



WHEN TO BE
OBJECTIONABLE

WHAT MAKES
TRIALS FAMOUS?

APPEARING IN THE
ROCKET DOCKET

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Timing

In Memoriam

REFLECTIONS ON BENJAMIN R. CIVILETTI

WAYNE J. POSITAN

The author is a member of Lum, Drasco & Positan LLC, Roseland, New Jersey, and has served in the leadership of the Litigation Section for 30 years.

Ben Civiletti (1935–2022) served as U.S. attorney general from 1979 to 1981. He guided the Department of Justice on the mission set by President Jimmy Carter: “The people of our country, particularly those who are poor or inarticulate or deprived, must have an accurate sense that the system of justice works for them and not against them.” Ben successfully argued before the International Court of Justice on behalf of the American captives in Iran and the Supreme Court for the right of the government to denaturalize Nazi war criminals. “Attorney General Civiletti wrote into policy the norms established to ensure the department’s independence, fair application of our laws, and adherence to the rule of law,” says current Attorney General Merrick Garland. Ben himself summed up the crux of his Department of Justice service in his farewell remarks in January 1981: “Nothing undermines public trust in our institutions more than disparate treatment, inconsistent activities, or even the appearance of inequality.”

Integrity and fairness were integral to the fabric of the man in everything he did.

The ABA Litigation Section was fortunate that Ben became a bar leader while serving as attorney general. During his distinguished career in commercial litigation and investigations practice at the Venable firm in Baltimore, Ben continued in Section leadership, serving as chair for the 1987–88 bar year. He remained in leadership until 2017 with a commitment and an ease of gaining the confidence of all he could enlist. Former Section chair Bob Clifford recalls: “One of my earliest memories of Ben was being with him in a golf cart and talking about the future of the Section. He asked if I was willing to do what it took to help him make it the best Section in the ABA, and I of course said, ‘Yes, sir, General.’” Ben was a force of nature to whom one dared not utter the word “no” when facing his sharp eyes, which penetrated and mesmerized your brain. The next minute (after you said “yes”), he would break into a warm, wry grin and

extend his hand. Ben knew how to get things done.

When the Section took on the then-struggling Judicial Intern Opportunity Program (JIOP), it turned to Ben to serve as honorary chair, tasked with securing the financial and judicial commitments necessary to achieve the program’s immense potential. In the 20 years since, more than 3,000 law students with backgrounds underrepresented in the profession have interned for a summer with state and federal judges. The Section in 2013 established the Benjamin R. Civiletti Fund for Justice with a \$750,000 endowment to support in perpetuity JIOP and the Section’s Children’s Rights Litigation Committee.

Ben the friend was even better than Ben the lawyer and bar leader. As former Section chair Ron Olson puts it, “Ben was, as my mother would have said, ‘as common as a shoe,’ and one of the most fun lawyers I had the privilege of hanging out with.” Ben and his wife Gaile, a woman of warmth and grace, frequented the dance floor at Section social events, spurring us all on to have fun together. We gladly obliged, sharing in their zest for enjoying life together. As former Section chair Judith Miller says, “We were all beyond lucky to have them in our lives.”

John Sandbower’s friendship with Ben dated back to when they were college basketball opponents. John recalls Ben taking out a decades-old news clipping showing that Ben outscored John one year, to which John replied it was because Ben’s coaches never taught him how to pass the ball. The jesting never stopped.

Former Section chair Bill Bay captures perfectly our gratitude to Ben: “It has been almost 10 years since the Section awarded him its Excellence Award in recognition of a life full of extraordinary contributions to the profession. He truly was one of a kind and leaves a wonderful legacy of leadership and service that he brought to the nation, our profession, and Section.”

Rest in peace, our friend. ■