



MEMORANDUM

FROM: The Honorable Jeffery A. Deller
United States Bankruptcy Judge

RE: The Honorable Bernard Markovitz

DATE: December 17, 2022

It is with great sadness that I inform you that retired United States Bankruptcy Judge Bernard Markovitz has passed away at the age of 83 after a courageous battle against pancreatic cancer.

Judge Markovitz was sworn in as the Western District of Pennsylvania's 6th bankruptcy judge on November 25, 1985. For 26 years, Judge Markovitz served the District with distinction as he presided over consumer and commercial bankruptcy cases filed by the citizens residing in each of the 25 counties which comprise the Western District of Pennsylvania.

His service included being Chief Judge of the Court from 1997-2000, and during that time the Court became known as the "highest court in the land" when he spearheaded the Court's move from the antiquated William S. Moorhead Federal Building to the 54th floor of the U.S. Steel Building.

A true lover of Western Pennsylvania's great sports teams, Judge Markovitz was a graduate of Westminster College where he played football for the Titan's. Westminster College was also the place where Bernie met the love of his life- Anne Catherine ("Cathy") Dalae- whom he would wed in 1966 and later have two children (son, Bill, and daughter, Susan).

After graduation Bernie earned his law degree from Duquesne University. Thereafter, he dabbled in politics and was a candidate for many elective offices, including state representative of the 23rd Legislative District where he advocated for a "complete overhaul of the tax structure." He was also the Republican candidate for the Allegheny County District Attorney position, ultimately coming up short to legendary Democrat Robert E. Colville (who himself later became a well respected jurist in Pennsylvania). Commenting on his victory, Mr. Colville said: "Bernie had the disadvantage of being in the minority party in terms of registration." Reports of the time were that Democrat's outnumbered Republican registrations on the voter rolls of Allegheny County by a margin

Bernie's public service was constant and varied, including a stint as an officer in the United States Army Reserves and service as a Lieutenant Commander in the United States Navy.

Bernie's work as an attorney included service as an assistant district attorney, where he tried many cases including murder cases on behalf of the Commonwealth of Pennsylvania. Judge Markovitz was also an assistant solicitor for the City of Pittsburgh Schools under the late Superior Court Judge Justin Johnson. Prior to his appointment to the bench, Judge Markovitz was also in private practice for nearly 20 years handling a variety of cases such as personal injury, criminal defense, mortgage foreclosure, and bankruptcy.

A real "judges judge," Bernie Markovitz looked the part, gray beard and all, and acted the part as well.

When he was appointed in 1985, Judge Markovitz (along with Judges Cosetti and Bentz) was tasked with the unpleasant task of changing the culture of bankruptcy in the Western District. According to Judge Markovitz, the Circuit Court and District Court were of the view that the local bankruptcy practice was "too chummy" and "insular."

Judge Markovitz was also tasked with raising the bar in terms of the quality of the practice of law within the United States Bankruptcy Court for the Western District of Pennsylvania. "After all," Judge Markovitz once told me, "we are a unit of the United States District Court."

While operating a no-nonsense courtroom, sports journalist Stan Savran wrote this about Judge Markovitz:

Actually I suppose I wouldn't mind being an attorney. I just wouldn't want to be one standing in front of Judge Markovitz. He reminded me of the principal at school. You're standing before him, blathering a mealy-mouthed explanation of why you threw a spitball at the French teacher, and he won't even let you commit disciplinary suicide. He'd interrupt you, point out how ridiculous your story was even before you got to the ridiculous part. So it was for many in the horde of barristers. It made you squirm in your seat. Any they, of course, had to take it. "Yes, Your Honor. Thank you, Your Honor: May I have another tongue lashing, Your Honor?"

While he presided over thousands of bankruptcy cases during his tenure, the most visible was the bankruptcy case of the Pittsburgh Penguins.

During this case, Judge Markovitz single handedly prevented the Penguins from

leaving Pittsburgh when he granted an injunction barring the team's relocation. In his decision, he wrote: "The Penguins are as much a part of the warp and woof of this community as are its other professional sports teams, museums, parks, theaters and ethnic neighborhoods." Judge Markovitz further wrote: "As important as [the creditors'] interests are, they may have to give way when the interest of the community at large so dictates."

For almost a year, Judge Markovitz navigated the legal red tape and public legal haggling over the fate of Pittsburgh's only NHL franchise. At one point during the proceedings, when it appeared to be at a stalemate which could potentially doom the fate of the team, Judge Markovitz implored the parties to "not miss the opportunity to save an asset of the community."

Judge Markovitz recognized early on that saving the team from a move to a distant city (or at worst extinction) could only be accomplished through consensus between the team's owners, players, the NHL, team vendors, the Civic Arena landlord, and Pittsburgh's Sports & Exhibition Authority.

Bernie remarked, that if a consensus was not reached, "It would be all of our failings." He further reminded the NHL that: "The last thing the NHL wants to have is this franchise terminated, and we sell off this hockey team's pots and pans." With respect to television and radio rights to broadcast Penguins' games, Judge Markovitz said to the networks: "You need a hockey game on TV. You surely don't want to fill it up with mud wrestling."

Bernie's formal rulings and not so subtle courtroom nudgings resulted in what he had hoped (and what all Pittsburgh sports enthusiasts had hoped)- a deal that would keep the Penguins in Pittsburgh. The deal included Mario Lemieux converting his debt for equity, and Mario leading an investor group that acquired the team.

That day (June 27, 1999), Pittsburgh Post-Gazette columnist Brian O'Neill described Judge Markovitz as "a man whose robe ought to hang in the Civic Arena's rafters alongside the championship banners, because he is the man who saved hockey in Pittsburgh."

In an article aptly titled *No 1 Star: Markovitz*, O'Neill wrote that "This umpire [i.e., Judge Bernie Markovitz] knew the game better than the players." O'Neill observed: "Always, Markovitz kept his perspective, even as the high-priced lawyers before him lost all of theirs."

According to O'Neill:

Markovitz was the right guy in the right place at the right time. When this hearing ended, the media hordes shoved microphones in front of Lemieux. All attention was on the glamorous athlete-turned-tycoon.

Markovitz, meanwhile got what he wanted too. Lunch. It was past 3:15 p.m., and he'd been on the bench since 9:00 a.m., saving a franchise . . .

Judge Markovitz was certainly the right man in the right place, not only in the Penguins case but in life. I know that first hand. Despite a busy professional life, Bernie never missed a sporting event where his children Bill and Susan were participants. He even found time to attend sporting events for my children, and kept me company on many long drives to them.

Bernie loved his wife Cathy more than words can describe. In retirement in Florida, he loved joining Cathy in spending time with their children and grandchildren, hosting friends for a game of bridge, having a piece of his favorite strawberry pie, going for his daily bike ride to the library, saying his prayers, playing the clarinet, and watching Penn State football games and otherwise cheering on the Steelers, Pirates, and Penguins.

From time to time, he'd also check in on the work of the Court to "see what we are up to." Every time I would have a call with Bernie, he would always end it by saying: "Thank you for the call. You be safe, and watch yourself."

Bernie, thank you for the good memories. You be safe in Heaven, and watch yourself.

Judge Markovitz is survived by his wife Cathy, daughter Susan, son Bill and daughter-in-law Cathy, and four grandchildren. Arrangements are not known yet and will be shared once they become known.

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