

1 MEMORIAL SERVICE - NOVEMBER 15, 2012  
2 4:00 p.m.

3  
4 MR. OPPENEER: All rise.

5 (Judges Conley, Crabb and Crocker enter courtroom)

6 JUDGE CONLEY: We are delighted to have such a  
7 large outpouring for Judge Shabaz and to have everyone  
8 here today for this tribute to the Judge. I want to  
9 acknowledge our brethren from the Eastern District:  
10 Judge Randa, Judge Stadtmueller, and Judge Adelman, as  
11 well as Bankruptcy Judge Martin, who are sitting in the  
12 jury box.

13 Before I turn it over to our Master of Ceremonies,  
14 I want to obviously acknowledge Patti Shabaz and her  
15 family as well. Other dignitaries, forgive me, there  
16 are many, so I will not go further in that regard.

17 For myself, my first memories of Judge Shabaz go  
18 back to his days as Minority Leader in the State  
19 Assembly. He was at that time Minority Leader, and  
20 those of us who were pages in the Wisconsin State Senate  
21 would sneak over to the much more active and raucous  
22 Assembly whenever we could. Most of the time there were  
23 groups of Assembly people speaking among themselves  
24 while someone else was talking to the group, but I  
25 noticed early on that there were two people who would

1 stop the general discussion and everyone would listen.  
2 One was Farm Labor Democrat Harvey Dueholm and the other  
3 was John C. Shabaz. They both in many ways could not be  
4 more different, but they shared the ability to use humor  
5 to make a point; Harvey Dueholm by his homespun stories,  
6 and Judge Shabaz by a bit more biting humor, but always  
7 effective. And what they shared was the ability to  
8 impart a message through that humor. It wasn't just  
9 humor for humor's sake, although they were both quite  
10 funny.

11 Judge Shabaz was an example, which is lacking now,  
12 of someone who really enjoyed those on the other side of  
13 the aisle, and is a model, I think, of someone who may  
14 not have agreed; in fact generally didn't agree with his  
15 opponents, but got along and counted among his friends  
16 those on the other side of the aisle.

17 My last memory of Judge Shabaz is in chambers. He  
18 was in his office and across from him sitting was a  
19 visiting judge, Judge Adelman, who has assisted this  
20 court in the years since Judge Shabaz had to retire.  
21 The two of them were sitting and talking, and I will  
22 always have that image. In fact, I actually took a  
23 picture of the two of them sitting and talking, two old  
24 rivals who are now colleagues on the bench.

25 When Judge Shabaz took the bench, there was some

1 controversy, his being viewed as a politician more than  
2 as a lawyer. As we all learned, this was never his  
3 perception, and having joined the practice of his own  
4 father, whom he revered, Judge Shabaz had maintained a  
5 substantial law practice and he relished his time on the  
6 bench.

7         Taking up from his friend Judge Will, he claimed  
8 Rule 1 immediately, quoting it on the day he was sworn  
9 in. He rolled up his sleeves and he got to work with  
10 Judge Crabb on a very heavy docket. Only after taking  
11 the bench did I truly appreciate just how heavy was the  
12 blocking and tackling of the less high profile matters  
13 that truly took up much of their time.

14         Efficiency came with a price, as many of us learned  
15 who practiced before him. You needed to be, as he would  
16 advise, prepared, on time, and brief. While good advice  
17 in any court, one sensed this was an imperative in Judge  
18 Shabaz's court; not to be trifled with. It was more  
19 than once remarked that it was best for a lawyer to walk  
20 into Judge Shabaz's courtroom bent over and backward,  
21 but in truth he respected a lawyer who stood up for a  
22 position, as long as it was a reasonable one and he got  
23 to the point succinctly and quickly.

24         Of those of us willing to take the chance, we also  
25 learned that his bark was generally worse than his bite

1 as he pushed lawyers to meet his high expectations. In  
2 fact, few were better prepared, punctual and to the  
3 point than Judge Shabaz himself. Late in his 25 years  
4 as a Judge, even he could no longer maintain the pace  
5 that he had taken on. Despite various medical  
6 procedures and medications for his back and other  
7 ailments, he was unable to continue, but he still came  
8 to chambers with the hope of returning to the bench he  
9 loved.

10         Shortly after I was appointed, we were coming back  
11 from lunch one day, the Judge was regaling me with a  
12 story about someone we had run into when he faltered,  
13 having troubled recalling a name or event, just as might  
14 all of us, though I could tell it was an experience that  
15 was foreign and frustrating to him. "Bill," he said, "I  
16 was Demosthenes at the gate and I want that back." He  
17 never got there again in this life, but whenever I saw  
18 him interacting with his beloved wife Patti, his  
19 children or close friends or colleagues, the twinkle in  
20 his eyes recalled those days.

21         Those of you who knew him well remember and honor  
22 one of the few who could rightly claim to be a  
23 Demosthenes. And with that, I'm going to turn the  
24 matter over to our very able Clerk of Court, part-time  
25 Magistrate Judge and Master of Ceremonies today, Peter

1 Oppeneer.

2 MR. OPPENEER: Thank you, Judge. In 1981 when  
3 Judge Shabaz arrived at the Western District of  
4 Wisconsin with a vision for changing the way federal  
5 cases were managed, his vision was greeted by many with  
6 various degrees of resistance and skepticism, not to  
7 mention outright hostility. Yet, by the time the Civil  
8 Justice Reform Act of 1990 was passed to help courts  
9 become faster and more efficient, the Western District  
10 of Wisconsin had not only realized the vision, but  
11 implemented most of the procedures recommended in the  
12 Act and many that were not. The Western District of  
13 Wisconsin had become a model of judicial efficiency,  
14 leading the nation by most objective standards.

