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ANNUAL MEMORIAL SERVICE
OF THE
ALBANY COUNTY BAR ASSOCIATION

HON. MARGARET T. WALSH, JSC
Presiding Justice

DANIEL J. HURTEAU, ESQ.
ACBA President

BARTLEY J. COSTELLO, ESQ.
Committee Chairman

December 9, 2019
at 9:30 a.m.

Albany County Courthouse
Third Floor
Albany, New York

IN MEMORIAM

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Colin Kenneally, Esq. (April 19, 2019)

Eulogized by John Whelden, Esq. Page 7

George H. Barber, Esq. (May 6, 2019)

Eulogized by Peter Barber, Esq. Page 14

Donald H. Sommers, Esq. (June 2, 2019)

Eulogized by Hon. Andrew Sommers page 19

Robert K. Ruslander, Esq. (September 6, 2019)

Eulogized by Betsy Ruslander, Esq. Page 25

John T. DeGraff, Jr., Esq. (November 23, 2019)

Eulogized by Bob Iseman, Esq. Page 32

1 (The judges and justices entered.)

2 CHARLES DIAMOND: All rise. The Supreme
3 Court for the county of Albany, New York, is
4 now in session. The judges and justices of
5 the court, Honorable Margaret T. Walsh,
6 presiding.

7 (The judges and justices entered.)

8 HON. MARGARET T. WALSH: Good morning.

9 THE ASSEMBLAGE: Good morning.

10 HON. MARGARET T. WALSH: Please be seated.

11 On behalf of all the judges who are
12 present and on behalf of the officers and
13 members of the Albany County Bar Association,
14 I welcome the family and friends of the
15 attorneys we honor today.

16 We are in the throes of the holiday
17 season. We just celebrated Thanksgiving not
18 even two weeks ago. The absence of your
19 family member must have been felt so intensely
20 that day, and I'm sure you spent time
21 appreciating his presence in your lives. I'm
22 glad that we will all do this together today.

23 At holiday time we think of home, our
24 childhood homes and homes of relatives and

1 friends where we participated in and created
2 traditions. As members of the Albany County
3 Bar Association, we share a home, too: this
4 magnificent building, the Albany County
5 Courthouse. Our tradition of gathering in
6 this home to reminisce about the times we have
7 had with those who have passed comforts and
8 buoys us.

9 Today we eulogize the members our county
10 bar association, but I also wish to take a
11 moment to remember the Honorable Michael
12 Melkonian of Rensselaer County, who suddenly
13 and tragically passed away on October 17th.
14 Judge Melkonian presided over a vast number of
15 cases in this courthouse and is known to so
16 many of us here.

17 He was first appointed to the Court of
18 Claims by Governor David Paterson and then
19 reappointed by Governor Andrew Cuomo,
20 initially serving in Manhattan. For the last
21 several years he served as an acting Supreme
22 Court justice in Rensselaer County, his home
23 county, as well as by assignment to other
24 counties in our judicial district.

1 Prior to his judicial career, above and
2 beyond his day job, Mike served as a judge
3 advocate in the U.S. Army Reserve and the Army
4 National Guard of New York.

5 One of his Court of Claims colleagues
6 noted the following: "Mike was exceedingly
7 devoted to his wife, Caroline, and to his
8 children, Olivia and Max. He also mentored
9 and coached scores of young athletes in
10 Rensselaer County. Mike was a particular
11 favorite among his judicial colleagues. His
12 easy laugh, his infectious personality
13 punctuated by a treasure trove of unique and
14 interesting stories, and his self-effacing
15 humor made him a friend to all, both inside
16 the courtroom and outside."

17 My own experience with Mike was
18 consistent. Every time I saw him he would say
19 about his judgeship, "I am so lucky. I love
20 this job. I know how lucky I am to have it."
21 I and all of us who knew him will miss this
22 appreciative graciousness.

23 Now I introduce the president of the
24 Albany County Bar Association, Daniel Hurteau.

1 DANIEL J. HURTEAU, ESQ.: Thank you, your
2 Honor.

3 May it please the Court, members of the
4 judiciary, members of the association,
5 friends, and family that is present today, my
6 name is Dan Hurteau, and I am the current
7 president of the Albany County Bar
8 Association.

9 On behalf of the Albany County Bar
10 Association I want to welcome you to this
11 memorial service. This event, this service,
12 is really, truly one of the wonderful things
13 that the bar association does every year, and
14 I'm so happy and proud that I can be here to
15 introduce BJ Costello, who is going to take
16 over and emcee the program.

17 So, Mr. Costello.

18 BARTLEY J. COSTELLO III, ESQ.: Thank you.
19 Judge Walsh, members of the judiciary,
20 attorneys, families, friends. Thank you for
21 that introduction, Dan, and, Judge, thank you
22 for the comments about the life of Judge
23 Melkonian.

24 Today we celebrate the lives of five

1 individuals who chose to pursue their
2 professional lives as lawyers. They accepted
3 difficult assignments. They worked
4 tirelessly. They helped thousands of
5 individuals. And as you will see from
6 listening today, each journey was quite
7 different, marked by great personal challenges
8 and high achievements. But the common theme
9 was their acceptance of the privilege and the
10 honor of being lawyers in the very best sense
11 of the word.

