THE ORAL HISTORY

OF

MARVIN E. ASPEN

SENIOR DISTRICT JUDGE

OF THE

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS

AS TOLD TO

COLLINS T. FITZPATRICK

CIRCUIT EXECUTIVE OF THE SEVENTH CIRCUIT

2014

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CONDUCTED BY COLLINS FITZPATRICK
SEVENTH CIRCUIT EXECUTIVE - 12/19/12

COLLINS: Today is December 19, 2012, we are in the chambers of Judge Marvin Aspen and we are doing an oral history.[1] Why don't you tell us a little bit about your father's side of the family.

JUDGE: I can't go very far back, and unfortunately I don't have a lot of names as far as my Dad's relatives are concerned. I will tell you the little I know. My Dad left Poland when he was 15 years old in the late 1910's. His family owned a farm in a little village called Keilce. It is infamous for another reason. You will find it featured at the Holocaust Museum in Washington, DC. It's one of the last exhibits as you leave the Museum. Keilce was a village that was sometimes overrun by Russians, but was mostly Polish. Unlike many of the Jewish families, my father's family owned a farm. My father actually lived on the farm and worked as a farmer. It was an active farm. All family members were involved. They farmed everything, potatoes, vegetables, raised cows and chickens. My father's family was killed in the Holocaust and he never talked too much about them. It was too painful a subject for him. I have an old photo of his family that has always hung in my chambers.

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[1]A formal biography is appended herewith.

When my father was 15, he had an altercation with a Russian cossack during a mini-pogrom. He threw a rock at a soldier on a horse and although he didn't hurt anyone, he thereafter became persona non grata. So my grandmother packed him a lunch and at midnight he left Poland and never returned. He walked across Europe working on farms. Because he knew farming, he could always find day labor. He ended up in Rome after three years, 18 years old and virtually broke.

At that time he envisioned himself a Zionist and planned to emigrate to what was then Palestine. In order to get there, he needed money to pay a bribe to what I think were the Turkish or British authorities and for boat fare. He had saved little since he was living hand-to-mouth as he crossed Europe. He had a distant cousin in Chicago and the image of America by immigrants, in those days, was that the streets were paved with gold. So he had what he thought was a rich relative in Chicago. The man was a tailor. My Dad wrote him a letter explaining who he was and he said, "If you loan money for boat fare to go to Palestine, I will pay you back." His cousin who turned out to be a mean SOB wrote him back and said, "I won't give you a penny for something like that, but if you are a good tailor, I'll send you a boat ticket to Chicago and you will work in my shop and pay me back for the ticket." At that point in his life, my Dad never held a needle and thread in his hand, but he needed to get out of

Rome; he was penniless. So he wrote back and said, "Yes, I'm a tailor, send me the ticket." That's how he came to Chicago.

My father's name was George. His father's name was Avrum and his mother's name was Rachael. I don't know her maiden name.

Through the years my Dad sent them money and he tried to coax them to come here. They were reluctant to leave because they were living a very nice life on their farm. They were very comfortable and had become very complacent. When things turned bad, it was too late to leave. They were all killed in the Holocaust.

My father was a remarkable man. He had a very cheerful disposition. Outwardly he wasn't scarred by his tragic experience at all. A very loving husband, a great father, a great grandfather. He would only talk sketchily about the tragic part of his life. One time I tried to press him for details. It became obvious that this was a very painful subject for him to talk about and I backed off. Later after he was gone, I felt regret that I did not press him for more details.

So the only remembrance I have of my father's family is that one photo of his brothers, sisters and parents. He was the youngest child–the baby of the family. He had one older brother and seven older sisters. I have some letters that my father had written to the Polish government after World War II asking for information as to what had happened to his family. The reply verified that they were all killed. The exchange of

letters is very chilling reading. They describe how the family was taken away by the Germans and murdered.

Aspen was not always the family name. It was Aspescz in Polish. When he emigrated to the United States the immigration people shortened it to Aspis and then later it became Aspen. I made the change after high school and shortly later he and my mother also changed their names.

My mother was born in Leeds, England. Her family owned the Jewish bakery store in Leeds. Her father was Ukranian. He had come to Leeds as a teenager where he met my English grandmother. They married in Leeds, England, and they had three children in England. They moved to Canada and had three children in Montreal. Then they moved to Chicago and had three children there. Seven of the nine survived to adulthood. Two died in infancy. My mother was one of the children born in England. Her maiden name was Adelson. Her father's name was Joseph and her mother's name was Fanny Rudicka. She had three surviving brothers, Henry, Charles and David, and three surviving sisters, Jenny, Rhea and Lillian. They all lived in Chicago at one time or another. Henry, David and Lil eventually moved to California and Jenny to Montreal. Rhea and Charlie stayed in Chicago.

My father came to Chicago and worked as a tailor for his older cousin, whom he called Uncle. He made enough money to pay back the boat ticket and then got a job at a dress factory and learned the business.

He eventually learned everything about the dress business. He learned how to be a cutter, a presser, a designer and in the late 20's opened his own dress factory. His dress factory was very successful but he lost it in the Great Depression. The stories he used to tell about the Depression days were very poignant. He had tried to keep the business alive. So he got a second job at one of the Goldblatt's Department Stores as a handyman while he was trying to run this factory. He'd do everything at Goldblatt's, sweep the floors, run errands and fix things. One day when sweeping the floor, he saw one of his own employees shopping there. It was an embarrassing moment. He tried every way to keep his business alive but was unsuccessful.

After he lost his business, he got a job as the manager of at that time the biggest dress factory in the City of Chicago. Although New York was the hub of dress manufacturing, Chicago was a major manufacturer. Eventually mass dress manufacturing atrophied in the United States, and moved to Asia. The factory my Dad managed was called Franklin Dress Company. It was located just a few blocks from the Dirksen Courthouse at Franklin and Jackson Streets. The factory would operate five days a week and my Dad would be there five days a week, but would also go into his office at the factory on Saturdays. He took me to work a few times. His lesson to me was: "You see how hard these people are working and you know how hard I work, so go get an education because you can have a

better life than this." I was an only child so my parents had a lot invested in me.

My Dad was a very talented man. Even after he retired, he designed and tailored Sue's clothes, and Jessica and Jennifer had beautiful dresses that he designed and tailored. He could go into the finest store, look at a dress and could go back home, draw and copy it. The clothes he made for my mother, for Sue, for my daughters, were his retirement hobby. He never made a suit for me. Instead, he took me to Maxwell Street to buy my first suit, wholesale. He made sure the fabric and fit were of high quality.

I was born in 1934 and started school in 1939. My lasting memory of World War II was listening to President Roosevelt on the radio. I remember food rationing, rationing stamps for gasoline, for butter and eggs. All three of my uncles on my mother's side served in World War II.

COLLINS: When World War II broke out, my guess is the Soviets were in control where your ancestors were? It wasn't until the Germans double-crossed the Soviets when the real problem began.

JUDGE: I think that's right. There was a lot of anti-Semitism in Poland, in Eastern Europe generally, but nothing ever occurred like the Nazi mass killings. The Russians were testy but the Germans were vicious. What I can tell from my Dad is that his family had a good life in Poland. They were

farmers and never lived in a ghetto. Havoc came with the German occupation.

COLLINS: You go to school. You're not a stand out student as far as grammar school. I mean you're smart and so you probably coasted, having a lot of fun with your friends. It was in eighth grade when you meet a teacher who made a change in you.

JUDGE: I think it was sixth grade–I met a teacher who was a very wise person. She took me aside and in a very gentle way accused me of acting like a clown and wasting my intellectual ability. She got to me. She didn't make me into a nerd. I still had friends and was involved in athletics and by eighth grade discovered girls. Her name was Mrs. Lippman. She was a very wise lady. So I became a good student and became Mayor of the school, it was like President of the grammar school, Haugan Grammar School, located at Hamlin and Wilson, in Albany Park.

I went on to Roosevelt High School. I played sports. When I started Roosevelt High School, I was not much taller than I am now. I was 5' 11" and very skinny. I think I may have grown an 1-1/2" the rest of my life. I have lost the 1-1/2" in the last few years. I ended up close to 6' 1" but I was 5' 11" when I was 13.

Our high school basketball coach was Sam Edelcup, who was a gruff SOB, a real character. He would shoot free throws with the students for nickels. He was good, usually won, and ended up taking their lunch

money. Sam decided that because of my height I had great growth potential so he taught me how to play center. The problem was I didn't grow. One of my best friends was 5' 6", a fellow named Mort Miller, who ended up being 6' 4" and was All-City by the time we graduated from high school. I was not as successful. When our senior year started (the year Roosevelt won the City Basketball Championship–the last predominantly Caucasian team to do so. DuSable won the next year in '53), I didn't play. The Coach had taken me aside and told me I was obsolete. I asked why was I obsolete? Because in those days when you played center, your job was simple. They threw the ball into me and I had three choices–I would hook with my left, I would hook with my right hand, or I would pass the ball back out again. I was very good at that, but I developed no other worthwhile skills. So, by the time everybody grew, while I stayed the same height, that was all I could do. The Coach said: "You can sit on the bench for the rest of the year, but you're not going to play." So my basketball career ended tragically one year before we won the city championship. Instead of playing my senior year, I became the Sports Columnist for the school newspaper. I covered the team during the championship season, which turned out to be a great experience.

COLLINS: Did you play any other sports or any other activities besides the newspaper?

JUDGE: I didn't play on any of the other varsity teams. I played park basketball and softball. I also played pinners (you take a tennis ball and hit it up against the wall), we played line ball. We lived in the inner city and the alleys were narrow, so we also played a variation of softball where you had to hit the ball on a straight line to keep it off the garage roofs. We played touch football. Tackle football a couple of times, but not on a regular basis. After high school I played tennis frequently and took up running regularly.

COLLINS: Did you do any debate or forensics?

JUDGE: I was not on the debate team, but was active in student politics. I was President of my Roosevelt High School graduating class. I was Co-Editor of our year book and also did a lot of writing for the school newspaper.

COLLINS: And you worked, you had different jobs. What were the jobs? When did you first started working?

JUDGE: I started working in my last year or two of grade school. My first job was working for a fellow who ran a mail order business out of his home basement. I packed and shipped mail order products from the basement. I also worked at Mission Orange, a soft drink company, on Lawrence Avenue near Hamlin. My biggest best paying job in high school was at Kitty Kelly Shoes on State Street. I also sold shoes at Carson's, also on State Street, all through high school. I worked for my uncle, my Aunt

Rhea's husband, who owned a hot dog stand on Kedzie and Foster Avenues. I didn't eat hot dogs again until four or five years later.

When I got to college, the jobs got a little more interesting. I worked at a summer resort in Elkhart Lake, Wisconsin, for several years. I went from bus boy to waiter to bartender and then between my first and second year of law school I managed the resort. I thought I was a really smart businessman and negotiated what I thought was a very innovative salary structure. I took a very low base pay and negotiated a bonus based on a percentage of gross sales after a certain sum. But, unfortunately for me, it rained all that summer. Business was poor as it turned out, I certainly would have made more money had I stayed as a bartender that year. That was an early indicator that I was not destined for a business career.

A fun job that I had all through law school was working for Gray Line sight-seeing tours. Gray Line had special tours on the weekends where the company would rent CTA buses and drivers and hire students as speaker/tour guides. We would go to Union and Northwestern stations and pick up groups from Iowa, or Wisconsin or Indiana. We would drive them all over the city during the day, and then drop them off back at the station about 5 or 6 at night. I had to learn much about the City of Chicago quickly. As a child, until I played basketball against some of the South Side teams, I rarely ventured South of Madison Avenue. I stood up

at the front of the bus with a microphone and gave my spiel about the city's landmarks.

COLLINS: Let's jump back. You are a senior at Roosevelt High School. You are President of the Senior Class. You are Co-Editor of the year book. You are writing for the newspaper and you are applying for schools.

JUDGE: Yes, but you have to remember in those days, many of the public schools, and Roosevelt in particular, did not have much of a college counseling program. Our sole part-time college adviser was one of the English teachers. Come college application time, she would hand out applications and, if you remembered to ask the right questions, show you how to fill them out. So I was pretty much on my own.

I was the first person in my family to go to college so I really had no one to talk to about college. My parents during my last year of high school had moved to West Rogers Park on Lunt near California. I figured out that the only way I would get to college was to work, live at home, and take the CTA to school. I got a CTA map and I saw that the only colleges within reasonable public transportation commute were Northwestern and Loyola. So I applied to both. Loyola had a little box on its application, asking "Are you a scholarship applicant?" I checked that box, why not? Northwestern didn't have that little box to check so I never inquired about a scholarship there. Both schools accepted me, but Loyola offered me a

scholarship, a full ride. So that's how I ended up going to Loyola, which turned out to be a great experience.

I went to the Lake Shore campus. I learned how to drink beer at Hamilton's, a popular bar near the school. One semester, because I wanted to take some business courses, I went to the Lewis Towers Downtown Campus. I helped integrate the school. At that time Loyola, a Jesuit school, had a predominantly Catholic student body, as opposed to DePaul, which at the time probably had about a 1/3 non-Catholic enrollment. I knew the precise religious make up of the Loyola student body because, as you may recall, every Catholic student was required to take a religion class every semester. Every non-Catholic student during the first two years of college life had to take a non-Catholic religion class, which was mostly philosophy–and heavy on Aquinas. So in my first semester I got to meet all the non-Catholics on both campuses. In 1952, there were 13 – 8 Protestants and 5 Jews in the Freshman class.

I joined a fraternity. There was a chapter of Tao Delta Phi which was a national Jewish fraternity, but at Loyola there were only 7 or 8 Jewish kids in the fraternity and about 24 or 25 Catholic kids. I subsequently became President of a Jewish national fraternity that was predominantly Catholic. It was a good experience.

I majored in Political Science and Sociology.

COLLINS: When did you decide that you wanted to be a lawyer? We know you were 18 when you went to a lawyer to get your name changed.

JUDGE: I guess the idea of becoming a lawyer had always been in the back of my mind. Coming from an immigrant-Jewish family, being a professional was a big thing. Becoming a professional was viewed as a quick start to success. It was the American dream. With hard work you could come from nowhere to having an important occupation. Professions other than the law did not intrigue me. I was not interested in medical school or dental school or becoming a CPA. I did like to write and thought I had a little bit of a gift for that. At one time, I thought I might get into journalism. After reading great writing in college, I realized that although I was a very competent writer, I did not consider myself a great one. I thought that I probably should look at other career choices. I would say that by the end of my first year at Loyola, I zeroed in on the law. By the way, in Malcolm Gladwell's best selling book, *Outliers*, there is a chapter devoted to American Jewish students of my generation, predominantly children of immigrants, who became successful in the practice of law, which at that time had relatively few Jewish lawyers.

COLLINS: Now you were the mayor of your grade school, the president of our high school senior class and president of your fraternity. You changed your name, were you thinking of running for office.

JUDGE: No, I was thinking in spite of all the success I had in high school and grade school with that name, I took a lot of teasing too. I thought some day I was going to be married and have a family and I didn't want to give that name to my kids. It was a lousy name and it had no significance, it was Americanized from the Polish spelling by a whimsical immigration official when my father came over from Europe. So it had no particular family significance. I didn't want to change the spelling drastically. So I just changed the last two letters. Surprisingly, there are not that many Aspens in the world. You might think it would be a popular surname because it is the name of a popular city and an attractive tree. If you look in the Chicago directory, I doubt you are going to find more than two or three families with the name. Aspen turned out to be a unique name. There are some Swedes that spell it Aspin, but I would bet that you can't name anyone you have heard of who spells it ASPEN, other than me. There was an actress about two or three years older than my daughter, Jennifer, whose name was also Jennifer Aspen, but that was her Hollywood name, not the one she was born with.

COLLINS: Did you know about the tree and Aspen, Colorado, when you picked it?

JUDGE: Yes, I must have known about them, but the name just sounded nice and allowed me to keep the first three letters of a five-letter family name. That was the sole reason.

COLLINS: What were you active in beside the fraternity at Loyola?

JUDGE: I spent the bulk of my time working or studying. I was involved in student government. I was an avid sports enthusiastic. Although it was a bit before Loyola's NCAA Championship, we still had representative teams. College for me was nothing like the experience that my kids had. They went away to college and lived on the campus. I lived at home and never experienced campus life as they knew it.

I made new friends of different ethnic groups at the school. I learned from the Irish kids how to drink beer. We did very little drinking at my high school. Cigarette smoking was our major vice. Even that was a very controlled vice. I never smoked during basketball season in high school because it made me short of breath. No one knew smoking was a health hazard in those days. I would smoke close to a pack of cigarettes a day and then go cold turkey through the athletic season and then I would resume smoking again after the season. I smoked through my first year of law school before I quit for good.

COLLINS: Although you were pretty precocious and a Don Juan back in the day.

JUDGE: Yes, I discovered girls in the latter part of grade school but that has nothing to do with the Don Juans you are referring to. The Don Juans were a club I joined. I can't take credit for creating the name. We all had a club jacket with the name and logo on it. We had our own intermural athletic team.

I met my first real love during my last year of high school, a very pretty girl by the name of Debbie who was the editor of the school paper and whom I took to my senior prom. She went away to school at the University of Michigan and met some senior and that was my first heartbreak. I met her again two or three years later after she broke up with the guy. Seeing her again and finding that I was no longer interested was a cure for any heartbreak.

COLLINS: In law school, you take courses from Fred Inbau who at that time was the expert in the country on criminal law. Did you sort of head in that direction?

JUDGE: Fred was very important in my professional life as he was in the lives of so many Northwestern Law School graduates like Jim Thompson and Joel Flaum. Fred was much more conservative than I was but he was well-respected by all. He was also a very practical teacher, unlike some of the more theoretical professors I had at Northwestern. He encouraged my interest in criminal law and he was a big help to me after I graduated as well.

COLLINS: You applied to work for the United States Attorney but didn't have a Republican sponsor because you were a registered Democrat?

JUDGE: Rich Tieken was the U. S. Attorney and Mitch Reiger was the First Assistant.

Fred Inbau had written a very strong letter of recommendation. This was almost a year after I was out of law school. I had joined the Illinois National Guard during law school and after completing my six-month active duty tour, was working for an Illinois Supreme Court committee to revise the Illinois Criminal Code. There were two draftsmen. One was a fellow named Jim Thompson. The other was me. That temporary employment was about to expire.

When I went in to see Mitch Reiger, I was a very idealistic kid. I told him I always wanted to do something meaningful and important to be able to give back to society, you know, all the appropriate idealism of a first generation American of that age. I was single and was simply interested in doing something that was important and I am sure that I came across as young and perhaps too idealistic to practical politicians of the Chicago school. I used Fred Inbau as a reference on my application instead of the customary party politician. Reiger looked at me in a bemused state. He called a couple of the office old timers into the meeting and said, "I want you to meet Marv Aspen. Fred Inbau sent him here and is listed as his sponsor. Aspen wants to join this office to do good things for society or words to that effect." I knew then I was dead in the water. So I went back and reported the interview results to Inbau. He was very upset because he thought I was one of his best students and they should have grabbed me. So on to Plan B.

