

## TRIBUTE TO JUDGE ROBERT KATZMANN

*LEONID GRINBERG*

Thank you, Dean Morrison. On behalf of the NYU Annual Survey of American Law, welcome, everyone, to our 75th Dedication. The Dedication is the Annual Survey's flagship event. It dates back to the journal's founding in 1942.

Each year we look for an individual who, throughout his or her career, has made a significant impact on American law. We try to pick someone not only brilliant and accomplished, but also passionate—passionate for the law and its progress, for advancing legal scholarship, and for promoting justice. We also look for dedicatees who are multifaceted—whose lives included many endeavors and focuses, who have left their marks on the world in a variety of ways. And finally, we look for someone who makes a good role model—who can teach us not only to be good lawyers, but also good citizens and effective leaders.

As you can see in your programs, and as Dean Morrison said, we have honored many luminaries over the years, and Chief Judge Katzmman stands rightfully in their company. We also have an incredible panel of speakers assembled here today, and they can expand on Judge Katzmman's accomplishments far better than I. But, we all know that you can learn a lot about a person in the more mundane moments, so I want to share my personal experience interacting with the judge over the past few months. First of all, being Chief Judge of the Second Circuit must not take up too much time, because Judge Katzmman responds to emails faster than anyone I have ever met. And I know it's him and not his clerks writing, because all the emails are signed simply "Bob." Throughout this process, Judge Katzmman made time for all my questions, no matter how small. One morning, I even woke up to a voicemail from the judge, clarifying an earlier point he had made in a previous conversation. And my first thought was, "wow, I have a voicemail from Chief Judge Katzmman!" and my second thought was, "wow, it is a good thing I actually check my voicemail."

Now, as it turns out, Judge Katzmman has himself spoken as a dedicator at this event three times in the past. On two of those occasions, in fact, we were celebrating individuals who will be speaking in his honor today. And if you read his remarks from those events, you will get a sense of the man I am proud to say I have gotten to know just a little over the past few months — a man who is quick to

praise and cast a glowing light onto others, who is eloquent and witty but never ostentatious, and who more than anything cares deeply about other people. Even with regards to this event today, he has fretted to make sure that no one feels left out (including the students on the journal), has repeatedly apologized for taking up *my time*, and has expressed sincere surprise that so many people are excited to celebrate his accomplishments.

Despite his remarkable career, Chief Judge Katzmann remains one of the most humble people I have ever met, and I cannot be more honored that he is this year's Annual Survey dedicatee. And so with that, I'll turn it back over to Dean Morrison to introduce our first speaker, Justice Sonia Sotomayor.

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*JUSTICE SONIA SOTOMAYOR*

Bob, I am so happy to be here. Bob and I call each other brother and sister. I'm sure Gary, Martin, and Susan didn't know they had a fifth sister, but they do. This should not be surprising to anyone who knows us both, as the difference in our biological parents is unimportant to the similarities we share. We both are children of this amazing city, and we both stem from extraordinary parents.

The world knows about my special mom. Fewer people know about how special Bob's parents are. Bob's father, John (who's sitting in the first row), is a refugee from Nazi Germany, and his mother, Sylvia, is the daughter of Russian immigrants. They are both here to celebrate with him tonight and should be celebrated with Bob for the amazing way they raised him and his three equally accomplished siblings. I think they deserve a round of applause.

Like my mother, Bob's parents devoted themselves to creating an environment where their children could thrive. It was by his parents' example that Bob learned the core values he possesses that we all so admire. First, the importance of education. Second, a deep commitment to hard work. And third, the centrality of treating people with dignity and kindness. In all he does, Bob brings these values to life.

With respect to education, Bob has always had an innate passion for learning. By the time Bob and I crossed paths at the Yale Law School—just as an aside, for months I thought I saw Gary Katzmman, his twin brother, in every place Yale had. And I'm sure, repeatedly, I called out, "Hello Gary," until I saw double of them one day. But he was there. The three of us were there—and that was about twenty—and he was about twenty-five years old and already held a bachelor's degree from Columbia University, a master's degree and PhD in government coming from Harvard University. Bob's passion for education, however, is not limited to expanding the breadth of his own knowledge, but also to ensuring that others share in his joy of learning. Over the years, he has taught courses and seminars to law students, and he is a devoted mentor to his law clerks—many of whom are in the audience and so many that we share in common.

Recently, he established the Second Circuit's civic education initiative—Justice For All: Courts and the Community. Through

this program, Bob has opened the doors to the courthouse to students, teachers, and the broader community with the goal of increasing public understanding of the courts and bringing the courts closer to the community. I am incredibly proud of this work. And I am so respectful that Bob found the perfect legacy for an extraordinary chief judgeship.

Now, indeed, in everything Bob does, he brings a dedication to doing it well and getting it right, which brings me to his second core value: a deep commitment to hard work. After law school, Bob clerked for a year on the First Circuit and then joined the Brookings Institution, where he served in their Governmental Studies program. At Brookings, Bob wrote and edited several books and authored numerous articles. His work made significant contributions to the study of the interplay between courts and Congress, including the development of a special intergovernmental project that encourages judges from every circuit court to alert Congress to statutory drafting problems identified in judicial decisions. I learnt recently that the project begun in 1988 still continues today—with partisan support. That’s a miracle.

