Suter began his new job by following Yogi Berra's advice, "You can observe a lot by just watching."⁶ He admits it was unfamiliar territory at the time, but by applying the lessons he'd learned in the Army, things soon fell into place:

Well, I was clueless. But I put on an air that I knew what I was doing and walked around and sort of got the lay of the land. I'd done this before in the military. You went to a new job. Be careful about making changes too quickly, and be careful about what you believe, just take it easy. And I went around and had interviews with all the justices, and that was sort of very, very interesting to me, to come in and talk to all those important people. So I found out the staff was a great staff, the budget was fine, so little by little we got moving. Yes, I remember the first day.⁷

Having spent the previous 29 years in the military, where sartorial decisions follow the "Uniform of the Day" order, Suter had another factor to consider—civilian clothes. Prior to his interview with the justices, Suter and his wife went to Nordstrom to visit a clothing consultant and buy a few new suits. He wore one on the day of his interview. It was a success. Afterward, Justice O'Connor noted, "That's a lovely suit."

Suter also credits his predecessor, Clerk Joseph Spaniol, Jr., as being very helpful in getting started. That first term, the Court decided a number of important cases involving such issues as federal funding for abortion counseling providers, *Rust v. Sullivan*,⁸ application of the Voting Rights Act to Louisiana Supreme Court elections, *Chisom v. Roemer*,⁹ the First Amendment implications of nude dancing, *Barnes v. Glen Theatre*,¹⁰ and lawyer discipline, *Gentile v. State Bar of Nevada*.¹¹

Assuming New Duties as Clerk, and Three New Projects

The clerk of court is one of four statutory officers of

the Supreme Court. The others are the marshal, who is responsible for police, security, and the general safety of the building (as well as opening the oral argument sessions in the Court with the familiar cry of "Oyez, oyez, oyez"); the reporter of decisions, who publishes the opinions, checks footnotes, and the like; and the librarian, who is in charge of the Court's magnificent fourth-floor library. Together, they comprise the officers of the Court. The Court employs only a small staff of approximately 425 people. Of those, the clerk's office employs 32, mostly paralegals, with four attorneys. Suter describes his duties as clerk as follows:

The clerk of any court, trial or appellate, is basically responsible for the legal business of the court, not writing the opinions but being the interface with the public, normally members of the bar of this court who are filing documents here, petitions, briefs in opposition, merits briefs, applications to stay, whatever it might be. My office meets them, receives documents, analyzes them for correctness or legality, and enters them on the electronic docket. Then we deal with the attorneys on setting up the argument dates, getting the briefs up to the justices, maintaining all the legal documents for the Court.¹²

As the clerk, he also has a prime seat in the courtroom on oral argument days, sitting just to the left of the bench as you face it—close enough to shake hands with the second-most junior justice on the bench, currently Associate Justice Sonia Sotomayor. (The Court seating arrangement, while in session, is in seniority order, with the Chief Justice in the center chair, then alternating in order of seniority with the senior associate justice to the Chief Justice's immediate right, as viewed from the bench, and the next most senior justice immediately to the Chief Justice's left, on down the two sides of the bench). In addition to assisting the justices with anything they might need, he is also present in order to assist the attorneys who argue cases before the Court:

I make sure that the attorneys are at the right table. The petitioners on one side; respondents on the other. Ten o'clock case, eleven o'clock case. Check to see if there's anything they need. I then talk to the people who are making the motions for admission and make sure they have their motion, that they know what to do, where to stand, when to speak. And those that are being sworn in, I brief them on exactly what they're supposed to do. They don't want to come to the highest court in the land and stand up and not know what to say or do. We go over it with them very carefully and explain what's required. I generally check around to be sure we're ready to go. At ten o'clock sharp, we start.¹³

In his 22 years, Suter has seen more than 1,700 arguments noting, "I get to see a lot of good lawyering and good lawyering from the justices."¹⁴ He is encouraged by the professionalism he has seen at the bar:

The other thing you can't be taught in school is good judgment. You can't take a course Good Judgment 101. You've got to experience it by looking to people we respect, those who are great leaders, and there are some very fine leaders in our Bar.