Francis X. Riley was head of the Appeals Division in the State's Attorney's Office and he had been a member of the committee to revise the criminal code when Jim Thompson and I were draftsmen. He had recruited both Jim and me to join the State's Attorney's office. Ben Adamowski was the Republican State's Attorney. My family and I were registered Democrats. So again I used Inbau's name as my sponsor. This time, fortunately, I was interviewed by Elroy Sandquist who was head of the Civil Division. Now I happened to know Sandquist because his younger sister was my classmate at Roosevelt. I knew the Sandquist family. I had met his Dad, Elroy Sanquist, Sr., a Republican State Representative. Joan Sandquist, was my Co-Editor of the school yearbook. Adamowski hired me in spite of my non-political background. He said, "I don't care about your politics, just don't do anything to embarrass me." So that's how I landed my job in the State's Attorney's Office.

COLLINS: When did you meet Sue?

JUDGE: I met Sue in the Summer of 1965. She had graduated from Vassar, where she had been a Russian major, and was working at the American Sociological Society in Washington, D.C. for the summer and she was planning to begin graduate school at the University of Chicago in the fall. She came to Chicago during the summer to look for housing. Sue had been an Army brat. Her father was a West Point graduate and she had

lived in several places around the world including spending a year in eighth grade in the Highland Park school system when her Dad was stationed at Fort Sheridan. Sue lived in Hawaii and had gone to school out East. She had corresponded through the years with a girl in her eighth grade class. She wrote her that she would be in Chicago for the weekend. Her girlfriend said, "Well stay at my house for the weekend." This friend happened to be dating a very close friend of mine, Sanford Takiff. He eventually was to become a very successful businessman–a part owner of the Sox and the Bulls, banker and restaurant owner. Sandy called me and said, "I've got this extra woman this weekend. You've got to join us and help me out. I said, "I can't." I was dating two or three girls at that time, none seriously, but I wasn't particularly interested in meeting a woman who I thought would be in the city for only a weekend and I had no idea what she looked like. I wasn't interested in blind dates. He said, "You owe me, you gotta do it," and that's how I met Sue.

Before she went back to Washington after the weekend, I slipped her my business card and said when you get back in town we'll get together. She smiled at me and took the card. September came, I didn't hear from her. October came, I didn't hear from her. Finally, I called her and said, "You were supposed to call me." She said, "Well, where I come from, if a man wants to see a woman, he calls her." So, although I met her in July, we didn't start dating regularly until November.

COLLINS: You were in the State's Attorney's Office--let's go back to that. You were working in the Appeals Division.

JUDGE: The wonderful thing about government service in those days, was that there were so many political patronage employees who worked so little at their government jobs and spent most of their time at their private practices–that if you were young and ambitious, and had any ability, your opportunities to do important government legal work were boundless. So from day one in the State's Attorneys office, I was trying cases, I was handling appeals. Years later, when I filled out my application for a federal judgeship, one of the questions was, "How many cases have you argued before the highest court of your state." I stated 127. Ted Kennedy was head of the Senate Judiciary Committee at the time. A committee staff person called me back and said, "We're not interested in how many times your name was on the briefs. How many times have you personally argued?" So I went to the Clerk of the Illinois Supreme Court, got proof of my 127 oral arguments and sent it on. In those days, before the Illinois Constitution was later amended, every felony conviction skipped the Illinois Appellate Court and went right to the Illinois Supreme Court. Jim Thompson and I essentially were a two-person criminal appeals division. We would go down to Springfield five times a year for a three-day period. Approximately eight cases were argued each day, most from Cook County. I would average three arguments a day. The hardest part was keeping

track of the defendants' and victims' names. We had numbers of Supreme Court arguments that will never be beaten. Jim and I have a running friendly debate about who has argued the most cases.

COLLINS: Where did you first meet Jim?

JUDGE: In law school. I was a year ahead of him and was his *Criminal Law Journal* editor.

COLLINS: So you were trying cases and you are arguing cases in the Illinois Supreme Court. What are the most memorable cases that you worked on?

JUDGE: The most significant cases I was involved with were not necessarily the appeals cases. I also handled many important trials–civil and criminal. My career changing case was against the City of Chicago. State's Attorney, Ben Adamowski, assigned me to handle the case at trial because he anticipated that it eventually would be appealed. The City Council of Chicago had a rule excluding cameras during meetings. It was obviously unconstitutional but to avoid any legal challenge, the Council suspended the rule as its first order of a business meeting. Adamowski despised Mayor Richard J. Daley. In order to tweak him, I think, Adamowski had me file a mandamus action challenging the Council rule and naming Daley as a principal defendant along with all the alderman. John Melaniphy, the Corporation Counsel, handled it personally for the City. I lost, as anticipated, in the Cook County trial court. Which state court trial judge in those days would rule against Daley? I felt confident about any appeal.

Eventually Melaniphy confessed error and the City Council of Chicago amended the rule to permit cameras at its meetings. It was the case that would get me into the Corporation Counsel's Office.

A couple months later, Dan Ward who was the Democratic candidate, defeated Adamowski and became the new State's Attorney. I was on good footing with Dan Ward. He asked me to stay on. He was really good about it. He even gave me a pay raise. Melaniphy called me a few months after the City Council case was over and invited me to lunch. He said the head of the Appeals Division at the City of Chicago is planning to retire in about six months and he asked me to come over to the City Law Department and eventually take over as head the of the city's Appeals Division. It was an attractive offer but I was wary. I said to him that I know how the city works. Although I had always been a registered Democrat, I had not been involved in Democrat politics. I had never been a member of a ward organization or a precinct captain. Although I certainly respected political work, I was more interested in practicing law and planned to stay in government for a relatively short time longer. I really did not want to do all the political work required at that time to remain a member of the Corporation Counsel's Office. Melaniphy and I finished our lunch and said good-bye.

Unbeknownst to me, Walter Schaeffer, who was then Chief Justice of the Illinois Supreme Court and another important person in my life, had

talked to Daley and recommended me. About two or three months after my talk with Melaniphy, I get a call from Daley's secretary asking me to come over to City Hall and meet with the Mayor. Who's going to say "no" to that–right? So I go over to City Hall. The Mayor is sitting behind his desk and, what I learned to be his modus operandi, sat without a piece of paper on the desk looking at me Buddahlike–the only thing moving are his lips. He said to me, "John says you're a good lawyer. We'd like you to come work for us." I said I was very flattered and then I started talking about my own concerns. I told him that I have the greatest respect for political life but I planned to go out in the private practice of law. Moreover, I did not belong to any ward organization or have any political sponsor and I really was not interested in doing the kind of precinct work that I know is important for city employees–sugar coating my words as much as I could. Daley looked at me for a few seconds and then he said, "Different guys serve in different ways. If anybody asks you who your sponsor is, you tell them it's me." That was the entire conversation. That's how I got hired. I never belonged to a ward organization, never was a precinct captain and was permitted to hire people, within limits, for the Appeals Division and if they sent me somebody, I had veto power. So I hired some very interesting people. John Elson, who is now a Professor at Northwestern Law School, was one of my hires. Later I did become involved in some political

activity, but never at the precinct level and never as a pre-requisite for a job.

COLLINS: At this time the Circuit Court of Cook County had a lot of dead weight and it had problems of corruption. How aware were you of that in the State's Attorney's office?

JUDGE: Oh, fully aware of it. Because how I became a state court judge is relevant to your question. I had left the City of Chicago and began what was the professional life I thought I was going to have. I set up a law practice with Bill Martin. He had prosecuted the Richard Speck serial-killing case and was a very talented trial lawyer. We had a small boutique litigation firm. Ty Fahner had just left Bill's office and eventually would go on to become Illinois Attorney General. I inherited Ty's office, even his furniture. I began private practice and was doing pretty well. My first year I made more money than I would ever make in my whole life if you factor in what the dollar is worth today.

A year later, I got a call from Illinois Chief Justice Walter Schaefer in Springfield. A new amendment to the Illinois Constitution had been passed allowing the Illinois Supreme Court to fill judicial vacancies for the first time. Before this amendment, the only way to become an Illinois judge was to run for office. If a judge died in office or retired, that position stayed vacant until the next election. Now the Illinois Supreme Court, for the first time, could fill vacancies.

Schaefer called my home about 7:00 a.m. in the morning to tell me that he would be making the first appointment under this new enabling legislation and he wanted to appoint me. Schaefer was an amazing man. The Illinois Supreme Court–other than Schaefer and one or two others–was not respected in those days. Some members of the Supreme Court were heavy drinkers and had extramarital affairs. There were rumors of corruption. Walter Schaefer was the most disciplined, dedicated, and honorable man I have ever known. He would listen to the arguments carefully during the day. In the evening, he would have one martini before dinner and then go back and work in the library. That was his routine. He was a man for whom I had great respect. I got to know him very well. So, when he called and said he wanted to appoint me, I was flattered. I said I wanted to talk it over with Sue. It would be a big change in my life. I had just begun my practice. Schaefer said, "Well, you have to let me know your answer by 2:00 p.m. because I plan to make the announcement of my appointment this afternoon and you are my first choice." So I talked with Sue and I convinced her to take the vow of poverty but I had to do one more other thing before accepting the appointment.

I called Daley's secretary, Kay Spear, and told her that I needed to see the Mayor about something important and personal. She said to come right down and that she would find a way for me to see him. So I got in to see the Mayor. He was sitting at his desk–Buddah like. Now I have to

believe that he knew the reason for my visit because he knew everything that was going on in the City of Chicago at that time–probably the most powerful politician I have ever known. I tell him that I have been offered this great opportunity, but if I were to accept, I would have to run for office at the next general election. (At that time it was about 8 months away–but as it turned out the election was held almost 2-1/2 years later. Because of the slow election machinery, it was scheduled for a later election cycle.) I told Daley my practice was going well and I did not want to give it up, in fairness to my family, unless I would have his support when I ran for election. I would have to be slated by the Democratic Nominating Committee which was composed of Democratic ward committeemen. He smiled and gave me his blessing (a promise of support at the election). I immediately went down to the pay phone in the lobby of City Hall and called Schaeffer in Springfield and said, "Yes, Mr. Chief Justice, I would be honored to accept." That's how I became a judge of the Circuit Court of Cook County.

I handled many cases of special interest to Daley. I had filed the original answer in the Shakman case for the City of Chicago–many First Amendment cases. I had the opportunity to brief Daley on some of these cases and we established a personal acquaintanceship. As a result, I am sure, I received a really good initial judicial assignment. John Boyle was the Chief Judge at that time, and the Chief Judge of the Criminal Division

was Joseph Powers who was Daley's former law partner. I was assigned to the Criminal Division and got one of the best assignments. Because of space problems, criminal cases where defendants were out on bond and had private counsel, were heard downtown at the Civic Center, instead of 26th and California. There were about six or eight criminal courts at the Civic Center.

Bernie Carey, Republican State's Attorney, decided he was going to indict Tom Keane, the City's most powerful alderman and Daley's floor leader in the Council. It was a flawed indictment which did not state a crime and would have to be dismissed. There was no random assignment of cases at that time. When an indictment was filed, the Chief Judge of the Criminal Division sent it to whomever he wanted. For that reason, Judge Dan Ryan never tried a jury trial during his career of many years in the Criminal Division because he was the go-to guy for cases that had to go away. This was a case that you didn't have to send to a go-to guy because it was a case that on the merits should be dismissed. Since I had some professional credibility, Powers assigned the case to me. This would have been no problem, except for the case that as an appointed judge I had to be slated for the Democratic ticket by the Democratic slate-making committee which would be meeting in about three or four months. And guess who is the Chairman of the slating committee? Thomas Keane. To me it's a no

brainer–I have to get the case off my docket ASAP. So within 24 hours, I wrote and issued an opinion recusing myself and explaining why.

The Democrats were pissed off at me. Tom Keane supposedly had muttered, "Ya, we might have to slate the son of a bitch, but he's not going to get any votes from my ward and a lot of other wards." Word came out that Daley was disappointed in me, not necessarily that I had recused myself. More importantly, Daley first didn't like surprises. The "political" thing for me to do was to have given him a heads up as to what I was going to do. Now I didn't want to do that for two reasons–the most important reason was simply that, from an ethical standpoint, that is not the way a judge should conduct himself. Secondly, even if that was the practical political thing to do in those days, it was still a no win situation for me to do so because Daley more likely than not would say, as he probably had said to many other people, "Just fall on your sword, don't worry about your reputation, we'll take care of you." I didn't want to get into that kind of dialogue with him so I did what I had to do. I know he was very disappointed in me.

As a result, I really had no contact with him after that until about two or three months before he died. There was a piece of obscenity legislation Daley was interested in. He thought I was a First Amendment guru because I had handled all the movie censorship cases when I was with the City of Chicago. I got a call that Daley wanted to talk to me about a

legal matter, not a pending case. We had about a ten minute conversation. It was just like old times. It was, "Hello, Marv, how's your family?" He always liked Sue. When he died months later, I felt really good that we had that reconciliation. I had a lot of respect for the way he had always treated me, and I would have felt bad if we had ended our relationship without that last meeting.

COLLINS: As an Assistant State's Attorney, was the rule in effect that allowed the State's Attorney to strike a Judge?

JUDGE: Yes.

COLLINS: Both sides could strike a Judge?

JUDGE: Yes.

COLLINS: Did you use that often?

JUDGE: No, when I was an Assistant State's Attorney, the rule did not exist. When I was sitting in the state court, it existed. I do not recall being stricken more than once or twice. There were some good Judges but there were others not so good. I'll never forget the time as an Assistant State's Attorney I was trying one of the so-called "Summerdale Police cases." Adamowski had hired Special Assistants from the big law firms to prosecute the Summerdale cases. The defendants were corrupt policemen. The cases started with officers from the Summerdale Police station and then spread to other police stations.

COLLINS: There was a burglar who was arrested who blew the whistle.

JUDGE: That's right. As I said, Adamowski hired trial attorneys from some big law firms to try the cases. They worked pro bono. They each had a regular Assistant State's Attorney assigned to assist them. However, when Adamowski lost the election many of the big firm trial lawyers all bailed out. I inherited one of these cases which I eventually tried with seasoned Assistant State's Attorney Berkos. The police officer defendant was acquitted and remained on the police force. Years later I met him again when he arrested me, after a traffic stop, for not having, according to him, my directional indicators on. This guy pulled me aside and said roughly, "You just broke the law." I knew who it was so I just said, "Just do your duty officer." He said, "Who do you think you are? You think you are someone above the law." I had a date with me in the car and she was scared to death. Luckily I had a witness with me. I said, "No, I don't think I'm above the law. You just do your duty." He gave me a ticket, but eventually it was thrown out.

I tried another Summerdale case with Jim Thompson before Judge George Weiss. Years later when George died, the word on the street was that he had cases of liquor bottles in his basement although George never drank a drop in his life. When someone gave him "a gift," he could not resist accepting it, even booze that he didn't drink. The defense attorneys for that case were Harry Bush and another guy, whose name I cannot remember. Harry Bush was George's friend and I don't know if anything

was said or exchanged between them during the case. I wasn't there. But I do know that Jim and I would get to 26th and California early each morning, and we would sit near the door of the Judge's chambers so when the defense lawyers arrived, they couldn't get in to see him alone. We did that every day. The defense lawyers got there early, but we arrived earlier–until one day we got there early in the morning and we parked our car in the parking lot. There between cars were Harry and George having their private chat. No surprise, we lost that bench trial.

COLLINS: One thing just to put on the record, the State's Attorney's office could never ask for a jury trial.

JUDGE: That's right.

COLLINS: Which made it easier if you had a corrupt Judge.

JUDGE: There were judges, although I couldn't prove it in a court of law, that were less than honest. Of course, when Greylord came around, we all knew what we suspected.

COLLINS: Unfortunately, it had more than Greylord.

JUDGE: Yes, but still the vast majority of Cook County Judges were honest with varying degrees of ability. I was confident of the integrity of most, but there were plenty of bad apples.

COLLINS: You're at the Corporation Counsel's Office, you are running the Appellate Division, that's about the time that you meet Sue. Why don't we talk a little bit about Sue. What was her maiden name?

JUDGE: Tubbs.

COLLINS: Let's talk a little bit about her family.

JUDGE: Her dad was Harry (Hap) Tubbs. I don't know too much about his family. He grew up in Ohio and was an only child. His parents had passed away when he was fairly young. So, Sue didn't know her paternal grandparents at all. Her Dad was a career Army officer. Sue's Dad was a very personable guy which is how he earned his nickname. One of his first assignments out of West Point was in Hawaii where Sue's mother was living. Sue's maternal grandmother also came to Hawaii from Ohio as a teenager. She was attending Oberlin College. In her first year, she developed a very bad case of bronchial asthma. Her doctor said the best chance for her to have any longevity was to move to a temperate climate. So she took a job as a governess in Honolulu.

There were very few Caucasian women in Honolulu at that time, but there were a lot of Caucasian men who worked at the plantations and other businesses or were in the military. When a boat came in from the mainland (and in those days one debarked passengers in a basket, which a crane wheeled onto the pier), it was a big occasion where tens and tens of men waited to see if there were any new women coming to the Island. One of those men became Sue's Grandfather who had come to Honolulu from Australia and was working as an accountant at one of the pineapple plantations. That is how Sue's grandparents met. Her Grandfather,

Thomas Collins, eventually became a very successful businessman. Sue's Grandmother's name was Alona Collins. Sue's mother's name was Marian. He and Marian married and Honolulu was their home base although they lived all over the world. As a child, Sue lived in Japan where her Dad was the chief military attache in Osaka after World War II. Sue also lived in the Panama Canal. Her Dad eventually retired to Honolulu. Sue attended Punahou High School in Hawaii as did Barack Obama. She went to Vassar College, spent one year in Honolulu (her mother died her sophomore year of college) and returned to Vassar where she graduated.

COLLINS: You met Sue in November, called her, started dating, so how long after that...

JUDGE: We met in August of 1965 and dated sporadically until February 1966 and became engaged shortly thereafter and married in December 1966. She was my first serious adult relationship. When I graduated from law school, I had my first real apartment, my own car, an Oldsmobile Cutlass convertible. I would jokingly say to my friends that I was only interested in non-serious relationships and having fun, until I was 35, when all the running around will be out of my system and I would find a woman and settle down. It would not matter what she looked like as long as she was a good companion.

Sue changed my "game plan." When Sue went home to Hawaii for a visit that first February, I realized how much she meant to me. I put on

the all-court press. By Valentine's Day we were inseparable and became engaged that summer.

COLLINS: When were your kids born?