12 At this time I call upon John Whelden to
13 eulogize Colin Kenneally.

14 JOHN WHELDEN, ESQ.: Good morning. It's
15 an honor and a privilege to stand here and
16 speak on behalf of Colin Kenneally. It's also
17 an honor and a privilege to fill in. Paul
18 Devane was the original speaker, and,
19 unfortunately, he could not be here today. So
20 he provided me with his comments, and I'm
21 going to read them and then perhaps add a
22 couple of my own.

23 *May it please the Court, honorable judges*
24 *and justices, members of the bar, family, and*

1 *friends, it is indeed an honor and a privilege*
2 *to be here today to remember Colin J.*
3 *Kenneally, a lifelong friend and colleague.*

4 *Colin was born on January 9, 1944, to the*
5 *union of Marvin and Vonnie Kenneally, who*
6 *resided in St. Vincent de Paul Parish in the*
7 *Pine Hills section of Albany. He was the*
8 *younger brother of Marvin J., who was an*
9 *outstanding athlete at the Vincentian*
10 *Institute, the best high school in Albany.*

11 *Many of you have heard the appellation*
12 *'Smalbany'. Judge Walsh's cousin, John Barry*
13 *Paul Ryan, was my childhood best friend, and*
14 *together we were paper carriers for the*
15 *Kenneally family on Myrtle Avenue.*

16 *Colin graduated from Russell Sage College*
17 *and Albany Law School. He was admitted to the*
18 *bar January 31, 1978. He was an associate in*
19 *my office and was mentored by my good friend*
20 *and brother-in-law, Bertrand F. Gould. His*
21 *practice consisted mainly of criminal defense*
22 *work and, as such, joined the Albany County*
23 *Public Defender's Office in July of 2002.*
24 *Colin was assigned to Albany Police Court*

1 where Tommy Neidl was the supervising public
2 defender.

3 In those days each attorney was assigned
4 to a certain judge. Colin was assigned to
5 Judge Rachel Kretser, with whom he had what
6 some would decipher as a contentious
7 relationship. The basis for this acrimony was
8 the proliferation of animal cruelty cases.
9 Judge Kretser was the original PETA person and
10 Colin was an avid advocate for his defendants,
11 ergo the constant battle in Albany Police
12 Court.

13 Prior to joining the public defender's
14 office Colin was an 18B attorney assigned to
15 indigent defendants in Albany County Court.
16 He was assigned to a sensational case of
17 robbery, rape, and sodomy. Colin had a female
18 defendant, June Benson. And John Doherty,
19 Esq., and John Whelden, Esq., both from the
20 public defender's office, defended Booger
21 Brown. Ms. Benson had given a statement
22 versus Mr. Booger Brown, and, therefore, they
23 could not be tried together. No problem. Two
24 separate juries in one trial, a first for

1 Albany County. The Honorable Thomas Keegan
2 presided. Needless to say, both were
3 convicted and sentenced to long terms in
4 prison.

5 Colin was one of the "three amigos" in
6 Albany Police Court, along with the late Tommy
7 Neidl and subsequent Supervisor John Whelden.

8 A serious illness overtook Colin's wife,
9 causing him to move to Arizona. He
10 anticipated a December 2009 retirement, but
11 because of a personnel shortage in the public
12 defender's office, the director asked him to
13 stay on until April 2010. Always a team
14 player, he agreed to do so, and rode off into
15 the sunset to Arizona in the summer of 2010.

16 RIP, Colin J. Kenneally.

17 On a personal note I had the pleasure of
18 knowing Colin throughout my career practicing
19 law, which started in the public defender's
20 office many years ago.

21 Paul referenced Colin's work as an 18B
22 attorney, that is, an attorney assigned to an
23 indigent defendant who cannot be represented
24 by the public defender's office. In the 1980s

1 and 1990s, we didn't have a conflict
2 defender's office, or an alternate public
3 defender, but rather worked from a list, and
4 those assignments were made by the public
5 defender's office. I know that because it was
6 my job to do so for about 13 years.

7 I cannot tell you how many cases I
8 assigned to Colin Kenneally, in every court in
9 this county, every type of crime, misdemeanor
10 to felony, and some of them on extremely short
11 notice, as in, "Colin, I got a preliminary
12 hearing in an hour. Can you be there?"

13 And the answer was always "yes."

14 And I knew that that defendant was going
15 to get the best possible representation by an
16 experienced, knowledgeable, dedicated
17 attorney.

18 Paul also mentioned the three amigos in
19 the Albany City Court. Colin, Tommy, and I
20 were substantially older than most of our
21 colleagues who were fresh out of law school,
22 and that's where we were trying to teach as we
23 went along.

24 Colin invariably had two young attorneys

1 assigned to work with him in court. They
2 would have their caseload but looked to him
3 for help, which he always gave. Whenever he
4 had a complicated case or a trial, he invited
5 them to work with him. He was a fabulous
6 mentor to these young people. He always did
7 so with a sense of humor and happily.

8 It was mentioned by Paul about the animal
9 cruelty cases. I can only tell you there were
10 two specific trials that occurred within a
11 year. They were both dog cruelty cases, both
12 before Judge Kretser, both for which Colin was
13 the defense counsel. I can just characterize
14 the teamwork as "memorable" experiences. I
15 was with him after hours, before hours, trial
16 prep, and perhaps venting along the way.

