

The America Invents Act: A Tribute to the Honorable John Ward

Panelists:

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*Clyde Siebman, Partner, Siebman, Burg, Phillips &
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PROFESSOR XUAN-THAO NGUYEN:

I am so honored to have the panelists here with me today. When people say one person cannot change the whole world, they are wrong. Because in the patent law world, particularly in patent litigation, we know that there is one person who did change the world. The panelists today will share with us their poignant stories—funny, serious, and entertaining, as well—in tribute to the legendary Judge Ward. They will show that Judge Ward is one person who did change the world of patent law and also put Texas on the map. He served and helped patent litigation by streamlining the law and elevating the idea that district court judges play an important role in shaping patent law. Also, Judge Ward is a symbol of one person taking an area of law that many judges fear and transforming that area of law, thus transforming the Eastern District of Texas into the center of patent litigation itself.

Now, let me introduce the panelists. We have next to me Mr. George Bramblett. He is a distinguished alumnus of SMU, and Mr. Bramblett is the attorney that many companies use as their lawyer. He was selected as a trial lawyer of the year by the Dallas Bar in 2001, and he has been in litigation for more than thirty years. In 2009, both Senator Hutchison and Senator Cornyn appointed Mr. Bramblett to serve on the Federal Judicial Evaluation Committee, which advises the senators regarding the appointment of judges to the federal bench and U.S. Attorneys, as well. Mr. Bramblett has received numerous awards as a trial litigator. I will not list them all, but I am grateful that Mr. Bramblett is here to share his stories about Judge Ward.

Next to Mr. Bramblett is Mr. Clyde Siebman. He is a partner at Siebman, Burg, Phillips and Smith law firm in the Eastern District of Texas. Mr. Siebman is also an alumnus of SMU. He came here as a Sumner Scholar, a very distinguished scholarship that we provide to only a select few of SMU law students. Mr. Siebman is a litigator and has been in commercial and intellectual property (IP) litigation for a number of years. Extraordinarily, he founded the Eastern District of Texas Bar Association, and after serving as the founding president, he has held the position an additional four times. I am

pleased that Mr. Siebman will help us today and share his stories so that we can pay tribute to Judge Ward.

Next to him is Hilda Galvan. Hilda is not a stranger to SMU. In fact, this year I had the privilege of having Hilda on a panel talking to the students about IP practice particularly her work as a patent litigator. Hilda Galvan is one of the top IP litigators in Texas, a go-to attorney here. She is the head of the IP practice at Jones Day. Looking at one example of her many cases, Ms. Galvan successfully represented IBM in patent enforcement actions against Amazon.com. I am pleased to have Ms. Galvan here. By the way, she also serves as a master, where we work together, at Barbara M.G. Lynn's Inn of Court as one of the officers.

Next to her is Chad Everingham. Because he is a former magistrate judge, I do not like to call him by his first name, so I have to refer to him as a judge today. Judge Everingham is currently a partner at Akin Gump. He came to this panel having a special connection with Judge Ward that he will share with us. Before practicing at Akin Gump, Judge Everingham served as a magistrate judge in the Eastern District of Texas. And as a former magistrate judge, he has presided over numerous *Markman* hearings,¹ complex cases, and other very important cases. Before serving as a judge, he was in private practice for six years and prior to that, he served as a law clerk to Judge Ward.

With that, I am going to sit down because I alone cannot give Judge Ward the full tribute he deserves. This distinguished panel will help take us back in history a little bit. We will laugh with them and perhaps cry with them as well. Alright, thank you very much.

GEORGE BRAMBLETT:

Thank you. Thank you. Well, I think this whole thing started about six months ago when the people at SMU called T. John Ward and they asked him a question. "Do you believe in free speech?" T. John Ward said, "Believe in it? I have presided over several cases. I have been affirmed by the Fifth Circuit in free speech." And he said, "Why do you ask?" and she said, "Well we want you to give one at our symposium!" And so we are here. Let me say I have known T. John Ward a long time. I have heard him speak. I have heard him talk in cases, and my friends, you are all going to get your money's worth today.