JUDGE: Jennifer was born on June 16, 1969. She was born the day before Father's Day–my Father's Day present. Jessica was born on March 6, 1972. Andrew was born on December 17, 1975. He was our anniversary present.

COLLINS: You were living on Marine Drive. Is that where you first lived when you were married?

JUDGE: Yes, Sue moved into my old bachelor apartment. When our lease expired about a year later, we moved into a two-bedroom apartment in the same building. We lived there for three or four years. From there, we moved to Birchwood Street and then Albion Street, both in East Rogers Park.

COLLINS: Was Sue still pursuing her advanced degree?

JUDGE: She took a one year Master's program in the Russian language at the University of Chicago in the '65-'66 year (this was before we were married). When she graduated, it was the time of the Cold War and Sputnik. She was recruited by the CIA. There were really only two jobs for a woman with Russian-language skills at that time–academia or the CIA. There wasn't much commerce with Russia then. I explained to her that she could join the CIA where she would end up sleeping with a lot of Russian Generals, or we could get married and she would only have to sleep with me. She was convinced. So we married and she taught Russian

at Hyde Park High School for a year and then she taught Russian at Barrington Junior High. High schools, because of Sputnik, were starting Russian courses at that time. Eventually Barrington became a difficult daily commute, so after taking some advanced courses in Library Sciences, Sue became a librarian at Von Stuben High School. She retired to become a full-time mother when Andrew was born. Later on, she worked in the travel business on a part-time basis.

COLLINS: This is a jump back. You said your father was a very successful farmer. Did he ever garden?

JUDGE: Yes, we always had a verdant back yard. We had all kinds of stuff growing vegetables and flowers.

COLLINS: Because I know Sue was a gardener.

JUDGE: Yes, she was. She grew up in Honolulu, where one gardens all year 'round. Hawaiians virtually live outdoors. She said that the kids would walk to school barefoot and put their shoes on when they went into the school building. She was always an outdoorsy kind of person. She loved flowers and gardening.

COLLINS: Your first assignment was in the Criminal Division in the Circuit Court of Cook County. Did you stay there?

JUDGE: I stayed there for almost five years and then I went into the Law/Jury Division in the Civic Center where I tried jury civil cases. Both were great assignments.

COLLINS: Do you remember–I mean jury trials over there are very similar, it's not like there are famous cases. Do you remember any important cases?

JUDGE: I had several cases involving big dollar amounts, involving serious injuries. But, for the most part, the civil cases there, unlike the cases in the federal system other than for the individual litigants, were not particularly noteworthy. I did have several criminal trials that were memorable. Coincidentally, I recently received a letter from Ian Levin, our retired Magistrate Judge, who happened to catch an article in the sports section about Johnny Lira, a retired professional boxer who recently died.

COLLINS: That was a case you had over in state court.

JUDGE: Yes. Both the *Sun-Times* obits and the *Tribune* in the sports section mentioned his criminal trial, because Lira had given frequent interviews about his criminal case before me. He had committed a burglary and was caught when he broke both legs during the crime. His cohorts got away. At the time, Lira had a minor rap sheet. He was an 18-year old kid. His Dad was Italian and his mother was Puerto Rican, a real live West Side Story. He came from a very tough area in the inner city, most of the people he hung out with eventually went to jail or were killed when he came before me. Lira had never been involved in a felony before.

There was something about Lira that was almost charming, if you can call a burglar charming. Before I sentenced him, I asked, "What are you going to do with the rest of your life? You're a pretty articulate guy,

not a dummy. Do you want to spend all your life in prison? What can I do that's going to help you avoid the fate that you are apparently headed for?"

He replied, "I've got these" (holding up his hands). I said, "What do you mean you've got these?" He said, "Well I'm training for the Golden Gloves and I'm gonna be the champ." I said, "Really, tell me about it." He did and was convincing. I told him, "Okay, I'm going to put you on work release in the jail for a few months and then on probation. While you are in jail, I want you to train and also set up a jail boxing program and, when you come out, I want you to stay out of trouble and win the Golden Gloves." And he did.

He did more than win the Golden Gloves he became the U. S. Lightweight Champion. He fought a Brazilian for the World Championship. The championship bout was on television–Wide World of Sports–with Howard Cosell announcing. As I recall, in the second or third round Lira knocked the champion down for an eight count. Two more counts and Johnny would have been the World Champion but the Brazilian got up and two or three rounds later, broke Johnny's jaw and retained his title with a TKO win. Lira never got into trouble again. He became a boxing trainer and matchmaker. The case had a good ending.

There is one other criminal case in the state courts that did not have a happy ending which I will always remember. The defendant was a math teacher at John Marshall High School, African-American, revered by the

students, never been in trouble in his life. A young man in his 30's. He was separated from his wife when he came back to the house. She was sitting on the couch with another guy. The defendant had a gun, aimed it about 6' above their heads and pulled the trigger. Then he walked out. He pleaded guilty and came before me for sentencing with all kinds of letters and character witnesses, and, like Johnny Lira, I decided to take a chance on the guy. I fined him and sentenced him to work release and probation. He went back to teach school. The victim and his ex-wife were very unhappy with the sentence. About six or seven years after living a good life, he became involved in a homicide. So, I guess I made a mistake that time.

COLLINS: Not necessarily.

JUDGE: Another state sentencing came up during my vetting for the federal bench. Don Reuben, a noted Chicago lawyer, was head of the American Bar Association Federal Judiciary Committee that was evaluating candidates. When I was in state court, I had a criminal case involving a Hawaiian defendant who was a resident doctor at a Chicago hospital. A woman patient had just had some back surgery and she was in her hospital bed, lying on her stomach, talking to her husband on the phone. The defendant came into her room and said, "I hope I'm not disturbing you. This will be a very quick examination." She replied, "that's fine." So while she's talking to her husband, she feels something warm in her anus. The defendant had

penetrated her with his penis. She shreaks. Her husband hears her screams over the phone and she pulls the emergency cord. The resident is caught in the act. Again, the defendant never had been in trouble. He pleads guilty so it's just a matter of sentencing him.

The defendant admits it all, gets letters of support from people in the medical community, former patients, and the State's Attorney is not pushing for incarceration. The victim surprisingly doesn't want him sent to the penitentiary. So I work out a sentence to which everyone involved agrees. He will pay a fine and go on five years probation. The defendant will also do some weekend time in jail and a lot of community service. The plea with all the facts of the case will go to the American Medical Association, the Illinois Medical Association and the Hawaii Medical Association. The defendant also agrees, although it is not binding other than during his probationary period, that he will never practice medicine on live patients again. He will go back to Hawaii and become a Coroner's Assistant, a pathologist. He did well during probation and sent me Christmas cards for years thanking me for his compassionate sentence.

Years later it comes time for me to be interviewed as a judicial candidate by the American Bar Association. Nick Bua, the most recent judicial appointee, had warned me (because he had gone through it before me) that Don Reuben's *modus operandi* was to nit pick and find something that was questionable about your career and then tell you, "Don't worry

about it, I don't think it is going to be a problem. I think I can take care of it."

So Don brings up this case and his spin on it was a little different. He said, "How can you be so cruel, this physician got into trouble and you gave him a draconian sentence. You didn't show much compassion and you've ruined his career." I don't know where Don received his information, so I got the transcript of the sentencing and all the Christmas cards I had kept. I showed them to Don, and said, "This was one of the rare sentences where everyone was pleased with the result. Far from him being disgruntled, the defendant went back to Hawaii a happy camper."

When I was a state trial judge, the State's Attorney generally did not prosecute white collar crime nor even major gang crime, no big narcotics cases. Most of the cases tried in my court were the kind of cases we saw in our criminal law casebooks in law school, murders, rapes, armed robberies. Impressions you take away from that experience are mixed, the viciousness of some of the crimes, but still the few cases where there was an opportunity for redemption of a defendant.

COLLINS: One of the cases, Marv, when you came over here and I've used it to try and tell other judges, was your decision in the El Rukns, to split the case into five different cases. The U. S. Attorney was in a huff, but never brought any kind of mandamus or tried to appeal that decision because I guess wiser heads advised the U. S. Attorney's Office not to do that and not

to bring it to the Court of Appeals. But it's not usual for a district judge decision to have the impact on the law that that case had, but it was a great decision, or so I thought.

JUDGE: When the indictment came down, Tony Valukas was the U. S. Attorney and he told me, "You've got a big indictment and I don't think you are going to like it." I took a look at it and immediately knew what he meant. The indictment had multiple conspiracy counts, murder counts, drug counts, white collar type of counts, RICO counts, 27 or 28 defendant, including Jesse Jackson's half brother, Noah Robinson, who was the financer of the operation. In my opinion it would have been impossible for the jurors to make any sense of the complexity and interrelationships of the charges and defendants if all of the defendants and all of the charges were prosecuted in a single trial. I also thought it would be difficult for any defendant to get a fair trial. And also in fairness to the prosecutors, I didn't see how they could effectively prosecute the case.

I spelled out in my opinion all the reasons why I didn't think the trial as proposed would work. I gave the U. S. Attorney time to bifurcate the case into several smaller trials that the U. S. Attorney thought would be workable. The prosecution refused to file a plan so I developed my own plan and it worked out. The case was divided into five trials. I tried the case involving Noah Robinson and the "Generals" of the El Rukn. My colleagues tried the other four cases. The trials worked out well but there

were other things we learned post-trial which caused me to grant a new trial.

COLLINS: Was that the case with the U. S. Attorney's Office and some of the witnesses?

JUDGE: Yes.

COLLINS: The question was whether they were getting sexual favors.

JUDGE: Yes, and several other improprieties that I set forth in my order granting a new trial. I granted a new trial for two basic reasons: it was clear that the government withheld information, lab reports that they knew about that were favorable to the defense. Also, some of the key informant witnesses, which were just as dirty as the defendants, testified falsely. The government knew or should have known of this false testimony. Two other judges, Jim Holderman and Suzanne Conlon, came to the same conclusion in their trials of the bifurcated cases. I wrote a very lengthy opinion, granting new trials, which was affirmed by the Seventh Circuit. That was a very, very difficult case. I think those two opinions–bifurcating the case for trial and granting a new trial–have to be read in tandem, to get a flavor of the beginnings, and sometimes tragic endings, of this huge gangland trial. Every possible kind of problem occurred in that trial. The opinion became a blueprint for hard, complex criminal jury trials.

COLLINS: Not being a trial lawyer, but having seen a lot of litigation in this building, I saw that as a failure of middle management in the United States Attorney's Office.

JUDGE: I think it was. As you may recall in fairness to Tony Valukas, who I think is a superb lawyer, he left shortly after the indictment was returned. The case was not tried when he was U. S. Attorney. His successor's supervision of the zealous assistants who tried the cases was woeful. I think a lot of the problems that occurred during the trial, phone sex between some of the government informants at the MCC during the course of the trial, bringing the informants into the prosecutor's office and serving them beer and pizza while they were being debriefed, is documented in my opinion.

COLLINS: What are other cases that you consider to be big cases? You had the Chicago Housing Authority case.

JUDGE: That was an interesting case–I was a young lawyer visiting in Judge Dick Austin's chambers when the *Gautreaux* case was filed in '66. Dick Austin was Chair of the Illinois Supreme Court Committee to revise the Illinois Criminal Code. I was a committee member and got to know him well. He performed my wedding ceremony and became a good friend. I remember him saying to me at the time, "This is a case that is going to change the whole demographics of Chicago. This is a really important case." His eyes were twinkling and he was almost licking his lips. Austin, before he became a federal judge, had run for Governor replacing the original

Democratic candidate, Herb Paschen. During the campaign, it was disclosed that Paschen had a tax problem of some sort and had to drop out just a few months before the election. Austin was slated in his place and lost by only 25 thousand votes. He was so embittered because, in his opinion, the Democratic Party did not enthusiastically support his candidacy, that he used that number of votes he lost as his license plate number. Although Mayor Daley and whoever was the senior democratic senator at the time gave Austin his reward for being the sacrificial lamb, he really never forgave Daley.

COLLINS: He blamed Mayor Daley for not getting the votes.

JUDGE: Yes, he felt and others agreed that the Mayor was much more comfortable working with a Republican Governor than with a Democratic Governor sitting in Springfield as a potential party rival. As the leading Democrat in the state, Mayor Daley was the "man." Austin to his grave thought he was undermined, that he was asked to run and not only did he not get party support, but some Democrats actually worked against him.

Fast forwarding, the *Gatreaux* case which attacked segregated public housing in Chicago and could prove embarrassing to Daley is filed and assigned at random to Austin, who could not be more pleased with the assignment. When Austin died, John Powers Crowley was reassigned the case. In 1980 I believe, Crowley resigned and went into private practice,

and the case was reassigned to me. I have had the case since then–thirty-three years.

A Consent Decree had been entered that was suppose to create a scattered-site housing program in Chicago, which would open neighborhoods that were heretofore white only to minority residents. Although the agreement was in place, nothing was being done to execute the agreement and implement the scattered site program for political reasons. The City was dragging its feet. No white politician wanted integrated housing in his ward. And, for a time, the federal government was not cooperating as well. Finally the plaintiffs requested me to appoint a receiver to implement the consent decree. That's when the case became really active.

I appointed a committee chaired by a Loyola professor and four other independents to provide me a list of three potential qualified receivers. I didn't want to select a receiver, who would become wealthy in the process, without vetting that receiver independently and making certain that the appointment was not viewed as a political appointment. The committee gave me three names. I interviewed the finalists and Habitat was by far the best. So, I made the appointment.

By the way, the last President of Habitat, before she went to the White House, was Valerie Jarrett. I would meet with Valerie almost monthly for the last two or three years before she went to Washington.

Gatreaux was an interesting case and, more importantly, we got the scattered site program running again and made a great step in changing de facto segregation in Chicago. The receiver and all the parties worked together successfully to get the job done and, as a result, I was able to dissolve the receivership a couple of years ago.

The PATCO case was also an interesting and important case. President Reagan had tried to bust the Air Traffic Controllers Union. Chicago was one of the first of a series of cases filed by the Justice Department and was going to be one of the models. I found the Union's actions unlawful, but refused the Justice Department's request to put the Controller's Union's leadership in prison.

COLLINS: This was the Air Traffic Controllers that cannot strike and were organizing the Blue Flu.

JUDGE: Right. The Union never was busted.

I had some political cases–Pat Marcy and Fred Roti, Marcy who allegedly was made Mafia member was a Ward Committeeman of the First Ward and Roti was the Alderman–two very interesting characters.

COLLINS: The testimony and writing of Bob Cooley (*When Corruption Was King*) on those two was very interesting, if you ever read any of it.

JUDGE: Oh, I have. I read his book.

COLLINS: It was a very interesting transcript, if I can find it I'll send it to you. I just saw it because Peter Vaira was the hearing officer on the question of

whether or not the Union was infiltrated by the mob and the leadership ought to be kicked out and a receivership set up. Cooley is the primary witness and he goes into all the criminal activity between Marcy and what he was doing. It was very interesting.

JUDGE: Marcy was an evil man. He died before the trial so the trial went ahead with Fred Roti. Roti was a sweet looking cherubic little man. He looked like everybody's favorite uncle but he was a dangerous man. Yet a very likeable–appearing scoundrel. The Chicago Wards voted in numerical order at City Council meetings. Roti, the First Ward Alderman, would get word from the Mayor as to how to vote so Daley wouldn't have to tell the other 49 Alderman how they should vote. When the First Ward voted, every Alderman knew what the party line was. Roti was a very important messenger boy.

The trial was one of the first major Chicago political corruption cases. There was one tape in the trial from Marcy's office in City Hall that was particularly damaging.

COLLINS: Didn't they tape at Counselor's Row Restaurant?

JUDGE: There were tapes of discussion from the Counselor's Row Restaurant, but this particular tape was made in Marcy's office. The tape was particularly embarrassing for a very well thought of judge who was head of the Law Jury Division of the Circuit Court at the time, a very nice guy, a gentle man, a very likeable guy, who I had thought was personally honest in everything

he did. He was taped taking orders from Marcy in Marcy's office. To his embarrassment, the Judge testified at the trial. Here's the first of the tape: Marcy is on the phone talking to the Judge: "I gotta talk to you about something. Come across the street." The Judge says, "Well, I'm finishing up here, I should be able to get out of here in a half hour." Marcy says, "Get the hell out of there and come here right now." That Judge walked across the street and met with this Ward Boss who was allegedly the Mafia's made man in Chicago politics. Very chilling.

I had one of the more comical Greylord judicial corruption cases, involving an elderly Assistant Corporation Counsel at Traffic Court. He had a 108 count indictment – each count was for a $3 traffic ticket fix. At the end of each count, a photostat of a check for $3 was attached. These were all parking tickets, minor offenses. This man would fix them for $3 and he was dumb enough to take a check on occasion. The Government not only got him on tape, they had copies of the $3 checks he cashed.

Which reminds me, I had another Traffic Court case back in my private practice days that was a harbinger of Greylord. I don't know whether you knew Ed Rooney, a former reporter who covered the Cook County Criminal Court Building. He was the father of John Rooney of the *Chicago Daily Law Bulletin*.

COLLINS: I know John Rooney.

JUDGE: John's dad worked for the old *Chicago Daily News*. He was an old school kind of newspaper guy–a loveable guy. When Jim Thompson and I worked at 26th and California, our offices never were locked. Anybody could walk in, including the press. Jim and I were working late one evening and had gone to have dinner on the County's tab and came back afterwards to finish what we had been working on. We caught Rooney messing around with a lot of papers on our desks. When we arrived, we said, "Ed, what are you doing here?" He replied, "I was just waiting around to talk to you guys." That's how the print media got their "scoops" in those days.

Back to the case I was telling you about. After I had left the Corporation Counsel's office and was in private practice, Ed stopped by to see me. Rooney told me that he had been ticketed by an abusive police officer on a phony traffic stop. Now, Ed Rooney's dad was a policeman and there are policemen all over the family tree. In the Rooney family, if you aren't in the media business, you're a cop. Ed was outraged at this officer's conduct. I said "Ed, you're not in trouble, the guy was obviously out of control. The judge will kick the case out. Anyway, as soon as the judge sees you he is going to dismiss the case." Ed insists, "I want my day in court, I don't want this case dropped. I want to put everything on the record. Will you handle it for me?" I said, "Yes, I'll handle it for you but why are you doing this?" He insists, "I want my day in court."

