

Judicial Profile of Albert Silverman, Mediator
By Thomas Hoadley
May 1993

At a recent funeral service for Judge Al Silverman, Judge Edward Rodgers had this to say in his eulogy: Judge Silverman was not only the “father” of Mediation in Palm Beach County, but also in Florida. How did an obscure lawyer and judge from a small town in the far Western reaches of Massachusetts so revolutionize our Court system?

In the 11th Century, there was a flood of Jewish immigration to Poland and the Ukraine to escape persecution in other parts of Europe. Here they were given the right to own land, to conduct business, and to preserve their unique culture. Over the next eight centuries, they were relatively free, and even began to form a nucleus of an emerging middle class. Their culture flourished nowhere else as well. In the 19th Century, wars, partitions, and new rulers caused an upheaval in the old ways. Anti-Semitism and pogroms became a way of life. Many Jews immigrated to the United States, as did the parents of Judge Silverman around the turn of the century. His parents were furriers. They landed in New York and moved on to Boston.

The Judge was born in 1911. He went to Boston Latin and graduated from Flushing (N.Y.) High. During his early education, his mother encouraged him not to go into the retail business. She urged him to find a profession in which you can use your mind, not your hands. After college at NYU, he graduated from Northeastern University Law School in 1935. He practiced in the Boston area until 1938. He then moved west to a town in the Berkshires, Pittsfield, the home of Oliver Wendell Holmes. Since I was stationed at an air base nearby for two years, I can certify that the Berkshires are one of the really lovely areas of New England, and the home of Tanglewood.

Why did the Judge leave Boston and move to Pittsfield? I was instructed by his two lovely daughters, Barbara Freed and Elaine DuCharme, not to mention this; but it was their considered opinion he wanted to be a bigger fish in a smaller pond, and he became more or less a big fish in that pond. He was the President of the Berkshire Bar Association, President of many Jewish organizations, on the Boards of two banks and a hospital, and former Chairman of the Republican Campaign Committee from 1980 to 1985. As an attorney, he specialized in commercial work, including business re-organizations, bankruptcy, probate, and ran one of the biggest collection operations in town. He was also the co-owner of three nursing homes. In 1974, he was appointed a District Court Judge by a Republican Governor Sergeant.

Now let's figure out how he became involved in starting mediation procedures. Massachusetts has a somewhat different judicial system in its “special” judges. These are active circuit judges who are appointed to come into other circuits to help clean up dockets. Judge Silverman became very popular in the Boston area because he could clear a whole docket in a week. He was called to come across the state to the Boston area

repeatedly. He was tall, imposing, intelligent, and a no-nonsense person. His daughters described it as a “commanding presence.”

All this changed when he was mandatorily retired at age 70 in 1981. He and his wife Frankee retired to their condo on a golf course, but the Judge was restless. He had been described as a workaholic. Fifty weeks a year, he worked from 8:15 A.M. to 6:00 or 7:00 P.M. He also worked three nights a week. He constantly had two other lawyers and four secretaries hopping. Here is how he described his life to the local paper in 1957: “I suppose mine is a dull life, nothing but work, work, work.” He did take two weeks off in the winter every year to go on a cruise; and he loved cruises.

But what to do? He had met Judge Rodgers at the Judge’s College in Reno and went to see him. Judge Rodgers said, “Al, I got this real complicated case that is causing me problems. Can you settle it for me?” Judge Silverman got the parties and lawyers together and immediately settled it. This had been a snap for him because he had been doing this as a Special Judge in the Boston area for years. Judge Rodgers was impressed and used Judge Silverman more and more. You may remember that we trial attorneys had always settled our cases on the phone the Friday before the trial was to start on Monday. We had no mediation to help us do this. Settling the case early was really a new and inspiring procedure. I won’t bore you with the rest of the story about how mediation grew here, and in Florida, then spreading to other states. You know all about that, except to say that we all owe a debt of gratitude to that “commanding presence” of Judge Silverman who showed us “how” to do it.

There us some conflict as to how Judge Silverman died. His doctors might say complications from gall bladder surgery. His daughters and close friends know better. He died from a broken heart. He and Frankee had been married for 52 years. He and Frankee had always been most affectionate and loving and lived for each other. When she died in October, he seemed to give up. He quit driving. He talked about Frankee a lot. He missed her more than words can describe. Some say he lost his will to live. But don’t despair. One of his daughters said, “My parents are fine. They are just sitting down to dinner somewhere way up high. They have just had a Scotch and are cutting into a very nice steak. They are looking at each other and quietly repeating, ‘I love you’.”