

Tribute to Chief Judge Joseph M. Getty

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Recommended Citation

Matthew J. Fader, *Tribute to Chief Judge Joseph M. Getty*, 82 Md. L. Rev. 160 (2022)

Available at: <https://digitalcommons.law.umaryland.edu/mlr/vol82/iss1/5>

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Tribute

Tribute to Chief Judge Joseph M. Getty

TRIBUTE TO CHIEF JUDGE JOSEPH M. GETTY

MATTHEW J. FADER*

It is a great honor to be asked to open this Tribute to the legacy of Chief Judge Joseph M. Getty, my predecessor both in my seat on the Court of Appeals and as chief judge of that court. Of all the titles Chief Judge Getty has held over the course of his lengthy career of service to the people of Maryland—including attorney, Delegate, Senator, policy advisor, Chief Legislative Officer, Associate Judge, and Chief Judge—the one he seemed to most prefer in the time I have known him is “Joe.” So that’s the one I will use.

In theater, a triple threat is someone who can sing, dance, and act. In sports, it is an athlete who can run, throw, and jump. Joe’s legacy on the bench was defined in part by the fact that it completed State government’s version of the triple threat: legislating, governing, and judging. From 1995 through 2016, Joe served terms in both chambers of Maryland’s General Assembly as well as two stints in the executive branch, as a policy advisor to Governor Robert Ehrlich and Chief Legislative Officer to Governor Lawrence J. Hogan, Jr. With the benefit of his experience in those roles, Joe brought to the bench a pragmatic understanding of the legislative process that helped to inform not only his jurisprudence but that of the entire Court. As he explained in an interview conducted for the *Maryland Bar Journal* in which he lamented the scant attention paid to statutory interpretation in some law school casebooks:

[I]n practice, with the legislative codification of common law, cases before the Court are much less about common law interpretation and more about statutory interpretation and

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legislative history. I've spoken with law school deans to discuss how an understanding of the legislative process is critical to modern lawyering. The Court's opinions often take deep dives into legislative history. It used to be the cardinal rule of statutory interpretation that you look at the statute, and if the language is clear, the analysis would stop without considering legislative history. The modern trend is to begin with the plain language but also to analyze the legislative history to confirm the plain language interpretation of the statutory language.¹

Joe's opinions often feature such deep dives into the nuances of legislative history, informed by his perspective as a participant in it, all with the goal of discerning, and ultimately implementing, the true legislative intent. Thus, in *Blackstone v. Sharma*,² Joe's analysis of whether a foreign statutory trust was required to be licensed as a collection agency before instituting a foreclosure action was informed by a close analysis of the plain language of the statute, the ordinary meaning of its terms, prior case law and dictionaries defining relevant terms, and an exhaustive review of legislative history (including a fiscal note, testimony of a bill sponsor and an agency, the absence of opposing testimony, a legislative evaluation report, information included in an agency "bill request form," a fiscal estimate worksheet, and a legislative floor report), subsequent legislation, and related statutes.

A hallmark of Joe's statutory interpretation analysis was following that "modern trend" to review the legislative history of even an unambiguous statute, such as he did in *Washington Gas Light Co. v. Maryland Public Service Commission*,³ "both as a check on our plain language reading and to eliminate alternate theories of legislative intent."⁴ Thus, in his opinion for the Court in *Washington Gas Light Co.*, Joe employed a panoply of analytical tools in concluding that the plain language of the statute under review was unambiguous, and then engaged in an equally comprehensive analysis of legislative intent to confirm that that answer was consistent with the General Assembly's actual intent.

Joe also notably wrote the opinion for the Court in *Rochkind v. Stevenson*,⁵ the landmark case in which the Court completed its long drift from the *Frye-Reed* standard and its reliance on general acceptance as the

1. Steven M. Klepper & Paul Mark Sandler, *A Conversation with the Honorable Joseph M. Getty of the Court of Appeals of Maryland with Steven M. Klepper and Paul Mark Sandler*, MD. STATE BAR ASS'N (Feb. 14, 2022), <https://www.msba.org/a-conversation-with-the-honorable-joseph-m-getty-of-the-court-of-appeals-of-maryland/>.

2. 461 Md. 87, 191 A.3d 1188 (2018).

3. 460 Md. 667, 191 A.3d 460 (2018).

4. *Id.* at 686, 191 A.3d at 471.

5. 471 Md. 1, 236 A.3d 630 (2020).

determinant of admissibility of expert testimony, to the *Daubert* standard and its focus on reliability.

Joe's experience in the political branches of government carried through to his role on the Court of Appeals in ways that extended beyond his jurisprudence. To put it simply, Joe cares about people. I first met him in 2017 after I joined the Court of Special Appeals and took up residence in an office one floor below Joe's. Although I was a brand-new judge on a lower court from a different county with a different career path who did not share any of Joe's professional or social circles, he soon started showing up in my office on his many walks through the courthouse. In the succeeding four-plus years, he played the role of colleague, mentor, prankster, and friend.

Joe's outreach efforts to me and many others were not purely for his own enjoyment, although it seemed clear that he enjoyed them. They served a purpose. Whether it was giving colleagues and law clerks one of his famous matryoshka doll tests; making buttons of a scarlet-robed Judge Hawk, members of the court, or mock appellate judicial campaign slates; giving countless tours of the historic Court of Appeals courtroom and artifacts associated with it; joyfully explaining the significance of his latest auction purchases; keeping the candy jar full of chocolate and the fruit bowl full of apples; walking the halls of courthouses and Judiciary buildings throughout the State to affirm the importance of the efforts being undertaken there; or checking in frequently with his colleagues on the Court of Appeals, Joe worked hard to foster a sense of collegiality that is a key part of his legacy.

Another important component of Joe's legacy lies in his respect for those who came before him. Joe carried his pre-legal career as an historian with him to the bench, where he served as the unofficial court historian. He has recently embarked on a project to update the written history of the Court of Appeals for the first time in nearly a century. His infectious enthusiasm for learning and teaching about those who built the institutions in which he has served is a model for those of us who continue to benefit from, and sometimes need to challenge, their legacies.

This Tribute is being written as a result of the enduring wisdom of the framers of our Maryland Constitution in setting a mandatory retirement age for judges. It is a fitting salute to a great public servant as he turns the page from the end of one chapter in his long history of service to the people of Maryland to the beginning of another.