Bob’s deep-seated respect for the judicial process has served as the foundation for his distinguished service as a federal circuit judge, for the past almost twenty years, and has involved him in numerous judicial conference and Second Circuit committees that seek to improve the work of the court system. On top of his endless public interest activities, Bob is an exceptionally skilled jurist. Since he has been on the bench he has authored 190 published majority opinions. He has been affirmed by the Supreme Court five times and reversed only three. Don’t let that number worry you though, Bob. My court gets it wrong every now and then. I have personal experience with that. In addition to hearing and deciding cases, Bob continues to contribute to the development of legal theory, in particular in the realm of statutory interpretation where his expertise and governance is particularly valuable. One of his seminal books, *Judging Statutes*, was recently cited approvingly in a Supreme Court concurrence—guess who wrote it?—that takes on the strict textualism view that some of my colleagues have adopted.

Bob is relentless, always thinking, always striving to improve the legal system as a whole. In these efforts, however, Bob is incredibly humble and always lets the product of his work shine for itself. This brings me to the third and most important core value that Bob exemplifies: the importance of treating people with dignity and kindness. Bob always puts people first. Everything he does is geared towards helping people and strengthening their relationship with

one another. As both a scholar and a judge, Bob is keenly aware of the impact our institutions have on real lives. It was that awareness that called him to action when he noticed as a circuit judge that in case after case that appeared before him, individuals who were challenging immigration decisions had received no, or at best inadequate, legal representation. He didn't simply shrug his shoulders when he saw this. As we will hear about in more detail today, he formed a committee to research immigrant representation, which ultimately led to a program that ensures that nearly every individual facing removal in New York City has access to a free, competent attorney. He also founded the Immigration Justice Corps, which is creating a pipeline of recent college and law school graduates to work in the field of immigrant rights. This work is being replicated around the country, as other cities and states strive to protect their immigrant communities.

What is more incredible about Bob is the humility that accompanies his work. At each stage of my judicial career, he has been instrumental in my nominations and confirmations. During my Supreme Court nomination, he spent weeks mimicking a role he had played for my colleague Ruth Bader Ginsburg, serving as a special advisor in preparation for and during my hearings. Yet, not once in all the years I have known him has he spoken about these efforts. That is because Bob does not talk about his efforts on behalf of so many people. He just sees what needs to be done, thinks creatively about a solution, dives in, and gets the job done to create a better world. That is what makes you special today, my brother.

We are here, Bob, to laud your accomplishments and air our gratefulness for everything you have done for all of us in this room and for the legal community as a whole. You are a preeminent leader as a scholar and peer, and thus a most deserving recipient of this award. I am honored to call you more than a dear friend, my brother. No matter how busy you are, you always make time for the people you love—especially your friends and your family, including your remarkable wife Jennifer Callahan. She shares your compassion for capturing the real experiences of people's lives, as we have seen in her beautiful films. We are grateful to her for all that she does and for sharing you with the rest of us. Brother, you are the shining example of what a meaningful life can accomplish and of how care and compassion can serve the legal profession. I am so proud to be related to you and will always try to follow in your footsteps, knowing that you will always lead the way to what is right, what is just, and what is kind. I love you, Bob.

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*JUSTICE RUTH BADER GINSBURG*

I had the great pleasure of administering the oath of office to Robert A. Katzmann on October 25, 1999, the date of his formal investiture as circuit judge of the United States Court of Appeals for the Second Circuit. On that occasion, I said, “as an insightful scholar of governance and interbranch relations, your new circuit judge has studied federal courts closely for many years, from many perspectives. He brings an enormous store of knowledge to his new commission, along with intelligence and personal qualities important in sound judging: an inquiring mind, extraordinary diligence, patience, and a readiness to listen and to learn.”

In his more than seventeen years on the federal bench, now *Chief* Judge Katzmann has proved the accuracy of my forecast. Thriving in the work of federal appellate judging, he has played a lead role in maintaining the Second Circuit’s stature as a tribunal held in highest regard. Chief Judge Katzmann’s initiatives merit rousing applause.

Two standouts: first, in 2007, Bob delivered the prestigious Marden Lecture at the City Bar Association. His lecture called attention to the plight of immigrants seeking asylum or to stave off deportation. Immigrants without the wherewithal to engage competent counsel faced a dense thicket of laws and regulations and immigration judges overwhelmed by the mountain of cases assigned to them. Following the lecture, a prodigious effort on Katzmann’s part led to the creation of the Immigrant Justice Corps, composed of recent law graduates immersed in immigration law and then sent to community-based organizations to meet the huge need. Since its inception in 2014, the Immigrant Justice Corps has been a tremendous success. Its staff has grown to over eighty. Many serving the Corps are first-generation Americans. More than 3,100 complex cases have been launched by Corps lawyers in the past few years. In cases so far concluded, the Corps has achieved a stunning success rate of ninety-three percent. Altogether, the Corps has assisted more than 28,000 immigrants and their family members in obtaining benefits and avoiding deportation.

A second major initiative—Justice For All: Courts and the Community. This innovation invites the public, and particularly schoolchildren, into the courthouse to learn, firsthand, how our system of justice works. The program, superintended by Chief Judge

Katzmann and District Judge Victor Marrero, offers an introduction to legal research carried out in the court of appeals library, on-premises moot courts, and teacher training sessions. Also, curriculums tailored for teaching high school students. A New York Times article, reporting on the Justice For All Initiative, described Chief Judge Katzmann as “a soft-spoken man with a serene confidence. Someone who can talk quietly and still be heard.” That description is spot-on.

Putting to good use his education in political science and law, Bob has written several books. I will name just one of them: *Judging Statutes*, a 2014 publication. The book addresses a subject of vital importance to the judiciary and the public: when Congress enacts laws lacking clarity, as it often does, how should a judge determine what the lawmakers meant? Retired Supreme Court Justice John Paul Stevens praised the book for reinforcing the approach of jurists who find that a fair examination of legislative history helps them understand the work of their colleagues in Congress.