15 About that time, Judge Shabaz traveled to a Ninth  
16 Circuit Conference to share his case management approach  
17 with the judges. And he returned discouraged. And he  
18 was a man who was rarely discouraged. He said "Peter,  
19 they didn't want to hear it. I told them how to do it:  
20 Firm trial dates; prompt rulings; efficient trial  
21 techniques. They weren't interested. They just don't  
22 want to work that hard," he said."They kept insisting  
23 that there must be something else. Something I wasn't  
24 telling them. Some secret that I had."

25 I don't know if he was right, that the Ninth

1 Circuit judges didn't want to work hard, but I know that  
2 the Ninth Circuit judges were right that we did have  
3 something he wasn't sharing and we did have a secret and  
4 that was we had Judge Shabaz. He had moved us one group  
5 at a time, one person at a time from skeptic to  
6 enthusiast. He infected chambers and the clerk's office  
7 with pride in being efficient. The patent and civil  
8 rights lawyers embraced and supported the vision because  
9 it opened courthouse doors to them. The Western Bar  
10 Association was formed, at least in part, to advance the  
11 vision, and became a staunch advocate.

12 How did he do it? He did it by his formidable  
13 powers of persuasion. He simply convinced people that  
14 that was the way to run a court. He did it by his  
15 personal example of unrelenting hard work. He refused  
16 to deviate from his principles. He coerced, cajoled and  
17 ordered. He accomplished more with a look over a \$10  
18 pair of reading glasses than he ever did with Rule 11 or  
19 Rule 37. He did it with humor, both in and out of the  
20 court. He did it by trusting all of us to do our jobs,  
21 whether that was in the court or that was the lawyers.  
22 He did it by making us feel we were part of a team, a  
23 part of something bigger. Inch by inch he pulled us  
24 along until one day we looked up and proudly proclaimed  
25 that we were the Western District of Wisconsin, the most

1 efficient court in the land. It wasn't his  
2 accomplishment, it was ours and we owned it. When we  
3 leave here today, let's honor his memory by owning his  
4 vision of efficient justice.

5 Now, I have the honor of introducing the  
6 distinguished speakers. We'll hear from several  
7 distinguished speakers who knew Judge Shabaz well,  
8 inside and outside the courtroom, from in front and  
9 behind the bench. None of them require introductions,  
10 least of all our first speaker, former Governor Anthony  
11 Earl.

12 MR. EARL: John would prefer that you referred  
13 to me as the Democrat floor leader. He was always more  
14 comfortable with that than with the governor routine.  
15 And that's how I knew John. We were rivals on the floor  
16 of the Assembly for many years. And you're right,  
17 Harvey Dueholm and John could quiet the room. They were  
18 both very, very different, but they had one thing in  
19 common, one thing that really stands out in my memory of  
20 John Shabaz. He was a man of principle. He didn't want  
21 to yield on principle. And a man of absolute integrity.  
22 At a time when people in public life, particularly  
23 people in elected office are occasionally tempted to  
24 cross the line or to blur the lines, Judge Shabaz never  
25 did. He and I matched wits, as I said, for a long, long

1 time, and sometimes it got to be pretty sparky, but it  
2 was never *ad hominem*. The worst John could ever say  
3 about me or something I said was *swell*.

4 He never took issue with my heritage or my  
5 education or my brain power. And John and I, I'm  
6 pleased to say after a hard day on the floor, would  
7 regularly get together and enjoy a fermented malt  
8 beverage or two, and it was a tie that bound us even  
9 more closely together and it was a tie that, as Patti  
10 knows, we kept going lo these many years. Up until  
11 very, very recently, a bunch of us who served back in  
12 the 60s and 70s when politics was not a blood sport,  
13 would get together. People on both sides of the aisle.

14 And I remember when John first had to go to the  
15 hospital, I had called Patti and said, "Can John join?  
16 Well, he's laid up for awhile." And two/three weeks  
17 later I got a call from John, says "What the hell's the  
18 matter with you? Don't you want to break bread with me  
19 anymore?" He was out and he wanted to get back at it.  
20 He was great company with people on both sides.

21 I just want to conclude my remarks by debunking  
22 something about John. Some people thought he was the  
23 meanest guy on the block. When we were in the Assembly  
24 together, there was a fellow who represented a district  
25 on the south side of Milwaukee which is as different

1 from Waukesha County today as it was back then. His  
2 name was Joe Czerwinski. Some of you may remember Joe.  
3 And Joe was as liberal as John was conservative. And I  
4 remember Joe had been in an auto accident one day and he  
5 had his head bandaged. He looked like somebody from the  
6 Spirit of '76. And he gave a speech that wasn't a model  
7 of clarity, and John shouted across the aisle "Earl, go  
8 loosen his bandage."

9         Fast forward about 15 years, when the State  
10 Assembly had one of its rare infrequent reunions, and  
11 there were a lot of people that came, we all enjoyed one  
12 another's company, and the meeting was about to break up  
13 and John took the stage. He said "I'd like your  
14 attention, please." He said "On my way back tonight,  
15 I'm going to stop at Froedtert Hospital where a dear  
16 friend of all of ours lies dying. Let's say a prayer  
17 for Joe Czerwinski." That was John Shabaz. He was --  
18 his bark was a hell of a lot worse than his bite.

