

IN MEMORIAM: JUDGE MIRIAM GOLDMAN CEDARBAUM

*Sonia Sotomayor**

Miriam Cedarbaum had been a judge on the U.S. District Court for the Southern District of New York for six years when I joined that court in 1992. I count myself as lucky for so many reasons, but getting to serve alongside and learn from Judge Cedarbaum falls high on that list.

Judge Cedarbaum mentored me in my first few years on the bench and served as a steady source of strength and wisdom in the years after. This relationship began when she stopped by my office during my first week on the bench, a tradition she followed with every new judge on her court. It continued afterwards because our offices were on the same floor of the Thurgood Marshall Courthouse, just around the corner, and we kept the same arrangement when renovations moved us to the Daniel Patrick Moynihan Courthouse. I learned much from Judge Cedarbaum. In this space, I want to record those lessons so that other judges, those not fortunate enough to be paid a visit by her during their first week on the bench, can learn from her still.

Be careful. A district court judge labors in the boiler room of our judicial system. Alarms constantly sound, work never stops, and thanks rarely materialize. While toiling away, a district court judge may be tempted to cut corners, to make the job just a little easier. Not Judge Cedarbaum.

Read any one of Judge Cedarbaum's decisions and her attention to the facts and mastery of the legal issues leap off the page. Her opinion in *Walt Disney Co. v. Goodtimes Home Video Corp.*¹ is a perfect example. The first paragraph tells readers exactly what they need to know: Disney thought that the packaging of Goodtimes's *Aladdin* videocassettes resembled Disney's own packaging closely enough to violate federal and state law. The next section of the opinion precisely, and concisely, presents each relevant fact as an easily digestible narrative.² Then, in resolving the legal issues, Judge Cedarbaum takes pains to explain the law, explain the parties' arguments, and explain her reasoning. When she states, in her final sentence, her conclusion that Disney did not prove its case, the reader cannot be surprised. Every phrase, and every link in the chain of logic, already pointed the way to that conclusion. The only criticism to be leveled against the opinion is that she need not have noted, in that final sentence, that she had "carefully consider[ed] all of the evidence."³ The rest of her opinion made that clear enough.

* Associate Justice, U.S. Supreme Court.

1. 830 F. Supp. 762 (S.D.N.Y. 1993).

2. See *id.* at 764–66.

3. *Id.* at 770.

All of Judge Cedarbaum's opinions, not just this one, which I picked at random, share these qualities: They are comprehensive, compelling, and most of all, careful. In the course of my career as a judge, I developed my own views on opinion writing, and they sometimes differed from Judge Cedarbaum's. My opinions, for example, tend to be shorter than hers. But since my start as a judge, and to this day, I keep Judge Cedarbaum's opinions in mind and try always to meet the standard she set.

Be curious. By its nature, judging demands curiosity. Our common law system of judging requires identifying the relevant legal principles, applying those principles to ever-changing sets of facts, and filling in the inevitable gaps in the precedential landscape. Judge Cedarbaum's work on the bench shows her judicial curiosity. But her curiosity extended beyond the courtroom and filled every part of her life.

To give just one example, Judge Cedarbaum never took a trip without doing research. She loved to travel with her late husband, Bernard. Before each trip, she would devour several volumes to learn about the history and culture of her destination. On her trip, she would ask questions to test whether what she had read was accurate, or perhaps incomplete. Upon her return, she would update anyone who would listen—explaining the new facts she had learned and how they fit in with her initial findings. How easy it would have been for Judge Cedarbaum, when away from her demanding job, to simply take in the sights on a trip. But her innate curiosity simply would not let her.

The judicial profession can, at times, be isolating. With most people, we cannot talk about our work in any detail. And at times, even discussing our personal lives can feel inappropriate. And so, often, we turn inward. When I feel this urge, I think of Judge Cedarbaum and her constant curiosity. And then I pick up a book, read an article, see a show, or take in an exhibition. I broaden my horizons, as she did.

