

THE FPTR NEWS

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Attorneys at Law

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IN MEMORIAM

Jay Fischer Dies at 79

OUR BELOVED PARTNER

Jay's Life and Career

Jay D. Fischer of Clifton, a prominent attorney in New York and New Jersey and a leader in the New York City Democratic reform movement of the 1960's, died on May 12, 2011. He was 79, and the cause of death was complications resulting from respiratory failure.

Mr. Fischer became known to followers of New York City politics in the early 1960's when he began his involvement in the Reform Movement of Democratic Party, first in his native Bronx County where he served as Chairman from 1963-1970, and then city-wide when he served as Treasurer and then Vice Chairman from 1965-1969. Fischer and the Reform Movement's other leaders put the final nail in the coffin of Tammany Hall and the party machine apparatus that controlled the City's Democratic Party for generations. They favored clean government, open primaries, and improving the quality of the

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SCOTT PORTER REMEMBERS

Working with Jay Fischer

I met Jay in early 1994. We became partners on April 18th. That was a crazy day.

On that day, Jay asked me to put together a bankruptcy petition. I had never done one before, but to impress Jay I said sure, I will have it done that afternoon. Within an hour, however, my wife called and said I had to leave for the hospital because our baby that was supposedly due in a couple of weeks was on its way.

I told Jay. He told me that times had changed since he had kids—but that of course I should go, and not to worry about it. I knew then that I had found a real partner. Seth was born the next day and in the end Jay decided not to file the bankruptcy petition.

A month later, Jay and I tried our first case together. We tried over a dozen cases together and I never had so much fun. Why? Because Jay would say I want you to be prepared at anytime to get up and finish the direct exam, the cross examination or even the summation. He never let me do an opening argument for one his clients.

True to form, at every trial we did together, I

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Our Beloved Partner (continued from page 1)

judiciary, and brought to the city what Michael Tomasky described as an “energetic liberal ethos” with a “moral sheen.”

As an attorney, Mr. Fischer was known as a bulldog in the courtroom and enjoyed nothing more than cross-examination of opposing witnesses. Perhaps his most noteworthy case was representing the Estate of Leon Klinghoffer, the wheel-chair bound retiree shot and thrown into the Mediterranean Sea by Palestinian terrorists who had hijacked the cruise liner, Achille Lauro, in October of 1985. Through twelve years of litigation, Mr. Fischer steadfastly asserted that the Palestine Liberation Organization and its leader, Yasser Arafat, were responsible for the hijacking and Mr. Klinghoffer’s death. It was a novel case – no one had ever sued a terrorist organization before – and the PLO, through its attorney, former U.S. Attorney General Ramsey Clark, put on a stonewalling defense. Mr. Fischer’s legal theory was basic: The PLO was not a sovereign power entitled to diplomatic immunity; it was an unincorporated association doing business in New York (by its ownership of property in the City) and

the hijackers were officials and agents of the PLO, and under the New York law governing unincorporated associations and the law of agency the PLO could be held legally liable. On the eve of the court-ordered deposition of Arafat, the PLO agreed to settle the case. Mr. Fischer often said it was his duty as a lawyer to take and maintain prosecution of the case. He said, “The time has come for the civilized world to marshal all of its resources in an unrelenting effort to end terrorism . . . and to place responsibility for such acts directly at the doorsteps of those who commit these obscenities.”

In perhaps his most grueling challenge, Mr. Fischer was lead counsel for James Smith, the one-time Chairman and CEO of Orange & Rockland Utilities of New York. Smith was caught up in the political and prosecutorial witch hunt arising from a political campaign contribution kick-back scheme orchestrated by another utility executive. Smith was fired from his posts and was indicted and sued civilly by the utility. In time, Smith met Jay Fisher. Over the next three years, Fischer and the rest of the Fischer Porter law firm took on the prosecutor, the utility, and the New York Public Service Commission, and Smith was vindicated in the end. Indeed, after a bench trial, it took less than 2 minutes for the criminal trial judge to find in Smith’s favor.

Mr. Fischer was born in the Bronx on August 13, 1931. He graduated the Bronx High School of Science in 1948, serving as student body president his senior year. He went on to the City College of New York where he was a champion debater and president of his senior class before graduating Phi Beta Kappa. He received his L.L.B. from Columbia Law School in 1955. From law school, Mr. Fischer joined the United States Army and in 1959 was awarded a Commendation Ribbon with Metal Pendant for his Meritorious Service to the Judge Advocate General’s Corps.

It was during law school that Mr. Fischer met and courted Ms. Laurel Simon of Passaic, New Jersey. They married in 1957 and had four daughters. Mr. Fischer is survived by his wife, Laurel, and his daughters, Tamar Stern, Toby Morse, and Judith Falk, and his grandchildren Yael, Rachel, and Aaron Stern; Samuel and Jeffrey Morse; and Kaila, Jeremy and Noah Falk. One daughter, Jessica, died in 1984. - ACT

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For more information or to learn about Fischer Porter Thomas & Reinfeld, P.C., and our firm’s services and experience, see our website at www.fpmtlaw.com or call telephone number (201) 569-5959 and ask to speak with one of our partners:

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Scott Porter Remembers Jay (continued from page 1)

would handle part of the trial until eventually, Jay would handle the morning and I would handle the afternoon. When the trials were in New York City, the judges who Jay helped get appointed years before were respectful and deferential to him. In the afternoon after Jay had gone home, these same judges became bears and gave me a hard time. I eventually understood the dynamic and looked to the afternoon combat with Jay's old friends.

Jay was a great teacher; he had great trial instincts and he knew how to handle a tough witness or disagreeable judge. In the last few years, our roles were reversed, I would sit first chair at the trial and I would handle the openings. To be honest, my openings and closings were never as good as Jay's.