Peter Strauss, distinguished teacher of Administrative Law and Legal Method, in his review of Katzmann’s book, said that *Judging Statutes* should be required reading for all who teach in the field. I rank this slim, eminently digestible volume, as a gem.

I cannot resist telling you one thing more about Chief Judge Katzmann. When President Clinton nominated me for the good job I now hold, Senator Moynihan thought it would be useful for me to have a savvy, sympathetic counselor as I made my way from one Senator’s office to another’s. Bob Katzmann was that counselor. He informed me, in short order, of the Senators’ interests, what subjects I might safely address, what topics were best avoided. From the beginning, through to the happy ending, Bob was at my side, constantly informing and encouraging me. I could not have been better advised.

You will not be surprised when I tell you that many of Bob’s law clerks clerk next for me. From OT 2013, until OT 2019, at least one Katzmann clerk has been, or will be, on my chambers crew.

For his intelligence and humility, his compassion and caring, and his keen appreciation that judicial decisions affect the lives of everyday people, Chief Judge Katzmann is very dear to my heart. I congratulate him on the dedication of the Annual Survey of American Law to him. May he long continue to engage in the art of judging, and to stay well as he thrives in the practice of good citizenship.

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*PROFESSOR NANCY MORAWETZ*

So, I'm deeply honored to be here and part of this celebration of Judge Katzmman, and particularly the work he's done on behalf of immigrants. You've heard about this already, but the three of us are here to tell more of the inside story of what happened here in the Second Circuit and the remarkable work that Judge Katzmman did.

The story begins over ten years ago when Judge Katzmman delivered the Marden Lecture at the Association of the Bar of the City of New York, and he chose, as his topic, the problems facing immigrants who were pursuing cases against deportation. And he was familiar with these cases from his perch on the Second Circuit, where he would see cases after they had come up through the system; but, he could see how much should have happened at the beginning of those cases, and that was what he directed his attention to.

What he saw was that, in many cases, that immigrants were represented by very bad lawyers, or by "notarios" (non-lawyers), or were trying to represent themselves in what is, in fact, an extremely complicated field. And so, what he saw was how the mistakes that were made at these very early stages of cases were having life-changing consequences, and really, very bad consequences, for these people as they appeared in the circuit.

And I just want to quote a little bit from the speech that he gave at that time, in which he was speaking about the poor quality of representation. These are Judge Katzmman's words: "These attorneys do not even meet with their clients to flush out all the relevant facts and supporting evidence, or prepare them for their hearings. They are stall lawyers, who hover around the immigrant community, taking dollars from vulnerable people with meager resources. They undermine trust in the American legal system, with damaging consequences for the immigrants' lives."

And then, speaking about the records which he would see, he said: "What is filed and what is said have enduring effects. Immigration judges will often make findings of adverse credibility, based on the disparity between the two. Oftentimes, the reviewing appellate judge, who is constrained at the time the case comes before her, is left with the feeling that if only the immigrant had secured ade-

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quate representation at the outset, the outcome might have been different.”

And Judge Katzmann concluded by calling on the bar to change this situation. Those of us who worked on immigration cases were *deeply* grateful that Judge Katzmann had chosen to speak on this topic. We knew, from whenever we were in court, that we would see lawyers doing a terrible job for their clients, or we would see immigrants trying to represent themselves, when laws are just so complicated they couldn’t possibly do it well.

And we also knew that there was a complete mismatch between the need for representation and the potential supply of lawyers who would gladly do this work, but for the inability of nonprofits to hire them. And in particular, those of us who teach in immigration clinics knew that every year, we were graduating lots of students who were eager to take up this work and were trained to take up this work, but only a few of them could possibly hope to work in immigrant defense.

And so what happened next was really remarkable. It was literally ten years ago, I think next month, that I got an email inviting me to a meeting of maybe nine or ten lawyers that was just people wanting to talk about this problem. These were friends of Judge Katzmann, who were bringing together some lawyers on this issue. And at that meeting, people talked about all sorts of ideas, and it all sounded like a great thing that people cared about this; but, it was really very, very difficult to believe that it would ultimately amount to anything, because the problem was just so, so great. And I leave it to my colleagues to pick up this story and tell you what happened.

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*PROFESSOR LINDSAY NASH*

So thanks to Nancy and to the NYU Annual Survey of American Law for the privilege to speak here about Judge Katzmman, who's been a personal mentor to me and a real source of inspiration about the good that one person, albeit an extraordinary person, can do.

So while the group that initially came together was a small group of eleven lawyers, it quickly grew into a coalition of actors from the public, private, and non-profit sectors, and it became known as "the study group on immigrant representation." This group included people from judges to prosecutors to advocates. But what unified them was first, a deep admiration for Judge Katzmman, and second, a desire to do something about the crisis in immigrant representation that he had identified. So bringing these leaders together, as he predicted, quickly began to spark change. He realized that while some of the most troubling aspects of the system were obvious to those of us working in the field, what we needed was rigorous study of the problem and potential solutions if we were going to make the problem meaningful to a broader audience. As he often said, quoting his own mentor, everyone is entitled to their own opinion, but not everyone is entitled to their own facts, and he knew that we needed the facts.