Be committed. No one chooses to pursue a judicial role without being committed to the law. But sometimes, commitment to the law crowds out other commitments. Judge Cedarbaum did not have this problem. I could devote pages to the contributions she has made outside the courtroom. But I have space for only a few.

To start, Judge Cedarbaum never lost sight of her community. She was so proud of her service as the part-time village justice in Scarsdale, New York. I do not know if that role required extensive research or opinions in the way her day job required. But I do know that whatever the role of village justice required, she put in just as much energy and effort because when she spoke of that role, she referred to her duties with equal pride and as equally important. It probably drove some of her district court colleagues mad. But it drove me only to admire her more. This was just one of the many ways she participated in her community. She was active in her hometown synagogue—religion for her was not

only an act of fidelity but a code of how to live one's life with honor—and served on the Scarsdale Board of Education.

Her definition of community extended beyond Scarsdale. And with each community she joined, she embraced it fully. She served both her alma maters, Barnard College, as a trustee, and Columbia Law School, on the Board of Visitors. And, when she became a judge in a courthouse located in Manhattan's Chinatown, she adopted the neighborhood as her own. She purposefully set out to learn all that she could about the Chinese culture generally and the surrounding area's history and occupants specifically. Her efforts led her to celebrate the Chinese New Year every year. I have met few other judges, few other people, really, who have so embraced the community in which they work, not just the community in which they live.

And as just one more example, Judge Cedarbaum devoted herself to her family: her late husband Bernard, her sons Daniel and Jonathan, her daughters-in-law, her grandchildren, and her companion Robert Ehrenbard. As an outsider, I sometimes wondered how a woman of her accomplishments, of her drive, could have the time to weave the strong ties that bound them together. I know she was devoted to them and they to her.

When asked for advice by new judges or young lawyers, I often ask them to think about what they are passionate about and tell them to hold true to those things no matter how high they climb in their profession. There is no better way to stay grounded and to stay inspired. Each time I give this advice, I think of Judge Cedarbaum.

Be compassionate. Every judge will, at some point, hear a case that generates some publicity. Many know Judge Cedarbaum from her role in the trials of Martha Stewart and Faisal Shahzad.⁴ Of course it matters how judges handle those cases, when the lights are brightest and the outside scrutiny is at its highest. But it matters just as much how judges handle the everyday cases, involving run-of-the-mill brushes with the criminal justice system and garden-variety civil suits.

Judge Cedarbaum understood that each case, no matter how big or small, matters to the parties before the court. I have already mentioned how she devoted the same level of care to each opinion she wrote, whether it concerned a multibillion dollar international corporation, a tort suit, or a criminal motion. I doubt that any party before her walked away from court wondering what she had decided or why (the same goes for judges reviewing her opinions). This quality reflected her general approach to her role as a judge. She put it better than I could: “[A] good judge should recognize as to all litigants, but especially as to criminal defen-

4. See Joseph P. Fried, *Miriam Cedarbaum, U.S. Judge, Dies at 86; Sentenced Martha Stewart*, N.Y. Times (Feb. 6, 2016), <http://www.nytimes.com/2016/02/07/nyregion/miriam-cedarbaum-86-dies-longtime-federal-judge.html> (on file with the *Columbia Law Review*).

dants, that “[t]here but for the grace of God go I.”⁵ Her compassion for the parties before her did not color her judgment. It served as armor against the opposite result, by preventing her from failing to see all sides of the issues before her.

Resisting the urge to focus on the more visible cases, and giving full attention to the more mundane, is not an easy undertaking. But that is what the job demands. We take an oath to “administer justice without respect to persons, and do equal right to the poor and to the rich”⁶ Judge Cedarbaum serves as a model for the rest of us trying to do the same. She lived that oath.

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Judge Cedarbaum was a careful judge who cared deeply. I am a better judge and person for having known her, and our judicial system is stronger for having had her on the bench.

5. Miriam Goldman Cedarbaum, *Women on the Federal Bench*, 73 B.U. L. Rev. 39, 44 (1993) (second alteration in original).

6. 28 U.S.C. § 453 (2012).