That was a nice introduction Xuan. And I know at the lunch today John will, as he always does, give a modest appraisal, "I am honored. I am humbled." And T. John when you say that, I am reminded of the quote attributed to Golda Meir, "Don't be so humble; you are not that great."² And I can say that to you.

1. See *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 388 (1996).

2. See, e.g., Remarks by the Honorable John G. Roberts, Jr., Chief Justice of the United States, 2006 A.L.I. PROCEEDINGS 19, at *2 (May 15-17, 2006).

I am honored and humbled to be here and to be back on my campus, SMU, for this great occasion. I am very pleased to be able to share some thoughts with you. I hope nobody cries, and I am glad there were some laughs. But it is a pleasure to be here.

You know, John has a good story. It is an inspiring story. You could say unlikely. Oh, I do not know about unlikely. I hope, especially for the young people in the audience, you will understand and appreciate this story that shows how success in law practice is not always a straight line as they advertise. I know you are here because you are interested in IP work, but certainly for John, he did not come out of Baylor Law School with the idea of being an IP lawyer. And I think it is instructive for all of us, your career path can make a difference.

He did grow up in modest, humble circumstances to great, loving parents. He grew up in a rural area and went to Texas Tech undergraduate school where he met his wife, Elizabeth, better known as Sissy. But I think the most interesting and embarrassing thing I can say about John, and I always like to bring this up when we are around people who do not know him, is that when he was at Texas Tech, he was a cheerleader. Now, you see these cheerleaders today, and they are flipping around, jumping up and down, and all of that. Well back in his day, and our day, a cheerleader was elected by a fraternity. It was a popularity thing. T. John and Royal Ferguson were a team. Royal Ferguson was running for student body president. John was running for cheerleader. They both won and interestingly, had similar career patterns: law school, then successful career as lawyers, and then going on to be district judges, both of whom made a difference.

So John has a great story, and after he graduated from Baylor, which, as Xuan pointed out, recently elected him to be Baylor lawyer of the year, T. John decided to go back where he grew up in a rural part East Texas to begin his practice. And I think what is interesting and inspiring about John's story is that he tried all kinds of cases. He was not a plaintiff lawyer per se. In fact, he was mostly thought of as a defense lawyer, like I was, and that is the way I thought of him. He was a good trial lawyer and he got extensive experience. Today, we all worry about whether experiences like his are evaporating. I do not know if John is going to talk about that, but I am concerned about it. I do not want to romanticize the past, nor say that a new lawyer cannot do this again, but we all think about how difficult it is to replicate a career like John's and the experience that he gained.

So John tried everything, and he got the reputation of being the guy to go to in civil disputes and criminal cases. I have often talked to John about when it is you arrive in this profession, and I think it occurs when you get hired by other lawyers. You get hired by other lawyers because they have a case, they are unsure about whether they can try it or they ought to try it, and so they call you in. And that was the story of John's career. He was able to try exceptional cases because his fellow lawyers said, "Look, I have taken it as far as I can go, and I am going to trial. I better get T. John."

The second aspect that I think is even more important in understanding T. John's career arc and why he has made a difference is that when a lawyer got in trouble, they called John. Be it a malpractice case, a grievance, or a difficult issue. To me, that is the highest calling as a trial lawyer, when you get called in by your peers. It is the greatest affirmation. In the past generation ahead of us, the lawyer that we all admired was Edward Bennett Williams. Remember, in Washington D.C.? They wrote a biography about him, there are not many biographies about lawyers. His biography was called *The Man to See*.³ That is the way I would describe John's career in East Texas and in Texas. He was the guy to see in East Texas when you really were in trouble and when you really needed help.

Now, my point of view for John is pre-Article III. In other words, prior to 1999-2000 when he was appointed by President Clinton, one of the last appointees of Clinton by the way, to the federal bench. So my perspective is pre-Article Three. I knew him and appreciated him as a peer, and I think that the legacy of John is not about IP, from my point of view. In fact, during most of his successful career the words "T. John Ward" and "IP" did not appear in the same sentence. He came late to it, which is instructive to all of us. John, in my opinion, represents the best of our generation. He is somebody who has an earned status. If I were king, I would appoint federal judges or state judges based upon experience. I would want to have experienced people in benches as opposed to certain current trends where they appoint political people, and they like to appoint them unusually young, so they will be there forever, as if that is somehow be helpful to them. I take the opposite view. I take the T. John Ward view. I take the Royal Ferguson view. And I want to have experienced people because when a judge has experience and is an experienced trial lawyer, the lawyers and the client pay attention. And when he goes to trial, the judge is not afraid of trial. So that is the hallmark of John's career.