So this understanding lead to the New York Immigrant Representation Study, in which study group members worked together to collect a broad set of data on the impact and quality of counsel in immigration proceedings. And when we completed the study, the findings were unambiguous, and the disparity was even greater than we had anticipated. The data showed that individuals who are not detained, and who had counsel, prevailed about seventy-four percent of the time, but individuals who were detained and unrepresented succeeded only three percent of the time. So all of this meant that for the first time ever, we had real numbers to quantify the impact of counsel, an undeniable support for what we had long felt: that the assistance of counsel, particularly for people who are detained, significantly impacts the immigrant's ability to access justice. The findings in this initial report laid the groundwork for what has been a transformation in the field. Following this report, members of the study group created a blueprint for a solution, and that solution was a public defender type system that would guarantee

that no detained immigrant would be forced to face deportation proceedings alone simply because they couldn't afford an attorney. The community that Judge Katzmman catalyzed then lead the way in putting this plan into action. It quickly grew into the system that many of us now know, which is the New York Immigrant Family Unity Project. This is the first of its kind system of deportation defense that provides representation to all non-citizens in New York who are detained, indigent, and facing deportation.

The recognition of the importance of competent counsel also lead to the creation of the Immigrant Justice Corps, another pioneering initiative in the immigration arena. Understanding the value of providing counsel to a broad array of noncitizens, and the need to raise the quality of the immigration bar more generally, Judge Katzmman conceived, and launched, the first and only fellowship program for college and law school graduates to focus on immigrant representation.

Unsurprisingly, the impact of these initiatives had a huge impact. I'll turn over to my colleague, Peter Markowitz, in just a second to describe this impact. But first I want to say that as someone who has worked with Judge Katzmman over the years in the study group, and on a daily basis as his law clerk, there's no one better suited to serve as an inspiration, as a mentor, and as an exemplar for generations of lawyers, both now and in the decades to come.

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*PROFESSOR PETER L. MARKOWITZ*

Thank you Nancy, and thank you Lindsay, and thank you to the NYU Annual Survey of American Law, both for honoring Judge Katzmman and for allowing me an opportunity to speak about somebody who really has transformed the field in terms of immigrant access to counsel.

It's hard to overstate the impact that Judge Katzmman has had in a relatively short time, since he delivered that Marden lecture, a decade ago. It was in those ten years we have seen an absolute explosion in both the quality and the quantity of lawyers that are available to poor immigrants. And at the epicenter of that explosion are the two programs that you've heard so much about, that grew out of Judge Katzmman's work, both the public defender system and the fellowship program, the Immigrant Justice Corps.

I recently had the opportunity to participate in an evaluation of the public defender system and prior to the program, as you've heard, the majority of the immigrants facing deportation who were detained didn't have any counsel whatsoever and they were forced to defend themselves in one of the most complex arenas of law, against trained federal prosecutors, often while detained—always while detained for these people, and often not speaking the language. The deck was stacked against them and they had virtually no chance of success. Only three or four percent of them would be able to defend themselves and win their deportation case.

And it was, as Judge Katzmman noted, as he predicted in his Marden lecture, perhaps if we could add counsel—adequate counsel at the earliest stages—the outcome would be different, he told us ten years ago. And how right he was. When we added lawyers to the mix and we were able to evaluate the outcome the results were staggering. Instead of succeeding four percent of the time, immigrants right now at the Varick Street immigration court, just blocks from [NYU] here are winning forty-eight percent of the time. And what that means is that before the program was in place, that Judge Katzmman catalyzed, many unrepresented immigrants who were detained, in fact, forty-four percent of them, were getting deported not because they didn't have a legal right to remain in the United States, but because they didn't have a lawyer who could help them vindicate that right. And that doesn't happen anymore here in New York.

The Immigrant Justice Corps, as you've heard, has been equally transformative. It served thousands of immigrants and—it's a statistic that's already been said but it's eye popping enough to note again—the Immigrant Justice Corps lawyers have won ninety-three percent of the matters that have come before them. And as importantly, they're up to now almost 200 fellows, with ninety-six percent of their justice fellows remaining in the immigration field beyond the fellowship. What drew Judge Katzmann, as we've heard, to this problem originally is the deplorable state of the lawyering he observed in the cases that came before him. His fellows are now repopulating that field, at a nice clip, with highly trained, highly ethical, and highly motivated lawyers.

As members of the study group, we get calls all the time asking how do we replicate these programs in other parts of the country. And they ask us how it happened and we tell them the story that you've heard here today about Judge Katzmann's visionary leadership, the way he inspires and empowers those around him, and the way he makes us believe that justice is possible even in the face of seemingly impossible odds. And the refrain from them is inevitable, "but we don't have a Judge Katzmann in Philadelphia, or Austin, or San Francisco." And they don't. But, nevertheless, Judge Katzmann's example has rippled across the country and we see major advances in replication efforts in places like California and Wisconsin, but not only there, in places like Texas and Georgia, too, and many others.

There are many people who helped shape the landscape and transformation that we've described, but there is one person who I can say with confidence is the catalyst for this remarkable progress. It has been one of the defining honors of my career to get to work with Judge Katzmann. He is a national treasure. Really tenacious and kind, powerful and gentle, grand and modest. So, thank you, Judge Katzmann.

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*JUDGE ANN CLAIRE WILLIAMS*

Thank you, Dean, good evening. We're here for Bob Katzmann, good evening, let's hear it. Now, we know that Bob Katzmann is one of the most influential judges in America, one of the best judges in America, and one of the finest human beings I have had the privilege to know and love. Do you all agree? And why do I know he's best? I think of the words of Dr. Martin Luther King, who said, "human progress is neither automatic nor inevitable. Every step toward the goal of justice requires the tireless exertions and passionate concern of dedicated individuals." Key words: every step; towards justice; tireless exertions; passionate concerns; and dedicated individuals. That's who judge Bob Katzmann is. Because every step he takes furthers the goals of justice. Every step tireless, passionate and dedicated, champion of justice. Where did this justice-stepper come from? Well his parents, as Justice Sotomayor said, John and Sylvia, here today, as Bob says, and I quote, "my parents were the most important influences on my choices and career path. Their values of integrity, hard work, modesty, and concern for others very much shaped my worldview." Lessons that we should all live by. Your lessons.

