

# BENCH PLAYERS

When judges are forced into retirement, Long Island law firms have no objection to adding them to their teams

By BERNADETTE STARZEE

They say an attorney who dons the judge's robes never looks at things the same way again, which is often the reason law firms and their clients find big benefit in the unique perspective a former judge can bring to their team.

And as long as New York mandates retirement for Supreme Court justices at age 76 and other judges at 70 (but see the sidebar on 35A), law firms will enjoy a steady supply of senior talent to add to the ranks.

At the end of 2012, John Kase had to step down from his post as supervising judge of Nassau County's criminal court, having turned 70 during the year. After eight years on the bench, he went back to Kase & Drucker, the Garden City law firm he co-founded in 1978 and where his daughter, Elizabeth Kase, is a partner.

"In addition to his eight years on the bench and many years of private practice, he was also a prosecutor," the younger Kase said. "Having this trifecta of experiences makes him the most well-rounded player in the room."

When clients come in with a problem, "my father is able to quickly give them the diagnosis – there is no mystery in his mind of how the whole thing will unfold."

Judge Kase, who focuses his practice on criminal defense, brings to the firm "a knowledge of trial procedure that many practitioners lack," his daughter said. This comes from witnessing interactions between the prosecution and defense and continually being in the court room, she said.

"As a practitioner, if you have three trials a year, that's a nice amount," she added, noting that most cases are settled before they get to trial.

Anthony Falanga, then 76, was forced to retire from his post as supervising judge for the Nassau County Supreme Court's matrimonial division at the end of 2011. In all, he spent 17 years on the bench, including 12 in the matrimonial part, before heading back to private practice.

"I took New Year's Day and the next day off and started working Jan. 3 – I didn't miss a beat," Falanga said. Unlike Kase, Falanga had no prior affiliation with the firm he joined. He is a partner in the matrimonial and family law practice group at Jaspán Schlesinger in Garden City.

"When my colleagues are making motions or preparing for trial, they ask me what I would do as judge in a certain situation," he said. "It doesn't mean it will happen that way, but at least they get the skinny on what I would have done."

Edward McCabe, then 76, stepped down from the bench in 2009 after wearing judge's robes for 23 years. His tenure included six years as chief administrative judge of Nassau County courts. He took a single day off before rolling up his sleeves as special counsel at Sahn Ward Coschignano & Baker, a general practice law firm in Uniondale.

**WHEN MY COLLEAGUES ARE PREPARING FOR TRIAL, THEY ASK ME WHAT I WOULD DO AS JUDGE IN A CERTAIN SITUATION**

Many firms were interested in bringing McCabe aboard, but he had a special connection to Sahn Ward and, in particular, one of its partners. When McCabe was working as the town attorney for North Hempstead, he hired Michael Sahn out of law school to serve as assistant town attorney. Eventually, Sahn went into private practice and McCabe became a judge, but their careers remained intertwined.

"From day one, Judge McCabe has been my mentor," Sahn said. "He gave me the framework for our law firm, and when it was time for him to retire, I asked him to consider joining our firm. He has been a

See JUDGES, 35A



MICHAEL SAHN (right) said former judge EDWARD McCABE is a mentor to him and other attorneys at his firm.

## Judges: Bringing unique perspective and referrals

From 21A

county and town attorney, a supreme court judge and an administrative judge – what law firm would not want all that experience?"

McCabe continues to serve as a mentor, not only to Sahn.

"We have a lot of young lawyers here, and there is not a question that comes up that the judge has not encountered," Sahn said. "He always has a solution for us."

For instance, for a recent zoning issue, the judge was able to come up with a plan that would solve the client's problem while also benefiting the municipality.

Sahn added that the firm benefits from the good relationships the judge has developed with legal and public officials over the years.

"When we're dealing with lawyers on the other side of a case that know the judge, they give us a degree of respect in what we're proposing," he said.

Judge Kase, too, noted the advantage of unique relationships.