As you can tell, I am a great admirer of John. And I think everything I said is the truth. Except, you did not do back flips did you? You did not do those. So, to quote from another person from a small town, Mark Twain once said, "[Few] things are harder to put up with than the annoyance of a good example."⁴ T. John Ward is a good example. He is a good example for his friends. He is a good example for our bar. He is an example of earned status and how a person can make a difference in being a federal judge. From a personal point of view, I appreciate John's approach to not just the IP cases but the civil rights cases and to maintaining the rights for all people. He has taken courageous stands in redistricting cases, so he also has a legacy quite apart from the IP world. Thank you.

3. Evan Thomas, *THE MAN TO SEE: EDWARD BENNETT WILLIAMS, ULTIMATE INSIDER; LEGENDARY TRIAL LAWYER* (Simon and Schuster 1991).

4. Mark Twain, *PUDD'NHEAD WILSON AND THOSE EXTRAORDINARY TWINS* 164 (Harper 1922) (1893).

CLYDE SIEBMAN:

I am fortunate that I only got in trouble with Judge Ward one time that I can remember. Luckily, it wasn't in the Eastern District of Texas. It was on a judicial panel in Lake Tahoe with the State Bar Advanced Patent Litigation Seminar. Judge Schell, Judge Ward, and some other judges were on it, and I made the introductions. When I introduced Judge Schell, I started describing how he maintained control over his courtroom by being mild mannered, not raising his voice, and never becoming irritable. However, I knew as I started down that path that I was in a lot of trouble. Sometimes when you're in trouble, you're in so much trouble, and you're so far down the path of trouble that there's nothing to do but keep going. Then, I heard a booming voice from the end of the panel that said, "What are suggesting about me, Counsel?" You have to be straight with Judge Ward. Everybody knows that who practices in front of him. I said, "Judge, I'm not talking about you. I'm talking about Judge Schell." So I think that is the only time that I've gotten in trouble with Judge Ward.

Having thought about that experience, I've accepted this opportunity to participate in this tribute with a little trepidation. As misery enjoys company, I went ahead and sent out some emails to some of the leading lawyers in East Texas asking them for their input so I could tell Judge Ward that not everything that I say is coming from me. Some of this is coming from these other lawyers. They did make me promise that I wouldn't identify them. So, here, I stand all alone anyway.

One of the things that I think you know about Judge Ward is that *in limine* there is a little bit of a treacherous situation. When Judge Ward enters *in limine* that is something you have to be very concerned about and very careful with in his courtroom. One lawyer told me that the Fourth Horseman of the Apocalypse is named *in limine*. Another lawyer said that if there is any chance at all that you might violate *in limine* injunction in Judge Ward's courtroom, either accidentally or on purpose, you better bring two things: your toothbrush and a change of undergarments.

Consistency was a theme I think that others and I experienced in Judge Ward's court. Someone related to me that a courtroom was like a *Monopoly* game, and if you landed on Boardwalk in Judge Ward's court, you know exactly what you would have to pay. I would put it this way: if you landed on "Go To Jail" you would "Go To Jail" and when you passed GO, you wouldn't collect your \$200. Because Judge Ward would be consistent, you would know exactly what the rules were, and you would know that those rules were going to be enforced in a very consistent way.

Being a good Baylor lawyer, I have been told that there is a "no dancing" rule in Judge Ward's courtroom. If you are asked a question as counsel, even if the question cuts you to the core, cuts your position to the core, you better answer it. You better not dance around it. Just tell it like it is. It is the same with expert witnesses on cross-examination. If your expert is getting cross-examined, you better make sure he knows not to dance around. He just needs to answer the question. I liked what one lawyer told me: "You need to

make sure that your expert knows on cross-examination just to shut up and answer the questions.”