19         He was a fine man. He was a great lawyer. And I'm  
20 flattered that the family would ask me to share some  
21 memories of him. As I said, the biggest two memories:  
22 integrity and principle.

23                 MR. OPPENEER: Attorney General JB Van Hollen.

24                 MR. VAN HOLLEN: Thank you, Peter. And thank  
25 you, Governor, for those wonderful words. You know, as

1 I stand here or sit there and I listen to him, I realize  
2 that I certainly didn't know John Shabaz longer than  
3 everybody else in this room or better than anybody  
4 else -- everybody else in this room, but I think I can  
5 safely say I knew him in a greater variety of ways than  
6 anyone else in this room.

7 My earliest memories of John Shabaz are quite  
8 frankly my earliest memories. I have known him  
9 literally all of my life. When I was born, my father  
10 was serving in the state legislature with Tony Earl and  
11 with John Shabaz and held John Shabaz to be one of his  
12 very, very dearest friends. In fact, one of the little  
13 known facts that I don't talk about a lot because it  
14 still is, I think, a sore spot to some people is that my  
15 father served as the Chairman of the Judicial Nominating  
16 Committee that nominated John Shabaz for the bench when  
17 he served here in the Western District of Wisconsin.  
18 And it's funny, all the things that have happened in my  
19 dad's life, including the successes that I've had, I  
20 think he still holds that out to be the biggest success  
21 he has ever attained in his career because he had great  
22 faith in this man who he got to know as a friend and who  
23 he got to know as a colleague.

24 I then of course then got to know John Shabaz, then  
25 it was still John Shabaz, not Judge Shabaz, as my

1 friend's father (verbatim) who was actually quite fun.  
2 My earliest memories of spending time with him were when  
3 I was very, very young, at a Republican National  
4 Convention in Detroit, Michigan, and he and Governor  
5 Thompson and myself were having a belly flop competition  
6 off the high dive at the hotel outdoor pool. So when  
7 you say he was fun loving, I think that that pretty much  
8 encapsulates it; somebody who was willing to do such a  
9 thing, especially in the position he was in in the  
10 Assembly at the time.

11 I of course then later got to know him even better  
12 as I moved on to become an Assistant U.S. Attorney. I  
13 think there were many of my colleagues in the office who  
14 thought well, this is going to be a cake walk for JB.  
15 He's going to be the only one who can walk into Judge  
16 Shabaz's courtroom unprepared and do anything he wants  
17 to do, and I can tell you that nobody believed that to  
18 be less true than myself. I knew that there was nothing  
19 he would cherish more than going back to my father and  
20 telling my father stories about how he screwed me to the  
21 floor. I prepared like there was no tomorrow, and  
22 preparation wasn't necessarily my strong suit at the  
23 time. But as a young lawyer, one year out of law  
24 school, 25 years old, I had to make sure that everything  
25 I did gave him absolutely no opportunity to prove that

1 he wasn't playing favorites, and so I prepared a great  
2 deal. I went home every night and prayed that my cases  
3 the next day would be in front of Judge Crabb, who is  
4 just as good a jurist, even despite my friendships with  
5 Judge Shabaz, was in public and in the courtroom  
6 certainly much nicer to me. Thank you, Judge Crabb.

7 But I had occasion of course to witness Judge  
8 Shabaz in the courtroom many, many times and do many,  
9 many things, and I think we can all tell stories about  
10 great experiences. I remember sitting there one day  
11 doing a very simple civil case with a young lady sitting  
12 at the counsel table next to me, who I could tell was  
13 grossly underprepared, and I tried to be the good guy,  
14 even though I was probably younger than her and turn  
15 over and tell her to not do something and she proceeded  
16 to do it anyway. He proceeded to wrap the gavel and  
17 says, "Case is adjourned until tomorrow at such and such  
18 a time. Young lady, here are the Rules of Civil  
19 Procedure. Go home and read them tonight."

20 But that's how serious he was. He really cared  
21 about making sure things were done right, they were done  
22 timely, and that they were done professionally. And of  
23 course when you work in the U.S. Attorney's Office as I  
24 did, both as Assistant U.S. Attorney and as U.S.  
25 Attorney, you have the opportunity to be in front of

1 these federal judges an awful lot, and so I had the  
2 experience of seeing things happen such as the one I  
3 just relayed, but I also had the experience of a number  
4 of colleagues who, if you're going to appear in front of  
5 somebody enough times, of course you're going to have  
6 some foibles.

7 I was just reminded by Steve Sinnott when I walked  
8 in -- no, it wasn't. I don't know. Tim O'Shea.  
9 Somebody reminded me when I walked in here about how one  
10 time Chris Van Wagner, I'm sure who you all remember,  
11 Chris was -- I would say he was usually late. Judge  
12 Shabaz certainly got on his case for that. And one day  
13 Chris Van Wagner came in the courtroom before Judge  
14 Shabaz got here, which was unusual in and of itself, and  
15 proceeded to turn the clock in his courtroom back ten  
16 minutes and then proceeded to watch the Judge's  
17 reaction. He couldn't figure out for the life of him  
18 why he was ten minutes early to get on the bench.  
19 Something that I guarantee you I did not have the  
20 bravery to do.