Let me give an example. ... Seth Waxman was a solicitor general of the United States under President [Bill] Clinton, a very fine lawyer, a D.C. lawyer, a fine gentleman and a lawyer. After he left office, he was arguing a case one day. He was seated next to the podium. His opponent was up and she was making her argument. One of the justices asked, 'What page is that on in the joint appendix?' which could be a 700-page document. She started looking and became a little flustered. Mr. Waxman had it open to the correct page. He just politely put it up on the lectern for her to see. Now, that's his opponent.

But I like to tell young lawyers, your opponent is not your enemy. Some say, 'Well, you are just naive.' I'm, not. I know what I'm talking about. Your opponent is your friend and a colleague, because you're all officers of the bar, not just members of the bar, you are really both.

I just thought that was a class act. It embarrasses him when I tell other people about it. ... I see things like that constantly up there. That's a class act.¹⁵

Suter has another limited role, which he describes as "mostly symbolic," on those days when the justices of the Court meet for what is known as "the conference," where cases and dispositions are discussed:

The Court, on certain Fridays and certain Thursdays of the year during the term, they gather, just the nine of them, to discuss cases argued this week and they go through the conference list, which means all the cases that are on the list, maybe 200 or so, that are ripe for decision on whether to grant or deny. So the petition's been filed, the brief in opposition filed, the reply brief filed, or a waiver. So they've read through all these materials, read the memos written by clerks, and they gather and make this discussion, just the nine of them. I don't have anything to do with that except the clerk's office prepares all the documentation that they're going through.

When they finish their voting, they adjourn. The junior justice stays behind and meets with designated officials here at the Court, the people from the Chief Justice's chambers, people in my office, and the junior justice gives us the results. Grant this case, deny this one, so on, so forth. We come back, so we don't know when they're going to finish. They start at 9:30. They might finish 11:30, 12:00. So I'm just on call to go up. It's mostly symbolic. I'm there, and four of us from

my office go up. And we listen to her, Justice Kagan. Grant this one, so on, so forth. Then we come down and read back to each other, to be sure we got it exactly right. Then we compare the orders granting and denying and so forth, which are then released the next Monday morning.¹⁶

Suter, who has worked with 16 justices over the course of his 22 years, believes his most important role as clerk is the hiring and training of a good staff, maintaining them, taking care of them, supporting them, and most importantly, being loyal to them and making sure they are loyal to the institution.

Suter considers it an honor to work at the Court, and even after 22 years finds himself still awed by the building and the institution, fascinated by the day-to-day events, seeing the best of the people he works with:

Every day something happens around here that I jot down. Humorous things usually, and serious things. I was here for 9/11. It was the worst day of our life for this nation, but I saw the strength of the people here who didn't panic and run and everybody concerned about our fellow citizens. A sad day, but strength grows out of things like that. All the stories I'll just keep repeating at bar association meetings.¹⁷

His love of the institution extends to the press who attend oral arguments. He notes, "We don't have secrets in this country ... I'm glad to see that it is so open, that we're all there hearing the case in the public ... I find it democracy at its best."¹⁸ He also praises the citizens who visit the Court:

I see the greatest people on earth. I think this is the greatest country on earth. And those that are here vacationing with children or school groups or anybody that's here, some might not fully understand what all is going on up there. They're there to see this is the Court of last resort. This is not my building. We don't own this building. You own it. The justices work for the people. They're up there trying to do the people's work. They're all there watching it. Whether they understand or not doesn't make that much difference. Sometimes, we have the parties that are involved in the case. They're here. A lot of the student groups, high school groups, law students. It's very wonderful to sit and watch and see America across the spectrum.¹⁹

There are three things Suter will be particularly remembered for at the Court: instituting the tradition of holding a pre-argument briefing for lawyers arguing before the Court; overseeing the advent of automation and technology throughout the Court; and a recent project he is quite proud of, the collection and completion of a series of oil portraits of each of the 19 clerks of court to date, many of which did not exist previously.

Pre-Argument Briefings

Suter notes there are three secrets to successful advocacy before the Court: “Preparation, preparation, and preparation.”²⁰ To help in that effort, one of the traditions he started as clerk of court is the pre-argument briefing to the attorneys in the lawyers’ lounge on the morning of oral argument, one that has been appreciated by hundreds of attorneys ever since, including one who now sits as the Chief Justice of the United States:

One thing I started was briefing the arguing counsel before they went in the courtroom. I was not comfortable with them just sitting out in the hall. To me they’re VIPs that day. So the counsel and their co-counsel meet with me at 9:15 in the lawyers’ lounge close to the courtroom. They have restrooms there, a water fountain. They sit down, and I tell them what’s going to happen today. Just last-minute reminders of everything. Sometimes they will need something, cough drops or a Band-Aid for their foot. I can tell you stories, last-minute things. One fellow forgot his tie.