Now direct and to the point may not always win, but it will definitely keep you in the race. And those of us who try a lot of cases know that in the course of a career, staying in a race with your credibility is what it all boils down to. That is all you have at the end of the day: your credibility and your reputation. Judge Ward knew that and taught that to those of us who have practiced before him.

Judge Ward taught a few lessons to live by. The question that I posed to the folks that I solicited input from was, “What were the lessons that lawyers learned to live by in Judge Ward’s court?” One of my favorites was “When you hit oil, stop drilling.” Some of the others were: “Even a bad settlement is sometimes worth more than a good case.” “Always try to help the judge, and always answer the question.”

Who hasn’t been in Judge Ward’s court and hasn’t had a question propounded, “How are you helping me, Counselor?” “There are two ways to lose a case: on the merits and on discovery abuse.” “Be honest and tell the truth every time.” “Even if you didn’t grow up as a boy scout, act like one.” “If you can’t put on a defense of a multimillion-dollar case in a day or two, then you don’t know how to focus your presentation.” “One year is plenty of time to develop and try a lawsuit if you’re serious about developing and trying a lawsuit.” “A motion for sanctions increases the risk that someone will get sanctioned, just not always who you expect.”

I think the word that fits Judge Ward the most is predictability. As trial lawyers, I think predictability is the thing that we really want the most. If a judge is predictable, we can advise our clients, and we can tell them what to expect. If we prepare for that predictability, and it can be delivered, and we can represent our client in an important way. I think that clients can make the right decision based on that predictability. For those of us who are down the trenches in the courthouse, Judge Ward brought predictability to the courtroom, and that is what we came to expect and appreciate.

Now that Judge Ward is into retirement I can give you a clue about one of the trade secrets of trial lawyers in East Texas. There was a lot of speculation about how we knew what the Judge was going to do. How could we know of the impending doom that was about to befall the courtroom when something was about to happen? Well, there was a clue that we were watching for and I wouldn’t tell you this if the Judge wasn’t in retirement. But now that he is, I will tell you that there was nothing more important to watch in the courtroom than the color of the Judge’s ears.

Judge Ward, we thank you for your service. Your dedication to our profession and to the rule of law is definitely one way you have made a change. Your impact is not only on Intellectual Property law, but what you brought to the profession in terms of teaching young lawyers how to be lawyers, how to be honest, how to be forthright, and how to be direct. We appreciate you for

that. We hope you have many, many years of practice in law with your son.⁵ I have a daughter who is in law school so I know how you must feel practicing law with your son. We wish you the best and many happy years of practice and trying lawsuits with John.⁶ Thank you, Judge.

HILDA GALVAN:

It is a great privilege to be a part of this group and honoring Judge Ward for all that he did for the legal profession and the IP community. My perspective comes as one of a legion of lawyers who were outside of the Eastern District of Texas and grew up practicing patent law in front of Judge Ward.

I first came to know Judge Ward shortly before he went on the bench in September of 1999. He was trying his last patent infringement case against our client, Texas Instruments. I was a fairly young lawyer. I remember watching him, and watching the way the jury paid attention to him when he spoke. I remember how he was always prepared and could deal with the unpredictability of a trial so very easily. And what I remember most, is the way he treated the lawyers, not only the lawyers on his team, but also the lawyers on our team. He was always honest, and he was always fair.

At his confirmation hearing, Senator Kay Bailey Hutchison told the Senate Judiciary Committee of a letter she had received from one of her constituents about the nomination of T. John Ward as a federal district court judge for the Eastern District of Texas. The constituent wrote, "John Ward brings complete preparation, a steady atmosphere, and a balance. He will be a great judge." This constituent captured in a few words what I saw in my first encounter with Judge Ward, and what I would continue to see in the twelve years he was on the bench. And while much can be said of Judge Ward's complete preparation and steady atmosphere, balance is what I remember most. Judge Ward demanded much of those lawyers that practiced before him, but that was balanced by his mentoring of those lawyers. Judge Ward required strict compliance with the rules, but that was balanced by his even-handed enforcement of those rules. Judge Ward was protective of the court's time in the courtroom, but that was balanced with his generosity of his time outside of the courtroom.