"I got to know the other judges in a different context than other attorneys are able to," he said. "It's like inside baseball. I have an understanding of other judges that helps with analysis of what arguments to present to them and how to present them."

Kase also knows what not to do. For instance, it's never good for an attorney to arrive late to court without having called in.

"It won't affect your client directly – no judge will take it out on your client – but it doesn't help," he said.

Falanga also advises his colleagues about the importance of brevity when preparing motions and oppositions to motions.

"I express to associates, you can't write a 50-page affidavit with repetitive information," he said. "The courts are very busy; they just want the facts."

The relationships judges have built up over the years – and the unique perspective they bring to their firm – lead to new client referrals, which is obviously part of the reason former judges don't lack for post-bench opportunities.

The down side? Getting used to the loss of trappings and power that come with service on the bench.

"It has been a wakeup call that I'm not in control anymore," Falanga said. "I got used to saying, 'This is how things will get

done."

McCabe, whose administrative judge duties included overseeing 1,000 employees, concurred.

"The first thing I had to learn was how to deal with my own phone," he said. "As a judge, it was 'Get me so and so.' I also had my own chambers with wooden walls, and my courtroom. Here, there's more of an economic factor: We're paying by the square foot."

No surprise, then, that Kase and Falanga and McCabe would still be presiding if they could.

"Every state judge would like to be nominated for life," McCabe said.

Starzee can be reached at [bernadette.starzee@libn.com](mailto:bernadette.starzee@libn.com).

### When to hang up the robes

Should judges get kicked off the bench when they turn 70 – or, in the case of Supreme Court justices, 76? The New York State Assembly says no.

Last week, the Assembly passed a proposed constitutional amendment that would allow judges to remain on the bench until they turn 80. Similar legislation is pending in the state Senate. If the Senate passes it, the amendment would go before New York's voters next year.

Assembly Speaker Sheldon Silver said the age limit is outdated, forcing judges to retire prematurely and wasting a wealth of knowledge and experience.

There's currently a push on raising the age, as the chief judge of the state Court of Appeals, Jonathan Lippman, is himself nearing 70, said John Kase, who served as supervising judge of Nassau County's criminal court before being forced to retire last year at age 70. Lippman will turn 68 this year.

Kase agrees that the law is antiquated.

"Putting an age limit of 70 on judges was a wonderful idea back when our lifespan was 58," he said. "But with the advancements in medical science, it no longer makes sense."

Rather than upping the age to a set number, however, Kase suggested that older judges could appear before a panel for a medical review on an annual basis.

### ATTORNEYS AT LAW



In law, as in life, favorable outcomes are often the result of good decisions.

At Jaspán Schlesinger, sound, strategic counsel is born out of a rich legal heritage and diverse skill sets that have enabled us to guide clients through many complex and ground-breaking matters. Our "can do" attitude has been our strength for more than 65 years of service, and we continue to meet our clients' needs for timely, sophisticated and cost-effective legal advice. A multidisciplinary team of 60 attorneys provides our clients with the best possible solutions to their myriad legal and business issues. We pride ourselves on our responsiveness and offer a breadth of services and a depth of knowledge that clearly sets us apart from other firms.

But we'll let you be the judge of that.

**JASPAN** | ■■■  
 ■■■ | **SCHLESINGER**<sup>LLP</sup>  
 ATTORNEYS AT LAW

300 Garden City Plaza, Garden City, NY 11530 | T: 516.746.8000

[www.jaspanllp.com](http://www.jaspanllp.com)

#### Practice Areas:

- litigation
- Banking & Financial Services
- Education
- Municipal Matters
- Corporate & Commercial Transactions
- Real Estate
- Estates & Trusts
- Matrimonial & Family Law
- Creators' Rights
- Tax Certiorari & Condemnation Matters
- Land Use & Zoning
- Labor & Employment
- Taxation
- Environmental Matters

The Right Decision