I first met your son when we were baby circuit judges, but I really didn't get to know him until our paths crossed when I was president of the Federal Judges Association, and he served on the judicial branch committee. We were working on cost of living pay adjustments for the federal judiciary. I really got to know him well when I joined the committee in 2008. What is the judicial branch committee's mission? Well, we call it the committee that cares, that deals with the care and feeding of federal judges. Bob recognized the financial sacrifices federal judges make serving on the bench. He wanted to make sure our families had adequate pay, insurance, and medical benefits. His passion and tireless effort, the coalitions he built with the Federal Judges Association, the magistrates and the bankruptcy judges, other concerned groups, corporations, and unions, along with our brilliant administrative office staff, culminated in us getting a catch-up-cola. We had many calls on the weekend and after hours. He always picked up the phone. Tireless. Dedicated. Stepping.

But he also knew as we worked on these issues that the committee was charged with maintaining good relationships with members

of Congress. Not an easy thing. That was a sweet spot for Bob, who was the only federal judge in America with a PhD in political science, who has studied, as you have learned, the judicial process, published books, articles on the inner workings of the courts, the intersection of the courts and Congress, and has served on other outside committees that focused on the judiciary. As chair of the committee, he expanded those relationships, carrying on the work of Judge Brock Hornby, having open dialogues and programs that fostered understanding in Congress. Not just going to Congress to ask for something, or telling them their legislation was a bad idea, which we have done.

He believes that human connections matter. His passion, tireless dedication spread to all of us, taking those steps toward justice. He was also instrumental in growing the dialogue between the press and the judiciary. We complain as judges “well the press doesn’t get it right. We write such clear and lucid opinions, and they say, ‘we don’t understand the opinions, and really we don’t understand the process and, more importantly, we don’t have access to the judiciary.’” Gone are the days when I grew up as a baby Assistant U.S. Attorney where we had a press corps in the courthouse, three reporters from three papers. Now there’s no one.

Now, as a result of his efforts, the committee goes to different cities, putting together journalists and judges. The public benefits, the judiciary benefits, and the journalists benefit. That human connection, making steps toward justice. Finally, opening up the courts, which you’ve heard about. There was a feeling for many years that the courts were not as open to the public as they needed to be. Many of us ran individual programs in our own courthouses for students and teachers and other groups, but there was no real consistency across the federal judiciary, and civics have been dropped from the curriculum of all the schools in America. Often, I was asked, “did I know Judge Judy?” I was not happy with that question, but I also—it also—indicated what people didn’t know in America. Didn’t know. Who were the federal judges? What do they do? That’s why Justice O’Connor started the iCivics Project so many years ago, and Justice Sotomayor serves on that board. The AO began to develop programming. All the federal judges’ associations producing programming, working together, under the umbrella of the committee, of our committee, to open doors, under Bob’s leadership. He asked us to stand up and we did.

Now, how did he do it? I gotta tell you that sometimes working with judges is like herding cats. Just because he has on a black robe, doesn’t mean things happen. And that’s a lesson for all of you stu-

dents, as well as lawyers, and judges, in the room. The lesson of the power of one, which has been mentioned, Bob knows how to bring together many ones to make things happen, and so can you.

Here's the thing about Bob. He makes, and takes, the steps himself. He leads by example. He is a do-er. That's a second Bob lesson. We can all be do-ers. We can all make that step. Take those steps. His brainchild in the Second Circuit—covering Connecticut, Vermont, and New York—Justice For All, that you've heard about, is the most comprehensive project in the federal courts. And I looked on the website, he's got all the judges involved in civic outreach. Tours, contests, speakers, ceremonies, interactive programs for kids and trial reenactments, pairing with organizations like the Just The Beginning foundation, that honor Constance Baker Motley in 2016, making justice real for the people we serve, not just for those who appear in court or in jury duty. Judges, stepping up, listening to his call, because he is a leader, we all want to follow. Stepping toward justice.

For this, and many other reasons, I believe Bob is one of the most influential judges in America and one of our best, and on top of that, a fine human being and a wonderful, dear friend. Really, a brother of the heart to me. He cares so much, and that matters, and that's the third lesson. Caring about others. At every meeting, every time I run into Bob, he's asking me, "how's David, how's the family, how's Claire doing?" remembering things about our lives, not just with me and the judges, but with the marshals, the staff, and I've seen him in his own building, the cleaning people that work there every day. His kindness, humility and grace combined with his tireless exertion, passionate concern, and dedication, make Bob Katzmann a justice champion and a worthy recipient of this wonderful honor that you have bestowed on him. Stepping up for justice. Leading the way in the struggle for equal justice for all. I love you, Bob.

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*JAMES C. DUFF*

Thank you very much, Dean. It is an honor to be included in this august group. To honor even a portion of Bob Katzmann's career in law, Chief Judge Robert A. Katzmann, Professor Robert A. Katzmann, in six minutes is impossible, and I'm so glad that there are numerous speakers here today, this afternoon, to attempt to do this justice. It was very astute, I think, of NYU to select so many people to speak about Bob, because Bob has done so much for so many.

Bob is a giver. He gives superb legal judgment to vexing legal problems on the bench as Chief Judge of the Second Circuit, and as those of us who are here today know, he gives his time and his good counsel greatly, and cheerfully, and freely to his friends and his colleagues. He helps them with their own wide-ranging endeavors on and off the bench. You've just heard the testimonies of two justices that he helped to get to the Supreme Court, and giving them good counsel. He does both within and outside the judicial branch. He shares his vast insights into problems and he connects people with those who can help them, and you've seen that in a grand scale, with regard to his work on immigration and those who spoke so beautifully about that project today.