17 Paul also mentioned that Colin stayed on.
18 The time Colin was going to retire was going
19 to be in June of 2009. The first term of that
20 year Judge Kretser was going to be in part one
21 in Albany City Court, which is by far the
22 busiest and needs experienced and numerous
23 personnel. The second term Judge Kretser was
24 going to be in part two. She had a bunch of

1 trials and hearings all scheduled and, again,
2 was going to be busy.

3 The public defender's office could not
4 replace him when he walked out the door
5 because he had a lot of time to use up. And
6 so the public defender at the time was Peter
7 Torncello. Peter and I went to Colin and
8 basically begged him to stay.

9 He said, "I will have to talk to my wife.
10 I will get back to you." And the next day he
11 came and said, "No problem. I am here." He
12 did it for his clients. He did it for his
13 colleagues and for the office.

14 On off days I would see Colin in the
15 office once in a while, weekends, holidays,
16 doing research, trial prep, whatever. And
17 invariably his uniform was running shoes, gray
18 sweatpants, and a Kelly green pullover hoodie.

19 Some years later Paul was a little bit
20 off, I think, when Colin moved. Colin was
21 gone from the office. It came time that I
22 retired, and people in the office very kindly
23 gave me a surprise retirement party.

24 As I walked through the door with my chin

1 hanging on my chest, absolutely awed by what
2 was going on, one of the first people I saw
3 was Colin. This party occurred on a weekday
4 right after work, so everybody was in business
5 attire -- suits, ties, dresses -- except
6 Colin. He was in running shoes, gray
7 sweatpants, and a Kelly green pullover hoodie.

8 But he was not that way just to be casual
9 or to be flippant. He was dressed that way
10 because he had just gotten off the couch where
11 he had been for three days with the flu to
12 come to the party. He came out in the middle
13 of December at night to be with his colleagues
14 and to be with me on the day I retired.

15 That was my colleague and that was my
16 friend, Colin Kenneally.

17 God bless you, Colin.

18 BARTLEY J. COSTELLO III, ESQ.: Thank you,
19 John.

20 George Barber, Esq., will be eulogized by
21 his son, Peter Barber.

22 PETER BARBER, ESQ.: Members of the
23 judiciary, colleagues and friends, before I
24 started, actually, would like to invite my

1 brother, Herb, if I could, to stand next to
2 me.

3 BARTLEY J. COSTELLO III, ESQ.: Sure.

4 PETER BARBER, ESQ.: The reason why,
5 actually, is because Herb was part --
6 obviously, he's my brother and the oldest of
7 five of George and Mary, our parents. And
8 Herb had the pleasure -- the honor, I think,
9 actually -- the highlight of his career was
10 working with his father for at least 20,
11 25 years?

12 HERB BARBER: Yes.

13 PETER BARBER, ESQ.: Thank you. I'm not
14 really good with numbers. All I know is that
15 they were constant.

16 The reason my father and -- it's funny to
17 say this -- and I have asked other people,
18 actually, to do this for me today because I
19 can get very emotional about this -- is my
20 father was the kindest, most gracious, most
21 respectful person I have met, with one caveat:
22 I put my mother in the same category. They
23 were devoted to, basically, serving others.

24 When my father retired in February of

1 1998, there was a nice article written about
2 him in the *Times Union*, and it highlighted,
3 basically, his career. He was considered to
4 be the dean of appeals. He argued well over
5 400 cases in the appellate division, 87
6 separate appearances in front of the Court of
7 Appeals. Sol Greenberg deemed him basically
8 the person to go to for appeals in the area.

9 Now, that was 20 years ago. What I always
10 found remarkable about that was the caption of
11 the photo that accompanied that article.
12 Basically it showed my father at Nino's Bakery
13 at 6 o'clock in the morning, picking up the
14 daily bread to deliver to soup kitchens.

15 That is what I always remember about my
16 father, is that he was always out there doing
17 whatever he could to help others, whether it
18 was a daily pick-up of bread at 5 o'clock in
19 the morning at bakeries -- I would know that,
20 Herb would know that, because on those rare
21 times he couldn't do it we would be asked.
22 We'd get very detailed instructions: what door
23 to go to, what types of bread to deliver to
24 what soup kitchens. My father was very detail

1 oriented.

2 That's the other thing about my father.
3 He never woke up and said, "What are you going
4 to do today?" My father always had a plan for
5 the day. There was nothing that he didn't
6 already plan. For each part of the day he
7 always had a mission in life.

8 In addition to, again, being with soup
9 kitchens, he also was instrumental in
10 establishing Albany Maritime Ministries, which
11 is an organization that basically greets
12 sailors at the port and takes them to places
13 where they can't get access to, whether it's
14 shopping, use of phones back in those days was
15 very important, taking them to church, even to
16 a mosque. So many of these sailors were
17 coming from foreign countries.

18 Again, it was pretty remarkable living in
19 that household. My father was incredibly
20 quiet, very reserved, very studious. He never
21 used the word "hate," as far as I know. He
22 was very religious and very Catholic in how he
23 viewed life. Again, he would be very
24 embarrassed that I'm actually standing up here

1 and talking about him. He was a very private
2 individual. He did not want adulation.

3 Sorry, Dad, for doing this to you, but I
4 felt it was necessary.

5 Do you want to add anything, Herb?

6 HERB BARBER: Yes. George and Mary Barber
7 were very religious, and they went to the Holy
8 Land. They went to Greece where they were --
9 the journeys of Saint Paul -- and they were
10 very active in the charismatic renewal. He
11 was a very humble man, and I will always be
12 grateful that he always helped me, to provide
13 for me and for his four other children. So we
14 are just very grateful for him.