21 But one of my colleagues, when I was an Assistant  
22 U.S. Attorney, who at least put on the face of having  
23 the bravery to do just about anything in front of Judge  
24 Shabaz, was Mark Cameli. Mark Cameli was coming into  
25 the courtroom with another of his colleagues who wasn't

1 very comfortable in the courtroom, customarily did legal  
2 work that didn't require coming here, and to lighten her  
3 up a little, he gave her a crash test dummy. I don't  
4 totally understand what the explanation of it was, but  
5 this little thing, you'd push a button and the arms and  
6 legs and head pop off and fly around. And to get her  
7 more comfortable in front of Judge Shabaz, Mark, before  
8 the trial, walked up to the bench with her and the crash  
9 test dummy and proceeded to show the Judge how it  
10 worked. The limbs proceeded to fly off, hit him in the  
11 face, landed in his drink, a variety of other things  
12 that I don't think necessarily worked out the way that  
13 Mark was hoping it was going to go work out, to which I  
14 think the most prescient words that I've ever heard that  
15 came out of Judge Shabaz's mouth came out. And I  
16 happened to be there in the courtroom when this  
17 happened, and he looked over his glasses and he looked  
18 at Mark and he says, "Mr. Cameli, you exhaust me."

19 But just to show that he's gone and not forgotten,  
20 I must remind those of you who were at the memorial  
21 service, at the funeral, where our dear friend, Bob  
22 Anderson, Assistant U.S. Attorney, showed up, walked in  
23 front of the casket, and just as he's getting in front  
24 of the casket, his cell phone goes off. He thought John  
25 was going to reach out and grab him around the neck and

1 pull him in with him.

2 My last memories of course of Judge Shabaz have  
3 been, you know, very favorable, as if these all aren't,  
4 but very favorable as a friend. Once I had left being  
5 an Assistant U.S. Attorney, of course I sought to come  
6 back and succeeded to come back as the U.S. Attorney.  
7 One of the first people I sought out for advice, counsel  
8 and support was Judge Shabaz. I went into his office  
9 here in this building and I walked up and walked in --  
10 he made me wait of course -- but I walked in and he  
11 said, "So what brings you here?" I said, "Well, Judge,  
12 I was thinking about putting in for U.S. Attorney and I  
13 was hoping maybe you'd help me out." And he says, "What  
14 the hell took you so long."

15 So when I decided to run for Attorney General and  
16 leave the U.S. Attorney's Office years ago, I decided  
17 I'd do the same thing, but I'd call on him much earlier  
18 this time, and I walked in and said, "I'm running for  
19 Attorney General and hoping I can count on your help."  
20 He says, "Why the hell would you want to do that?"

21 So he always gave me great advice and counsel and I  
22 never seemed to endear to it. John Shabaz was truly a  
23 dear friend, a well-rounded man; somebody who I've  
24 learned a great deal about life from, who I had the  
25 great privilege of seeing from many different

1 perspectives. He will be somebody who is certainly  
2 sorely missed, I think, by all of us in this room and he  
3 will be sorely missed by me. God bless.

4 MR. OPPENEER: Attorney Steve Hurley.

5 MR. HURLEY: I don't know that Judge Shabaz  
6 would approve of my being afforded a microphone so close  
7 to the witness stand. You know, one of the most  
8 important things about the law and about judges that  
9 there is is predictability and it is one of the things  
10 that is least delivered in life. We in this room make  
11 our careers out of finding ambiguity and it's in the  
12 absence of predictability that people have difficulty in  
13 managing the affairs in their life. We have to tell  
14 business people what it is they can and can't do; we  
15 have to tell individuals what it is they can and can't  
16 do. And they have to be able to make decisions based on  
17 that knowledge. Judge Shabaz had an appreciation, if  
18 not an innate reverence for predictability. He strove  
19 to make the law predictable, not just for the litigants  
20 and the attorneys in court, but for everybody in the  
21 community. He made himself predictable.

22 You might have looked at the rules in this  
23 courtroom and said wow, you know, this is the only judge  
24 in my entire career who ever required that. But he told  
25 you what those rules were in advance. He posted them.

1 He made sure you got a copy of them. And you knew what  
2 it was you had to do. If you made an argument in front  
3 of him, he told you why he thought you were wrong or he  
4 told you why he thought you were right so that you knew  
5 the next time what it was that the result was going to  
6 be. And the bottom line was that for me as a  
7 practitioner, I could tell my client what was going to  
8 happen in a given case, and my client could make a  
9 decision about whether to go forward with a lawsuit or  
10 whether to go forward with a trial in a criminal matter.  
11 He was predictable and that was a gift to those of us  
12 who appeared in front of him and it was a gift to our  
13 clients.

14 And he was evenhanded in his application of his  
15 rules. It didn't matter what side of the courtroom you  
16 were sitting on. He expected all of us to perform above  
17 standard. And when we didn't, he let us know. He was  
18 amazing in his ability to retain a healthy skepticism of  
19 government. And for a man who served his life in  
20 government, either in the legislature or in the court,  
21 he always had this healthy skepticism. And that's a  
22 difficult thing to do when you become a judge,  
23 especially a federal judge, where you are very much  
24 isolated and your world becomes what is sometimes called  
25 *the federal family*. But he never lost that skepticism.

1           It was a wonderful thing to behold. My opponent,  
2 usually the government, was held to the same standard  
3 that I was. There were no breaks for anybody. You came  
4 prepared. He made you be prepared. He made you want to  
5 be prepared. And he made you perform the best that  
6 could be done for a client.

7           And he was funny. Not just off the bench. He was  
8 funny on the bench. It's just that he would mutter, as  
9 though someone couldn't hear him. How many times did I  
10 hear him, when there was a rare, but nonetheless  
11 occurring lull between the call of cases, he'd turn to  
12 the clerk and say "Go round up the usual suspects." And  
13 he was even funnier when he wasn't on the bench.