This all took place before the Greylord scandal broke and the Chief Judge of the Traffic Division was Ray Berg, who rumor had it would have been indicted if he hadn't died in a terrible boating accident a few years earlier. So we go to traffic court and there is a buzz in the building. As soon as we enter, a clerk comes up and tells us that the Chief Judge wants to see us. We are escorted into Berg's chambers and the judge says "What are you guys doing here?" I said, "This is my client, Mr. Rooney who I am going to represent in a traffic case." Berg replies, "Give me the case number and the court room number. You shouldn't waste your time. Can I speak to you, Marv?" Rooney waits while Berg pulls me into a corner of his chambers, he's got the radio going real loud and says, "What the hell are you doing here?" I answered, "I told you, I have a client here with a case." He says, "You don't have to go in the courtroom, get out of here." I said, "I'm sorry, Judge, but I've got to do my job." So we walk out of Berg's chambers and into the court. The trial judge is on the bench. As we enter, he announces: "City of Chicago v. Edmund Rooney, police officer not here, case dismissed, next case." We walked out. A victory for my client, but Rooney was really pissed off. He did not get to put his grievance on the records. A typical example of how the state court system worked in those days.

Have you had enough?

COLLINS: No, I have not had enough. If there are other cases we can add them in. (See Appendix 2.) There are other issues I wanted to raise.

COLLINS: You chaired the Civility Committee appointed by then Chief Judge William Bauer. That was really the first institutional response to the lack of civility that I know of, and it has had a real national significance. Others have picked up on it.

JUDGE: We coin the word "Civility" as it applies to lawyer professional conduct.

COLLINS: Do you want to talk about that?

JUDGE: Sure. Chairing the Committee was a great opportunity as it turned out to do something really significant on the national legal scene. I'll never forget when Bill Bauer called me into his chambers. He said, "Marv, people say we've got a civility problem in our courts." My first thought was: "Has some attorney ratted me out for something I have done on the bench that offended him." Instead, Bill was asking me to Chair the Seventh Circuit Civility Committee, the first of its kind anywhere. Bill appointed a couple of other district judges from Indiana and Wisconsin and three lawyers to the Committee. We spent a couple of years looking at the literature, taking some surveys, conducting meetings with judges and lawyers in the Seventh Circuit. We put together and published our report. Final Report of the Committee on Civility of the Seventh Federal Judicial Circuit (1992). I had no idea the civility movement was going to mushroom the way it has. Lawyers, academia and judges talked and wrote about our report

nationwide. Law schools used the report in their curricula. Bar associations made it part of their professionalism programs. Both Chief Judge Rehnquist and Sandra Day O'Connor wrote about and quoted the report in their speeches. Local bar associations and state courts adopted it. Our Report just took on a life of its own.

COLLINS: You have done a lot of teaching, predominantly at Northwestern, but at a lot of other places as well. That's in the record.[2] You have also been a

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[2] For nearly three decades I taught courses in evidence, criminal law, trial technique and municipal law at Northwestern University School of Law. In 1992, I was named the Edward Avery Harriman Adjunct Professor of Law by Northwestern University School of Law. I have lectured at judicial conferences and trial advocacy programs both in the United States and abroad. Subjects have included judicial management, trial bar rules, continuing legal education and complex litigation.

I have planned and participated in legal seminars at, among other schools, Harvard University, Emory University, University of Florida, Oxford University(England), University of Bologna (Italy), Nuremberg University(Germany), University of Cairo (Egypt), University of Zimbabwe, University of Malta, Handong International Law School (South Korea), University of the Philippines, University of Madrid (Spain). I also participated in CEELI programs in Bulgaria and Yugoslavia and in a Ford Foundation Judicial Training Program in China. I have lectured to the bar and bench in other countries, including Hong Kong, the Philippines, Spain and Mexico. I served as Chair of the Advisory Board of the Institute of Criminal Justice of the John Marshall Law School and as a member of the Georgetown University Law Center Project on Plea Bargaining in the United States. Judge Aspen also has been a frequent faculty member of the National College of the State Judiciary, University of Nevada (Reno) and the National Institute for Trial Advocacy (Colorado). I served on a special faculty (composed of British and American lawyers and judges) for the NITA Advanced Trial Advocacy Program, which introduced British trial techniques to experienced American litigators. I also served on a special faculty (composed of Scottish and American lawyers and judges) for an American Bar Association program, which is designed to acquaint Scottish lawyers with modern litigation and technology.

member of the Board of Governors of the American Bar Association. Is there anything during that time, when you were active in the Bar Association that you are particularly proud of?

JUDGE: I was on the Board of Managers of the Chicago Bar Association and the Board of Governors of the American Bar Association. I was fortunate to be active in bar leadership during the period when the legal profession addressed racial and gender issues. My participation coincided with the big push for the diversification in the organized bar, a recognition that the face of the profession was changing. The ABA initiated its own in-house affirmative action program. Board members had been mainly white males elected by state bar delegates who were also mostly white males. Representation by women and minorities was rare. When I came on the Board, we set aside three seats for the first time for women and three seats for minorities, which reflected the reality that young women and minorities were now entering the profession. I was proud to be a part of that effort.

At the time I served on the Boards of the ABA and the CBA, both organizations became very pro-active in professionalism issues. The Bar Associations were traditionally interested in the economic development of and the academic part of the profession. The Bar had now begun to focus on professionalism and obligations to do pro bono and public service as well. The Bar Associations also became more aggressive in opening the

profession to women and minorities. I was fortunate to have a leadership role in these organizations during this historic period.

COLLINS: Another prestigious position you held was a member of the Federal Judicial Center Board of Directors. That was an appointment by the Chief Justice. What do you remember from that experience?

JUDGE: A couple of things. I remember changing my attitude about Chief Justice Rehnquist. The Board is composed of eight persons, including the Chief Justice; he's the Chair of the Board. He appoints seven other judges to serve with him. I had always viewed Rehnquist as a cold foreboding figure. Serving with him, I discovered a warmer and much more nuanced person. In some respects he could be coldly efficient and perfunctory in the way he conducted our meetings. But the Federal Judicial Center is a small intimate group, and we got to see his humanity as well, which surprised me. Rehnquist, like Bill Clinton who is the best politician I ever met, never forgets anyone he has interacted with. He has an amazing memory or maybe he is just efficient. I am firmly convinced that when he meets someone he must prepare a file card, where he puts down all the data he has learned about the person after each conversation. Then when he knows he will be with that person again, Rehnquist prepares for the meeting by studying his file card.

The FJC would meet twice a year–once in Washington and then once in Tucson, where the Chief taught a course every February. So, in

addition to meeting on special occasions, I saw him in action at twelve intense two-day meetings over a six-year period. In our small group he was extremely personable. One would have a social conversation at one meeting and then he would start up again on the subject at the next meeting without missing a beat. For example, he would say to me, "Well, I guess the Bears are going to have trouble this year for such and such reason, but I'm pretty confident about the Packers." We would always banter about the Packers/Bears. He was from Milwaukee and was a rabid football fan. He played enthusiastic, but mediocre, mixed doubles and played with Sue one time when we were in Tucson. Afterwards when I saw him, he would always ask, "How's Sue's tennis game going, I want her as my partner." I am convinced that he did his homework to prepare this banter and that it did not come naturally to him.

My biggest Rehnquist surprise occurred when Rhea Zobel was selected as Director of the Federal Judicial Center. The FJC Board appointed a search committee that was composed of former Board members. The Search Committee presented two finalist candidates to the Board, Rhea Zobel of Massachusetts and Sam Pointer of Alabama, both extremely qualified persons. The Board discussed them and although we voted by secret ballot, in a small eight-person group, during pre-ballot discussion, you can usually figure out who is coming from where. Our first vote was four to four. As I said, the Chief Judge has one vote. He does not

just break ties. During our discussions before our second ballot, Rehnquist shocked me. He said, "We have two really great candidates who are both qualified. More women are coming on the bench. Now, doesn't it make sense if we have two equal candidates that this is the right time to appoint a woman." We took our second vote and this time it was five to three. A senior district court judge from Buffalo switched his vote. So it was because of Rehnquist that we had the first female Director. This action by Rehnquist was so contrary to his public image.

COLLINS: You were Chief Judge of the District for seven years. What are you most proud of as Chief?

JUDGE: There were many innovations that I was privileged to initiate. We revamped our court governance and established a robust committee system. I am also proud of the public outreach programs we established with high schools, colleges and law schools. We invited first-year classes of all the law schools in the district to come to the courthouse for an afternoon and talk with our judges and observe court proceedings. We hired our first public information officer of any district court. We set up the first awards program for appointed pro bono lawyers. For the first time, the chief judge met regularly with local bar association presidents. Mike Dobbins, the one clerk of court I hired, brought the clerk's office and our filing system up to 21st Century standards. We had been behind practically every district court in the country in terms of basic services. For example, filing hours in the

clerk's office ended at 4:00 p.m. A lawyer had to run frantically to the building in the afternoon and wait in the line outside the clerk's office before the doors closed. We established after-hours filing in the lobby, set up the first court website, among other modernization and technical improvements. A new computer system, our first e-mail, voice mail, cell phones, and so on. We installed an electronic touch directory in the lobby. We built four new courtrooms and refurbished the others, including our Ceremonial Courtroom, named for James Benton Parsons, the first African-American District Court Judge appointed to the federal judiciary and a former chief judge of this court. We built new meeting spaces for our magistrate judges. The Chicago Bar Association did an article on all the improvements during my term as Chief Judge, including all the state of the art technology we installed to help not only the Judges and lawyers, but the public as well.[3]

COLLINS: I mentioned your kids earlier. Tell me about them.

JUDGE: I'll start with Jennifer. Jennifer is my oldest daughter and she is living in Nashville, Tennessee, right now. She is the only non-lawyer among the kids. Her first job after graduate school was for Unilever in England. Her first job was as a scientist in the Unilever Beverage Division, Lipton Tea, in this country. While in the UK, she hurt her knee running and went to an

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[3]The Chicago Bar Association Record (May, 2002) article is attached. Also appended are copies of the August, 2000 Chicago Lawyer article and a December, 1995 cover story naming Judge Aspen Chicago Lawyer's 1995 Person of the Year.

osteopath to look at it. He fixed the knee. He liked the whole package and she married the Brit physician. His name is Paul Mason. Professionally she is still Jennifer Aspen. Both my daughters kept the family name. Jennifer is now Vice President and Director of Research and Development of the Pet Food Division of Mars Corporation. She and Paul have two children: Sasha Helen Mason is ten years old and her sister, Eliza Mason, is four years old. I had the privilege of swearing in Paul as a United States Citizen. All four members of their family now have dual US/British citizenship.

Jessica married one of her Northwestern Law School classmates, Seth Traxler, who clerked for District Judge John Grady. Jessica clerked for Circuit Judge Joel Flaum. She practiced at Jenner & Block and then went in-house at Exelon for a couple years, when Bill Von Hoene, one of Jenner & Block's partners, moved there as General Counsel. She is now a full-time Mom and Seth is a partner at Kirkland & Ellis. He does transactional work with an emphasis on intellectual property. She and Seth have three children, Grace, Jack and Eve, nine, six and four years of age, respectively.

Andrew is the other lawyer in the family. Also, he did not go to Northwestern, like his father and sister. He went to NYU Law School and clerked for then Chief Judge Bill Bauer. He worked at Cleary Gottlieb in New York after his clerkship. He met and married a New York girl, Janet.

Andrew is now in-house at Bank of America, where he has specialized in Latin American legal work. He majored in Spanish at Bates College and speaks the language fluently. He now lives in Connecticut and commutes to Manhattan. Janet is a Clinical Psychologist who works mostly one day a week and is a full-time Mom the other days. They have two children: Ava is 5 years old and Grayson is 4 years old.

My daughters and daughter-in-law all were pregnant at the same time, so my three youngest grandchildren, Eliza, Eve and Grayson, are the same age. It is a hoot when we get the three four-year olds together.

COLLINS: Let me finish with two questions: What are you most proud of?

JUDGE: My family and my good fortune to marry the right spouse. She deserves 90% of the credit for what my children have become as adults. I am very proud of my kids, they are all good people. They are responsible and productive. They are good parents and spouses. They also chose good people for their spouses. And my relationship with each of them has evolved from the parent, who survived everything from the terrible twos to their teenage years, to a place where now we enjoy a very close adult relationship of friendship. I have been fortunate enough to have had the opportunity for much professional fulfillment for which I am grateful, but my family is my most important accomplishment. Everything else I have achieved has been the icing on the cake, but my family is the cake.

COLLINS: Let me ask one last question: What motivates you, what makes Marv Aspen tick?

JUDGE: What motivates me is an awareness and acceptance that we all have a finite time on earth and that the number of days are not as important as the quality of those days. I've always felt a special responsibility, not burden, but responsibility, to lead a relevant and substantive life because as I mentioned early in this interview, I am the only surviving member from my Dad's family–all lost in the Holocaust. As an only child, I was the last of my Dad's lineage. Because of that I have always imposed upon myself an obligation to lead my life in a way that is meaningful.

COLLINS: Thank you very much.

Appendix 1

MARVIN E. ASPEN
Senior Judge, United States District Court
Northern District of Illinois
219 South Dearborn Street, Suite 2578
Chicago, Illinois 60604
312-435-5696

JUDICIAL CAREER:

On July 24, 1979, Judge Aspen was appointed by President Carter to the United States District Court for the Northern District of Illinois. On July 1, 1995, he was elevated to Chief Judge and his term as Chief Judge expired on June 30, 2002. On October 1, 2000, he was named as a member of the United States Judicial Conference (the governing body of the federal judiciary). In a 1988 survey of Chicago litigators, the Chicago Lawyer magazine gave Judge Aspen the highest rating of any United States District Judge of the Northern District of Illinois. The Chicago Lawyer named Judge Aspen its 1995 Person of the Year.

Judge Aspen has served as a member of the United States Judicial Conference and as Chair of the District Judge Representatives to the United States Judicial Conference. He is a past member of the Board of the Federal Judicial Center. He served as Chair of the Federal Judicial Center Director Search Committee. He has served as a member of the Committee on the Administration of the Bankruptcy System and of the Trial Bar Implementation Committee of the United States Judicial Conference. He has been a member of the International Judicial Relations Committee.

He served as Chair of the Committee on Civility of the Seventh Federal Judicial Circuit. This Committee promulgated civility standards that were subsequently adopted by the Seventh Circuit, and by Courts and Bar Associations nation-wide.

Most recently, Judge Aspen was the recipient of the Chicago Bar Association's 2009 Justice John Paul Stevens Award. Judge Aspen is a recipient of the Center For Public Resources Award for Significant Practical Achievement for Excellence and Innovation for Alternative Dispute Resolutions and Dispute Management. He is also a recipient of the American Judicature Society Herbert Harley Award for recognition of services in promoting the effective administration of justice. Judge Aspen has received the Northwestern University Alumni Association Award of Merit and an award from the National Center for Freedom of Information Studies (Society of Professional Journalists).

Prior to his appointment to the United States District Court, Judge Aspen served as a Judge of the Circuit Court of Cook County of the State of Illinois. He was appointed to that position on September 16, 1971, and on November 4, 1974, was elected to a full term. He served five years in the Criminal Division and three years in the Civil Law-Jury Division. As a state trial judge, Judge Aspen served as Chair of

the Recent Developments in Criminal Law, Evidence, and New Judges Committees of the Illinois Judicial Conference.

EDUCATION:

Judge Aspen earned a B.S. in sociology from Loyola University in Chicago. He received his J.D. from Northwestern University School of Law in 1958. He served as a law clerk for the United States Department of Justice in Washington, D.C., and for the Judge Advocate General Section of the United States Army.

LEGAL PRACTITIONER:

Judge Aspen was an Assistant State's Attorney of Cook County from 1960 through 1963. Thereafter, he joined the staff of the Corporation Counsel of the City of Chicago, where he served as Head of the Appeals and Review Division of that office. He personally handled more than one hundred appeals in state and federal appellate courts, including the Supreme Court of the United States. Early in 1971, he resigned from the Corporation Counsel's Office and engaged in the private practice of law, specializing in trial and appellate advocacy, prior to his appointment to the state bench.

Judge Aspen was a draftsman for and a member of the Illinois Supreme Court Committee to Revise the Illinois Criminal Code of 1961, Chair of the Associate Rules Committee of the Illinois Supreme Court, Chair of the Illinois Supreme Court Committee on Ordinance Violation Problems, and Vice-Chair of the Illinois Supreme Court Committee on Pattern Jury Instructions in Criminal Cases.

LAW PROFESSOR:

For nearly three decades Judge Aspen taught courses in evidence, criminal law, trial technique and municipal law at Northwestern University School of Law. In 1992, he was named the Edward Avery Harriman Adjunct Professor of Law by Northwestern University School of Law. He has lectured at judicial conferences and trial advocacy programs both in the United States and abroad. Subjects have included judicial management, trial bar rules, continuing legal education and complex litigation.

He has planned and participated in legal seminars at, among other schools, Harvard University, Emory University, University of Florida, Oxford University (England), University of Bologna (Italy), Nuremberg University (Germany), University of Cairo (Egypt), University of Zimbabwe, University of Malta, Handong International

Law School (South Korea), University of the Philippines, University of Madrid (Spain). Judge Aspen also participated in CEELI programs in Bulgaria and Yugoslavia and in a Ford Foundation Judicial Training Program in China. He has lectured to the bar and bench in other countries, including Hong Kong, the Philippines, Spain and Mexico. He has served as Chair of the Advisory Board of the Institute of Criminal Justice of the John Marshall Law School and as a member of the Georgetown University Law Center Project on Plea Bargaining in the United States. Judge Aspen also has been a frequent faculty member of the National College of the State Judiciary, University of Nevada (Reno) and the National Institute for Trial Advocacy (Colorado). Judge Aspen served on a special faculty (composed of British and American lawyers and judges) for the NITA Advanced Trial Advocacy Program, which introduced British trial techniques to experienced American litigators. Judge Aspen also served on a special faculty (composed of Scottish and American lawyers and judges) for an American Bar Association program, which is designed to acquaint Scottish lawyers with modern litigation and technology.

Judge Aspen has written extensively on numerous legal subjects. His publications include five books and over two dozen articles.

PROFESSIONAL ACTIVITIES:

American Bar Association:

Judge Aspen is a past member of the Board of Governors, the ABA Journal Board and of the House of Delegates. Judge Aspen was President of the American Bar Association Museum and a past member of the Board of the American Bar Foundation and is currently on the Board of the American Bar Association Retirement Funds. He was a member of the ABA Standing Committee on Federal Judicial Improvements. He has served as a member of the ABA Latin American Law Initiatives Council. He is past Chair of the Executive Committee of the National Conference of Federal Trial Judges (Judicial Administration Division). He has served as member of the Councils of both the Section of Litigation and the Section of Criminal Justice. He is past Co-Chair of the Section of Litigation's Task Force on Civil Trial Practice Standards. He has served as a member of the Jury Comprehension Study Committee of the Section of Litigation.

Chicago Bar Association:

Judge Aspen has served as a member of the Board of Managers of the Chicago Bar Association, as Chair of the Criminal Law Committee, and as a member of the Board of Editors of the Chicago Bar Record. He has been a member of the Chicago

Bar Association's Special Commission on Criminal Justice, Committee on Committees, Committee on Continuing Legal Education, Committee on Development of Law, and Committee on Civil Disorder.