15 He was an incredibly strong man. It was
16 incredible how strong he was. I never really
17 knew it until he got into his eighties and he
18 was just as strong as I was. But, anyway,
19 that's not his only strength he needed. He
20 was not always just silent. He measured his
21 words and always knew what he wanted to say.
22 He was a very good person.

23 PETER BARBER, ESQ.: Thank you.

24 BARTLEY J. COSTELLO III, ESQ.: Thank you.

1 Donald H. Sommers will be eulogized by his
2 son, the Honorable Andrew Sommers.

3 HON. ANDREW SOMMERS: Judge Walsh, members
4 of the judiciary, fellow attorneys, friends,
5 and colleagues.

6 Like Peter Barber, I have a very difficult
7 job today. It's very difficult to summarize
8 my dad's career of nearly 69 years as an
9 attorney, but I will try.

10 First of all, in his day he was one of the
11 great personal injury lawyer in the Capital
12 Region. He got verdict after verdict after
13 verdict throughout the years, some of them
14 against the best defense firms in the area.
15 Jurors could relate to him because he was a
16 regular guy just like them. He understood
17 their mindset and he related to them on a
18 personal level because he was so down to
19 earth. Many of them later contacted my father
20 in order to ask Dad to represent them in a
21 legal matter. At my father's passing we had
22 many clients who were either grandchildren or
23 great grandchildren of some of those clients.

24 Although he never tried cases in his last

1 years, he never lost his uncanny ability to
2 analyze a case. Those of you who are football
3 fans -- you know I'm a sports addict -- can
4 understand how Bill Parcells broke down the
5 game table in football. That's how my father
6 looked at cases.

7 I would sit down with him on a Saturday
8 morning at the conference table with papers
9 everywhere. He would say to me, "Who are your
10 witnesses? Which documents are you going to
11 put in with which witnesses?"

12 He would take it all in for a few minutes,
13 and then, like a master, he would work his
14 hands on the table and say, "I don't think you
15 need that witness. I'd call that witness
16 first. I'd save that one for last. Put this
17 one somewhere in the middle." And he would
18 analyze the case and have it broken down in a
19 matter of half an hour, an uncanny legal
20 ability that he never lost even as he
21 approached 69 years as an attorney.

22 There are so many stories I could tell
23 about my dad. One of the things he was most
24 proud about was he was a World War II veteran.

1 He served from 1943 until 1946. A year ago,
2 on December 7, 2018, he was in New Scotland
3 Town Court. He was waiting for his case to be
4 called.

5 Murray Carr was there, an attorney in
6 Albany. Murray's case was called and in front
7 of the entire courtroom Murray said, "Judge,
8 we have in our midst a World War II veteran,
9 and today is Pearl Harbor Day. I think we
10 should all be very proud that he's here
11 today." Whereupon, the entire courtroom stood
12 up and clapped for my father. He was a very
13 humble man, but I can tell you this: He loved
14 that story. He was so proud of it.

15 Dad's finest legacy, I think -- and he had
16 so many -- has been told to me by lawyers over
17 the years. Some lawyers who are my age, some
18 lawyers who are older, would tell me the
19 following story:

20 They would be in the courtroom, kind of
21 unsure of themselves, maybe they hadn't been
22 there before, not knowing exactly what to do
23 or what to say. My father would zone in on
24 those lawyers -- he may not even know them --

1 walk up to them and say, "How can I help you?"

2 My father would sit there and mentor them
3 in the court to tell them, "This is what the
4 judge is looking for. Just relax. It'll be
5 fine. This is the way you need to present
6 things to the Court." That story was told to
7 me by so many lawyers.

8 Just to give you a few examples, Victor
9 Caponera told me the exact same story, and
10 he's been practicing for 40 years. And about
11 a week after my dad's funeral, I got a call
12 from Spike Solomon. Spike had not been at the
13 funeral, so he didn't hear me say that in the
14 eulogy. And he said to me, "You know what I
15 liked best about your dad?"

16 I said, "What's that, Spike?"

17 He said, "I was a young lawyer in 1966. I
18 was in Schenectady County Family Court for the
19 first time. I had never been in that court.
20 I had never even been to Schenectady as a
21 lawyer. And I was completely lost." He said,
22 "Your dad saw me in the crowd in the attorneys
23 room, walked right up to me, came up to me,"
24 and did the same things I just talked about

1 here.

2 And then at the end of it, Spike said, "By
3 the way, do you know where a gas station is?
4 My car is almost out of gas."

5 My father -- this is true -- my father
6 said to him, "Do me a favor. Just wait for me
7 to finish my case." What did my dad do? He
8 drove him to the gas station. That's the kind
9 of man my father was.

10 Most importantly, my father was a
11 gentleman. If I could have a quarter for
12 every time I heard the word "gentleman"
13 discussing my dad, either in a card, a note,
14 or a phone call, I would be a very rich man.

15 A few years ago when I needed court
16 coverage and I couldn't get a Colonie judge,
17 Judge John Bailey offered to cover my relief.
18 But he didn't want to talk about that. He
19 wanted to tell me about my dad.

20 He said to me, "You know, your dad is such
21 a gentleman. He's just so put-together. He
22 knows exactly how things work in a courtroom."
23 He said, "I wish he could teach a seminar for
24 young lawyers on how to act and how to present

1 in a courtroom."