Another one, the lining fell out of his coat. We take care of it right now, on the spot. They feel better.

I’ve had counsel that tell me that. In fact the Chief Justice told me, he said, ‘Don’t ever stop those briefings.’ He argued 39 cases here. When he was a deputy solicitor general, they argue

so much they do not attend the briefing. Then, when he left that office and went to a law firm, he was there for the briefing like any other attorney, and he said, ‘I always just felt good walking in there, seeing colleagues of the bar—and it’s an intimate room,’ he said. ‘I just felt like okay, the game’s ready to begin.’

You give your little spiel and so forth. They don’t know the opinions are coming down, things like that. I don’t want them surprised when they get in that courtroom. That was something I started.²¹

The Court is filled with tradition, including making the day a memorable one for attorneys arguing before the Court:

We thrive on tradition and discipline. And those things go hand in hand. One part of the tradition is when an attorney goes into the courtroom in the morning before they go in there I brief them in the lawyers’ lounge so they know what to expect that day to be sure no one forgot a tie or a shoe, especially rookies, sometimes are forgetful. But when they go into the courtroom, the first thing they see on their table are quill pens. They’re handcrafted. It’s a memento, a gift from the Court for a remembrance of their day here at the Court. They don’t

get an automated pen. They get a quill pen they can take home with them and put them in a shadow box or something. We maintain the tradition.²²

Automation at the Court

Another thing the Court has seen over the 22 years of Suter’s watch is the introduction of automation and technology. Notes Suter, “I am always trying to look over the horizon for the better use of automation, better serving the bar.”²³ It’s come a long way from the “hot lead” days of the past:

I think the first automation in this Court was in the late 1970s. I knew a person, a former judge advocate, who worked directly for the Chief. Chief Justice Burger had one clerk that was sort of in charge of the other clerks. Anyway, he told me the story about how he got the first computer brought in, and they used to print their own opinions using hot lead. The lead really melted right on your machine and made a character with a letter ‘A.’ When you key stroked it, it made an ‘A’ in lead that dropped down. That’s how you printed newspapers and things. I think the last hot lead plant was right here in this Court. They transitioned out of that by the time I got here. The Court moves slowly but surely, like the pace of the turtle. Justice delivers slow justice.

When I came here, the computer equipment, nobody was really satisfied. And some efforts were being made to improve it. Look, I didn’t do anything except I was enthusiastic to say we need to do something. Under the leadership of Chief Justice Rehnquist, and he had an administrative assistant who was very active in this, we collectively got the funds and started getting better computer equipment in here.

During my first few years, all the justices used a computer except Chief Justice Rehnquist and Justice Souter. The others quickly adapted and were using it. Now all nine of them use it. They’re on the computer all the time. So are the law clerks. The opinions are done right here in this building. So there’s no leaking of any opinions or anything. They’re all printed right here on very modern equipment.

I was here at a very good period of 22 years where we could automate, and automate safely and securely. That’s a big part of it. And also save money and do things more efficiently, and in a quicker period of time and get rid of paper. ... We’ve reduced our paperwork in the clerk’s office by 40 percent. ... There were about 10 file cabinets that stayed full of documents, letters from petitioners back and forth. We got rid of all the paper and all the file cabinets. It’s all now locked in a correspondence system, which is a very, very simple system, but we don’t keep copies of letters. We keep them just electronically.²⁴

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The Court was also the first to use PDF imaging, and it now has an internal database fully searchable as to cases, arguments, counsel, opinions, and a whole lot more, an effort he credits to a wonderful staff:

We were the first federal court that I know of to have imaging. This is probably in '95, something like a long time ago. We now image all those documents and we created an argument database. So if I go into my computer right where we're sitting now and type in the name in our in-house system and type in Theodore Olson, Ted Olson's bar papers come up and also a list of all cases he's argued, which side he argued for, the date, everything. Instantly, I can tell you how many cases. It's almost like a miracle that all that got done without any outside contracting or anything else. We did it in-house. It tells you the strength of the staff of the Supreme Court, not just the clerk's office. I'm talking about the staff. Everybody had to help with that.²⁵