Today, the giver gets to be a receiver. He's on the receiving end of well-deserved recognition for his many gifts to our judiciary and to our country. Others have spoken wonderfully about the specifics of some of his work, including the Justice For All, Courts and the Community, and so I won't go into all of the specifics again, but Bob believes, as Thomas Jefferson did, that an educated public is the best way to preserve our liberties, and it is the best way to preserve the independence of our courts. I would like to speak more briefly and generally about Bob's work in promoting both public and governmental understanding of the courts in very personal ways.

Justice Robert Jackson authored a well-known concurring opinion in the steel seizures case in 1952, in which he articulates so well the separate but interdependent nature of our three branches of government. Justice Jackson writes, and I'll quote, "while the Constitution diffuses power, the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government." Imagine that. "It enjoins upon its' branches

separateness but interdependence, autonomy but reciprocity.” There are many institutional examples to demonstrate this. Justice Jackson focused on those involving intersection of presidential and congressional power in the context of that case. There are, of course, examples between the judiciary and the other branches, too, including the appointment and confirmation powers and the fact that the judicial branch receives its’ budget from Congress. But in addition to these institutional examples, there are human ones.

To me, Bob Katzmann personifies, breathes life into, those institutional principles, and by that I mean he not only recognizes the theoretical value of separate but interdependent, he also works hard—works very hard as others have mentioned this evening—at putting these principles into practice to make ours a workable government. His outreach to the other branches, in particular to Congress, both in formal and informal ways, has yielded great benefit to our judicial branch, and thus to our country.

He embarked on this mission early on, even before he was appointed to the bench, by penning a very useful and instructive book, one of many he’s written, called *Courts and Congress*. He did this in 1997, and he has continued to work in this field and, early on, even before he was appointed to the bench, I mentioned, he authored that book, but he’s continued to do so while on the bench, through his work as the chair of the judicial conference committee on the judicial branch and his creation of the Judicial Congressional Dialogue Series, in which members of Congress and judges meet, often in conjunction with a program of mutual interest, but they meet to become more acquainted. That’s Bob’s personal touch. He’s now doing and continuing this outreach through his work on the executive committee of the judicial conference’s executive committee. His skilled leadership is fueled, not only by his intellect, but also by his personal relationships. This is true within our branch. It is also true inter-branch, and I venture to say that he has helped every one of our speakers today, and probably many of you in the audience, on some endeavor of yours. He certainly has helped me throughout my career, and it is that personal touch and outreach to others, especially to those in the other branches of government, that ranks among his highest achievements. He does so not for personal gain, but for that of others, and for good, for the good of our branch of government, and thus for the good of our country.

It is somewhat ironic that, by putting so much effort into the interdependent nature of our government, by communicating personally with those in the other branches, that Bob helps us preserve

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a crucially important degree of independence in our branch. Interdependence is one thing, but invading our space is quite another, and Bob recognizes the important differences between the two. He employs his significant skill in communicating in ways that protect our branch and a degree of our independence. I speak specifically with regard to our battles to hold off congressional efforts to impose an Inspector General over the judicial branch. He has earned the respect and the trust of those in all three branches of government, and, accordingly, his views are given great weight. We're very fortunate indeed to have Bob in a leadership role in the judiciary. Thank you, Bob, for giving your wonderful talents and your intellect to our country, and to making ours a workable government.

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PROFESSOR PAUL LIGHT

As a professor of public service here at NYU and a long-time student of institutions and policy, I'm an admirer of Judge Katzman's scholarship. I might say that, unlike my books, which people put down and can't pick up, people pick up Bob's books and they go out and make a difference. It's a wonderful thing. His books are inspirational and deep, and they are superbly well-written. We in academia sometimes pride ourselves on being unintelligible. It's a sign that our work must be good because you cannot understand it. Bob's work is imminently approachable and understandable. And I might say that his work is not just an example, you read his work not just for what it contains, but how it's written. I don't think many people talk much about what a gifted writer Judge Katzman is. I love reading his work, and I want to just talk ever so briefly about it.

I first met Judge Katzman at the Brookings Institution when I was a guest scholar way back when. And I had the pleasure, I was not forced, I had the pleasure to read his book on regulatory bureaucracy. It was an early sign of what was to come. It was thoughtful and rigorous. It was respectful of the human element in policy making, which is always important. And it was beautifully written. As I said, many talk about what Judge Katzman writes, but too few recognize his gift with words and meanings. His introduction to the 1981 book, *On Regulatory Bureaucracy*, is a perfect example. Just a quick sentence, "Anti-trust is a banner under which many march, but for different reasons." It's a perfect sentence that invites you into his list, and it has a comfortable gait, if I may use that term. I don't know whether you do it, it has a nice pull and flow. And he takes us into his list: "politicians interested in combating inflation, consumer groups convinced that large manufacturers charge excessive prices, populists fearful that corporate giants corrupt the political process, businessmen" and so forth and so on. It's an inviting invitation to the book. It comes early, and it says "you can read this book and I'll force you to learn what's in it." Or I'll invite you to learn, perhaps, a better way of putting it.

