

Good evening everyone, and Liz, thanks very much for your kind words. I asked Liz to introduce me this evening because she and I worked together—both as sitting judges and retirees—on a number of activities aimed at making the bankruptcy system work better, and she’s been one of the most effective professionals I’ve ever served with. Her collaboration, I’m sure, is one of the reasons why I’m here now.

There are many, many other people that I should thank, but I only have a few minutes to talk with you, and if my friends will hold my thanks in their hearts without being named, I’ll talk instead about receiving a call.

The call that brought me here was from Mark Bloom. I knew Mark from his pro bono work with the American College, and when I saw his name on my cell phone, I guessed the purpose for his call—he’d want me to work on a project, maybe talking about pro bono work. When he told me that he wasn’t calling for that—or to ask for a donation—I was a bit confused. Why would he call? And when he said that I’d been chosen for the College’s Distinguished Service Award, my confusion increased. How could this be when there are so many members of the College with deeper knowledge, sharper analytical ability, and greater contributions to the College’s work? But the respect I have for the people who decided to honor me led me to think that maybe I’m here because I’ve been fortunate to receive some other calls.

The first one I want to tell you about is my introduction to bankruptcy. I’d been a lawyer working in general litigation at Jenner & Block in Chicago for 12 years. The firm has a special dedication to pro bono work, and I had many gratifying assignments: representing murder defendants whom I believed innocent, successful political candidates subject to election contests, and a village whose ordinance banning handguns was challenged by the NRA; as well as arguing several appeals before the Illinois Supreme Court and the Seventh Circuit. But in the end, I came to believe that I could best serve as a judge, and I set about trying to be appointed to the bench.

The best opportunity seemed to be the Circuit Court of Cook County. That court had a category of associate judges, appointed by the elected trial judges. I had sought the associate position twice—unsuccessfully—but I’d come close the second time, and my chance of being selected could be improved if I were recommended by lawyers whom the elected judges knew. So I asked some lawyers at Jenner if they would speak to judges on my behalf. I got an unexpected response from the commercial law practitioners.

If I wanted to be a judge, they said, I should look to bankruptcy court. My response was that I knew nothing about bankruptcy, but they argued that as a litigator, I often had to learn new substantive law, and bankruptcy was no different. (That was not true!). But it turned out that the application form for bankruptcy judging was identical to one that I’d filled out to be evaluated by a bar association for the state court position, and so, on the last day for bankruptcy applications, I asked my secretary to copy the old application to the new one, and I submitted it, confident that with my obvious lack of qualification for the job, nothing would come of it.

What did come was a letter came from Collins Fitzpatrick, the Seventh Circuit’s executive, saying that the bankruptcy judge selection process was nearly complete, and the next stage would be interviews. My reaction was that an interview would be a disaster. I anticipated getting a question like “How would you apply the 1111(b) election?” and I would have to admit that I didn’t know what they were talking about; I barely knew that bankruptcy law was in Title 11. So I wrote a response to Mr. Fitzpatrick, noting my pending state court application and asking to be removed from the list of applicants for a bankruptcy position, trusting that I’d avoided what could have been serious embarrassment.

This sets the stage for the call I want to tell you about. It was from Collins Fitzpatrick. “I got your letter,” he said, “and I understand that you want to be a state court judge, but I have a question for you: If you don’t get that position, would you consider bankruptcy court?” I responded, as you’d guess, that I’d be happy to consider bankruptcy court, but I added that I didn’t know anything about bankruptcy. His response stunned me: “Then maybe you should go to an interview and find out something.” Oh—so you know about my ignorance and you’d

still be willing to consider me? Yes, I'll be interviewed, I said, and decided to learn as much about bankruptcy as I could before the interview took place.

That interview led to me becoming a bankruptcy judge, and that job has been the most fulfilling one of my life, leading to many of the things that Liz has told you about.

You may wonder why I've told you this story. Well, I think it shows that sometimes we get messages from other people—"calls," if you will—causing us to undertake a job that we hadn't anticipated, and my hope, this evening, is that you might hear a call like this from me.

As members of the College, whether just admitted or chosen decades ago, you've been recognized by your peers as a person with superior knowledge, skill, and effectiveness, dedicated to serving the bankruptcy community. I'd like to suggest that those of you who are lawyers consider using those abilities and dedication to represent people in bankruptcy appeals. Since I retired from judging, pro bono appeals are what I did and am still technically doing, with one appeal remaining.

Why would pro bono appellate work be something for you to consider? There are several reasons, but perhaps the most important is that it's needed. Many parties in bankruptcy—almost always debtors—can't pay additional legal fees for an appeal because they've spent what fees they could afford in the bankruptcy court. What are their options if they prevail in a matter before a bankruptcy judge and a creditor or trustee appeals, or if they lose on a claim that has merit and a judgment against them is about to become final? Can they act without a lawyer? Ask their bankruptcy lawyer to represent them pro bono? Seek help from a legal aid office? In most cases none of these approaches are likely to work. But if *you* take on the appeal, there will be effective representation, and even if your client doesn't prevail, at least the decision of a higher court will let bankruptcy practitioners in your area—and those charged with making and enforcing bankruptcy law—have a clearer understanding of how the law is being applied.

Here's another reason: beyond filling a need, working on bankruptcy appeals pro bono is personally rewarding. You choose to work on appeals you believe in; you come to a deeper understanding of the issues involved; you can meet and work with bankruptcy lawyers who appreciate your work and assist you as best they can; and if you prevail, you not only make your client's situation better, you advance a better interpretation of bankruptcy law.

I'll end with another little story. George Burciaga, a not-very-wealthy guy in Chicago, asked his employer to hold back part of his wages. His idea was that when his kids were ready for college, he could draw on the unpaid wages to help with their college expenses. But he had unforeseen financial problems and filed a Chapter 7 case. Were the unpaid wages payable to his creditors? The trustee claimed them, most bankruptcy opinions held that they weren't exempt under Illinois law, and the bankruptcy judge had agreed. I represented Mr. Burciaga in an appeal to the district court, unsuccessfully, and then to the Seventh Circuit. That Court directed me and my client to appear at a settlement conference. In preparing for that conference, I had to let Mr. Burciaga know that the trustee might offer him a significant part of his unpaid wages if he'd dismiss the appeal, and that although I believed we had the better argument, it had been rejected before, and might be again. It would be his choice either to accept an offer from the trustee or maintain his right to a decision from the Court of Appeals, at the risk losing all of the wages at issue. He responded in a way that still touches me, saying that he believed that our argument was correct, and he would give up any settlement offered by the trustee to have a decision on the merits. As it turned out, the appeal was successful, and I was very happy—not only because the circuit accepted what I thought was the best interpretation of Illinois law, but much more because a good man would have his wages to give to his kids.

Perhaps you've heard a call. In any event, thanks for listening.