The Clerk of Court Portrait Project

A recent project Suter has undertaken involves the preservation of a part of the Court's history: completion of a series of oil paintings of those who have had the honor to serve as clerk of court of the Supreme Court of the United States over its well more than 200-year existence. While most had been done, five were missing. That gap has now been filled, and, thanks to the generosity of another great friend of the Supreme Court, with no expense to the U.S. Treasury.

When I got here—I'm the 19th clerk. So, after I was here about a year, I started looking at all these portraits. I discovered that five portraits of my predecessors weren't done. They were all the more recent ones. They were since the 1950s. So, fortunately I could find photographs. If there was somebody back in the 1800s, there wouldn't be any photographs. So we had the old clerks, but five were missing. Our curator didn't really have records to say why they're missing, nor did we know how these portraits that we have were done. Just not much literature in our files. Our curator's an excellent curator. She's got records of everything and can find them. She just does a terrific job.

Let me point out here. I think the Federal Bar members are all taxpayers. We didn't use any federal funds on these portraits. No federal money was used at all.

So I started what I called the clerk portrait project, for the committee of one. That was me. Then increased it to my administrative assistant Lynn Holtz, and Gary Kemp, one of my deputies, and the curator, Catherine Fitts. We had some meetings and said, 'What are we going to do? Well, let's get the photographs. Which took about two years. Two were deceased, and three were living. It was easier getting photographs of the deceased members than those who were alive. I would

ask them to send me a photograph. Okay, I'll take care of that. It didn't happen.

We finally decided to do one portrait, had to select an artist and so forth. But the question is, 'Where does the money come from?' Well, the money came from the Dwight D. Opperman Foundation. Dwight Opperman, being a former CEO and president and chairman of the board of West Publishing Company. He is a very, very generous man. He gave us the funds and the backing for the portraits and the frames.

We did one. Then we did another one, and another one. The two that were deceased, we did those simultaneously.

Then Mr. Opperman was very kind and made it possible financially to do my portrait. It was done two years ago. It's in storage, ready to go.

So, what we do without gracious and generous people like Dwight Opperman, I don't know. Everything dealing with the clerk's portraits, I'm indebted to him for getting it done. We had the unveilings of all of them. The Justices attended. Short programs with a nice reception afterwards. So now, Number 19 will go up in June at my retirement ceremony, so all 19 will be done. Everything's paid for.²⁶

As to his own portrait, by artist Lindy Bruggink, the one thing he insisted on is that the portrait be a fair representation:

One thing I insisted on. I said, 'Look, I know nothing about art.' My wife was involved, everybody's involved with the artist. I said I'll just sit back and watch. One thing, I said, the only thing I want. The portrait should look like me. Not like I looked when I was 40 years old. I wear glasses, and I don't have much hair. Make it look like me.

When they showed it to us the first time, I was startled. It looks exactly like me. Good or bad, it looks like me and not someone else.²⁷

A favorite part of that painting is the inclusion of Suter's hands. While not a part of traditional portrait painting, it was a key part of capturing the essence of his method of problem solving, and one known throughout the years as reflective of his comforting way of dealing with situations:

It's interesting when the artist interviewed some of my Army colleagues and others, usually they don't use hands. They don't paint your hands. They're very hard to paint. She told me she's going to have to do my hands.

I said, 'Well, why?'

She said because people say when someone runs into your office and goes in to see the general—a bomb went off here, there was a robbery here, this happened, that happened—they all said you tell them sit down, and that you always sit down, then you cross your hands on your lap and then you say, ‘What are we going to do?’

My wife said, ‘Well, of course, you do this.’

I never knew I did that. I tell people to sit down, calm down. Now tell me. Don’t expect me to know what to do. You tell me, what are we going to do? You get the ideas, mix them up, and make a decision.