There are many war stories to tell. The funniest was while we were in the middle of 100 day arbitration; Jay decided that he need a quick boost of energy. We were in a huge conference room; there were probably 10 lawyers in the room, three arbitrators, our client, Mr. Smith, and a witness that was testifying against Mr. Smith. Jay had this can of coke and he poured into the can two or three packets of sugar, and the next thing I knew, the can was bubbling up and it was like a mini explosion, with coke fizz flooding all over the table, everybody running to get napkins and Jay pretending that nothing had happened. It was classic Jay.

Another good story was when we were in Maryland for a trial. We had taken a train there. We finished court very late and there was only one train that was leaving soon or we would have had to wait until much later at night. We called a taxi company and they said sure they would be right there. We waited 15 minutes and the taxi had not yet arrived. We decided to call another taxi company and this also said they would be there right away. We waited another 15 minutes and no taxi. We called two more taxi companies and they said, "Sure," they would be right over.

Finally, a few minutes later, a taxi came and we got in. As we left the courthouse parking lot, there suddenly appeared a line of three or four taxi cabs. Jay and I felt bad and embarrassed about our

impatience. Jay said, "Quick. Duck!" and in a flash two grown men were hunkered down in the back seat of a cab. We laughed at ourselves all the way to the train station.

Jay was brilliant. We all knew that! He also had a tremendous intuition about whether people were telling the truth or whether they were about to lie or worse.

About ten years ago, we were handling this ugly investigation into the affairs of a company that had a public contract and was getting paid a lot of money by the county. Our client was a great bullshit artist and he was on the witness stand. Despite our instructions to tell the truth, our client did not sound credible under cross examination. He started saying things we had never heard before and began prefacing his answers by saying, "as I told my lawyer...." Jay jumped into action because this guy was lying. Jay told the judge that we needed a few minutes with our client. The judge obliged and we took a break. Then Jay told the judge we had to leave and that we were unavailable the following week. The judge was not pleased, but Jay did not care. Jay fired the client the next day.

Many of us who worked with Jay knew that he was a great lawyer and that he was always willing to share that news with anyone. I remember one day we were going through security at a courthouse, most of the security guards knew Jay or recognized him, but there was this one time when a guard did not know Jay and said who are you? Jay said, "I am Jay Fischer, the best friggin lawyer you will ever meet", and walked off disgusted at this guard's ignorance.

There are many other stories that I could share about my friend and partner, Jay Fischer. We all loved him and, at the same time, he was feared by many. The realty was, however, that he was a "teddy bear."

He would yell to his secretary of over twenty years, "Lynn, get in here NOW." We would all be quiet and wait. Then about 3 minutes later, Lynn would buzz someone and say in a perfectly calm voice, "could you please join Mr. Fischer?" You would wonder, is he going to yell at me, too? But when you got into his office, he would be sitting behind his desk with that Cheshire cat smile of his as

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Scott Porter Remembers Jay (continued from page 3)

though nothing happened. In fact, in Jay's mind nothing had happened and he would deny that he ever yelled at anyone. That was our Jay.

One of Jay's greatest qualities was that he could get angry and then five minutes later, he would have really forgotten what happened and turned the page. He was a very forgiving and kind man and really I do not think he could hold a grudge for more than five minutes. He was like that with lawyers, staff, clients and I think everyone.

It always seemed to me that he was amused by people and really saw that it wasn't important to get stuck on the little things. I will never forget when one of my boys got stuck in Virginia and he was maybe 14 or 15—he told me to relax. The good news was that Ethan was fine, he wasn't hurt or missing, there was a hotel next to the airport, and that we would see him the next day. That was a powerful lesson in life.

When Jay had his stroke a few years ago, I thought well this is a bump in the road and he will get over it. And at first it seemed that would be the case. But over time you could see him struggle with the effects the stroke had on him and he tried to overcome them. It upset him so much. He would try to come to work, he would promise to get better, and once in a while, he was able to be Jay Fischer ---“the best friggin lawyer you ever met.” But it wasn't meant to be.

His frustration with his new lot in life was terrible. He had always been the 800 pound gorilla in the room. One day last summer, I told him that I wished he was 60 years old again, so we could work together like we had for so many years. He agreed.

Jay was a wonderful partner and friend. He had a heart made of gold. He loved to

practice law. He loved to talk to his old buddies and all of his judge friends.

He loved it when Ramsey Clark called him or Mayor Dinkins called him, or when Senator Evan Bayh called him, or when Rudy Giuliani called him, or when Mayor Koch called him, or when his buddies, Henry Stern and Arnold Burns, called him, or when Judith Kaye called him, or when his political friends and colleagues called him.

But most of all, Jay loved talking to his wife, Laurel, and his girls. No matter whom we were with or what we were doing, if one of them called, everything stopped and he took the call. That was Jay, a loving husband, father and grandfather.

For my three boys too, Jay was not only their dad's partner, but a force in their lives as well. When they were young, Jay would call me at night and if they answered the phone he would say: “hello, is your daddy there please.” They would run to get me. Jay had this tremendously deep and urgent voice that must have scared them, as it had many other lawyers or even judges. As my boys got older, they loved to talk to Jay about politics and history. My son, Gideon, fondly remembers the interview that Jay gave him for a school project about politics and history, and says it was a great interview and that he learned so much from him.

Over the years, Alan and I and all of our other partners and associates and law clerks learned to love the man. He made us all better lawyers and people. He made sure we understood that our job was to be an “advocate” for our clients. He would find forceful and creative arguments and then present them in court, with fire and brimstone. Even when we lost a case, clients would say thank you for fighting for me. In this day and age, that is quite unusual. Jay was a fighter. He loved the battle of litigation and life.

We all miss Jay. - ALP

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