

Daniel J. McAuliffe, Former Bar President, Dies

Legacy in Law and Ethics a Long One

BY TIM EIGO

Daniel J. McAuliffe, former President of the State Bar of Arizona, passed away on Friday, March 12, 2010. The accomplished trial attorney and esteemed expert on ethics and professionalism succumbed to a long battle with multiple myeloma, a cancer of the white blood cells. He was 64.

McAuliffe's successes and accomplishments were many. He excelled at Regis High School in New York City, perhaps the city's most prestigious. While there, he served as class president from sophomore through senior year. At Fordham University, he majored in Russian, probably the school's most difficult major.

He attended Harvard Law School and subsequently worked in a number of government positions, including Counsel to the White House Committee on Education, charged with school desegregation. He joined the United States Department of Justice as a Deputy Assistant Attorney General in 1970.

From 1973 until his death, McAuliffe was an attorney at Snell & Wilmer in Phoenix. He developed a reputation as an excellent trial lawyer and was tirelessly committed to legal ethics and professionalism issues. His accomplishments in this area include the formation of the Bar's Professionalism Course.

Many of McAuliffe's friends and colleagues expressed their sadness at his pass-

ing. The following represent some of those who shared their stories of Dan McAuliffe.

At Snell & Wilmer, many speak about a profound sense of loss.

Partner Barry Halpern says, "Dan had a remarkable reserve of gray matter. He was simply the smartest lawyer I've ever known. To get a 'job well done' from Dan was the highest form of compliment."

Halpern notes that McAuliffe remained the consummate lawyer up until his death.

"Dan provided incisive and cogent counsel, right until the end. On the Friday before he died"—one week before—"an ethical problem was presented to Dan. By late afternoon, he had provided a very tight, very reasoned response. It was only after that that he provided an update on his medical condition, which was grave."

Snell managing partner John Bouma also marvels at McAuliffe's contributions.

"If you asked Dan a question, you got an answer. He was not dogmatic."

"Dan was an individual who was interested in justice," says Bouma, "in terms of his work at the Department of Justice, in the community and at the Bar. He also had a real interest in people."

McAuliffe's longtime secretary agrees.

Marla Treptow worked for McAuliffe for 17 years, and she calls him "an impeccable, perfect boss. We had a wonderful working relationship. He expected perfec-



tion, but he expected the same of himself."

Treptow adds probably the highest plaudit she could bestow: "And his dictation was impeccable!"

Fran Johansen is a former Unauthorized Practice of Law Attorney at the State Bar, and she says the same about his drafting skills.

In the early 2000s, after the UPL rules were adopted, the federal Bankruptcy Court had integrated them into its local rules. When the court received a filing from someone not registered through the UPL regime, it issued an order to show cause. That rule was challenged in an appeal to the Bankruptcy Appeals Panel.

Johansen got a call from the BAP: Could someone write an *amicus* brief—due in 10 days? She was startled, but asked McAuliffe. Within days, says Johansen, he had drafted a "beautiful document," and he shepherded it through the necessary approvals, including the Bar's Amicus committee.

The beachfront at Cape Cod,
photograph by Daniel J. McAuliffe.

"The Bar's position was upheld," she continues. "The public was truly protected. And this sort of thing will probably never happen again. Dan's name is nowhere on it. He just knew it was the right thing to do, but he also knew there would be no recognition."

"I can't think of another person who could do those things. He was an absolutely phenomenal person."

Judge Larry Winthrop of the Court of Appeals recalls McAuliffe as a "fairly new partner" when Winthrop started at Snell in 1977.

"I remember how generous he was in teaching us all how to write."

Winthrop chuckles as he adds, "Dan had a wicked sense of humor, and he was not above displaying that. His laugh was very distinctive—you always knew it was Dan."

Snell partner Jim Condo reiterates, "There is a huge void left by Dan's passing. I will miss his judgment and the perspective he brought to problems."

"Dan is easily a role model for perhaps two generations of lawyers, for those who sought to practice ethically."

Jim Condo points to the Professionalism Course as a hallmark of McAuliffe's legacy: "Dan McAuliffe had a fundamental belief that you needed to live life with complete integrity."

Federal district court Judge Fred Martone recalls working with McAuliffe on the Bar's Civil Practice & Procedure Committee, when McAuliffe was chair in the 1980s.

"By sheer dint of his intelligence and perspective, he was an easy man to follow."

"He was an absolutely magnificent lawyer," Martone continues. "His mind

was so huge, he was able to grasp so many things at one time. Even among a really talented group of people, he stood out."

Jim Condo also stresses McAuliffe's legal skills and reputation.

"Dan was one of the few big-case, bet-the-company trial attorneys. He was sought out by individuals and corporations who needed a very skilled legal advocate."

He laughs as he adds, "He could be gruff and giving."

Dave Dodge seconds that. The former chair of the Disciplinary Commission says, "Dan McAuliffe could be impulsive and brash, and in the next breath really be a warm and endearing guy—but you never knew which Dan McAuliffe you were going to get. He was a very aggressive adversary."

Dodge, an attorney at Lorona Steiner Ducar Ltd. and ethics columnist for ARIZONA ATTORNEY, praises McAuliffe for his commitment to legal ethics.

"We owe him a tremendous debt. His treatise—*treatise!* It weighs 10 pounds—is the best reference source for an Arizona lawyer."

"There is just nobody like him or who has done so much for legal research," Dodge says.

Mike Kennedy, with Gallagher & Kennedy, says, "Dan was the consummate lawyer. He lived practicing law and justice. He was a fearless advocate and served his fellow lawyers in countless ways. He was a great thinker, strategist and litigator."

In antitrust litigation, Kennedy adds, whatever the matter, "Dan was always leading it, often heading the class."

Former Arizona Chief Justice Ruth McGregor captures McAuliffe's tireless contributions when she says, "He was just

always there. He never lost energy or interest in doing something whenever something needed to be done. He was always deeply involved in things."

Justice McGregor recalls that in the annual convention's Ethics Game Show, "We came to learn: Dan always knew all the answers."

When Dan's wife Shirley spoke with us, she was generous with her time, but still bewildered by her loss. She says simply, "He is so woven in the fabric of my life. He was the love of my life, and I married the man of my dreams."

Even in her grief, she speaks about his death as both personal and communal.

"We've all lost such a good guy. He was so many things to so many different people, and in very real, meaningful ways. It's a shared loss."

His multiplicity made Dan impossible to characterize easily, says Shirley, but she shares, "He was a determined individualist."

The longtime attorney with Carson Messinger Elliott Laughlin & Ragan concludes with a simple compliment that encapsulates McAuliffe's blend of excellence, service and passion.

Shirley Wahl McAuliffe says, "He didn't just show up."

The Arizona bar may not see another like Dan McAuliffe come this way anytime soon. His commitment to and enthusiasm for what he did were infectious.

As Judge Martone says, "I've never seen anyone so devoted to and excited about lawyering. Dan was a walking poster-boy for what it means to be a lawyer."

Rest in peace, counselor. 