Illinois State Bar Association:

Judge Aspen has served as Chair of the Public Relations, Corrections, Fair Trial/Free Press and Criminal Law Committees. He has been a member of several other Committees.

American Inns of Court:

Judge Aspen has been a member of the Board of Trustees of the American Inns of Court Foundation. He is one of the organizers and past president of the Northwestern University School of Law American Inns of Court Chapter.

Other Activities:

Judge Aspen has served as Chairman of the Board of Directors of the Center for Disability and Elder Law in Chicago.

Judge Aspen was a member of the Federal Bar Examination Committee of the National Conference of Bar Examiners. He has served as a Commissioner of the Illinois Law Enforcement Commission and the Governor's Advisory Commission on Criminal Justice. Judge Aspen has been a member of the Cook County Board of Corrections and the Board of the John Howard Association.

Judge Aspen is a Life Member of the Northwestern University Law Board. He is past president of the Northwestern University School of Law Alumni Association. He has served as a member of the Visiting Committees of the University of Chicago Law School and the Northern Illinois University School of Law. He has chaired the Advisory Committee for Short Courses (Post Law School Educational Program) at Northwestern University School of Law.

Appendix 2

U.S. v. Professional Air Traffic Controllers Organization (PATCO), No. 81-C-4371, 527 F.Supp. 1344 (N.D. Ill. 1981)(labor dispute involving air traffic controllers from the Reagan era

U.S. v. Boyd, No. 89-CR-908, 833 F.Supp. 1277 (N.D. Ill. 1993), *aff'd by* 55 F.3d 239 (7th Cir. 1995) (El Rukn street gang trial)

Sanford v. CBS, Inc., No. 83-C-3373, 594 F. Supp. 711 (N.D. Ill. 1984) (copyright infringement claim against Michael Jackson)

Gautreaux v. City of Chicago, No. 66-C-1459, 342 F. Supp. 827 (N.D. Ill. 1972), *aff'd by* 480 F.2d 210, *cert. denied by* 414 U.S. 1144 (Chicago Housing Authority discrimination case)

U.S. v. Marcy, No. 90-CR-1045, 777 F. Supp. 1393 (N.D. Ill. 1991) (Alderman Roti RICO trial)

U.S. v. Bd. of Ed. of City of Chicago, No. 80-C-5124, 621 F. Supp. 1296 (N.D. Ill. 1985) (Chicago Public Schools desegregation case)

U.S. v. John Laurie (N.D. Ill. 1984) (Greylord-related case against former state judge; Scott Turow, author, was the AUSA and Tony Valukas defended Laurie)

Hobley v. Burge, No. 03-C-3678 (N.D. Ill. 2003–2007) (civil rights suit by former death row inmate against John Burge)

National Rifle Association of America v. City of Evanston, No. 08-C-3693, 2009 WL 1139130 (N.D. Ill. 2009) (NRA's post-*Heller* challenge to anti-gun ordinance in Evanston)

In re: Aimster Copyright Litigation, MDL No. 1425, No. 01-C8933, 252 F. Supp. 2d 634 (N.D. Ill. 2002) (granting preliminary injunction to record companies, songwriters, and music publishers in internet file sharing case)

Lake Michigan Federation v. U.S. Army Corps of Engineers, No. 90-C-2809, 742 F. Supp. 441 (N.D. Ill. 1990) (granting injunction preventing Loyola University from creating 20 acre lakefill on its Lake Shore campus)

In re: Ameriquest Mortgage Co. Mortgage Lending Practices, MDL No. 1715, No. 05-C-7097 (N.D. Ill. 2005–Present) (large-scale mortgage fraud case during 2000s housing bubble)

U.S. v. Sanders, No. 88-CR-104, 688 F. Supp. 367 (N.D. Ill. 1988) (case involving traders at Chicago Board of Trade who wore disguises to engage in fraudulent trades)

Northwestern University v. City of Evanston, 00-C-7309, 2002 WL 31027981 (N.D. Ill. 2002) (dispute between Northwestern and Evanston over city's creation of historic preservation district including Northwestern property)

Friends of the Parks v. Dole, 87-C-7991, 1987 WL 18918 (N.D. Ill. 1987) (enjoining construction of on-ramps to Lake Shore Drive in Lincoln Park)

Chicago Educational Television Association v. Friends of WFMT, Inc., No. 90-C-1739 (N.D. Ill. 1990) (dispute between public radio station and supporters of station)

U.S. v. Mario Lloyd, No. 89-CR-427 (N.D. Ill. 1990) (F. Lee Bailey served as defense counsel in case involving family drug conspiracy)

John Sefick v. City of Chicago, 79-C-4896, 485 F. Supp. 644 (N.D. Ill. 1979) (artist sued city after he was permitted to display tableau in civic center but subsequently forced to take it down because it satirized mayor's snow removal problems)

U.S. v. Donald Austin, No. 93-CR-169 (N.D. Ill. 1993–1997) (defendant convicted of scheme to sell counterfeit artwork)

Significant Cases Handled in Other Jurisdictions

U.S. v. Amadou Diallo, No. 09-CR-858 (S.D.N.Y.) (defendant convicted of Hobbs Act robberies and conspiracy as part of operation selling counterfeit cigarettes and shoes)

U.S. v. Clover Perez, No. 09-CR-1153 (S.D.N.Y.), 2011 WL 1431985 (S.D.N.Y. Apr. 12, 2011) (defendant convicted of fraud and identity theft in course of her business scheme where she falsely told undocumented immigrants that she could help them obtain legal status)

Allam v. Meyers, No. 09-C-10580 (S.D.N.Y.), 906 F. Supp. 2d 274 (S.D.N.Y. 2012) (French woman prevailed at jury trial against her ex-husband for assault, battery and IIED, ultimately recovering $400,000)

U.S. v. David E. Miller, No. 11-CR-34 (M.D. Tenn.), 2012 WL 6114879 (M.D. Tenn. Dec. 10, 2012) (defendant convicted of making false statements to a bank and aggravated identity theft, when he pledged property as collateral without authority)

Gary Victor Dubin v. Manuel L. Real, et al., No. 03-C-58 (D. Hawaii) (plaintiff sued numerous governmental and non-governmental entities—including the 9th Circuit—alleging fraud upon the court, stemming from his misdemeanor convictions)

Appendix 3

Judge Marvin E. Aspen: Able Administrator and Master of the Art of Civility

By Jack Leyhane

The on-again, off-again snow flurries of an early April morning were falling outside the windows of Judge Marvin E. Aspen's spacious corner chambers as he settled into one of four low-slung, black, horseshoe-shaped chairs around a modern glass coffee table and reflected on his seven year tenure as Chief Judge of the U.S. District Court. When that term ends, on July 1, Aspen will be succeeded as Chief Judge by Judge Charles Kocoras.

"You're going to find this hard to believe," Judge Aspen told me as I took my seat across the table, "but I love talking about other people and I don't particularly do very well talking about myself."

Others are less reticent.

Magistrate Judge Sidney I. Schenkier, for example, was a member of Judge Aspen's first class of law clerks when Aspen became a District Court Judge in 1979. "If I didn't have that formative experience," Judge Schenkier said, "I wouldn't be here today."

Aspen was already an experienced judge when Schenkier came into Aspen's chambers, Schenkier recalled. (Aspen served on the Cook County bench from 1971 until he was appointed to the Federal Court.) "I was extremely taken with how Judge Aspen conducted himself," Schenkier said. "He was able in the most contentious case to create a baseline of civility so that the case could proceed. That made an impression on me."

"The thread that runs through Judge Aspen's career," Schenkier continued, "is the emphasis on how people should conduct themselves, lawyer to lawyer, and lawyer to judge. Still, it's hard to single out any particular thing in such a lengthy and distinguished career and point to it as Judge Aspen' s most significant accomplishment."

Judge Aspen was equally reluctant to single out any particular achievement as one that stood out to him as most important. "If somebody else were evaluating me, and if they said that the court is a better place for litigants, lawyers and the community than it was before I became Chief Judge—that to me would be the ultimate compliment."

Judge Marvin E. Aspen in his chambers. (Photo by Bill Richert)

Cook County Chief Judge Timothy C. Evans provided that compliment. "As Chief Judge, Judge Aspen has brought great distinction to the work being done by the United States District Court for the Northern District of Illinois." Evans called Aspen "a master of the art of civility" who has "used that ability with purpose and effect. Because of Judge Aspen's leadership, he and the members of the bench and bar who serve with him have succeeded at the paramount task confronting the legal profession, that of inspiring public confidence with personal and professional conduct that confirms absolute impartiality and justice."

Leonidas Ralph Mecham, Director of the Administrative Office of the United States Courts, noted that, in his 17 years at the Administrative Office, "Judge Aspen's administration of the Northern District of Illinois stands out for the skill, ability and insight with which he has addressed the challenging administrative and other problems of the court."

Most Efficient Federal Court in Nation

The reform-minded man who sat across the coffee table explained some of those administrative problems and accomplishments. "One of the things I am proud of is that we do have the most efficient metropolitan federal court in the nation. I don't take personal credit for that. There are so many factors, primarily the hard-working judges that we have," Aspen said.

Judge Aspen discussed the three criteria by which the Administrative Office of the United States Courts measures efficiency. "One is the number of cases three years of age or older per judge average, the other is the number of motions that are fully briefed that have not been decided for six months per judge, and the other statistic is the average time from filing until disposition and by all these statistics we are the most efficient federal court in the country."

It hasn't been easy to become so efficient. "At one time during the seven years," Judge Aspen recalled, "we were short four judges, so we relied on brining in visiting judges to help us. We also had significant help from our senior judge and magistrate judges. We made sure that we didn't accept the built-in excuse about being four judges short to justify falling behind. So I think I am proud of that."

The job description for a Chief Judge includes facility management. Aspen was cognizant of this role as he reflected on his stewardship of the Dirksen Building. "Like any property, if you don't do a certain amount of maintenance then in time it becomes a little bit shabby looking. We have really rehabbed our courthouse operation to make this a much more attractive and a better functioning courthouse from a physical standpoint. Over time, we refinished the woodwork in every one of our courtrooms. We purchased new furniture for our courtrooms. We did painting and carpeting, and not just in the courtrooms: We rehabbed the Clerk's office to make it more physically attractive and more functional for the lawyers and the Clerk personnel."

Judge Aspen also noted that, on his watch, the ceremonial courtroom has been rehabbed and renamed for James Benton Parsons, the first African American federal judge. Before our visit concluded, Judge Aspen walked me through that courtroom, showing where pictures had been taken down for reframing. Outside the courtroom, he pointed out a display case which contains artifacts from the old Federal Courthouse in a rotating exhibit. He noted that some of the memorabilia collected over the extraordinary career of Judge Abraham Lincoln Marovitz will be used to furnish a permanent visiting judge's chambers.

Judge Marvin E. Aspen with his staff (left to right): Gladys Logo, Darren J. Schmidt and Christopher Rohrbacher. (Photo by Bill Richert)

Judge Aspen pointed out the many new pictures that grace the jury rooms and adjacent hallways. These are taken from a collection of modern architectural photography that "was donated to the Chicago Historical Society with the idea we could purchase it at the cost of the photographs."

Working in an architecturally significant Mies van der Rohe building posed some peculiar challenges during Judge Aspen's tenure. "The lobby was like a third world market," he recalled, "with other governmental agencies and even some private agencies competing for space with people coming in the building. We changed the culture of the lobby" to restore it to the open look that was intended by the architect.

Van der Rohe designed public buildings with no main entrance, but with multiple entrances instead, what Judge Aspen called a "museum building, open space and wide." The lobby remodeling that he championed, such as the glass walls herding traffic within the lobby, kept the building' s original appearance intact, while addressing the modern need for enhanced security. "We upgraded the security tremendously, even before September 11," Aspen stated.

Judge Aspen cited the construction of four new courtrooms as another accomplishment of his term. "We brought in a former partner of Mies van der Rohe, so that we could design new courtrooms and get the museum look with all the modern bells and whistles and technology."

Integrating Technology

Technology is certainly one area in which Judge Aspen has made an indelible mark. In an age where many lawyers still dismiss desktop computers as too large to make effective paperweights and too small to hide behind, Judge Aspen has integrated technology into the everyday life of the Federal practitioner.

"When I came on the court," Aspen said, "we had no voice mail, no e-mail. We did not have a fax system, other than one fax machine in the Clerk's office. We had an antiquated phone system. We had no PC's. We had a primitive computer system in the Clerk's office. Our courtrooms were not outfitted for demonstrative evidence."

It may be hard to remember, but Judge Aspen noted that, at the time, even this was "well beyond the curve certainly in the private sector but even within the Federal system beyond the curve." Over the course of the years, Aspen stated "we have transformed our court technologically" to the point where "in terms of technology there is no court in the country that is ahead of us."

And further wonders await. Judge Aspen noted that "there are a couple of courts that are experimenting because they have been able to, to have electronic filing." He predicted that, "as soon as that experiment is over, I think in the Fall, our court will have electronic filing as well."

Our conversation touched on a number f other areas of achievement. While the aditional mission of the Federal court has een and will be "to process and litigate ases and do both criminal and civil justice," udge Aspen has seen the court take on a ew mission, one of "outreach through a road community that includes not only awyers and law schools, but also public chool systems and the public generally."

Judge Aspen noted a number of programs, iting as one of "our finest on-going programs" project with the Chicago Bar Association where we bring 8th graders in from public chools to watch a naturalization ceremony, hen afterwards we meet in a courtroom and iscuss what they have seen." Aspen said it is wonderful" for the students to "see how the Constitution they are studying is operating n the real world. But they also see how multi-cultural and multi-ethnic society perates because there are an average of 130 r 140 new citizens from 40 or 45 countries n each ceremony. The students see all these orts of faces in the crowd and this, too, is an nportant learning experience."

uture Plans

asked Judge Aspen about his future plans. I've considered a few options," he told me. My current plan, as of today, is to assume enior status. I am still going to hear cases ut that will give me a little more time to o some other law-related things that I am nterested in, whether it's writing, or teaching r lecturing. I've done a few programs for oth the American Bar Association and for he Federal government overseas; perhaps I'll o more of that. There are a couple of other hings I am thinking about. Whatever it is, I m going to keep very busy."

I came into this interview hoping to focus udge Aspen on a particular accomplishment nd use that as a hook around which to onstruct a more focused article. Judge Aspen hwarted my every attempt. His reputation or polite, collegial management is well leserved. He was quick to give credit, slow o take it.

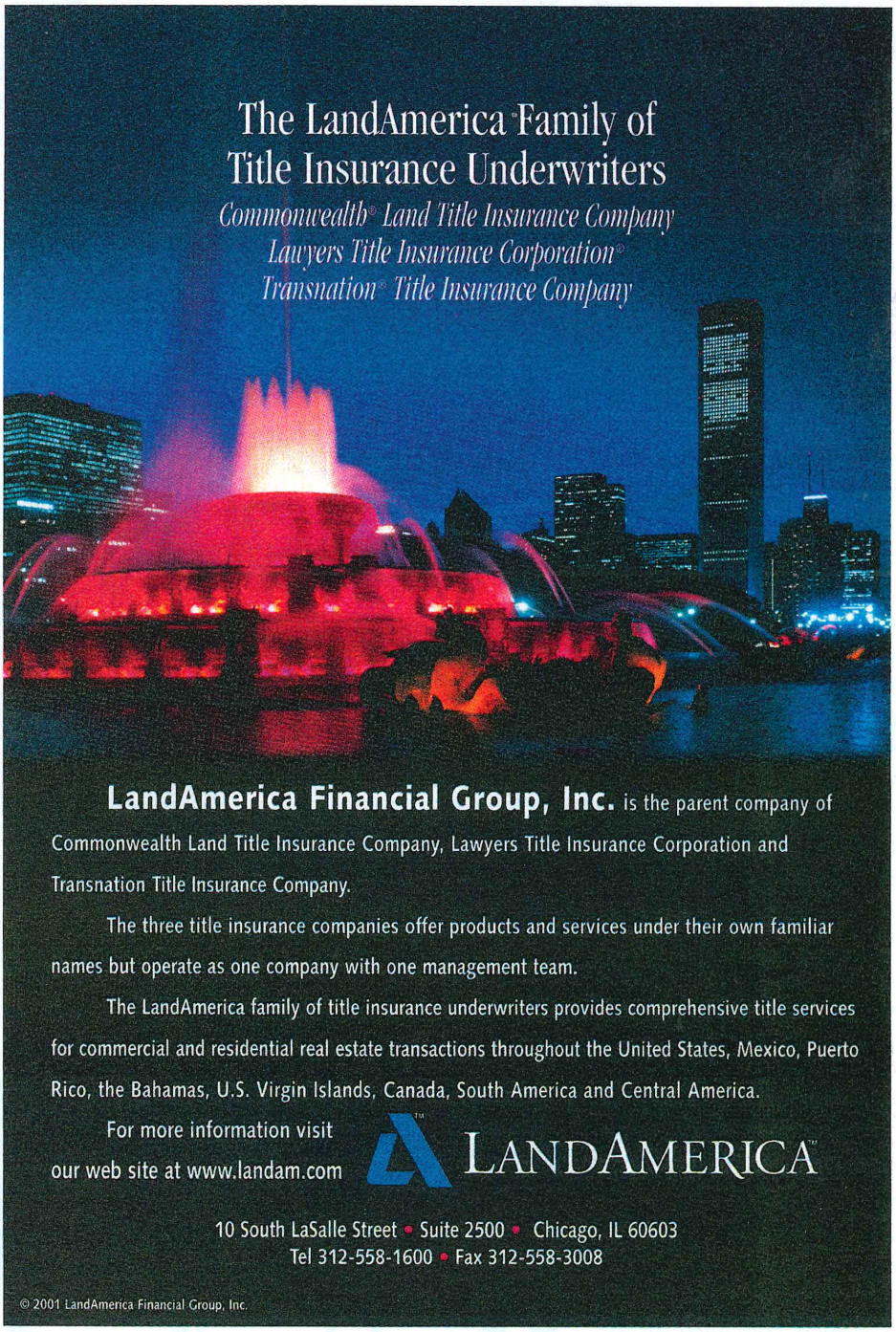
Among the personal and professional nementoes in Judge Aspen's chambers is a nontage of miniature figures in a display ase—the portraits of men and women who erved as his law clerks in his first 10 years n the Federal bench. (Judge Schenkier later dmitted that his portrait is in the montage, ut he "looked different then.") And, on the vall just outside Judge Aspen's inner office angs a large frame, filled with individual ictures, like a grammar school graduation class picture. But these photos were graduates of the University of Marvin Aspen—law clerks across the decades.

Judge Aspen pointed to picture after picture and figure after figure, recounting the subsequent (and substantial) professional accomplishments of these many lawyers. In a career filled with so many awards, including selection as the 1995 *Chicago Lawyer* Person of the Year, there may be no professional accomplishment greater than having contributed to the growth of so many careers.