My hands are done. They’re done very well.²⁸

In addition to the existing portraits of past clerks (seven of which are displayed in his office), Suter’s office is also home to some of the Court’s history:

The clerk’s office was—the clerk was the first person really appointed here in 1790. Mr. Tucker, whose portrait is on the wall behind me. They didn’t do a lot of the business the first few years because the Court didn’t know exactly what it was supposed to do. Those who created the Constitution thought it was a good idea. They really focused on the other two branches of government more than the third branch as we’re called because we are named in Article III of the Constitution. The Court itself historically, the clerk’s office, Mr. Tucker. I have some documents and things on what he did. It was sort of getting organized.

We’ve had some interesting clerks—one stayed 36 years; one stayed only one year. Of course, when I came here, I said I’ve got to last longer than he lasted. I did.

So the clerks have taken notes and written things. Very, very, very interesting people have been the clerk. I know a lot about the history. I’m keeping a lot of documents with the aid of my college interns in the summer gathering information for me. I’d like to compile some sort of a historical document when I retire about all the clerks. There’s some very, very interesting stories. On my right there’s a roll-top desk that belonged to Mr. Caldwell, who served as the clerk from 1800 to 1826. I have it displayed beneath his portrait if he ever wants to come back and use it. I have quill pens over there for him if he wants to come and use the desk.²⁹

Interns at the Court and the “Justice Suter Story”

Suter enjoys the interaction he has had with the many college students and law students who have worked at the Court. He has employed more than 300 of them. One particu-

lar story, involving a recent law graduate on holiday break from JAG training, and how that new lawyer got to work at the Court (even before he knew whether he had passed the bar exam), brings a smile to Suter:

Justice Souter met a man on the airplane. It was a small plane. Justice Souter was reading some briefs. So the young man sitting next to him said, ‘I see you’re reading briefs. Are you a lawyer?’

Justice Souter said, ‘Well, yes, I am.’

The kid says, ‘Well, I just got out of law school and graduated, and don’t know if I passed the bar yet, but I’m a Navy JAG. I’ve just been up to Newport taking my Navy training. I’m going home now for six weeks or so. I don’t have a job, and then back up to Newport where I’ll be a real JAG and take my legal training up there.’

Justice Souter said, ‘Well, that’s really nice.’

The fellow says, ‘What kind of law do you do?’

Justice Souter said, ‘Well, I’m a judge.’

The young man asked, ‘Yeah, where?’

Justice Souter then said, ‘Well, I’m David Souter on the U.S. Supreme Court.’

Justice Souter told me the story. He said the guy tried to roll the window down and jump out. Then Justice Souter initiated a call to tell me about this. He said, ‘You know, I kind of like the guy. The poor fellow doesn’t have a job. He’s here in D.C. He’s in Arlington. He said, ‘I know it’s Christmastime and you’re short of help.’ The kids have all gone home. We use them as runners, to do research and filing, and greet customers and so forth. He said, ‘Maybe you could use him on just a daily basis or something.’

I said I could. This is perfect. If he’s been selected for a Navy JAG, I know he’s all right. What’s his name?

Justice Souter said, ‘Well, I don’t know.’

I said, ‘Justice Souter, how am I going to find this guy?’

He says, ‘No, I remember his name is Kyle.’

I said that’s all I need.

He said no, I’m not putting that burden on you. How will you find him?

I said, Well, I’ll call the Navy Justice School and ask for the name of Lieutenant Kyle—there’s only bound to be one that is home on leave right now. They found him. The young lad came in. I interviewed him and

had the police do a background check. He's fine. I called JAG to see is this really the right person? He was a nicely dressed kid sitting there with his little notebook and pencil. I told him come to work tomorrow, no pay status. He was happy. He just wanted to do something.

In the meantime, Justice Souter called me again and said, 'You know, there's a vacancy in Justice Stevens' chambers for an administrative assistant. Maybe we could slide him against that and pay him something.

So Justice Stevens graciously consented, talked to personnel. When the young man came the next morning, I said, 'Well, things have changed. You're now going to be getting, I think it was \$20 an hour. He almost fainted. Getting to work at the Supreme Court and get paid.

So, later he got to meet with Justice Souter and with Justice Stevens, who was in the Navy in World War II.

The young man then got news that he had passed the bar. His family came in from Detroit, and his new wife [was here as well] and I swore him into the state bar, which I can do, and we took photographs of it with the American flag.