2 Another judge, who happens to be here
3 today, is Judge Spain, a judge I have appeared
4 in front of throughout my career a number of
5 times. I have a lot of respect for him as
6 well. I told him today that I was going to
7 read a little bit of the note that I received
8 from him.

9 This is Judge Spain's words:

10 "Don Sommers was an effective,
11 hardworking, and unassuming lawyer who brought
12 great honor to the profession throughout his
13 long career. When I would see him in the
14 courthouse or on the street, I would be
15 greeted with that beaming smile. He seemed to
16 enjoy every aspect of being a lawyer. He will
17 forever be a good example to all of us."

18 Finally, Dad made his last court
19 appearance at the age of 68 years and
20 11 months, before he passed. He made that
21 court appearance in front of Judge Maney.
22 When I saw Judge Maney shortly after that, he
23 said to me, "I can't tell you what an honor it
24 is to have your father in my courtroom."

1 I think between Judge Spain, Judge Bailey,
2 and Judge Maney -- I think they summarized my
3 father beautifully. He wasn't just a great
4 father. He wasn't just a partner of mine for
5 37 years. He wasn't just a great mentor. He
6 was an iconic example of how you were supposed
7 to act as an attorney to make us all proud.
8 For that we will all miss him.

9 Thank you very much.

10 BARTLEY J. COSTELLO III, ESQ.: I'm sure
11 we are all feeling very humbled at this point.
12 Thank you.

13 Robert K. Ruslander will be eulogized by
14 his daughter, Betsy.

15 BETSY RUSLANDER, ESQ.: Good morning, your
16 Honors. Good morning, everyone. My
17 condolences to all those who have lost loved
18 ones.

19 I am Betsy Ruslander, and it's my
20 privilege to deliver these remarks in honor of
21 my father, who was my Atticus Finch. I am so
22 proud to be Bob Ruslander's daughter.

23 My dad was a native son of Albany, which
24 may have been the basis of his certain

1 affinity for the Honorable Learned Hand,
2 although from what I understand, their
3 temperaments were quite opposite. In high
4 school my dad was senior class officer,
5 lettered in three sports, and was voted
6 All-Albany End by the *Times Union*, a title he
7 was so proud of. He graduated from Michigan
8 State and served in the Army.

9 My parents met in 1953, married the
10 following year, and spent more than 55 years
11 together until she died in 2009. My mom
12 worked as a secretary for Matthew Bender,
13 putting my dad through Albany Law School,
14 encouraging him all along the way.

15 He was going to run for class officer and
16 thought secretary. She told him, "If you are
17 going to run, run for president." And he did,
18 and he won. He so enjoyed working with Judge
19 Bob Doran and his other classmates in
20 coordinating their law school reunions for so
21 many years.

22 He worked for a law firm for a short time
23 before joining the Albany law firm of
24 Ainsworth, Sullivan, Tracy and Knauf at 75

1 State Street, 14th floor, where it lived for
2 about 80 years from its start in 1908 until
3 later moving out of downtown. The firm's
4 hallmark was insurance defense, and he was a
5 trial attorney for nearly 50 years, earning
6 the respect and affection of all who worked
7 with him. He served as managing partner and
8 ultimately the firm bore his name.

9 But his livelihood was more than a job.
10 His partners became his family, and the
11 McHenrys and Cardonas and Teresis became our
12 family, too. So many times a teenage child of
13 one partner or another, including some named
14 Ruslander, would call my dad with a speeding
15 ticket or the like, and he never betrayed
16 their confidence. All he would say is, "Why
17 did you wait until the return date to tell
18 me?"

19 When we were little, when he went off to
20 work in the morning, we used to have a saying:
21 "Have a good day. Have a good trial. And
22 watch the brakes." One time I happened to say
23 that my dad was on trial, and somebody asked
24 me, "Why? What did he do?"

1 He was past president of the Albany County
2 Bar Association for which he had penned a
3 charming column on books of interest, of
4 course, as reading was his passion. He had
5 such great fondness for all those he had the
6 pleasure to work with at the bar association,
7 including Barbara Davis and Rosemary Allequa.
8 When Barb retired, he was thrilled to
9 participate in her party by drafting a list
10 called "Barb, How Much Do I Owe You?" For
11 example, "When in Doubt, Ask Barb"; "When
12 Lost, Seek Barb"; "When Need a Shoulder, Lean
13 on Barb".

14 When my dad was a young associate at the
15 firm, he would go to the Court of Appeals
16 dinner, in truth, to make sure his senior
17 partner, Tom Tracy, got home safely. My mom
18 was none too thrilled to be left alone with
19 three kids in diapers while my dad donned his
20 tux for a night out. But later, and for so
21 many years, my dad was my date to our annual
22 Court of Appeals dinner, and my mom would be
23 so happy to take a picture of us, the series
24 of photos through the years that I treasure.

1 He was always a member of the New York
2 State Bar Association and served in the House
3 of Delegates. He was admitted to the United
4 States Supreme Court. He served on the Inns
5 of Court, sharing his passion for law,
6 learning, and professional excellence. He
7 encouraged me to join the same, and I followed
8 his advice and footsteps, as I did in many
9 things.