Judge Aspen concluded, "I feel very fortunate to be in a profession that I love—and when I say profession I am not talking just about the judiciary but the legal profession. . . . You know, I feel very energetic and enthusiastic about our profession as I did on the day I was sworn in as an attorney and certainly the day I was first sworn in as a judge and enthusiastic as the first day I was sworn in as Chief Judge."

That, too, is an achievement. ■

Francis "Jack" Leyhane of Boyle & Leyhane is a member of the **CBA Record** *Editorial Board.*



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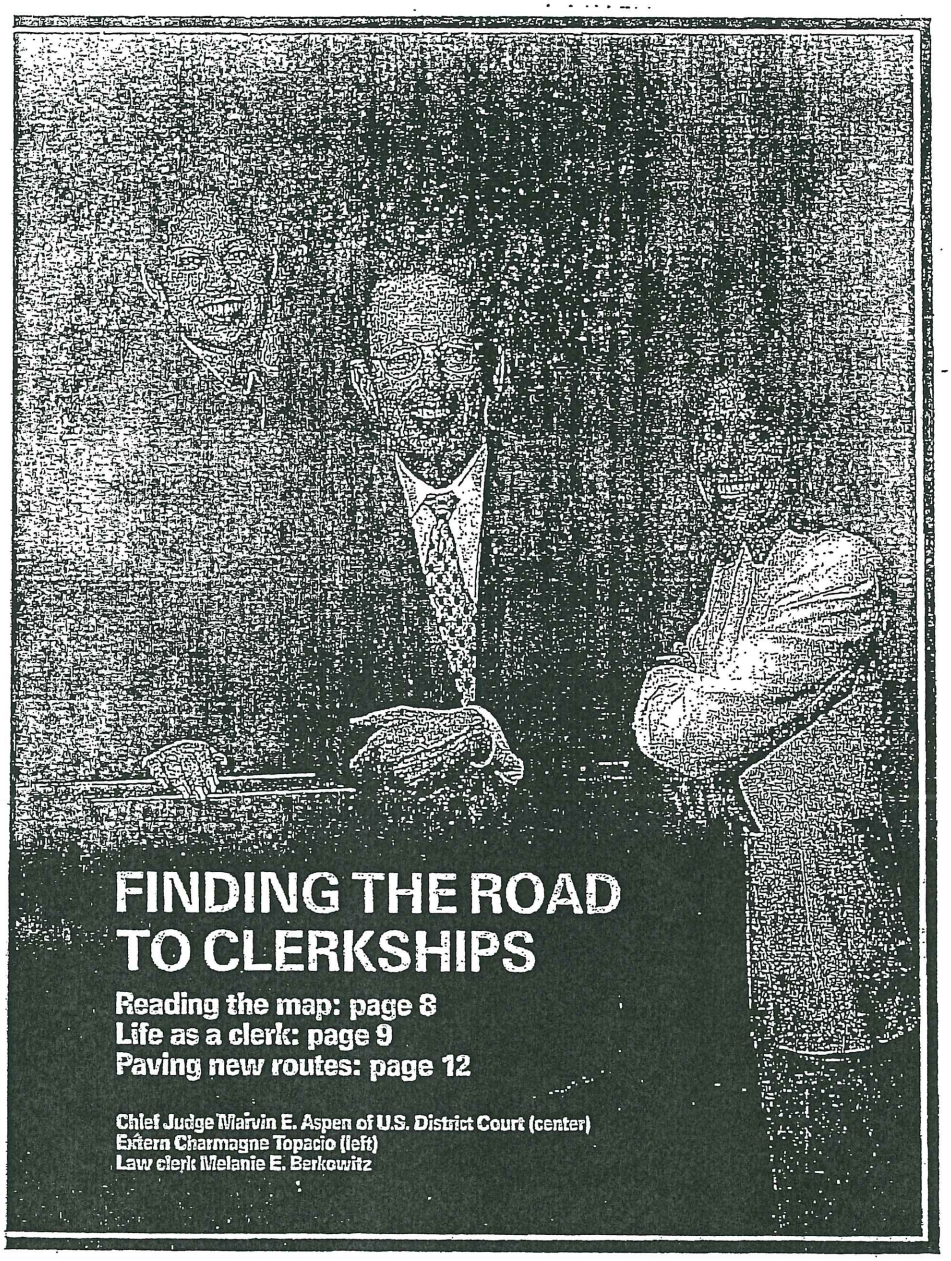

FINDING THE ROAD TO CLERKSHIPS

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Chief Judge Marvin E. Aspen of U.S. District Court (center)
Extern Charmagne Topacio (left)
Law clerk Melanie E. Berkowitz

ABA extern program adds minority clerkships to the docket

by Mark Schouerte

Summer is the season for barbecues, beach time – and law students.

Hundreds of students are picking up paychecks and pointers while working at law firms, public interest organizations and other places.

This summer, one more opportunity was added to the mix; and this one is aimed at increasing the number of minorities who will seek judicial clerkships after they graduate.

With the cooperation of the judiciary in Chicago, the American Bar Association Section of Antitrust Law launched a pilot program in May to hire minority law students as judicial externs for the summer. The program, scheduled to be expanded to Houston next year, includes 23 externs, with 15 working for federal judges and eight in Cook County Circuit Court.

Chief Judge Marvin E. Aspen of U.S. District Court for the Northern District of Illinois, said the program has a two-fold purpose.

"Number one, it will whet the appetite for minority students to apply for clerkships when it comes time for them to make a career decision, and also it helps judges with being familiar with minority students," Aspen said.

Serving as an extern in Aspen's court is Charmagne Topacio, a student at Chicago-Kent College of Law.

"The issue was to try to contribute in some small way in helping more minorities get clerkships," said Lee N. Abrams, a senior partner with Mayer, Brown & Platt and chair of the ABA Section of Antitrust Law's Special Committee on Minority Clerkships, which developed the program. "We didn't have a particular battle plan as to how to achieve that. Ultimately, this is what evolved."

While many judges use law student-externs throughout the year, the summer positions often are unpaid. Not so for this pilot project, which is awarding $1,500 stipends.

Among those funding the program are the ABA Section of General Practice, Solo and Small Firm; the ABA Judicial Division; and the Deer Creek Foundation in St. Louis.

"The key thing was that the ABA was able to get funding," said Judge Diane P. Wood of the 7th U.S. Circuit Court of Appeals, a member of Abrams' committee. While law students can earn considerably more for a summer at a law firm, the extern stipend at least helps students make ends meet, she said. Wood herself has no extern; the pilot program did not extend to the federal appellate court.

More than 50 students applied for the program. ABA members winnowed the field; then judges selected their own externs based on interviews.

The program began in response to results of a joint study of judicial clerkships by the ABA and the National Association for Law Placement. The study showed that minorities accounted for 20 percent of the Class of 1998 nationally but only 15 percent of judicial clerks.

According to a Chicago Lawyer survey based on numbers as of April 2000, minorities account for 11 percent of law clerks in all federal and state appellate courts in Illinois *(related story, page 8)*. Circuit courts were not included in the survey.

Many of the externs learned about the program through their law school career services departments.

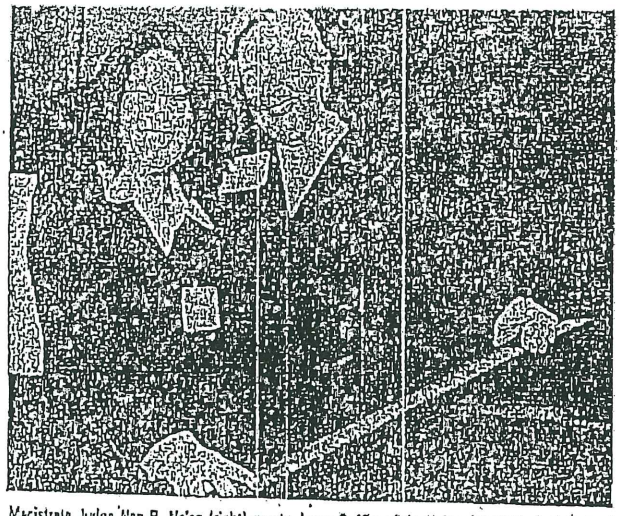
"I heard [externing] was probably the best thing for first-years to do to learn about the application of law, and it looks great on a resume," said Alfred Quijano of DePaul University College of Law. His externship is with U.S. Magistrate Judge Ian H. Levin.

U.S. District Court Judge Robert Gettleman agreed that judicial externships "give kids a credential."

"Anything on the resume that is a plus is going to be useful for looking for a clerkship with a judge, who can call another judge and say, 'I've got your recommendation here. What was this person like?'" Gettleman added. "I have gone to bat for my past externs. Getting that foot in the door is important."

Quijano said he is surprised Levin has had him help draft opinions. Quijano said he expected to work more on bench memoranda and other research.

Aspen said Topacio primarily gets her assignments from his law



Magistrate Judge Nan R. Nolan (right) greets Jenny S. Kim of the University of Illinois College of Law during a reception. Kim is an extern for Judge Robert W. Gettleman of U.S. District Court.

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Aspen said Topacio primarily gets her assignments from his law clerks.

"She works with the law clerks on individual cases and is given perhaps a small, relatively non-complex matter to work on by herself," he said. "It's an opportunity to observe the things that happen in the courtroom. It's an opportunity to sit in at conferences and really learn how a courtroom and chambers operate."

The summer experience has added a new perspective to what she had only read about in law school, Topacio said.

"I have taken advantage of going to trials and applying what I have learned in terms of civil procedure to what is really going on out there," she said.

Jenny S. Kim, Gettleman's extern, agreed.

"You see the process of how judges come to a decision," said Kim of the University of Illinois College of Law. "It's not arbitrary. If you're reading a case as a first-year, you don't think of the parties involved, or how long it took for a decision to be reached, or how many people contributed. It's a great experience to see how the law is being applied."

U.S. District Court Judge Joan B. Gottschall picked Lucille A. Blackburn of John Marshall as her extern.

"I view externships as an educational opportunity," Gottschall said. "It was an opportunity to introduce individuals to the court system who might not have thought of working here."

Aspen, who also teaches at Northwestern University School of Law, said he has externs because he enjoys working with students.

"They do help," he said. "There is a benefit for the student and for the judge with the research help that they can give us."

U.S. Magistrate Judge Nan R. Nolan said she would like her extern, Trent A. McCain of Valparaiso University School of Law, to continue working for her as an extern during the school year.

"In addition to writing, everybody has been trying to get them involved in the courtroom as much as possible," Nolan said.

Nolan said judges too often look only at the top 10 law schools when picking externs or clerks, thus missing many smart, academically bright minorities. She said the ABA extern program is "opening our eyes" to recruiting at other schools.

Judge Wood said the effectiveness of the program still needs to be measured.

"The question that remains is talking to the students at the end of the summer," Wood said. "What is the long term benefit of the program? Will they be more likely to get clerkships or to become involved in other ways? I certainly hope so."*

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Marvin E. Aspen, Chief Judge, U.S. District Court
Chicago Lawyer's 1995 Person of the Year

CHICAGO LAWYER

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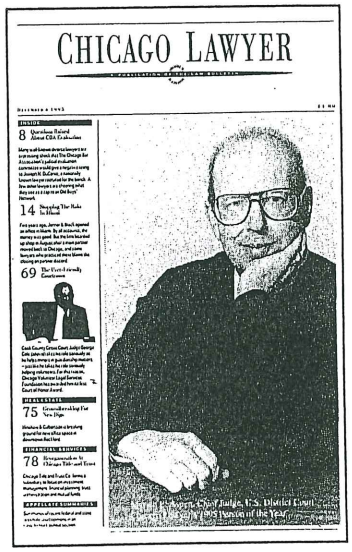

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Chicago Lawyer's 1995 Person Of The Year

4 On July 1, Marvin E. Aspen, 61, became chief judge of the United States District Court for the Northern District of Illinois. He will be leading the court at a time of increased expectations and tight budgets. He brings to the job administrative abilities, a penchant for promoting civility, and a reputation for integrity and superb judicial abilities. For these reasons, Judge Aspen is Chicago Lawyer's 1995 Person of the Year.
- by Donna Gill

Evaluating The Evaluators

8 Questions are being raised about The Chicago Bar Association's judicial ratings system in the wake of a CBA committee's negative rating of a nationally-known divorce attorney asked to join the bench.
- by Abdon M. Pallasch

Jenner Leaves The Not-So-Sunny South

14 When partner Ross Bricker wanted to return to Chicago, Jenner & Block announced it had decided to close its Miami office. But the office reportedly was profitable, and former Jenner lawyers in Miami point the ax at discord among Miami partners.
- by Eric Herman

Calling All Volunteers

69 Some judges may not want to deal with many neophytes, but Cook County Circuit Court Judge George Cole welcomes them as volunteers for matters in his courtroom. For that, Chicago Volunteer Legal Services Foundation has given him its first Court of Honor Award.
- by Briggs Adams

Chicago Lawyer's Person of the Year: U.S. District Court Judge Marvin Aspen

by Donna Gill

Marvin E. Aspen became chief judge of U.S. District Court for the Northern District of Illinois on July 1.

"He is just the man for our times," said Michael W. Coffield of Coffield, Ungaretti & Harris, a frequent denizen of the federal courts. "Marvin's organization and case management are among the best. He's going to be an outstanding chief."

Although Aspen was elevated via seniority to succeed Judge James B. Moran, Aspen and his appointment are heralded by lawyers and judges.

"He is the right man at the right time," said senior Judge William J. Bauer, former chief judge of the 7th U.S. Circuit Court of Appeals. Aspen is "considerably less laid back than Moran. Moran was perfect for his moment. He reconciled a court that had differences of opinion. Marv is more aggressive. They mesh well together."

Aspen already has made many changes.

He established the court's first formal management structure – necessary now that the court has grown and faces increasing budgetary and administrative challenges.

He established a rules committee to be chaired by Judge Milton I. Shadur.

In October alone, he appointed an Illinois race and gender bias task force to be chaired by U.S. District Judge Suzanne B. Conlon; an alternative dispute resolution committee to be chaired by U.S. District Judges Charles R. Norgle Sr. and George W. Lindberg to look into expanding ADR initiatives; and a new automation committee to be chaired by Judge Ann C. Williams.

"Automation is essential if we're going to go into the 21st Century as an effective court system," Aspen said.

He also established a panel of bankruptcy judges willing to mediate bench trials involving commercial cases on referrals from district court judges.

With all those changes, he faces tough budget questions.

"For the first time, individual courts are going to have a great deal to say about how to spend the budget dollars allotted to the individual courts, as opposed to having that dictated to the courts," Aspen said. "We have to make a lot of hard decisions."

"He is a great lawyer, judge and teacher," said Thomas F. Geraghty, associate dean at Northwestern University School of Law. "The thing that makes him remarkable is how talented he is in all those respects."

Aspen serves on the board of directors of the Federal Judicial Center and on the Board of Governors and the House of Delegates of the American Bar Association. He has taught for decades at both the National Institute of Trial Advocacy and at Northwestern. He teaches and lectures frequently, both here and abroad.

1995 also was the year of O.J. – outrageous justice. The country was Itoed, Dardened, Clarked, Shapiroed – and even Katoed – for more than a year.

In the aftermath of the Simpson circus, the push for civility is even more important than in 1991, when Aspen chaired a committee that developed a civility report for the 7th Circuit. It has been lauded, copied and circulated as far away as the Philippines.

Judge Aspen continues to speak and write frequently about the subject. And to live its precepts daily.

For all these reasons, Chief Judge Marvin E. Aspen is Chicago Lawyer's 1995 Person of the Year.

The beginnings

The family farmed in Poland, near the Russian border. It was the time of pogroms. Life was hard for a Jewish family.

At 16, George Aspen fancied himself a Zionist. He left the farm and his family behind, his goal to emigrate to what was then Palestine. For three years he worked his way through Europe, winding up in Rome – but broke. He belatedly discovered he needed a bribe to get into Palestine.

George decided any relative in the United States must be wealthy. He wrote an uncle, a tailor in Chicago, asking him for a loan to go to Palestine. The uncle ("kind of a Scrooge type") said no; but if George was a good tailor, he would send him the fare to Chicago. There, he could work off the price of the ticket.

Now, the only needle George ever saw was in a haystack. But he was pragmatic.

Sure, I am a great tailor! he told his uncle.

Neither hawing nor hemming, he went to Chicago and the women's garment business. He planned to make his fortune. Send for his relatives. Get them out of Poland.

Plans change; roots form. Soon George met his future wife.

Helen Adelson Aspen, now 86, came from a family of nine children: three children born in England, three in Canada (including Helen), and three in the United States. Helen's mother, Fannie, came from Leeds; her father, Joseph, came from Leeds by way of Russia. Helen and George met and married in Chicago.

Meanwhile, one garment job led to another. George eventually established his own factory in Chicago, but he lost it in the Depression.

But the Depression extracted an even greater price: By the time George had enough money to send for his family, it was too late. The Germans had invaded Poland.

George "was the only survivor of his family of the Holocaust," said Andrew Aspen, 20, a student at Bates College and the youngest of the three children of Marvin and Susan Aspen.

"We observe the high Jewish holidays," Andrew said. "It's important to [my father], as it is to me, for a lot of the same reasons. He's not a particularly religious guy, but he has a strong sense of cultural identity, a strong sense of heritage.

"He and his father were very, very close. One thing he always tells my sisters and I, 'Never forget who you are and where you come from.' "

But before Andrew's grandfather died at 92 a few years ago, he got to watch his son at court.

George would go to court, sit in the back, nudge people, gesture and say, "That's my son. The judge."

The pre-law years

The Aspen family lived on the second floor of a two-flat it owned near Central Park and Lawrence Avenues in Albany Park, later moving to a larger two-flat at Gunnison Street and Sacramento Avenue.

Aspen describes himself as an "only child not raised as one." When he was four, his aunt's husband died. The aunt and her infant son moved into the second apartment, staying there about a dozen years until she remarried.

Aspen's maternal grandfather also lived with the family until Aspen was about 14.

At one point, Aspen's kind-hearted mother also took in a woman whose husband had deserted her and their infant son.

Aspen's mother was – and is – "a very interesting lady in her own right," Aspen said.

Want to know where the two-flat's electric range came from? The refrigerator? The set of encyclopedias?

Helen Aspen was a "professional quiz show entrant," her son said. She cut off box tops, signed the names of family members, and mailed the box tops with questions or limericks to radio quiz shows.

"It was very profitable," Aspen said, smiling. Helen Aspen now lives in a suburban apartment.

Aspen recalls childhood as "satisfying and fulfilling;" but, oh, those grade school years.

Aspen first met Marvin Levin, now the owner of VIN Services, an inspection company for the insurance industry, in first grade.

"We were in a club together. The Don Juans – the lovers," Levin recalls. "We had a million activities and parties. As we got older, we were girl crazy all the time."