Is this a great country or what? It's just a warm story of two justices who—there's nothing in it for them—who just thought maybe this would work. Of course it worked. The kid was a great worker. He came here first one in the morning, last one to leave. He was just so happy to be working here.

Of course, I let the Judge Advocate General of the Navy know about this. So at this young man's graduation, months after that, he called him out on it and had him stand up, and says, 'Look at this man. He's already worked at the Supreme Court.'³⁰

A Great Friend of the FBA

Suter has been a great friend of the FBA—speaking at seminars, lunches, conventions, and best of all, visiting FBA chapters throughout the country. He has made more than 60 visits to FBA chapters in his 22 years with the Court. Four of those visits (in 2002, 2006, 2009, and 2012), were to conduct "Supreme Court Swearing-in Ceremonies" hosted by the FBA Northern District of Ohio Chapter: three in Cleveland; and, most recently, in Toledo. These ceremonies have resulted in the admission of more than 350 attorneys from northern Ohio to the Supreme Court Bar. On three of these occasions, the ceremony has been held during the third week of April, on the day before Suter heads to Catawba Island, one of the Lake Erie Islands off the country's "north coast," in Port Clinton, Ohio, for a JAG CLE program he has been participating in for 28 consecutive years.

The JAG CLE, sponsored by the Ohio Military Reserve

(OMR), is the creation of one of Suter's best friends, Major General Fred Lick, Jr., of the OMR, whom he describes as "a great patriot; he doesn't just fly the American flag; he does real things for his country."³¹ The two first met when Suter was commandant of the Army JAG School, in 1981. Lick, who was then the CEO and chairman of the board and president of Central Reserve Life in Medina, Ohio, called about taking a course at the Army JAG School. Suter signed him up for the five-day "Senior Officer Legal Orientation" course, created for the commanders of infantry, artillery, and other divisions. A few years later, Lick put together the CLE program, held each year at the Catawba Island Club, and invited Suter to give the luncheon speech. He's been going every year since:

I've done it now for 28 consecutive years. Twenty-eight years we've met at Catawba. At this time, I think we have about 90 attendees. That's as many as they can handle. That's all the room will hold. Fred sponsors it. It's a very modest cost. The JAG school supports it every year with two professors, majors or lieutenant colonels, they come up. These people are dynamite teachers. They know their stuff and they're really, really good. Two JAGs come up. I give the luncheon speech about the Supreme Court and what's going on here. We do it over and over.

This last time we had veterans of World War II, Korea, Vietnam, and the Gulf War. They're not sitting around telling war stories. ... So it's kind of a brotherhood, sisterhood, a group that meets there every year. You get your seven hours of CLE. That's a good place to do it. It's really cheap, too. They get two meals, breakfast and lunch.

So that's the OMR CLE. I guess at my retirement, Fred's already booked the club for next year. I guess I'll go again.³²

Suter has been a member of the Federal Bar Association for more than 50 years. He was first invited to be a member by his colonel when he was at his first duty station in Anchorage, Alaska. There, he met members of the local bar and the federal judiciary, including one of the judicial officers then called a "commissioner" (now magistrate judge). Sometime later, Suter and the commissioner set up a magistrate's court at Fort Richardson, where Suter enjoyed the opportunity to try cases outside of the usual context of courts-martial, and where both he and the commissioner could share their fishing stories. The experience led to Suter's lifelong dedication to the FBA:

We shared a great interest in fishing. And so we established a magistrate's court, we called it Commissioners Court. Magistrates court on Fort Richardson, where I prosecuted every other Wednesday night, traffic offenses against civilians, that sort of thing, shoplifting. I just had a great time prosecuting cases. It was more like Judge Judy, pretty relaxed. Nobody ever

showed up with a defense attorney, but the judge and I would sit in the little chamber we had for him there in our own courtroom on Fort Richardson. We'd talk fishing. We'd get so animated talking, the bailiff would have to come and get us to come out. The place would be full of a bunch of civilians who were out there for speeding tickets. There was also prostitution. All kinds of misdemeanor offenses we tried. And the federal district judge loved it. The magistrate, the commissioner, he loved it. I got a lot of trial practice, in addition to my court-marshal work.