Three decades later we see the same elegant dance in *Judging Statutes*, a book that rightly prompted one endorser to celebrate "a judicial craftsman at the top of his art." If I may be so bold to correct a blurb-er, and we love blurb-ers, I would say that craftsman is not quite the right word. *Judging Statutes* is not just a work of art, but

it's a form of artful work. I don't know what to call you as a writer, but it's more elegant than a simple craftsmanship. Once through the brief beginning of *Judging Statutes*, Judge Katzman asks all of us to join his search for understanding. The writing is still fresh. How many books in the interim? The writing is sharp, it's inviting, it's fast, and I use the word fast, it pulls you through. You don't have to read the sentence two or three times, you get it. But there's a new pronoun in play. Judge Katzman is writing with the pronoun "I." And there is a new punctuation in use, the question mark. It's self-reflective. He's saying, "I've been through this, I've taken this journey. Come with me. Let me explore this with you." "How should I, as a judge," he says, "interpret statutes? Should the judge confine herself to the text, even when the language is ambiguous? Should the judge, in seeking to make sense of an ambiguity or vagueness, go beyond the text of the statute to legislative materials? And if so, which ones? Should the judge seek to ascertain Congress's purposes and intentions?" Again, we have sort of the art of literary construction. And it's a pull and it invites us in. We are told that even judges might wonder about construction. And then we are given an accessible text and we journey with him. He's not lecturing to us. He's inviting us along.

I admire his writing for more than his art. And I think it's a steady yellow pad that you work on. I've seen you carry them all over the place. Yes or no? You don't have to tell me. And I sometimes wonder how he might frame our friendship years from now, if and when he pens an autobiography. I don't need to dwell on the basics of Judge Katzman's work tonight. It's firmly grounded, carefully sourced, a lot of footnotes, appropriately so. But I do wonder how he is able to maintain such focus as he handles the deep inventory of facts that he brings to bear. I mean, it's intimidating. So, when I sit down to write, I over-footnote, I over-source, I still don't get anywhere. And that book is no lighter to pick back up. I don't know who his muse might be in all of this, though I have some clues from time to time. I think he gets inspiration from many places, many people, and some very close friends. At any rate, whatever or whomever the source of his inspiration, his research and reflection is now preparing a new generation of jurists and scholars for an uncertain, possibly trying, time. And that's the ultimate contribution of all of us in this room. We develop, and mentor, and encourage public service. And we inspire public service through our own impacts, artful or not, in our lives. We call others to join us, we take those steps, and we call others to our cause. It's like solving a puzzle, but with much greater consequence.

Happily, those of us who have read Judge Katzman's work and admire his gift do not have to wait long for his next contribution. I'm just guessing. It may come tomorrow, we just don't know. But we can rest assured that it will provoke, invite, cajole, entreat, and challenge us. How was that, five commas? Maybe one too many.

It's a joy to be here tonight. I love Bob Katzman like a brother, and his brother like a brother, I think, and we know where that comes from. At any rate, my love to you Bob, and Jennifer, for sure.

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*RUSSELL WHEELER*

Thank you, thank you, Dean Morrison. It's a privilege to be here to salute my friend of over 30 years, Bob Katzmann. I've been asked to talk about his scholarship on inter-branch relations. I am, in that regard, speaking as I do, sort of like a legislator speaking late at a courthouse dedication. You've heard everything that needs to be said, you just haven't heard from everybody that's here to say it. So here it goes.

It's hard to talk about Bob's inter-branch scholarship though without recognizing he's also an interbranch practitioner. He knows the judiciary, obviously, but he knows the Congress very well too from his mentor, Daniel Patrick Moynihan, a lion of the Senate. Also Judge Frank Coffin, who is a judge on the First Circuit, chaired the judicial branch committee, to which Jim and Duff and Ann Williams have referred, which is charged with the care and tending of the Congress from the judiciary's perspective. Judge Coffin was a leading judge, he's also represented Maine in the House of Representatives.

So, Bob has grounding there. His first book on inter-branch relations captures really his whole approach to that field. Not so much the title of the book. The title of the book is *Judges and Legislators*. It's the subtitle, "Toward Institutional Comity." I should say that's comity with a "t," I'm sure sometimes he thought it was more appropriate comedy with a "d." But any event, that's the approach, institutional not personal.

That book was followed, as has been said, in 1997 with *Courts & Congress*, which he wrote at the dawn of what turned out to be one of these contentious periods, especially contentious periods, in the relationship between courts and Congress. The Jeffersonian Era, The Post-*Dred Scott* Era, The Progressive Era, and of course, some of us remember, the Impeach Earl Warren Era.

But he saw things coming. He identified, even then, what he called "the sources of strain": conflict over resource allocation, the perennial problem of judges' and legislators' compensation, early efforts to restrict jurisdiction, and the brewing and, in some cases, full-blown breakdown of the judicial confirmation process. But his goal in the book was not so much to criticize as to provide avenues of cooperation. And in that book, he described—he's described it elsewhere—but he described the project to which Justice

Sotomayor referred. That he and Judge Coffin, former Representative Robert Kasten of Wisconsin, the judges on the DC circuit, and also the legislative leadership and their staff, to encourage circuit judges to send to Congress opinions that identify technical glitches of one kind or the other. Gaps or ambiguities. One sent in a 2009 opinion that exposed an ambiguity in the Immigration and Nationality Act, about the 7-year residency requirement that was a condition for waiver of alien admissibility. You'll never guess what judge sent that opinion in, who's very interested in immigration.

And since that project was revitalized in 2007, over 50 opinions have gone to Congress through a very precise protocol that Bob and Judge Coffin and others worked out, which makes clear that the purpose of this enterprise is not to rub Congress's nose in the messes of its own making, or to get, even get statutory language changed, but to help Congress. And the main consumer of these opinions, which come in once every two or three months, is used by the Legislative Council, the people on both sides of the capitol who actually draft the legislation. They use these opinions as teaching tools for their staff about how to avoid ambiguities, if they can be avoided. Sometimes it's impossible, of course, so it's a contribution.

