

**A RESOLUTION BY THE
FRANKLIN COUNTY BAR ASSOCIATION
IN MEMORY OF THE HONORABLE JOHN W. KELLER**

WHEREAS, the members of the Franklin County Bar Association have gathered in a special meeting on April 25, 2012, to celebrate the life and honor the memory of our colleague and fellow member, the Honorable John W. Keller, who was called home by his Almighty God on April 19, 2012, at the age of 85; and

WHEREAS, although saddened by his death, it is our desire and our tradition to share our recollections of Judge Keller and honor him with a memorial resolution at this special meeting; and

WHEREAS, before offering this resolution, we want to offer a brief record of his life and career.

John W. Keller, known as “Jack” or “Kelly” to his close friends, was born March 15, 1927, in Waynesboro, Pennsylvania, to Eva (Nicodemus) Keller and Niemond F. Keller, a Waynesboro attorney. His grandfather was Jeremiah Keller, a judge in Juniata County.

He graduated in 1944 from Waynesboro High School, where he was co-captain of the football team. He began dating his future wife, Margaret (Etchberger) Keller, known as “Peggy” or “Margie,” after she defeated him in the election for class president. After high school, he served in the United States Army through the remainder of World War II, following which he went on to graduate from Gettysburg College in 1948.

John then graduated from The Dickinson School of Law in 1951. He was admitted to the Bar of the Supreme Court of Pennsylvania on April 17, 1952, and the Bar of Franklin County on March 25, 1952. He became the third generation of his family to enter the profession of law, beginning his career in practice with his father in Waynesboro, as the law firm of Keller and Keller.

During his career as an attorney, he served as solicitor for the Borough of Waynesboro and solicitor for Franklin County. He also served as a director of the Franklin County Bar Association and the Pennsylvania Borough Solicitors Association.

He was appointed to the Court of Common Pleas of the 39th Judicial District by Governor Raymond Shafer in 1968, to fill a newly created second judgeship. He was 41 — at that time, the youngest person ever to serve on the Bench in Franklin County. He subsequently was elected and then retained until his retirement in 1992. He served as President Judge for the last seven of his years on the Bench, after the retirement of the late George Eppinger. Following his own retirement, he served as a Senior Judge until age 80.

In the start of a new tradition, the Franklin County Bar Association held a special ceremony in April 2002, in commemoration of Judge Keller’s 50th anniversary of admission to the Bar, to hang his portrait in Courtroom One. Previously, a president judge’s portrait had been hung after the judge’s death.

Judge Keller was active in the community as well as the legal profession in Franklin County. He served on numerous boards of directors, including as president of the Waynesboro Area School Authority, president of the board of the Waynesboro Chamber of Commerce, a director of the Waynesboro Industrial Development Authority, and a director of the Waynesboro YMCA. He was especially active in Renfrew, Inc., and with Renfrew Park in Waynesboro. He also was an active member of the Evangelical Lutheran Church in Waynesboro, where he served on the church council and as a Sunday school teacher.

In addition, Judge Keller was elected as a delegate to the Pennsylvania Constitutional Convention, which rewrote the Commonwealth's Constitution in 1967-1968.

Judge Keller was preceded in death by his wife, Margie, a regular visitor to the Franklin County Courthouse after his appointment to the Bench, who died in 1998. He is survived by two sons, John N. Keller and his wife, Martha Dudley Keller, and David S. Keller and his wife, Dawn Fischetti Keller, all of Waynesboro; and by his three beloved grandchildren, Alexis Keller Sheard and her husband Rod of Mae Sot, Thailand, John Belding "Jeb" Keller of Waynesboro, and Katherine Ann Keller of Salt Lake City, Utah. We join them in mourning his passing, but also in celebrating the relationships we had with him.

In the days since his death, Judge Keller has been remembered by fellow Bar members on both a personal and professional level. Former law clerks, attorneys who were his contemporaries, attorneys who practiced before him, and even law professionals from outside Franklin County shared both detailed memories and brief impressions. Their recollections were of an excellent, well-prepared attorney; a tough but fair jurist who looked out for young members of the Bar just starting their careers; an avid hunter who loved being outdoors as much as in the courtroom; and a devoted family man who had a standing lunch date with his wife every Thursday in Chambersburg.