14           So I want to leave you with an image that has  
15 always stayed with me and that is one day we were in  
16 chambers, it was some form of pretrial conference, and  
17 we finished early, which was not at all unusual. And  
18 Judge Shabaz was telling me that on that day he had to  
19 make sure that he got out on time because he was going  
20 with his children back to the animal shelter. He  
21 said -- I hope I remember correctly, Patti -- they were  
22 getting a cat.

23           Now he said they had been to the animal shelter to  
24 pick out the cat and had done so, but the animal shelter  
25 didn't want to give it to them right away. Instead he

1 had to come back again because they wanted to see  
2 whether he could bond with a cat. And then he just  
3 looked at me and began to smile as he could see me  
4 trying to wrap my head around that.

5 So I want to leave you trying to wrap your head  
6 around that. I have missed him and will continue to do  
7 so. He was a remarkable man.

8 MR. OPPENEER: Attorney John Skilton.

9 MR. SKILTON: May it please the Court. Family.  
10 I'm going to be a little more formal because anyone who  
11 was in Judge Shabaz's court knew that it was a very  
12 formal place. I first met John Shabaz in his chambers  
13 on the second floor in the old federal building on what  
14 was then Wisconsin Avenue. I had appeared at the time  
15 at the request of one of my partners at a pretrial  
16 conference. Unfortunately, that partner had neglected  
17 to file the required mandatory pretrial statement. That  
18 fact was brought to my immediate attention by Judge  
19 Shabaz, and I can say it was a poor start. But at the  
20 conclusion of that conference, I approached him, I  
21 apologized for the error, and told him it would never  
22 happen again. And it did not.

23 I regularly appeared in front of John Shabaz over  
24 the next 25 years. By my count, I tried approximately  
25 12 cases to him of relative complexity; roughly half to

1 juries, half to the Court, not to mention dozens of  
2 other cases disposed of by other means. As a result, I  
3 believe I came to know John Shabaz, the Judge, rather  
4 well.

5         Some things are widely known about John Shabaz, the  
6 Judge. His courtroom was very formal and intense. He  
7 required lawyers to conduct themselves with due respect  
8 for *The Court*. He demanded competence. He demanded  
9 efficiency. He did not tolerate delay or brook excuses.  
10 He treated all lawyers and litigants the same. He was  
11 gruff, on occasion grumpy, and often impatient, and what  
12 every proceeding in his courtroom had in common was that  
13 Judge Shabaz was the hardest working lawyer in the  
14 courtroom.

15         John Shabaz's appointment to the bench was the  
16 subject of some controversy. Some suggested publicly  
17 that he would not be able to leave his politics at the  
18 door or that he did not have what it takes to handle a  
19 district court judgeship. But they were wrong. I never  
20 once saw politics influence his decision-making. I  
21 would characterize his judicial philosophy as being more  
22 populist and pragmatic than dogmatic or partisan. And  
23 most emphatically, status had no place in his court.  
24 All litigants were dealt with fairly, if on occasion  
25 abruptly. Republican or Democrat; rich or poor;

1 powerful or weak; the justice delivered to each was  
2 equal and swift.

3 No doubt some litigants felt that on occasion his  
4 dispensation was arbitrary. Even harsh. Regardless, it  
5 was consistency -- it was consistent. Indeed, as Steve  
6 mentioned, it was that consistency or predictability, if  
7 you will, that characterized his rulings and assisted  
8 lawyers and their clients in making those all important  
9 decisions of whether or not to proceed, and if so, how.

10 My father had a saying, "Give credit where credit  
11 is due." John Shabaz is entitled to much credit. When  
12 he took the bench, this court was roughly four years  
13 behind in its docket. Working side by side with Judge  
14 Crabb, he created and strictly enforced rules to  
15 facilitate and then implement what became the nation's  
16 leading rocket docket. Case-by-case, one at a time,  
17 they converted a slow docket to one that disposed of  
18 cases large and small in less than nine months on the  
19 average.

20 This transformation of course came at a price, and  
21 some lawyers complained. But we soon learned and our  
22 response was to "move the mountain to Muhammad," to  
23 learn the rules and to play by them, and once we did, if  
24 we did not succeed, we could at least survive in his  
25 courtroom.

1           The fundamental principle in the law is "Justice  
2 delayed is justice denied." Judge Shabaz ran his  
3 courtroom and dispensed justice consistent with that  
4 principle, which he shorthanded as Rule 1. His rules  
5 were simple: A firm, early, unchangeable trial date.  
6 How many times did I hear out-of-town counsel come in  
7 and say "I can't make that date." He'd look at his  
8 calendar and say, "Well, what about the week before,  
9 Counsel?"

10           Trials that lasted no more than five days,  
11 regardless of the number of parties, claims or  
12 complexity. Swift resolution by him personally of any  
13 and all discovery disputes. You could usually forecast  
14 how mad he was by how early he scheduled that Wednesday  
15 morning hearing. And if you were the movant, you would  
16 have your associate argue the early ones.

17           And he would take no more than a week to resolve  
18 them. No reading of transcripts. Five-page pre-cleared  
19 summaries would suffice. No reading from exhibits;  
20 refused under the rubric of cumulative. No speaking  
21 objections and the like. Having tried dozens of cases  
22 in venues across the state and this nation, several of  
23 which took more than 13 weeks to try, I can attest that  
24 the justice meted out in Judge Shabaz's courtroom was  
25 equal to, if not better than the justice delivered in

1 less controlled courts.