The Federal Bar led to all those things. Just an amazing door opening for me that I wouldn't have had I don't think. I might not have been accepted by the local bar. Who knows. My goodness, I made friends there, still some friends up there from the Federal Bar. Once you join the Federal Bar, you can't let go. I've been a member of a lot of chapters, sometimes more active than others. It's been a great joy to associate with the Federal Bar members and the association.³³

Suter has been an active member of many FBA chapters since then and is currently a member of the Capitol Hill Chapter. With each chapter where he has been a member, and each one he has visited, he finds that "wherever I go, the federal judiciary is 100 percent supportive."³⁴

Stepping Down ... and Looking to the Future

Now, after 22 years, Suter is moving on to new adventures. He describes his decision to retire as knowing when it's time and wanting to go out on top:

All of us think about retirement now and then. It just goes through your mind. In the Army, you knew the age requirements, length of time requirements. You knew what was going to happen.

But I just started thinking last winter, and the more I thought about it, the more I realized what people say is true. You'll know when it's time. You will know.

One thing is, I'm 75 years old. I don't feel it. I feel good. My wife's health is good. Our children, our grandchildren, everything is fine, but I thought it's best to go out when things are fine and not when I'm missing a step or I'm ill or—just anything can happen. I wanted to go out on top, while I still have some really good years left to do some things that my wife and I wanted to do.

I just put it all together and discussed it with my wife and said I want to do it and give the Court plenty of notice. So I told the Chief in December. It was announced in January that I'm retiring in August. That's more than two weeks' notice.³⁵

He looks forward to the future, never being one to spend time looking backward.

My wife and I have a different view on things like that. We look forward to tomorrow. ... We look forward to the next day. ... What's the next adventure? We don't look back and say, 'Boy, I missed that or I missed that.' ... I want to be happy wherever I am. It's just a better outlook on life, I think. As long as you've got your family and you've got your health, what else is important? Not much.³⁶

His favorite part of being clerk of court? It's the opportunity to work with his staff at solving problems, "I enjoy everything. I enjoy being with people. I like problems. I like to solve them. I like to have everybody else help me solve them."³⁷

When asked how he would like to be remembered as clerk, he looks to the pride he has in the staff he has worked with, hoping "people said he did the best he could. That's all you expect. You don't walk out—my portrait will be on the wall. That's enough. The lasting friendships and memories and some of the things we accomplished. I emphasize the word we. There's no 'I' in team. So that's what it's really been here. I'm retiring very satisfied with the choice to come here and humbled that the Court selected me."³⁸

On the final day of this year's term, on the same day the Court announced its decisions in *U.S. v. Windsor*³⁹ and *Hollingsworth v. Perry*,⁴⁰ Chief Justice John Roberts, Jr., closed the term by thanking Suter for his dedicated service to the Court and to the country, noting that "our clerk, William K. Suter ... has sat next to the bench for the past 22 years and has heard more than 1,700 arguments," and acknowledged his 51 years of government service.⁴¹

Former United States Solicitor General Kenneth Starr, now the president of Baylor University and previously a judge on the U.S. Court of Appeals for the D.C. Circuit, earlier noted that Clerk Suter "brought to the nation's highest court a formidable set of skills—high intelligence, rock-ribbed integrity, vast legal experience, extraordinary efficiency, and a winsome, charming personality," adding that "advocates greatly admire and enormously respect this giant among us. Along his remarkable journey of distinguished public service in civilian life, Bill also became a singularly well-informed, insightful observer and engaging student of the most important tribunal in the world."⁴²

Bill Suter looks forward to the freedom of retirement, and perhaps the opportunity to do some writing too:

I'll retire in August. In September we're going to San Juan for the Federal Bar convention. The Federal Bar invited us to go down. You see, normally those trips where I go down one day and make a presentation or something and come back the next day, a three-day trip. Down one day, one day there, and back the next day because I had to go back to work. I don't have a job anymore.

So we'll stay four or five days and be the American tourists and just enjoy it and not have to get back for anything. But we have a rather large house in

Alexandria. We have a home in the country on the lake 80 miles away. ... I plan to do a little bit of writing. Not the great American novel. I'd like to write something about the history of the clerk's office. I have quite a bit of material. It would be something maybe the historical society would produce in a pamphlet. Not for sale, I don't think. I think I have some things historically that might be interesting.

