

Judge Katzmann, His Tenure Book-Ended by Crises, Reflects on 7 Years Leading the 2nd Circuit

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By Tom McParland | August 27, 2020



Chief Judge Robert A. Katzmann of the U.S. Court of Appeals for the Second Circuit (Photo by David Handschuh/NYLJ)

Robert A. Katzmann, who has served as chief judge of the U.S. Court of Appeals for the Second Circuit since 2013, is set to conclude his seven-year term at the end of the month, marking the close of a tenure that pioneered historic investments in civic education and court accessibility.

Katzmann, who will remain an active judge on the Manhattan-based appeals court, was appointed by President Bill Clinton in 1999, and served 13 years before he assumed the role of chief.

At the time, federal courts were facing possible shutdowns and sequester as the result of a contentious congressional budget process. Most recently, he presided over the Second Circuit's response to the unprecedented COVID-19 pandemic, which forced the court to take its operations remote for the first time since the Sept. 11, 2001, terror attacks.

Through it all, though, the work of the court has continued apace, as judges continue to hear oral arguments via the court's teleconferencing system. For the first time in its history, the Second Circuit is livestreaming audio of the proceedings directly to its website.

"When I think about the past seven years, I think about, first of all, trying to do all that I could in the face of various challenges," Katzmann said this week in an interview.

He has also helped "onboard" five new judges in recent years, and has presided over ceremonies mourning the loss of treasured colleagues, all a testament, he said, to the collegiality on which the Second Circuit prides itself.

"What an honor it has been to try to serve you—the extraordinary judges, executive team, and staff of the courts of the Second Circuit, and the public," he wrote in a report to his colleagues summing up his term. "I have many thanks to spread about."

In a sign of the times, Katzmann will be honored Aug. 31 in a virtual ceremony hosted by the Federal Bar Council, though his colleagues hope to celebrate him in person in the spring.

While book-ended by crises, Katzmann's term as chief also included a series of projects aimed at increasing public understanding of the courts' role in society and bringing the judicial branch closer to the broader community it serves.

In 2014, Katzmann and his colleague, U.S. District Judge Victor Marrero of the Southern District of New York, launched the circuit-wide Committee on Civic Education, which resulted in the Justice for All: Courts and the Community initiative that focused on providing a full range of activities to inform the public about the federal courts and government.

Recently, the Thurgood Marshall Lecture, named for the trailblazing civil rights attorney, U.S. Supreme Court justice and Second Circuit judge whose name the courthouse now bears, joined the Hands Lecture as the signature lecture series sponsored by the Second Circuit. In 2018, under Katzmann's leadership, the Second Circuit opened its Justice for All: Courts and the Community Learning Center, featuring exhibitions, interactive kiosks, teaching and lecture spaces, technology for podcasts and videos and communal interaction with judges, lawyers, and court officials.

For Katzmann, it was the culmination of a long-standing vision that he will continue to develop in the years ahead.

"What I really wanted to do was bring our courts and our communities closer together," he said.

"If I had to say what is my signature initiative, if one can ever talk that way, it would be that," Katzmann said. "Our courts work for the communities that we serve, and opening up our courts has been essential."

"I think he just had a vision that the courthouse could be a repository for learning and reflection," said Second Circuit Judge Debra Ann Livingston, who is set to succeed Katzmann as chief judge in September. "You saw the building come alive."

In addition to his work heading the administrative functioning of the court, Katzmann is viewed among his fellow judges and court observers as a consensus-builder who listens to his colleagues and is not afraid to modify his initial impression on issues.

"I think one of Judge Katzmann's great skills is his ability to work with and collaborate with and draw on" the expertise of his colleagues, Livingston said. "He talks to people, and he brings people together, and that's very important in moments like this."

"With Bob, collegiality and collaboration have been a part of his tenure from the very beginning," Livingston added.

Emily Gold Waldman, a former law clerk to Katzmann and law professor at Pace University's Elisabeth Haub School of Law, described Katzmann as a "careful jurist" who "frames his opinions in a way that will bring other judges along."

"He was made for that position," said Waldman, who runs the Pace Second Circuit blog, which closely tracks the court's work.

Waldman pointed specifically to a pair of opinions, authored by Katzmann, which held in 2018 that Title VII of the Civil Rights Act protects employees from discrimination based on sexual orientation and last year upheld subpoenas of President Donald Trump's financial records by the Manhattan District Attorney's Office.

Both rulings were later upheld by the U.S. Supreme Court in convincing fashion.

"In both of those cases, it wasn't just a 5-4 split," Waldman said. "It was a pretty sizable majority that signed on."

Waldman, who clerked for Katzmann from 2005-06, also painted the picture of a beloved jurist who has maintained close personal relationships and years later is still adored by his former clerks. When his alma mater, Yale Law School, last year unveiled a commissioned portrait in honor of his 20th anniversary on the Second Circuit bench, many of his former clerks were on hand to mark the occasion, she said.

"He's a really special person. He really views himself as a mentor to everyone of his clerks," Waldman said. "For me, he's continued to serve in that role ever since."

As he transitions out of the chief judge role, Katzmann said he looked forward to hearing more appeals and continuing the work of the court. At 67, Katzmann said, he had no plans of taking senior status any time soon.

Katzmann said he also plans to devote more time to teaching at the NYU School of Law, where he works as an adjunct professor, and he expects to publish a new edition of his book, "Judging Statutes."

Katzmann said he would also continue his work around access to justice and legal representation for immigrants, a career-long focus that carried over into his tenure as chief judge. In fact, on Constitution Day 2016 Katzmann presided over the largest naturalization ceremony in history at Ellis Island, which he considers one of the highlights of his judicial career.

"It symbolizes that the greatness of this country is that we have welcomed and become greater because of the immigrants who have come here," he said. "That day really stands out in my memory."

As for the transition, Katzmann said the process had been "remarkably" smooth, given that he and Livingston could not be in the same room. The court, meanwhile, was expected to continue its mostly remote operations for the foreseeable future, and Katzmann said he would continue to work closely with Livingston and the other judges of the Second Circuit.

"The thing about chief judges," Livingston said, "is that they step down; they don't disappear."

She said, "I'm very glad he will still be available by Zoom."