But in the beginning of first grade, there was . . . The Bully Who Lived On The Block.

"He outweighed both of us together," Levin said. "He enjoyed beating us up, so we got together and solved that problem." To put it mildly, they "stomped on his schnozz."

Then there were fights between Vinnie and Marvin.

"We had fistfights at Jensen Park," Levin says. "Marv and I once put on gloves – fought 'til we couldn't hold our arms up. The 'I hit you last, it's up to you' routine. We were typical kids."

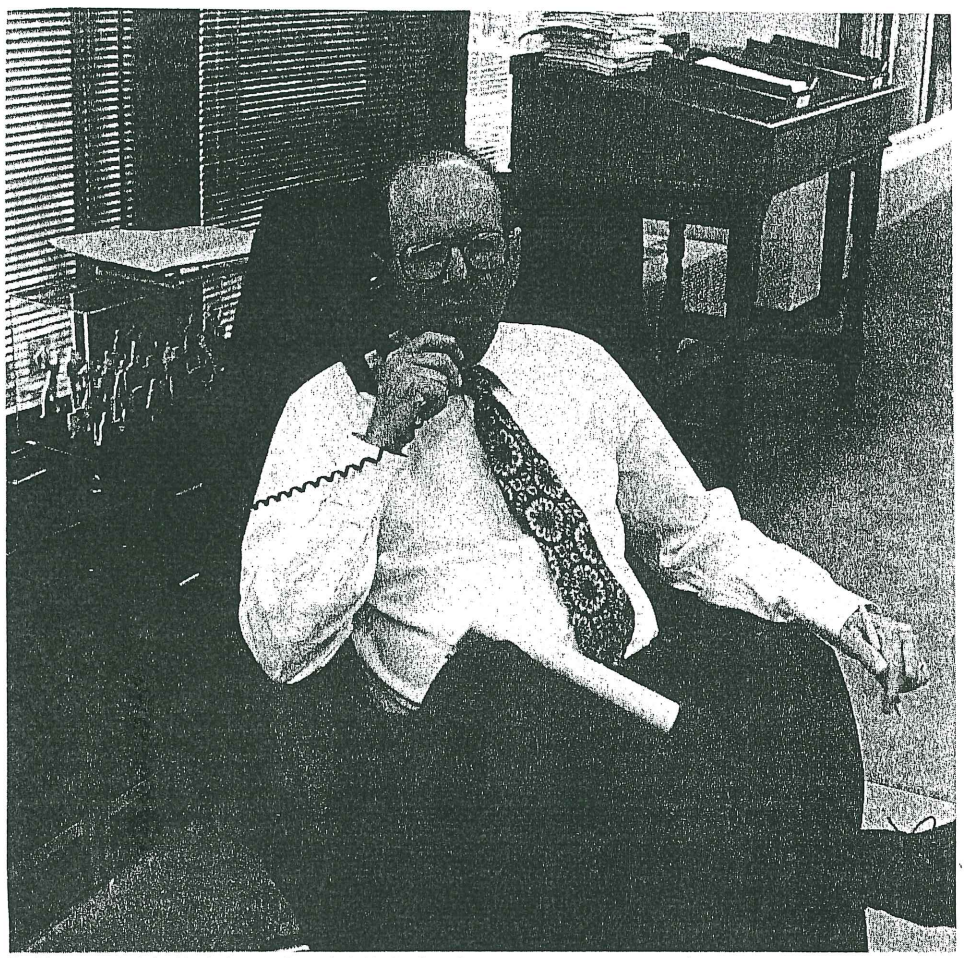
In the grade school classroom, Aspen talked in class and made smart alecky remarks, but "in today's society, I'd almost be considered a model student. It was nothing serious. It was more an immature attitude."

In 7th grade a teacher told Aspen to stop being such a goof off and use his talents. She got through to him.

He was mayor of Hougan School in the 8th grade and moved on to Roosevelt High School. Instead of shooting off his mouth, he shot baskets.

While many of the other freshmen were still eye level with a door knob, Aspen already was 5-feet-11-inches tall, only an inch shorter than he is

Paul McGr



Tradition surrounds Judge Marvin Aspen as he works in his chambers. A diorama behind him is a present from former clerks. The standing desk (upper right) originated with Judge Frank McGarr and is being handed down to succeeding chief judges.

Aspen: "Once you skewer the system for the worst person in the system, it gets corrupted; and all of us are vulnerable if ever we are involved in the criminal justice system. You bite your tongue and do what you have to."

now. He weighed 125, about 50 pounds less than now.

The basketball coach taught him how to play center. But then his classmates grew. And grew. The result was that the man now on the bench was benched.

"It was a major disappointment: The team won the city championship that year," he said.

He went on to become senior class president and be voted most likely to succeed. And still have fun with friends.

About 10 friends were in walking distance of each other; pasttimes were safer. On Friday nights, the old gang *(positive reference, different times)* could walk to any of six movie theaters.

"We didn't have a lot of things teenagers take for granted today – or that are corruptible," Aspen said.

Like his friends, he worked part time, both then and through college. At one point he was a bus tour guide.

He fakes grabbing a microphone and goes into the spiel:

"Ladies and gentlemen! If you're bored, just lift up the rug and look at the floor show. If you don't like the dirty cracks, just put the rug back again!"

The high school friends still get together. Levin is the unofficial official organizer.

"We're all proud of him," Levin said. "He's a stand-up guy. Success spoiled Rock Hunter, but it didn't spoil Marv Aspen."

Aspen's father by then was the manager of another garment factory. Sometimes, when George worked on Saturdays, Marvin went with him – while George showed him as much as told him why he should go to college.

Aspen needed to live at home and work part time. With no college counseling to speak of and no role model, he checked the CTA routes to find a college. He applied to Northwestern and Loyola. Loyola's application had a box to check for scholarship information; Northwestern's didn't. *Hello, Loyola.*

At Loyola, "I was exposed to a whole side of young Chicago society that I had never been exposed to before – primarily from the Catholic school system, in the sense that they taught me how to drink beer," he said.

He became president of his fraternity, Tau Delta Phi; majored in sociology; and minored in political science. He fancied himself a writer, but philosphy and political science courses turned him toward law.

"I decided that's what I wanted to do – much to the happiness of my parents because in those times, the proper course for a nice Jewish boy would be either medical school, law, or dental school," he said.

With law school as his goal, he enlarged the acceptable routes on his CTA map, then attended Northwestern on a half-tuition scholarship.

And found a car pool.

Between his second and third years of law school, Aspen worked in an honors program for summer clerks in the Court of Claims Division of the Civil Division of the Department of Justice.

He received his J.D. from Northwestern in 1958 and practiced law for six months with William Sulkin & Assoc. until he reported for six months' active military duty in January 1959.

He had joined the only reserve unit available in the city at the time: an automotive repair unit of the National Guard.

There was a hitch with the hitch: He flunked the mechanical aptitude test. The next plan – to make him a supply clerk – eventually was shelved, and he was assigned to a Judge Advocate General unit for the remainder of the six months.

The prosecutor

In July 1959 he left the military and became a paid draftsman working on the Supreme Court Committee to Revise the Criminal Code.

Working with him as draftsmen were Warren L. Swanson, now of Swanson & Brown Ltd., Palos Heights; and James R. Thompson, who later became governor and now heads Winston & Strawn.

Wanting to become a trial lawyer, Aspen next decided to try for a job as a prosecutor. Fred Inbau, John Henry Wigmore professor of law emeritus at Northwestern, took up his cause, writing to Robert Tieken, the U.S. Attorney at the time.

"Because Inbau was respected, I got through the front door," Aspen said.

Unfortunately for Aspen, a registered Democrat, Tieken was a Republican. Aspen had no political sponsorship. The door revolved.

Next, Inbau targeted the State's Attorney's Office and Ben Adamowski – another Republican.

Fortunately for Aspen, Elroy Sandquist was chief of the civil division at the time. *Voila!* A connection: Aspen had gone to high school with Sandquist's sister.

Judge Richard Austin, then presiding judge of the Criminal Division of Cook County Circuit Court, wrote a letter of recommendation.

Unfortunately for Aspen, "Austin and Adamowski were feuding openly. They were bitter enemies," Aspen said.

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"Sandquist took my application and, in effect, crossed Austin's name off and put his own on. And it went through," Aspen said. To Adamowski's credit, "his only comment to me was, 'Just don't do anything to embarrass me. Just as long as you're loyal to the office.' "

Thompson was already there when Aspen joined in 1960. They shared a small office and, with James J. Glasser, were, in effect, "the criminal appeals division for the state's attorney."

Glasser, now chairman and chief executive officer of GATX Corp., says Aspen is no different today than he was then.

"He's very considerate," Glasser said. "He's a sensitive person. He can sense when you're having a problem with something. He's a very intelligent person, very analytical and caring. He's a marvelous human being."

Aspen argued more than 100 cases to the Illinois Supreme Court, as well as trying criminal cases and running special prosecutions.

"The numbers are staggering and hard to believe, but in those days the Supreme Court had jurisdiction over all felony cases," Aspen said.

The court heard criminal cases three days a term, five terms a year. That's 15 days of eight to 10 cases a day, "with maybe 80 percent of them from Cook County," Aspen said.

"We each would have two, three, or four cases a day to argue, and we'd take turns. The hardest thing was to remember all the facts."

When he was in the Civil Division as a trial attorney, Adamowski assigned him to file a mandamus action against Mayor Richard J. Daley and the City Council to open the council proceedings to television cameras.

Opposing him was the corporation counsel's office. Aspen won. Corporation Counsel John C. Melaniphy was impressed. So was Daley.

Shortly thereafter, Dan Ward defeated Adamowski for state's attorney, the corporation counsel began recruiting Aspen for the city's team – and the job that opened as appellate chief in the State's Attorney's Office went to Elmer Kissane.

"When neither of us made chief when the opening arose, we both decided we'd seek fame and fortune elsewhere," Thompson said. "I went to Northwestern, and he went on to the Corporation Counsel's Office. Now he has a job for life, and I'm still struggling."

Sure.

City life

Before going to the city's law offices, Aspen talked to Daley.

"The mayor looked at me and said, 'Different people serve in different ways. If anybody asks you who your sponsor is, you tell them it's me.' He hired me."

David Durochil

Susan and Marvin Aspen enjoy long walks together, as well as world travel. The judge's wife praises him as an outstanding father.

He joined the office in 1963. The promise that he would head the appeals and federal litigation section in a year was fulfilled. The division also handled any important litigation that was likely to go to appeal.

One case he won involved allowing the use of fluoridated water in Chicago, "which saved millions and millions of dollars in dental bills."

In the Conspiracy 7 trial following the 1968 Democratic National Convention, Mayor Daley was called to testify.

As his lawyer, Aspen accompanied Daley to the courtroom of Judge Julius Hoffman, seating Daley in the witness box at 2 p.m., as per the judge's instructions. They awaited the judge's return from lunch.

Right before the judge's return, defendant Abbie Hoffman "stands up, smiles, and says in a loud stage whisper, 'Hey! Mr. Mayor! Why don't we go outside, go into the alley and settle this Chicago style?'

"It was said in a jocular way, and Daley burst out laughing," Aspen said. "We all did. In walked Julius Hoffman. He didn't know what was happening. . . . I'm sure, in the back of his mind, he was wondering, 'Are they laughing at me?' "

Into the fray

Aspen left his city job for private practice early in 1971. He shared office space with William J. Martin, now of Martin, Breen & Merrick, and served as legal aide to then-sheriff Richard Elrod. Aspen had managed his campaign for sheriff.

In September 1971 he got a call at home from Illinois Supreme Court Justice Walter V. Schaefer. Under Illinois' new constitution, judges could be appointed to fill vacancies, and there was a vacancy for an unexpired term in Cook County. Schaefer offered it to Aspen.

"Talk about mentors!" Aspen said.

Schaefer needed an answer by noon. Aspen wanted to go on the bench, but he didn't relish running for election to a full term in 1974 if he couldn't count on the party's backing.

Aspen hurriedly called Daley's office. He got in to see him. Daley assured him he would have the support of the Democratic organization. Aspen called Schaefer from a pay phone in City Hall and accepted.

He began hearing felony criminal trials at 26th and Cal. The world was good. His teaching, career and reputation flourished.

At one point, Aspen convinced the Illinois Supreme Court to put on a seminar on sentencing, "which required the judges who attended the seminar to attend a cook's tour of the penitentiaries," said Northwestern's Geraghty. "He thought it was important for judges to understand where they were sending people. Judges were walking through cell houses at Stateville and Menard – a real eye opener for the judges."

But those years also had tense moments. A Republican, Bernard Carey, was state's attorney. Powerful Ald. Thomas P. Keane (31st) was indicted.

In those days, the presiding judge of the Criminal Division assigned cases – and Joseph A. Power tabbed Aspen to hear the Keane case.

But after the case was assigned, Aspen had to appear before the slate-making committee.

Guess who chaired it?

"For me, it was an easy ethical decision," Aspen said. "There was no way I could sit and preside over a case in which Tom Keane was the defendant and at the same time go before him and ask that he and his committee slate me. So, for that reason, I recused myself."

Some in the party were not pleased. This was a sign of disloyalty. The grapevine said that some of the wards would not be supporting him in the judicial election.

So Aspen formed his own election committee, chaired by former corporation counsel Ray Simon and Jerold Solovy, now of Jenner & Block.

Patrick Tuite of Arnstein & Lehr, a friend from their days together in the state's attorney's office, sent Aspen a campaign contribution.

"I had a case pending on his call, and I got the check back from [Solovy], saying [Aspen] would not take it if a case was pending, which had never happened to me before. Or since. Marvin was assiduous in checking out the contributions against his court call list. That's the kind of guy he is."

Aspen ran in the city against a Republican and won. He still remembers his vote total: 510,131. And the lesson: It was awfully hard to lose in Chicago if you were a Democrat.

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Aspen

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Aspen spent five years in the Criminal Division and three years in Law Jury Division before President Carter named him to the federal bench on July 24, 1979.

Long-time friend Abel Friedman, president of Chicago Sweeteners, Inc., threw a party when Aspen took the bench. Among the celebrants was Aspen's father, George.

"Now Marvin has a job," George said. "From this day on, I'm not going to worry."

As for Keane, he had a bench trial before Judge Dan Ryan and was found not guilty.

This time, "No one was taking any chances," Aspen said.

The federal bench

At age 61, Aspen appears 10 years younger. He sprawls in his chambers in a low-key, leather Knoll chair that suits him: Its frame and his frame are both long, lean and angular; efficient but bearing traces of softness; built to withstand the long haul with ease.

Thinning hair curls in wisps like a head band that slipped. The expression in his eyes behind his glasses – wide and serviceable, not round and trendy – changes in increments from inscrutable, to open, to piercing, to soft, depending on the subject.

Slow motion gestures match a bland voice that soothes as he recalls not only the big cases on the state and federal bench but also the "fun" ones: like when Michael Jackson sang in his courtroom.

Then there was Weird Harold Rubin, the accused seller of pornographic books. Aspen gave him a choice: Go to jail himself or send the jail 3,000 (non-pornographic) books. The jail got its library.

Then a magazine picked up the story, and right next to it was "a photographic story about the art of oral sex," Aspen said. "I got calls and letters from people all over the country."

Many of his war stories end like that, with a joke, usually on himself – like when he ruled that Loyola, his alma mater, couldn't expand its campus into Lake Michigan.

Loyola later held a contest to name its jogging path but announced one name that would *not* be considered: "Aspen Way."

By now, "I'm sure all is forgiven," Aspen said.

Aspen takes his work but not himself seriously, and jokes are absent when Aspen discusses the law itself and the legal system as a whole: the problems with sentencing guidelines, the administration of courts, the need for intellectual honesty, and the importance of the Constitution.

He also applies the abstract to reality: Aspen is known for making tough, courageous calls.

"His overall character [sets him apart]," said Northwestern's Inbau, who has written books with Aspen. "He is a person I would trust implicitly with anything. His recent series of cases where there's a lot of pressure on him [show] he has the courage of his convictions. He's not going to knuckle under from pressure of any sort.

"I have the highest regard for him: his ability, his integrity and his capacity to be a judicial officer. He also is a very affable, personable individual."

It's not much fun to have an indictment land on your desk that has 305 pages with 175 counts naming 38 defendants, 37 of them alleged members or associates of the El Rukn street gang – then realize that the four-pound indictment details 250 separate criminal acts over a more than 20-year span.

Aspen is known for his ability to manage large cases, including making prompt rulings and sticking to them.

"He clears the underbrush so that a trial is a professional event," Coffield said.

The government expected Aspen to try the matter as one case.

"I knew it couldn't be done, and I asked the government to break it up into trial segments that might be triable," Aspen recalls. "The government refused to do that, so eventually I had to split it up myself."

He got help from colleagues.

"That decision really had a national impact as well as a local impact about filing humongous indictments and making everybody go through a long, tortuous process like a factory assembly line," Aspen said.

The case was split among several judges, including Aspen. The trials "showed these people had committed indiscriminate murder, drug dealing, all types of corruption. They truly were the most despicable gang in Chicago since the Capone era," Aspen said.

And they were convicted. Then another problem arose.

Continued on next page

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"We learned the government had apparently suborned perjury, that they had kept favorable evidence that they were required under the law to hand over to the defense [but] did not do so," Aspen said.

"There also were other allegations of other improprieties that were unprofessional but really didn't go to the heart of whether they should be granted a new trial," such as granting sexual liaison privileges in the Metropolitan Correctional Center as well as in the U.S. Attorney's Office.

In a 181-page opinion Aspen overturned the case.

He says it was the hardest case he ever had to handle and cites three reasons: one, the nature of the defendants and their crimes; two, the hard work all sides had put in on the cases; and three, "I was concerned that the actions of just two or three assistant U.S. attorneys would unfairly characterize a very highly professional U.S. Attorney's Office, young men and women I thought very highly of."

But still, one can't back away from the tough calls, even if the public doesn't understand what is at stake on a broader level.

"One can't say, 'These are bad people, thereby we're going to cut some corners and overlook some constitutional proprieties, that the ends justify the means,' " Aspen said.

"Once you skewer the system for the worst person in the system, it gets corrupted; and all of us are vulnerable if ever we are involved in the criminal justice system.

"You bite your tongue and do what you have to."

Daniel S. Reinberg, now an associate at Sidley & Austin in the labor and employment law practice group, clerked for Aspen during the El Rukn period.

El Rukn was "a pretty bold opinion," Reinberg said. Aspen is not known for agonizing. He thinks, he decides, he rules, he moves on.

In this case, though, Reinberg detected a bit of agony.

Aspen's commitment to the greater good – and his fearlessness – also showed in the case of convicted murderer James P. Free.

Kimball Anderson of Winston & Strawn, reresenting Free pro bono on the death penalty appeal, presented a University of Chicago study that said jurors do not understand pattern jury instructions. Aspen came to the same conclusion.