Now, people have talked at length over *Judging Statutes*, and I won't go into great detail about it. I would note it grew out of the Madison Lecture that Bob delivered here at NYU Law School. And its purpose, as he said, or its main goal reflects his view, as I'm quoting here, that "judges and legislators need to understand and respect one another's institutional processes." The book was published in 2014. It became required reading when the Supreme Court was trying to figure out whether the Affordable Care Act's phrase "an exchange established by the state" meant, obviously, exchanges established, insurance exchanges, established by the individual states or also by the federal government. When the decision was announced, more than a few pundits said to their listeners on radio and television that, if you want to understand what this is about, go read *Judging Statutes*. And it has recurred again, as Justice Sotomayor said, she referred to it in the *Digital Reality* decision last month at the Supreme Court, where she said, "considering legislative history shows respect and promotes comity with a co-equal branch of government."

Now, a legal journal picked that up, and the author said, referred to *Judging Statutes* and said, referred to it, I quote here, "an excellent rejoinder to Scalia." And it is that. It is a response to the textualism and the aversion to legislative history by Justice Scalia. But what I would note is, as obvious as that is, you don't find that

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phrase in the title of the book, you don't find it in the subtitle of the book, there is no subtitle, you don't find it in the preface, in which Bob explains what led him to write the book. Now obviously Justice Scalia, if you look at the index, and of course that's how we in Washington read non-fiction books, we look at the index, Justice Scalia appears plenty of times—it would be surprising if he didn't—but not a lot more than references to some of the other members of the Court. What that indicates, again, is that Bob looks at this stuff on an institutional basis, not a personal basis. Institutional respect, not personal antagonisms, which is a lesson that a lot of others in our national government could take some benefit from.

So, thank you Bob.

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*JUDGE GUIDO CALABRESI*

It is a great joy for me to be back here for the third time. Each time has involved people of whom I am terribly fond—myself, of course, but, even more, Sonia Sotomayor and Bob Katzmann—my student, my colleague, and now my magnificent Chief Judge.

What is it that makes Bob so very, very special? I believe it is that he, more than anyone else I know, demonstrates in his work and, indeed, in his life that the “liberal dilemma” can be solved. What do I mean by the liberal dilemma?

Let me be clear at the outset that I am not using the word “liberal” in an ideological sense, with a capital “L.” I am using it as representing a way of thinking, that is, liberal with a small “l.”

It is often said that liberals, because they determinedly wish to be open to “the other side,” to be willing, indeed anxious, to hear from the opposition and to leave open the possibility of being convinced, are ineffective in furthering the causes they believe in. How can one always be polite, open, yes, even gentle, and still effectively bring about the policies and programs one thinks are essential? It seems impossible. Yet this is precisely what Bob accomplishes, seemingly without any strain, but, in fact, as the result of extraordinary ability, together with amazing work, self-training, and discipline.

Let us go back to what was, for me, the beginning of my acquaintance with and appreciation of Bob, when he first arrived as a law student at Yale. There is often something, even in the early exams of law students, that foretells what they will be like. Sam Alito wrote a perfect Torts exam, which, however, took not a single chance. It was elegant, lucid, and conservative to the core. Sonia Sotomayor right from the start demonstrated daring imagination and empathy, while others, who could afford to be far less risk averse, hid behind doctrinal niceties.

What of Bob? There is something more unique than rare in the powerful gentleness that Bob demonstrated right from the start. There always was a careful recognition of what could be, indeed should be, said for the other side. And yet, in the end—no, not just in the end but throughout—there could be no doubt as to where Bob stood and why. There was unmistakable power in Bob’s “gentleness;” power made even more effective because of that gentleness. This very American child of refugees exemplified even then

the seeds of what would make him a wonderful scholar, a great judge, and a truly superb Chief Judge.

It is worth dwelling a bit on Bob as a scholar, because, there too, one sees the remarkable capacity to see more than one side of the issue and yet not be weaker for it. Bob was not, is not, the kind of all-too-typical scholar whose work, however brilliant, is self-contained and self-defined. Bob's scholarship is profoundly "connected and connecting," and of the world! It comes out of the maelstrom that is Washington and reflects all that truly goes on there. It is scholarship that listens to, converses with, and takes into account the other side. This is so whether it deals with relations between courts and legislatures, interchanges with the executive, or with what interpretation truly is. But once again, his scholarship has an unmistakable point of view that is all the more powerful because it is centered in a willingness to dialogue.

And that, of course, is what makes Bob Katzmman such a blessing as Chief Judge. Our Court is quite diverse in viewpoint and in personalities. And yet, there is no one among us who does not feel listened to and cared for by Bob. At first, some of my colleagues mistook this care, this gentleness, for possible weakness and tried to push their own agendas through the seemingly too kind Chief. Boy did they learn better! Bob seems gentle, indeed *is* gentle, but don't for a moment try to push him around. You will be in for a mighty strong surprise. Yet that surprise is itself delivered in so kindly a manner that those who sought to take advantage can find nothing to complain about.

Bob's qualities as Chief are seen not just in the Court, but in his work outside. What he has done to help immigrants get decent legal help would, as others have noted, justify today's honor by itself. But here too, notice that the way it was done was always careful—full of care—and doubly effective for its *gentle* persistence. The same is true of Bob's marshalling all of us to be teachers to young and old of what judges do and why . . . what he did never overstated and was always immensely effective as a result.

Let me end by saying it straight out: I love you Bob, with that special love a teacher has for a student who has gone beyond him. But I also love you because you show in all you are and all you do that the liberal dilemma can be solved, that one can be at the same time truly open and gentle and yet all the more effective for it.

*"Si monumentum quaerat, circumspice."*

If you seek a monument showing it is possible, to solve the liberal dilemma, just look around you at Bob and his accomplishments.