10 In the 1970s when the no-fault law changed
11 the automobile negligence landscape, his
12 partner, Frank Warner, called it the "wailing
13 and gnashing of teeth". My dad became an
14 expert and shared his expertise by lending his
15 time to train other lawyers on this major
16 change in the law.

17 He provided opportunities freely and
18 delighted in the success of others. When I
19 was an associate at his firm, he gave me a
20 case that ultimately went to the Court of
21 Appeals, *Young v. Wyman*. I lost but felt
22 vindicated because Judge Kaye agreed with me
23 in her dissent. I was so fortunate to have
24 had the experience of arguing in the Court of

1 Appeals, owing all to my dad.

2 After retiring he became a hearing officer
3 with the Civil Appeals Settlement Program for
4 the appellate division, and was an arbitrator/
5 mediator for several years until his
6 retirement.

7 My dad had a green thumb and loved
8 gardening. When the firm moved to New Karner
9 Road, he planted flowers outside the door.
10 One day a patron asked how to get to the firm,
11 and my dad told him where it was. When he got
12 to the receptionist, he remarked at how nice
13 the gardener was. And she said, "Oh, that's
14 our senior partner."

15 In his professional and personal life my
16 dad was a gentle man and a gentleman. He was
17 soft-spoken and patient, traits that,
18 obviously, I did not inherit. I can tell you
19 that he never got mad or raised his voice. He
20 never uttered a bad or angry word and never,
21 ever spoke unkindly of anyone. Never. He was
22 constantly cheerful, agreeable, humble, always
23 thinking of others, and led by example. As
24 the song says, "My life has been a poor

1 attempt to imitate the man."

2 My dad was the epitome of what anyone
3 would think of as a great lawyer. He was an
4 empathic listener, a learned colleague, a
5 trusted advisor, a generous mentor, a zealous
6 and effective advocate. He knew that he who
7 yelled the loudest was not the most right.

8 His success was found in his knowledge of
9 the law and the merits of his argument and,
10 just as important, with the strength of the
11 relationships he forged. His stellar
12 representation paved the way for me, and many
13 judges and lawyers welcomed me so warmly
14 because I was my father's daughter.

15 After today we can all honor my dad,
16 Attorneys Kenneally, Barber, Sommers, and
17 DeGraff, and the legal profession by
18 continuing what was best in them: practice law
19 with dignity and civility; mentor and help a
20 young lawyer; promote professionalism,
21 courtesy, and respect for the law, the
22 lawyers, the litigants, the court staff, and
23 others; serve your community; work hard; be
24 kind; and drive a little slower.

1 Thank you for allowing me to share a few
2 thoughts about my dad and for coming today to
3 pay your respects to my dad and his
4 distinguished colleagues. With their passing,
5 they broke the mold. They showed us the way,
6 and we honor their memory. We are lesser for
7 their loss, and we will miss them all.

8 BARTLEY J. COSTELLO III, ESQ.: Thank you,
9 Betsy.

10 John T. DeGraff, Jr., will be eulogized by
11 his partner Bob Iseman.

12 BOB ISEMAN, ESQ.: Judge Walsh, members of
13 the judiciary, and with the Court's
14 permission.

15 I am just so pleased and honored to be
16 here to participate in this service and, in
17 particular, to celebrate the life and the
18 legal career of my long-time law partner and
19 friend and mentor, John T. DeGraff, Jr.

20 John left a truly remarkable legacy as a
21 son and as a brother, as a husband and as a
22 father, as a grandfather and as a
23 great-grandfather, as a friend to so many who
24 were always touched by his infectious laugh

1 and the joy with which he practiced law. He
2 left a legacy as a naval officer for a number
3 of years. He left a legacy as a very skillful
4 trial and appellate advocate who just loved to
5 represent clients in their time of need.

6 I became a young associate at the DeGraff,
7 Foy, Conway, Holt-Harris law firm in 1975.
8 I'd like to take a few minutes to share some
9 of my memories of John. Before that I have to
10 tell you that it was really while I was still
11 in law school that I became aware of John's
12 talents as one of the preeminent lawyers in
13 our community.

14 We were trying to get ready for the Bar
15 exam. This was May of 1973, a long time ago.
16 The entire legal community, at least those who
17 were mainly interested in personal injury
18 actions, were interested in what was going to
19 be done by the Court of Appeals with the case
20 of *Codling v. Paglia*.

21 I became aware that John DeGraff, Jr.,
22 represented the plaintiff, Marcia Codling.
23 And this case presented the question of
24 whether or not the State of New York was going

1 to adopt the principles of strict product
2 liability as, I believe, had been adopted in
3 California. But everyone was kind of waiting
4 to see what the Court of Appeals would say on
5 the topic. I became aware on May 3rd of 1973
6 that the Court of Appeals had adopted the
7 principles of strict product liability, which
8 was a really big deal.

9 I can remember, in John's office, seeing a
10 telegram that his father, John T. DeGraff,
11 Sr., who was also in his own right one of the
12 preeminent lawyers in this area, especially in
13 the field on the appeals, wrote to John while
14 John was traveling someplace in Europe, I
15 believe, probably looking for the local
16 courthouse to see how justice was administered
17 in another country. And the telegram said
18 "*Codling v. Paglia* affirmed in historic Court
19 of Appeals landmark decision."