2 I will conclude by referring to the report of the  
3 Western District Advisory Group, Peter mentioned it,  
4 formed under the 1990 Civil Justice Reform Act to  
5 evaluate the performance of the Western District and all  
6 district courts. That report strongly commended Judge  
7 Shabaz and Judge Crabb, and noted in particular the  
8 uniform phrase of the bar for the court's efficiency and  
9 the hard work of both judges.

10 I was an admirer of Judge Shabaz and did my best to  
11 practice by his rules when in his courtroom. He was  
12 incorruptible and did his very best to honor the oath of  
13 his office. We, the members of the Western District Bar  
14 and the citizens of the State of Wisconsin, were indeed  
15 fortunate to have had John Shabaz serve on the bench of  
16 this court honorably for 25 years. We and the citizens  
17 of the state were the beneficiaries of his hard work,  
18 dedication, honesty and commitment to the cause of  
19 justice. We miss him.

20 MR. OPPENEER: Attorney Jim Troupis.

21 MR. TROUPIS: First of all, let me say thank  
22 you for the opportunity to speak on behalf of Judge  
23 Shabaz. It was about 6:45 in the morning in a June  
24 trial, many years ago, and of course because it was in  
25 John Shabaz's court, we were already in the courtroom

1 organizing everything for the day of endless witnesses.  
2 And I remember that because the night before, we finally  
3 ended some time between eight and nine o'clock. As the  
4 Judge kept saying "Next witness" and I kept praying we  
5 actually had one in the courthouse.

6 Judge Shabaz, on that particular day, he came in  
7 the back of the courtroom -- to those of us who have  
8 never been on the other side, he comes in that back  
9 door, it was in the little courtroom next to here, and  
10 he walks through the door and I'm shocked because the  
11 Judge has this brilliant red sweater on and I had never  
12 seen him in street clothes. And so I smiled and I said,  
13 "Good morning, Judge." And he looked at me over  
14 those -- we hear about those half glasses but now I have  
15 to wear -- and he says, "Mr. Troupis, why are you  
16 smiling?" And I said, "Well, Judge, it's a beautiful  
17 June day." To which he responded with this sort of, you  
18 know, the half smile that he would have, and you knew  
19 there was a zinger coming, and he says, "I'll make it my  
20 personal goal today to wipe that smile off your face."  
21 And he chuckled.

22 And you know, from that day on, I was one of the  
23 John Shabaz's biggest fans. I'm not sure why. But his  
24 sense of humor, his equanimity in treating everyone  
25 fairly and honestly and toughly, and his real respect

1 for the role that he played made that moment something I  
2 have never forgotten.

3 In fact, because Judge Shabaz was so very tough on  
4 those that appeared before him, there's a term that is  
5 not often used to describe the Judge that I think is  
6 most appropriate. *Humility*. You see, humility for  
7 Judge Shabaz was his absolute belief in what his role  
8 was and his genuine, truly genuine understanding that  
9 without regard to what he might think about the  
10 evidence, about the lawyers, about the individuals in  
11 his courtroom, the law, not his particular beliefs, was  
12 what counted. To him, the rule of law was sacrosanct.  
13 He let lawyers try their cases, for good or bad, and the  
14 outcome of the jury to him counted on the facts. That  
15 was the way it would be because that's the rule of law.

16 In the same way, he knew that the most difficult  
17 task for a federal judge is understanding the enormous  
18 power that he could yield, and then not using that  
19 power. The easy path is, isn't it, that we use power  
20 that we have. We all do it. The really difficult  
21 decision is to not use that power. That -- and this  
22 isn't about decorum. It isn't about schedule. It is  
23 about outcomes. And Judge Shabaz understood that the  
24 survival of our system required him to respect and honor  
25 every other institution of government and of

1 individuals. And he would elect not to exercise that  
2 enormous power he had. For Judge Shabaz, the abiding  
3 principle was a recognition of his role in the process  
4 of the law and that he -- that he so deeply revered.

5 On another day in another trial, the Judge had  
6 ruled on a very difficult evidentiary matter, and I was  
7 trying to remember this because I don't remember which  
8 way he ruled. I don't know whether it was for me or  
9 against me at the time. But the next morning, in that  
10 brief meeting you have before we would call the jury in,  
11 he looked at the parties and he said, "I was thinking  
12 last night about that evidentiary ruling I made  
13 yesterday. I'm not sure I was correct. Let's talk  
14 about it again."

15 What a remarkable moment. A federal judge with  
16 enumerable trials, motions and other matters had gone  
17 home the night before and worried that he'd gotten the  
18 ruling wrong. Now that in and of itself isn't  
19 remarkable. We all go home; we think about something we  
20 might have done, something we might have said that we  
21 regret. But what was remarkable was that he was willing  
22 to say to everyone in that courtroom "I may have been  
23 wrong," and he would try to make it right. He was a  
24 federal judge and he did not have to do that. He did it  
25 because he believed in the system and he wanted to get

1 it right, no matter what we might think about his  
2 admission. That is humility. And that is one of the  
3 many reasons I, and we, will miss this remarkable man.

4 MR. OPPENEER: Judge Shabaz's former and long  
5 time law clerk, Corinne Hollar.

6 MS. HOLLAR: I began working for Judge John C.  
7 Shabaz in 1983, a year after he took the federal bench,  
8 and we worked together until he took senior status.  
9 When he took the bench, his objective was to get things  
10 done, and that he did for almost 30 years. He expected  
11 attorneys in his court to be prepared and he expected no  
12 less of himself and those of us who worked for him.