Hollywood central casting could not come up with anyone who looked more like he belonged in a black robe than Judge Keller. Yet as many attorneys noted, he didn't just look the part. "He was the quintessential jurist: scholarly, fair-minded, dignified and dedicated. He set a rigorous standard for all attorneys and judges to emulate. Franklin County was so very lucky to have him serve on the Bench," said one. "He was even-handed, a good listener, and always made you feel welcome in his courtroom," said another. "Judge Keller was a fair and honorable man and Judge worthy of the respect of all who knew him and practiced before him. He taught us by example to have respect for the law and how to execute our duties as officers of the Court," said a third.

A former clerk stated this: "Judge Keller loved being a judge. He thoroughly prepared for every case, and expected attorneys to do the same. He gave the same level of attention to each and every case, whether it was a custody matter with multiple-numbered paragraphs in his findings of fact or a serious criminal case requiring an imposition of a lengthy sentence of incarceration. He expected attorneys to be prompt, and took the bench at the time designated for court proceedings, often before attorneys appeared. His written opinions were well-researched and painstakingly complete. He welcomed an intellectual challenge, and was well-versed in appellate holdings. He relished his time on the bench in Fulton County as well. He often spent the week at Johnnie's Motel in McConnellsburg for trial term, and his wife often joined him. He welcomed the property views in boundary disputes and tackled the review of centuries-old deeds with enthusiasm."

Many attorneys recalled appearing before Judge Keller early in their careers, and how he taught them — often with a mixture of sternness and compassion — things you don't learn in law school. "The Judge (and he was always the Judge to me) had agreed to be my preceptor back when there was such a thing. He must have grilled me for over an hour in his chambers back in 1969 even though he knew my parents and grandparents probably from the beginning of time," said one. "My first jury trial was in front of Judge Keller in the late 1980s. The thing I will always remember about him was his patience with young attorneys. Yes, he expected you to be prepared, but he treated you with respect and seemed to keep a kindly eye out for the pitfalls that young attorneys can, and do, encounter," said another.

"I was fortunate to have appeared before him when he was serving as a Senior Judge. He was patient with me as a young lawyer. He took the time to talk to me about my experiences as a new member

of the Bar. He showed genuine interest in my practice. It was appropriate that in recognition of his skill as a jurist, he was appointed to serve on the Commonwealth Court,” commented another.

“I was a student in Judge Keller’s courtroom skills training effort on a number of occasions, and it made me a better attorney. One day I asked him about his philosophy. He said that we are all part of a system that litigants depend on to deliver a just outcome, and that attorneys must become the best advocates they can be, while remembering they are officers of the Court, in order for the system to deliver the expected results. He believed in and applied those principles,” added another attorney. “When I first started practicing law, I found Judge Keller to be a towering presence in the courtroom, yet he always went out of his way to steer me in the right direction. Over time, he helped me develop a perspective on how to present cases. Judge Keller was the most esteemed jurist I have ever known, and I still sometimes think about he might approach a case or an argument,” said another.

Another former clerk said the following: “Although he was the most outstanding jurist I have ever encountered, a man with a natural instinct for the law, a man of natural honesty and integrity, and a man with the most incredible work ethic, what really distinguished him to me was his extraordinary understanding of people — his pure respect for humanity — and his ability to deal with people with good humor and fairness. This was most evident in the *en camera* meetings with small children required in custody cases. That situation is intimidating for all children — adults can barely handle meeting with judges, including attorneys! Judge Keller was able to put the little children at ease. He became the kindly father, the big bear grandfather, for children who were caught in the middle of parents at war. I remember him changing out of his robe, so as to be less intimidating for the children. I remember him asking very small children about their pets, the name of their frog or their kitty or their dog, before lacing into the conversation the questions required under the law. I remember the warm and comforting smile that would come over his face when a really small child would relate some happy thought in what was, very often, an unhappy situation. I watched him in awe and admiration in those small moments, those moments outside the ‘public stage’ atmosphere of the courtroom, and learned that his personal goodness and kindness exceeded even his enormous intellectual grasp of the law.”