20 And when I saw that telegram I realized
21 one thing that was, I thought, very, very
22 important, and that is that a man like John T.
23 DeGraff, Sr., his father, really cast a long
24 shadow as a preeminent lawyer in the State of

1 New York, and that John, by achieving this
2 success in the case of *Codling v. Paglia*, had
3 really demonstrated that he had achieved his
4 own success, that he was out from under the
5 shadow of his father, and throughout his
6 career thereafter continued to get wonderful
7 results for his clients before the trial
8 courts and the appellate courts that
9 demonstrated the quality of his advocacy.

10 But the thing I really want to emphasize
11 the most about John, what I observed about him
12 as a young lawyer at the DeGraff Foy law firm,
13 was that he loved to be a lawyer. He loved
14 representing clients. He regarded his
15 relationship with clients as a sacred trust,
16 and he imbued all of us in that law firm with
17 that thought and that reality.

18 "What a privilege it is," John would say,
19 "to be able to be a part of this profession.
20 What fun it is." He was a joyful advocate.
21 He just loved what he did. He loved
22 collaborating with the young lawyers in the
23 office, and I was so privileged to have
24 benefited from his mentorship in that regard.

1 He kept, as many lawyers do, but for John
2 it had a special significance -- he kept a
3 statue of the blindfolded Lady of Justice in
4 his office. And if you mentioned anything
5 about that, or even if you didn't, John would
6 engage you in a conversation about the
7 administration of justice and what needed to
8 be done better and what happened in other
9 countries and how other countries administered
10 justice. He had great intellectual curiosity,
11 and he was constantly looking and asking about
12 how things worked and how things could be
13 improved for the justice system.

14 One of the funny things I remember, again,
15 as a young associate sitting in his office --
16 and I noticed that next to the Lady of Justice
17 was a jar. It looked like a candy jar.

18 I said, "John, what kind of candy do you
19 have in there? It looks like mints."

20 He said, "Bob, those are TUMS." And he
21 kind of laughed. He had a wonderful,
22 infectious laugh. And he said, "Sometimes the
23 administration of justice gives you a little
24 bit of heartburn."

1 I remember as well a poem that one of his
2 daughters wrote that was on the wall of his
3 office that talked about what it meant to
4 represent a client in a time of need before a
5 Court in a trial setting and atmosphere and
6 just how much he loved to do that. He loved
7 other lawyers. He loved socializing with
8 other lawyers. He loved talking about other
9 lawyers. He loved everything about the law.

10 He taught me and others in our law firm
11 many important lessons. He was just so
12 prepared for all of the cases that he tried.
13 He would prepare and prepare and prepare. Of
14 course, this is before the days when -- we
15 weren't keeping, really, time records in those
16 days. This is the days back in the late '70s
17 and early '80s, a lot more fun. You didn't
18 have the rules from big clients who said, "We
19 are not going to pay for interoffice
20 conferences." So were constantly preparing
21 and preparing.

22 John would take a red pencil and he would
23 draw a key, and then in that file he would put
24 all the documents that he thought were the key

1 to the case. It was always in that same red
2 pencil. We'd talk all afternoon. He'd come
3 back the morning and he would want to talk
4 some more about what the keys were to the
5 case. It was so much fun doing that. We
6 would laugh. He had such an infectious laugh.
7 He just loved to laugh, and he had such joy in
8 what he was doing in being an advocate.

9 He also taught me how important it was to
10 have courage. He was a man of great courage
11 in the courtroom. He used to say, "Bob, no
12 guts, no glory," and what it meant to not only
13 represent clients but to be willing to stand
14 and take a verdict, which we all know requires
15 a lot of courage.

16 He taught me, as part of the fun of
17 practicing law, very memorable for me -- very
18 memorable rituals. He would always say before
19 we started a case -- the day before the case
20 was to start we would always go down to Jack's
21 and we would have lunch at Jack's, and we
22 would have the same thing. We would have a
23 dozen littleneck clams, not two dozen, not a
24 half a dozen. You had to have a dozen

1 littleneck clams and one glass of beer. Those
2 days occasionally we, believe it or not, had a
3 drink at lunchtime. Then we would have some
4 of those salty caraway seed rolls that Jack's
5 used to have that were so good. That was like
6 our pregame meal. Like a football team having
7 a pregame meal, that was our pregame meal.

8 The next day when the trial was going to
9 start we would go down and get our shoes
10 shined. John would say, "We got to get our
11 shoes shined, and you got to leave a big tip."
12 He thought, I think, maybe there was karma
13 that would be developed like that by those
14 various rituals.

15 He taught me wonderful lessons in the
16 practice of law that I saw demonstrated in two
17 very memorable ways, and I will just close
18 with these two quick war stories.

19 He always said, "Bob, experts are experts
20 for a reason. They are experts because they
21 probably know more than you know. And when
22 you cross-examine an expert, make sure that
23 you don't take that expert on in his or her
24 field of expertise, because they are experts.

1 And don't be the smartest guy in the
2 courtroom. You got to be careful with expert
3 witnesses."

4 He used to love to lay traps for his
5 adversary. So we were trying to face the
6 Court, Harold Soden, Schenectady County
7 Supreme Court, years ago. The case involved
8 International Harvester and Ford. Ford
9 claimed that school bus bid specifications had
10 been rigged to make it impossible for Ford to
11 qualify because an alternator could not fit --
12 that was specified, could not fit on the
13 chassis produced by Ford.