13 As we all know, he was a hard worker and worked  
14 long hours. He taught me many things through the years:  
15 Never end a sentence with "of" and do not use commas  
16 unless absolutely necessary. Just to mention a few that  
17 I will never forget.

18 The last time I saw Judge Shabaz was at his home on  
19 his birthday in June. Although his health was failing,  
20 his spirit shown through. The small group was talking  
21 about golf and Peter mentioned that the Judge probably  
22 had not had the patience to play golf in his retirement  
23 and the Judge laughed. Patience was not one of his  
24 strengths, but he had many more: Honesty, integrity,  
25 fairness and determination, to name a few.

1 He kept a card in his top desk drawer with the  
2 words *patience, understanding and compassion* written on  
3 it. Rumor has it a deputy clerk, Suzanne Richter, gave  
4 him that card. As he told a newspaper reporter, I  
5 sometimes don't remember it as well as I should.

6 Some of his greatest moments were at judicial  
7 ceremonies. At naturalization ceremonies, he welcomed  
8 new citizens, talking of his ancestry and reciting his  
9 common man speech. He often related that his  
10 grandfather had come from Iran in the early 1900s. At  
11 one ceremony when he was swearing in new lawyers, a tear  
12 fell down his cheek as he remembered the start of his  
13 own law career.

14 Juries often made him smile. One jury delivered a  
15 crumpled verdict form to him with pizza on it. Another  
16 jury sent the Judge a note asking why a case had been  
17 tried. But my favorite is one lawyer recalled that a  
18 juror asked the Judge if the jury could replace a  
19 foreperson. He said yes, and advised counsel with a  
20 twinkle in his eye that jury forepersons did not have  
21 lifetime tenure.

22 The Judge made me laugh and made me cry, but never  
23 once did I have to guess what he was thinking. He was  
24 direct and a straight shooter on the bench, as well as  
25 off. Also throughout my struggle with Meniere's disease

1 and my parents' illnesses and death, I knew he really  
2 truly cared about me.

3         John and Emily, you brought so much joy to your  
4 father's life. Sandy Bowe, who worked with the Judge  
5 for years, shared this memory with me. We had a  
6 Christmas party at lunch in the chambers with John and  
7 Emily. We played Pictionary with the boys: Judge,  
8 Johnny and Matthew, a law clerk, against the girls:  
9 Sandy, Emily and me. The girls won. The Judge drew a  
10 picture of Santa, which could probably be used as an ink  
11 blot, and definitely sealed the loss for the boys.

12         The Judge has left the world too soon, but he  
13 served the court with distinction and humor, honor, left  
14 it better than he found it, and made an important  
15 contribution to the judicial system which will never be  
16 forgotten. It was my privilege and honor to know him  
17 and to work for him.

18                 MR. OPPENEER: Magistrate Judge Stephen  
19 Crocker.

20                 JUDGE CROCKER: Thank you, Peter. I had the  
21 privilege of working with Judge Shabaz, under Judge  
22 Shabaz for 16 years when he was on the bench, but I  
23 actually got to know him back in 1978 when I was a page  
24 in the State Assembly and he was the Assistant Minority  
25 Leader. There was this skinny -- he was the Minority

1 Leader and there was this skinny Assistant Minority  
2 Leader who shared chambers with him, some guy named  
3 Tommy Thompson. No one had ever heard of him, from  
4 Elroy. And I would go back and file for them. That was  
5 one of my assignments. And we all knew that when the  
6 Majority, Ed Jackamonis and John Wahner and so forth  
7 wanted to do something, if the Assistant or if the  
8 Minority Leader John Shabaz went up there and argued  
9 against it, he would probably win because he could just  
10 run circles around those people. So whenever he would  
11 go up to speak and ask for the floor, we would all go  
12 and watch, and it was just an amazing thing.

13 Now this came back, I don't want to say to haunt me  
14 later, but he got to know me and knew that my sponsor,  
15 to be a page, was Mary Lou Munts from the near west side  
16 of Madison, who was also with the group of Mitch Miller  
17 and David Clarenbach. And just to give you some context  
18 here, some of you remember this, but Governor Earl talks  
19 about back in the pretoxic days where they would  
20 actually have softball games in the summer. They'd have  
21 a picnic together and it would be Republicans against  
22 the Democrats and they would always send the Madison  
23 contingent out into the field. And Judge Shabaz, who  
24 was then John Shabaz, would say, "Well, send the Madison  
25 people out to far left field. That's where they

1 belong."

2 I didn't really interact much with Judge Shabaz  
3 again until I applied for the position as Magistrate  
4 Judge, and this is a position where the sitting judges  
5 get to pick who they want to work under them. It was an  
6 open call and there were a lot of very highly qualified  
7 applicants. And to keep it fair, I believe that it was  
8 a joint decision to ask all of the finalists a set of  
9 ten standard questions that Judge Crabb had typed up. I  
10 know that she had that list because when I went in to  
11 talk to her and Judge Shabaz to be interviewed, she was  
12 going down the list and Judge Shabaz was just sort of  
13 sitting there nodding and whatever, not really  
14 interacting much. And then it came out somehow that I  
15 had been a prosecutor in Chicago and had lived just  
16 north of Wrigley Field, close enough to hear Harry Caray  
17 sing back in the day. Well, he immediately lit up, kind  
18 of got out in front of his chair and asked me, "Well,  
19 what bars do you like to go to after the games?" And I  
20 knew right then that I was not going to get this job. I  
21 figured he had written me off and I was -- I went home  
22 with my tail between my legs and told my wife, you know,  
23 "It was a nice shot, but, you know, it just isn't going  
24 to work."