I tell people I also plan on writing letters to the editor. Now that I have all my free speech rights back, I can complain about politicians and national policy if I want to. Maybe they won't be printed, but I'll feel a lot better writing a letter to the editor.

I'll do my own reading. I always have books I haven't gotten around to. I'll read those. We want to do some family and civic things, be more active in our church, and spend more time with our grandchildren.⁴³

In looking forward, Suter notes, "I plan on staying active in everything I'm going to do, but I won't be driving that highway early morning or late in the afternoon. I think I'll enjoy driving against traffic headed down to our lake house."⁴⁴

Thank You, General Suter

Bill Suter has considered it an honor to have served as the clerk of court of the Supreme Court for 22 years. We, as citizens of the United States and members of the Federal Bar Association, have been honored by that service, and even more so by his friendship and dedication to the FBA. There is really only one thing to say: Thank you, General Suter. Best wishes on your new adventures. ☺

Endnotes

¹In addition to an interview conducted by the authors on April 25, 2013, and a photo session at the Supreme Court the following day, the authors also reviewed two previous interviews of Suter: an interview with C-SPAN as part of "Supreme Court Week," which aired on Oct. 9, 2009, and can be found on the C-SPAN website at www.c-spanvideo.org/program/289320-1 (C-SPAN Tr.); and an interview given to attorney Steven Delchin on April 20, 2012, in connection with a Supreme Court swearing-in ceremony hosted by the Northern District of Ohio Chapter, which can be found on the Squire Sanders LLP appellate blog at www.sixthcircuitappellateblog.com/interviews/exclusive-interview-video-with-general-william-k-suter-us-supreme-court-clerk/ (Delchin Tr.). Where quotes from these interviews are incorporated, the appropriate reference is provided. All other quotations are drawn from the authors' April 25, 2013, interview (TFL Interview Tr.). Also referenced herein is a profile of General Suter published in the September 2003 edition of *THE FEDERAL LAWYER*, *William K. Suter's Motto: "Work Hard, Be Lucky,"* written by former Editor in Chief Craig Gargotta.

²Delchin Tr. 13.

³TFL Interview Tr. 46–47.

⁴Delchin Tr. 10–13.

⁵TFL Interview Tr. 1–3.

⁶TFL Interview Tr. 5.

⁷C-SPAN Tr. 25.

⁸500 U.S. 173 (1991).

⁹501 U.S. 380 (1991).

¹⁰501 U.S. 560 (1991).

¹¹501 U.S. 1030 (1991).

¹²C-SPAN Tr. 3.

¹³C-SPAN Tr. 11–12.

¹⁴C-SPAN Tr. 14–15.

¹⁵Delchin Tr. 6–7.

¹⁶TFL Interview Tr. 24–25.

¹⁷TFL Interview Tr. 47.

¹⁸C-SPAN Tr. 18–19.

¹⁹C-SPAN Tr. 19.

²⁰C-SPAN Tr. 10.

²¹TFL Interview Tr. 32–34.

²²C-SPAN Tr. 7–8.

²³Delchin Interview Tr. 3.

²⁴TFL Interview Tr. 11–13.

²⁵TFL Interview Tr. 14.

²⁶TFL Interview Tr. 15.

²⁷TFL Interview Tr. 18.

²⁸TFL Interview Tr. 38–39.

²⁹C-SPAN Tr. 21–22.

³⁰TFL Interview Tr. 35–38.

³¹TFL Interview Tr. 41.

³²TFL Interview Tr. 42–44.

³³TFL Interview Tr. 7–8.

³⁴TFL Interview Tr. 8.

³⁵TFL Interview Tr. 19–20.

³⁶TFL Interview Tr. 44–45.

³⁷TFL Interview Tr. 38.

³⁸TFL Interview Tr. 44.

³⁹Slip Opinion, No. 12-307 (June 26, 2013).

⁴⁰Slip Opinion, No. 12-144 (June 26, 2013).

⁴¹Audio File, Comments of Chief Justice John Roberts, Jr. (June 26, 2013).

⁴²*Supreme Court's Gen. Suter Is Retiring—Again*, TULANE UNIVERSITY LAW SCHOOL NEWS (July 3, 2013) www.law.tulane.edu/tlsNews/newsItem.aspx?id=17793.

⁴³TFL Interview Tr. 20–21.

⁴⁴TFL Interview Tr. 47–48.