14 So John found a national expert automotive
15 engineer. We loaded this expert up -- he did.
16 I didn't. I listened and I learned. This
17 expert became convinced that he could install
18 the alternator on the Ford chassis. So it
19 came time for the trial. John arranged
20 through International Harvester to have a Ford
21 chassis brought up outside the courtroom. No
22 one knew that. And he arranged to have an
23 alternator ready.

24 So the lawyer for Ford was cross-examining

1 the expert, and the expert at some point in
2 time, due to John's coaching, said something
3 in words to the effect of "Mr. So-and-so, I
4 can prove to you that the alternator will
5 fit."

6 It was a little bit of a nonresponsive
7 comment by the expert, but for some reason the
8 lawyer -- it was an experienced lawyer, a very
9 fine trial lawyer -- took the bait. And it
10 resulted in the expert saying, "Mr. So-and-so,
11 I have got my tools and I've got my overalls
12 and I've got a Ford chassis parked in the
13 parking lot and I have got an alternator. We
14 will ask -- if you want me to, we can ask
15 Judge Soden to adjourn the case to the parking
16 lot, and I will install the alternator in the
17 Ford chassis."

18 So John kind of looked at me and I looked
19 at him. It was like the A-Team saying, "I
20 love it when a plan comes together." That was
21 perhaps the most effective way to teach me the
22 lesson of how to cross-examine an expert.

23 I will close with this other memory: John
24 and I were representing a deprogrammer down in

1 Foley Square for about six weeks before Judge
2 Richard Owen in the Southern District. The
3 case involved the Unification Church and
4 whether they were entitled to a bona fide
5 religion status, which was at that time the
6 element for being protected under Civil Rights
7 laws.

8 The head of the Unification Church, Sun
9 Myung Moon was testifying up in the -- he was
10 a defendant in a tax evasion case up on the
11 second floor. So we got to subpoena Reverend
12 Moon and bring him down to the first floor.
13 John conducted an examination. He would
14 always say to me, "Bob, ask them things they
15 are not going to expect."

16 So this was a case where we asked
17 questions that no one was expecting, certainly
18 not Reverend Moon.

19 He said, "Have you ever seen Moses?"

20 And Reverend Moon says, "Yes. I see Moses
21 all the time."

22 "Do you talk to Moses?"

23 "Yes, I talk to Moses."

24 "And how do you know he is Moses?"

1 Reverend Moon said, "Well, he told me he
2 was Moses."

3 So John said, "Have you ever seen the
4 Buddha?"

5 He said, "Yes. I see the Buddha all the
6 time."

7 "Do you talk to the Buddha?"

8 "Yes, I talk to the Buddha. The Buddha
9 tells me very mystical things."

10 "How do you know it's the Buddha?"

11 "Well, I recognize him from the statue in
12 the temple."

13 Then he says, "Reverend Moon, have you
14 ever spoken to Jesus Christ?"

15 Reverend Moon says, "Yes, I spoke to him.
16 I speak to him all the time. The first time
17 was on a hill in Korea in 1948, and many times
18 thereafter."

19 "How do you know, Reverend Moon, that the
20 person you are speaking to is Jesus Christ?"

21 He said, "Well, I recognize him from his
22 holy photograph."

23 So after John's examination of Reverend
24 Moon, the plaintiff in that action after six

1 weeks of trial -- actually, more like four
2 weeks of trial if you take the subsequent
3 appellate procedures out -- moved to
4 discontinue the action.

5 I won't go on. I could go on at length
6 about this very interesting case. But I
7 learned from John, again, when you are
8 cross-examining, as we were because Reverend
9 Moon was an adverse party -- adverse
10 witness -- ask things that are unexpected.
11 And he truly did in that instance.

12 So I remember again, in conclusion, John's
13 joy, the honor that he regarded in
14 representing clients and being a member of
15 this bar, how he loved the judges, how he
16 loved his fellow lawyers, how he loved his
17 clients, how he loved the process. In this
18 time of Thanksgiving and the holiday season of
19 reflection, I give thanks for the privilege of
20 having been mentored by John T. DeGraff, Jr.,
21 and I give so much thanks for his friendship.

22 BARTLEY J. COSTELLO III, ESQ.: Thank you,
23 Bob.

24 I want to thank all of you for coming

1 today, for all the family and friends and
2 supporters here at this particular event. As
3 you can tell, it's this signature event,
4 really, of the Albany County Bar Association
5 when we recognize those who have gone before
6 us, giants that they all were, lessons that
7 they all left behind.

8 I would like to thank the judiciary for
9 coming today. I would like to particularly
10 acknowledge my friend, my father's classmate
11 at Albany Law School, Judge Weiss, who it's
12 always good to see here, and I'd just like to
13 recognize him. (Applause.)

14 Thank you, all who did the eulogies. If
15 you have any written materials, Lesley will be
16 very happy to receive that as she will be
17 providing a transcript.

18 I ask the Court that we have a transcript
19 provided to the Albany County Bar Association
20 as well as the families of the lawyers if
21 eulogized.

22 HON. MARGARET T. WALSH: That request is
23 granted.

24 BARTLEY J. COSTELLO III, ESQ.: Thank you

1 very much.

2 With that, I think we have a reception
3 downstairs. And I turn it back to Judge
4 Walsh.

5 HON. MARGARET T. WALSH: Yes. Thank you.
6 Please join us in the rotunda for the
7 reception. And we are now in recess.

8 (Whereupon, at 10:33 a.m., proceedings in
9 the above-entitled matter were concluded.)

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