Judge Keller’s love of the law was surpassed only by his love for his family. “No one could miss the tenderness he showed his wife, or the way he beamed when he talked about his sons and grandchildren,” said one attorney. “Judge Keller loved being a husband, father and, later, a grandfather. His commitment to his wife, Margie, was unwavering with the two of them enjoying a standing lunch date on Thursdays. His pride in his two sons and their wives, who truly were viewed as daughters, was surpassed only by the arrival of his grandchildren. While he maintained an imposing presence in the courtroom, he was a gentle bear with his family,” said another Bar member.

A few additional thoughts from Bar members included these:

“At my first county bar association meeting in 2002, Judge Keller was one of the first people to introduce himself to me. He was warm and welcoming, wishing me the best in my practice here in Franklin County. I have not forgotten that almost 10 years later.”

“I once tried a case before Senior Judge Livingstone Johnson in Allegheny County. Judge Johnson was pleased to know that I was from Judge Keller’s judicial district. Although they had not seen each other in recent years due to their respective retirements, he asked that I carry well wishes to Judge Keller and Mrs. Keller. He reflected that they very much enjoyed dining together at the judicial conferences and showing off their ballroom dancing skills to the other judges.”

“He was unfailingly supportive of women appearing in Court as attorneys when there weren’t so many, in marked contrast to judges not so far away. When I was very pregnant during an all-day hearing,

he didn't act as though this was at all unusual, but he did tell me I didn't have to stand to object, and he scheduled more breaks than usual without me having to ask."

"I prepared a Health Care Power of Attorney for him some years ago. He questioned every sentence in the six-page document. I almost passed his test. He insisted that I change a preposition before he signed."

"Judge Keller was a mentor, a teacher, an encourager to young attorneys. He provided an education beyond law school to those who were fortunate enough to serve as his clerk. He was an advocate for the legal system and went to battle with the Commissioners when necessary to seek adequate funding and resources for the legal system."

"What Judge Keller did for others on a personal level, and what he did as a jurist to provide justice to those before him in court, are gifts that can never be taken from any of us. With him passes something that will not come again. We can only aspire to what he taught us, but we know we cannot replicate it in our lifetimes."

Upon hearing the news of Judge Keller's death, the Honorable J. Michael Eakin, Justice of the Supreme Court of Pennsylvania, had this to say: "I was never honored to appear before the Judge as an advocate, but I did know him as one of those icons of another generation that subsequent generations would do well to emulate. He had qualities to which others should aspire, possessed of integrity and understanding as well as legal sagacity. He earned the respect of the Bar and the citizenry by his actions, not his title. His reputation extended into Cumberland County as well, and our Bar always knew they would be welcome and treated with fairness and dignity whenever they were in his Court. The county was fortunate to have his leadership and wisdom, and his example to all of what a judge should be."

Gretchen Van Ness, a staff attorney with the U.S. Court of Appeals for the First Circuit in Boston, Massachusetts, is not the first person whose career path was influenced by Judge Keller. But it's likely hers was the most dramatic. "I'm a lawyer today, having no choice but to abandon my plans to teach English or history after living through the experience of trying, and failing, to change the Board of Trustees' decision to close Wilson College. The case you presided over changed my life, and I just wanted to thank you," she wrote to Judge Keller last month, just six weeks before his death.

No remembrance of Judge Keller can be complete without noting his most famous decision — the one that kept Wilson College open after a group of students and alumna sued the Board of Trustees in 1979 over its decision to close the school. Gretchen was a junior at the time and one of the witnesses in the case. Now with nearly 20 years of litigation experience, she can more fully appreciate Judge Keller's work. "As the hearing progressed, you taught all of us, by both your words and deeds, what justice looks like," she wrote. "I know what you did for Wilson is no different than what you did in every case that came before you. That is perhaps the most extraordinary thing of all."

NOW, THEREFORE, BE IT RESOLVED that the members of the Franklin County Bar Association express our sympathy at the loss of John W. Keller, a husband, father, colleague, attorney at law and jurist. We will strive to keep his memory alive, for the strength, dedication and wisdom of those who have gone before us are the foundation for our future.

Respectfully submitted,

The Honorable Douglas W. Herman
President Judge,
Court of Common Pleas
of the 39th Judicial District of Pennsylvania

Rebecca S. Dempsey
President,
Franklin County Bar Association