But serial killer John Wayne Gacy's appeal got to the 7th Circuit first. His lawyers cited the research from the *Free* case. The 7th Circuit zapped the research before *Free* ever got to court.

The circuit adopted "what they refer to as the irrebuttable presumption rule: It doesn't matter if the jurors understand; the law presumes they do so," Anderson said.

Free was executed in March.

The case, however, speaks to Judge Aspen's intellectual abilities and willingness to tackle unpopular territory.

"Judge Aspen was extraordinarily independent-minded, and he proved to be a serious student of this area of social science," Anderson said. "The social science by itself was complex, a lot of statistics, a lot of psychological methods testimony. Judge Aspen had no difficulty mastering it.

"He's one of the first and only District Court judges I know to really apply social science in the context of a death penalty hearing."

Thompson said that Aspen is "clearly willing to step right out there and do what he thinks has to be done. He's no shrinking violet. He's willing to push the envelope in areas of the law not clearly defined."

At the same time, Thompson added, "He doesn't legislate. he doesn't fall into that trap. He's not afraid to declare what the law is where he's bound. If he's wrong, that's what appellate courts are for."

"He's not a stamp judge," Bauer says simply.

Diplomacy

Aspen has the diplomatic and political ability to bring sides together, both in and out of court.

For more than a dozen years Aspen has presided over the *Gautreaux* case, originally filed in 1966. *Gautreaux v. Landrieu* 523 F.Supp. 665 (N.D. Ill., 1981).

Under a 1981 consent decree, the CHA, HUD and other authorities agreed to set aside funds for the construction of scattered site housing of limited numbers of units in Chicago on an annual basis.

Aspen is in charge of matters involving the administration or amendment of the decree.

An order amending the decree was entered March 8 of this year so that buildings could be razed at the Henry Horner Homes on the West Side.

Daniel Levin, chairman of the Habitat Co., has been the court-appointed receiver in *Gautreaux* since 1987.

"Nothing is beyond Aspen's ability to work with," Levin said. "He has a high sense of social consciousness and also a very high level of understanding of the limitations of the court system in solving the problems of society. He's an absolute pleasure to report to and work with. . . .

"He knows how to tell people when he's interested in what they have to say and when he's not, when it's relevant and when it's not. He understands everyone's agenda," gives them an opportunity to express their viewpoints, but then draws the line at letting agendas control the judicial process.

"He knows when to just talk to a few people and when to open it up.

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Aspen

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He has a great sense of how to orchestrate the democratic process to get a result," Levin said.

Aspen is not a politician in the Chicago sense.

"Clearly, he worked for a Democratic mayor and administration, but I don't think that's ever been a big part of it," Thompson said.

Still, Levin said Aspen "understands the politics which exist in a city and in a courtroom. There's nothing naive about Marvin Aspen."

Donald Schiller of Schiller, DuCanto & Fleck is a past president of the Illinois State Bar Association and serves on the ABA Board of Governors with Aspen.

When the ABA was considering changing the composition of its board and House of Delegates to create a woman's seat, "Marv was among those who thought that was going in the wrong direction" because it might limit the number of women involved.

"It was unfashionable to speak against it, but it didn't bother Judge Aspen," Schiller said. "He spoke very clearly and raised consciousness. He said, 'In your effort to do the right thing, don't do the wrong thing.'

"Some people think that those who use diplomacy to get their way aren't deep in their convictions or aren't likely to push the agenda they want, but he has a great talent of getting things across in a diplomatic way to make people feel comfortable about it."

Bernard Nussbaum of Sonnenschein, Nath & Rosenthal, was a member of the 7th Circuit Civility Committee.

"He led the committee in such a way as to maximize collegiality among its members so that everybody worked as a real team, but everybody felt his or her views were not squelched but rather considered," he said.

When the committee began, Nussbaum wondered if Judge Aspen "would be willing to have us deal with how judges should deal with lawyers or judges should deal with each other. He didn't shrink from that at all."

On the bench

Under a glass on Aspen's bench in courtroom 2541 at the Dirksen Federal Building is a well-worn, yellowing, printed saying:

"Patience. Listen! Speak softly. Avoid unnecessary and facetious comments. Don't lose your judicial temperament under any circumstances."

Lawyers appearing in his courtroom would expect to see it there: It describes Aspen's demeanor in court.

"He is a brilliant jurist, a student of the law, a patient judge, but one who runs a very well-controlled courtroom that any lawyer would be happy to practice in," said William Joseph Linklater of Baker & McKenzie. "He expects lawyers to be well-prepared but he is always patient and considerate of lawyers and others in his courtroom.

"Some judges control a courtroom by being harsh and stern. He controls his courtroom by being one of the best lawyers in the courtroom and by letting people know he is in charge, he is their equal, and he is willing to treat them decently but expects them to behave like good lawyers. He gives off that vibration.

"He's well capable of playing on whatever field needs to be played on, and everybody knows it."

He favors neither prosecution nor defense, according to criminal defense attorney Edward M. Genson of Genson, Steinbeck, Gillespie & Martin.

"I have a tendency to be foolish every once in awhile," he said. "I get away with a lot less than I do in any other courtroom."

* * *

Sports Trivia Quiz #1

(Questions, but not comments, relayed to Aspen):

Reinsdorf: "The most post season baseball games were played in Yankee Stadium. In what ballpark was the second most games played?"

Aspen: "I would guess Ebbetts Field. Wrong, huh?"

Answer: the Polo Grounds.

* * *

At the same time, Aspen can be engaging.

Before he became U.S. Attorney, Anton R. Valukas of Jenner & Block was defending a lawyer being prosecuted in an alleged corruption case before Judge Aspen in federal court.

After the jury had been out about a day, "I came back and did what every defense attorney does when a jury is out a day: I immediately asked for a mistrial," Valukas said.

"I said, 'I want a mistrial.'

"And Judge Aspen said, 'No, you don't.' "

As usual, Aspen's expression was bland.

"I went back to my office, and an hour later the jury came back," Valukas said. "Not guilty. He'd been paying more attention to the jury than I had."

While lawyers watch Aspen, Aspen watches lawyers. Next to the "patience" quote on Aspen's bench is a companion piece of more recent vintage:

"What a beautiful day. Now watch some bastard louse it up."

Clerks and staff

On the credenza behind Judge Aspen's desk sits a glass diorama the size of a boot box.

Flat photo cutouts of former clerks perch in slots like rows of paper dolls, each mugging or costumed in honor of a favorite case or memory. Presiding is a smiling, benevolent Aspen, a hitch-hiker's thumb gesturing toward a cutout of his secretary, Sharon Suich, who is immortalized trying to clobber him with a gavel.

Ten years' worth of clerks flew in from all over the country to present the diorama to Aspen during a surprise party at the home of Jenner & Block's Sidney Schenkier, Aspen's first clerk in federal court, to note Aspen's 10th anniversary on the federal bench.

If there were a clerk war over whose judge was the best, the Aspen Army would not lack recruits.

"He has a good sense of where he's come from and where he is," said former clerk Jeffrey T. Gilbert of Sachnoff & Weaver. "He's not full of himself in any way. He has a good perspective."

The staff agree. He's respected, loyal,unpretentious, gracious and generous. He remembers birthdays, even if his "surprise" isn't. Holiday parties are for everyone, not just lawyers and judges. In the summer, he invites former and current staff and their families to swim in his pool at his Glencoe home. He fills his office with law school externs – all year – as well as with clerks.

After a direction had been decided for one ruling, Gilbert came back to him, saying he could find no precedent.

"His response was, 'Well, let's write something then.' It's a good insight into where he was coming from," Gilbert said.

Schienker noted how generous Aspen is with his time.

"He allowed us to sit in on conferences with parties, which was really an eye opener right out of law school," Schienker said.

Both before and after the conference, Aspen and the clerks would discuss what happened.

While always the judge, Aspen "made the clerks – us – feel like we were partners in the whole enterprise," Schienker said.

Gilbert notes Aspen's abilities in settlement conferences.

"He gives the impression to the parties . . . that whatever issue is theirs is important, and he's devot-

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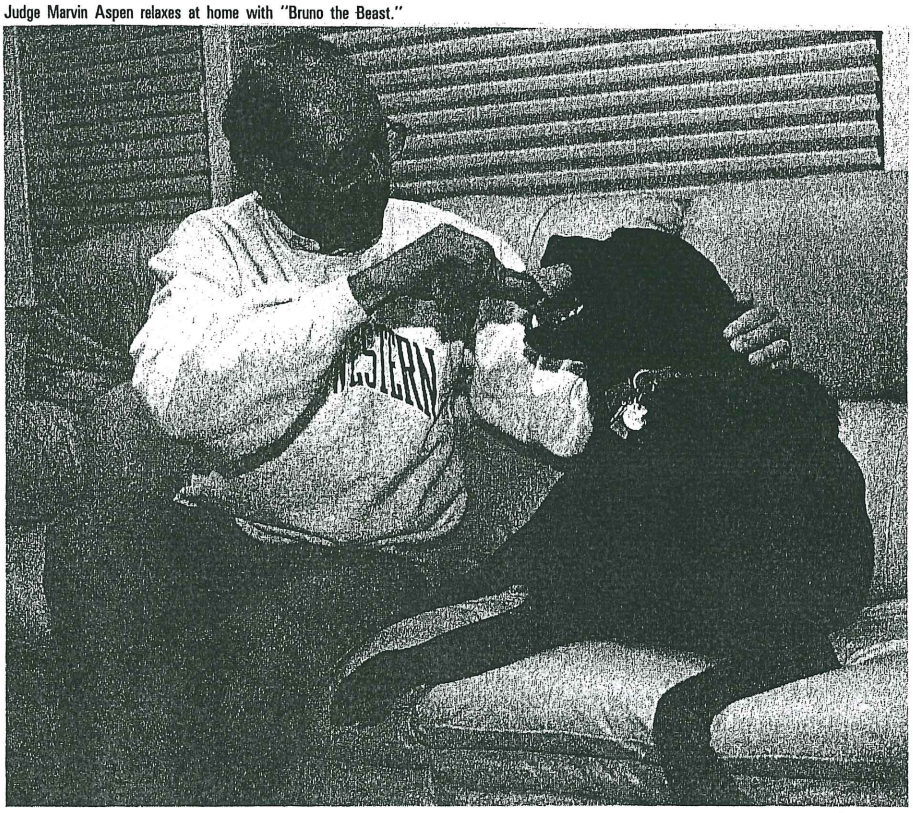
Judge Marvin Aspen relaxes at home with "Bruno the Beast."

David Durochik



Aspen

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ing the time to that," Gilbert said.

Ann Flannery, now an assistant U.S. attorney in Philadelphia, calls Aspen "almost a father figure to start your legal career with." He has provided recommendations for future jobs and even went to Philadelphia for her wedding.

"I feel very fortunate," she said. Clerking for Aspen "was a fabulous experience."

The friendship and respect is returned.

"It's not by accident all the clerks I've had are people I'm very fond of," Aspen said. He gets up to 400 applications at a time for each clerkship position. He whittles the list to "the 10 or 12 best on paper," then meets them and picks "someone whose company I would enjoy [because] we spend so much time together."

For those who see the formality in the courtroom, Flannery notes the sense of humor behind Aspen's facade.

"Many people don't know there is a twinkle in the eye behind a lot he's saying sternly on the bench," she said. She cites a story from law clerk lore:

Aspen has no patience for requests for extensions of time.

Two former clerks, one a prosecutor and one a defense attorney, appear before him on the same case. Both want extra time. Aspen sounds stern.

"I don't usually grant extensions of time, but since you are both former law clerks of mine . . . I'll give you one day."

* * *

Sports trivia quiz #2:

Reinsdorf: "Here's one he'll never get: Who is the only player in the history of baseball who in a single season had 500 at bats with no stolen bases and no home runs? He gets one clue. The guy was the MVP in one year but not the year in which the question relates to. If he gets that, he's a genius."

Aspen: "Wow. I don't have the slightest idea."

(Answer: Dick Groat, shortstop for the Pittsburg Pirates)

* * *

Practicing lawyers also talk about Aspen's lack of pretension.

"When you see him at a social function, you wouldn't know he's a judge," Valukas said. "He's not imperious or steps back from people. He's engaging and warm. I think the world of Marv Aspen."

He tells the story of a businessman he knows who has a daughter who is a classmate of Andrew Aspen's at Bates College.

Visiting campus, the Aspens and the girl's parents met for the first time. They spent a good part of the evening together.

Valukas' friend "never knew until someone told him later that Aspen was a Federal District Court judge. He didn't say "judge" or anything of the sort. He didn't announce his role when he introduced himself. That's so unusual [for most people], but it's typically him."

The home front

Susan Aspen had a pretty strange experience on her way to the delivery room to give birth to the Aspens' first child.

Sue was in the hospital. She called Marvin, who said he'd be right over.

"He didn't come, and he didn't come," Sue said. "I was getting upset."

Finally, he arrived, huffing and puffing. Turned out he had seen a guy grabbing a woman's purse. He ran after him and tackled him.

"That's Marvin," Sue says. "Always upholding the law."

The story is the stuff of legend for the Aspen family: Marvin; Sue, a travel agent for Citi Travel Inc. in Northbrook; Jennifer, 26, working on a doctorate in biopsychology at the University of Michigan; Jessica, 23, a second-year law student at Northwestern; and Andrew, the undergraduate at Bates in Lewiston, Maine.

And, oh yes, Bruno the Beast.

One Saturday Marv left for a conference in Milwaukee. Nothing unusual. When he came home, he sent the kids out to the car. In the driver's seat sat a furry ball, a black lab that grew into Bruno the Beast.

"I can just see him driving down the interstate, holding the dog," Andrew said. By all accounts, the dog figuratively is still in the driver's seat.

"He is an extremely caring person: That's the number one thing," said Sue. And as a parent, "he is superb."

When Andrew broke his leg this fall while playing with the Rugby team at Bates, his father called.

"His reaction was, 'Sorry about that, but hopefully one day you will get a hobby that's less destructive,' " Andrew said, laughing.

Then Andrew turned serious: "I don't think I could ask for a better father." His sisters said the same.

Jennifer said her father can be strict and expects a lot, but "he didn't expect anything of us that he didn't expect of himself. In some ways, he made us realize what we were capable of."

"When I've had tough times through high school down even into college – the anxieties that go with those stages of life – he's been there for me and able to understand," Andrew said. "Not just to comfort me or say the right things, but to really understand what's going on, to let me know someone else understands what I'm feeling and what's going on.

"During the good times, he's there to celebrate my successes with me. He's supportive and proud, and he lets me know that. With the good and the bad, he's candid and up front. He won't tell you what you want to hear just because you want to hear it. He tells it like it is. I'm lucky that way. He's a pretty straight-forward guy."

Jessica finds her father understanding of her need to be accepted for her own skills as a lawyer, not just because she is the daughter of a federal judge.

Sue talks about Marvin's legal settlement skills as applied to family life. A problem with the kids?

* * *

Sports trivia quiz #3:

Reinsdorf: "He might get the Polo Grounds and he might get this one. Who is the only pitcher in the history of baseball who lost 200 games without winning 200 games? The answer is Bob Friend of the Pittsburgh Pirates. He'll probably guess Nelly Fox."

Aspen: "Let's see. He had to be playing for a lousy team and be around for a long time. You got me. I could guess. Great pitchers on lousy teams. Hmmm. How about Daffy Trout?"

* * *

"He would just go into their rooms and sit down and talk," Sue said. "He wouldn't let them go to bed upset, without sitting down and having both sides see the other side of it. It's a real skill."

But there is another side of Marvin Aspen: the lighter side, the warm side.

"It would be nice if people could see that side of him," Andrew requested.

OK. Here goes.

Aspen uses legal reasoning to justify eating chocolate, munching while saying, "I don't believe in chocolate." He sets himself up for the kids to tease him, which they do mercilessly – his driving is one target. Family vacations are like having Chevy Chase's Clark Griswold character at the wheel, jokes Jessica.

Aspen teases waitresses. He gets so corny that the kids roll their eyes and say, "Oh, Daaaaaaaaad."

"He's a cuddly guy. It's hard to imagine that of Marvin in his robes, but that's what he is," said Dr. Larry Solomon, a dermatologist and friend for 25 years.

Aspen is loyal to friends: He keeps the ones he's had and adds new ones. The roster includes everyone from bricklayers to traders and professors.

"He never puts anybody down. He always makes everyone feel welcome," said Marvin Weingard, a CPA.

While quiet in public life, Aspen is "gregarious as hell" with people he knows, said friend Abel Friedman.

Aspen's humor is often ironic, subtle or corney – and sometimes benignly prankish.

Marvin and Sue often travel with other couples. On one flight home from Switzerland a few years ago, Aspen persuaded his wife and the Solomons to move up to empty first-class seats.

"But Marvin, they're first class!" argues Solomon, a dermatologist.

"*Awwwww*, if they kick us out, they kick us out," Aspen says. He leads his uneasy comrades to first class.

The flight attendant starts counting seats and checking tickets. She discovers the ploy and gets angry. She tells off Solomon.

"I started to open my mouth; but Marv leans over and says, "Larry, I *told* you not to do this!"

More often, the humor is so understated people miss it.

"He will say something with an absolutely straight face and you will have no idea he's kidding," Solomon said.

He taught Ronald Mora of Gould & Ratner how to ride a bicycle when Mora was 37. He still teases Friedman about not having enough food at Friedman's wedding 35 years ago.

Gregarious he may be; but when Aspen lets go, it's still with restraint. Even at sports events. And Aspen is known as an Ultimate Sports Fan and Trivia Buff.

Chicago Bulls president Jerry Reinsdorf has known Aspen since law school.

At basketball games he often sits next to Aspen and mutual friend Sanford "Sandy" Takiff, a former assistant state's attorney and now a businessman.

"He's not a screamer. I don't think I've ever seen him out of control," Reinsdorf said. "I've never seen him jumping up and down, but he does get animated.

"The Bulls had a player named Pete Myers. He is a really nice young man; he plays very hard. But I hated to see him in the game with the ball. He never seemed to understand what to do with the ball. I said that to Marvin. I said, 'He's just dribbling the ball! Just standing in place pounding the ball on the floor!' I yelled out, *'I hate Pete Myers!'*

"Marvin blurted out, *'So do I!'* That's the most animated I ever saw him."

The long-time friends cited no weaknesses in Aspen – except maybe for having "the weirdest tennis serve I've ever seen," according to Ron Miller, of Miller, Shakman, Hamilton, Kurtzon & Schlifke.

Judge Aspen himself said he has lots of weaknesses, then offered one from the top of his own list:

"I think that I expect an awful lot of myself in what I do, and sometimes perhaps I expect too much – not too much, but perhaps I am unrealistic in my expectations of other people."

Besides that, he said:

"I'd like to have a full head of hair."*