25 Well, lo and behold I got the phone call. He

1 decided to take me even though I was a lefty and even  
2 though I had worked for Mary Lou Munts and David  
3 Clarenbach and that group. And then I started working  
4 with him. I can certainly agree with what everyone else  
5 has said about the perfectionism and the hard work that  
6 he demanded of others and of himself. He pushed no one  
7 harder than he pushed himself.

8       Many times he would summons me to chambers, and I  
9 think that's an appropriate verb for it, and I knew  
10 usually there was something I had done that he wanted to  
11 ask me about and it was usually something with which he  
12 disagreed, and he often had good reason, and I knew that  
13 we would have to deal with that. But then I would  
14 always have my fallback positions about how to get him  
15 distracted. The best ones, the best topics would be old  
16 movies, something with Gary Cooper, Bob Hope or someone  
17 in it. Or if we could talk about the first time he met  
18 Ronald Reagan, that was always a good one. If we could  
19 get him talking about his Army service and, you know,  
20 tell me about the sergeant who poured the milk down the  
21 drain again. And then we could get him telling his  
22 anecdotes. Or if I could get him talking about his  
23 family. He loved his children and his wife so much. If  
24 I could get him talking about Emily or Johnny, I was off  
25 the hook, because again, his eyes would just light up

1 and he would glow and he would just tell me what had  
2 happened and about football practice or something else  
3 he had done or the swim team.

4 I very much enjoyed those meetings, because over  
5 the 16 years that we worked together, it become very  
6 clear, as everyone else has already said, he was not a  
7 political judge. He was a very evenhanded, just judge  
8 who really wanted the right result. It really didn't  
9 matter who you were. It didn't really matter what your  
10 case was about. He would make sure that you got your  
11 day in court and he would be prepared. He knew  
12 everything about your case. I would go in there back in  
13 the days of paper files and there would be red ropes  
14 everywhere. And you knew they weren't just there for  
15 show. He had read everything in there. He had it cold  
16 in his head before he went into court.

17 Corinne mentioned that he didn't like commas, and  
18 I've observed this about him before, but we've heard  
19 invocation of Rule 1, the Federal Rules of Civil  
20 Procedure. Certainly from talking to Judge Shabaz, I've  
21 pretty much committed it to memory. But essentially the  
22 court is to ensure the just, speedy and inexpensive  
23 resolution of all the matters occurring before the  
24 court. Well, Judge Shabaz was responsible for removing  
25 the comma between just and speedy.

1           Now that said, I just want to close with a couple  
2 of observations and I hope this doesn't sound too over  
3 the top because I mean it sincerely. Ronald Reagan was  
4 one of his great heros. And I will admit that I really  
5 am a little bit to the other side of the line, but his  
6 admiration for the President was genuine, and I think he  
7 had a lot in common with him. He had a clear vision.  
8 He had clear goals. He had a plan on how to achieve  
9 them. And he just had this charisma to him. I know a  
10 lot of people were scared by him, but you just kind of  
11 got drawn in to Judge Shabaz.

12           He also had this gift for storytelling and parables  
13 that could make a point. You'd hear them in court. I'd  
14 hear them in chambers. And I thought he had a lot in  
15 common with Ronald Reagan. And I think if he had stayed  
16 in politics, he could have risen to at least Senator or  
17 maybe higher. But he came to the court. He did  
18 wonderful things for the court, and we should be so  
19 proud of what he did, and I'm so proud to have had the  
20 opportunity to work with him and we miss him greatly.

21           MR. OPPENEER: Our last speaker, Judge Barbara  
22 Crabb.

23           JUDGE CRABB: Well, to save time I think I'll  
24 just ditto all the nice things that have been said about  
25 Judge Shabaz. But I want to distance myself from

1 anything that wasn't kind or complimentary. There  
2 really is little to add about the Judge, but I do want  
3 to say how much I appreciated the support that he gave  
4 me through the years and how much I admired his ability  
5 to transform this court into the rocket docket model  
6 that it became. I was so amazed at the speed and  
7 apparent ease with which he mastered the intricacies of  
8 judging, and I was so impressed with his work ethic and  
9 his determination to do the best job of judging  
10 possible.

11 He regularly took more than his fair share of the  
12 caseload. He never asked for more space. He never  
13 asked for new chairs. He never asked for more help. He  
14 never asked for more equipment. He loved giving back to  
15 the government any money that we were able to save in  
16 the court.

17 And finally, as much as he tried to act the role of  
18 curmudgeon, he was certainly anything but curmudgeonly  
19 when it came to his family. His love for Patti and his  
20 pride in Emily and John were palpable. He cared a lot  
21 about his law clerks and assistants too, although he  
22 wasn't as open about showing it as he was about his  
23 family.

24 You know, he was far too complex and idiosyncratic  
25 and amazing to sum up in 45 or 60 minutes. But he had

1 a -- I can just say he had a profound effect on this  
2 district and he left us all in his debt forever.

3 MR. OPPENEER: Patti, could you come up and  
4 join me. Please accept this flag that was flown over  
5 the Kastenmire courthouse on behalf of the court family  
6 in recognition of the tremendous service that Judge  
7 Shabaz provided to the court.

8 Judge Conley.

9 JUDGE CONLEY: We just made an hour. He would  
10 have preferred 45 minutes. But on his behalf, the court  
11 is adjourned.

12 MR. OPPENEER: Please join us in the hallway  
13 for some refreshments, and as Judge Shabaz would say,  
14 collegiality.

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