Those of you who have practiced before Judge Ward know what I mean when I say he demanded much of the lawyers who practiced before him. Judge Ward had tried hundreds of cases before he was appointed to the bench. He knew what it meant to be a trial lawyer, and he expected the

5. T. John "Johnny" Ward Jr. is Judge Ward's son, and a partner and trial attorney at Ward & Smith Law Firm. Judge Ward joins his son in private practice at Ward & Smith in Longview, Texas. *Noted Texas Federal Judge T. John Ward Joins Ward & Smith in Longview*, WARD & SMITH LAW FIRM, <http://www.wsfirm.com/News/Noted-Texas-Federal-Judge-T-John-Ward-Joins-Ward-Smith-in-Longview.shtml> (last visited September 2, 2012).

6. *Id.*

lawyers who entered his courtroom to have that same level of knowledge. He expected every lawyer that entered his courtroom to have that same level of preparation. But, Judge Ward balanced his high expectations of those lawyers with his willingness to mentor those lawyers in his own very unique way.

In his early years on the bench, Judge Ward allowed the parties' experts to testify at the claim construction hearing, and I remember one of the lawyers on our team. She was a fourth or fifth year associate. She was cross-examining the plaintiff's expert. The expert's testimony at the hearing was inconsistent with his testimony at the deposition so the young lawyer attempted to impeach the witness. After her second attempt at impeaching the witness, we could all see that Judge Ward's fiery temper—as it is often referred to—was about to be unleashed. As Clyde said, his ears and his face turned red, and then he leaned forward. And again, he did not say anything at that point, but there was more inconsistent testimony and another attempt to impeach. At this point, Judge Ward pulled off his glasses, and he gave the young lawyer a very stern look. He said, "You are not properly impeaching the witness. You have to ask the exact question that was asked at the deposition. If you attempt to impeach the witness again, you had better do it right." So there was some more inconsistent testimony and thanks to his stern guidance, she asked the exact question she asked at the deposition. Proper impeachment done, Judge Ward leaned back in his chair and put his glasses back on. There was a glimmer of a smile as if to say, "Lesson completed." To this day that lawyer says Judge Ward taught her more about how to conduct herself in the courtroom in that brief encounter than she has ever learned from any other judge.

Another example of Judge Ward's balance between his high expectations and his mentoring of lawyers is an example of my own. I was still a fairly young lawyer, and at trial, my responsibilities included handling any arguments to the court on exhibits and demonstratives. We were near the end of trial, and the last set of demonstratives to be dealt with were those for closing argument. I was told by our lead trial lawyer that I had to have objections to the other side's closing exhibits. Period. End of story. A couple of other lawyers and I struggled all night long to come up with objections. The most we could do was "objection - argumentative." It is a valid objection, but not for slides at closing argument. However, the senior attorney instructed me to make the objections, so I did.

First slide: Objection, argumentative. Overruled. Second slide: Objection, argumentative. Overruled. Third slide: Objection, argumentative. Overruled.

Clearly, a pattern was developing, and Judge Ward saw it. I could see Judge Ward's face and it was turning red. His body was leaning forward in his chair, and his hand was reaching for his glasses. We made eye contact, and with one look, I was taught my lesson: do not ever put a lawyer in a position that you are now in. He did not say a word, though. He just sat back into his chair. Lesson completed. And trust me, I have never nor will I allow

anyone on my team to ever put a lawyer in that position. I am sure it is just one or two many types of stories and lessons folks have learned over the years from Judge Ward. The overarching lesson has been one of balance. The balance between the high expectations Judge Ward sets for the lawyers who practice before him and, at the same time, his teaching of those very same lawyers.

There is also a balance between Judge Ward's requirement that the lawyer strictly comply with the rules on the one hand, and his very even-handed enforcement of those rules. We always hear that in East Texas the jurors are plaintiff-friendly. And we often hear, typically from an outsider writing in an article, that even the Judge's rulings are plaintiff-friendly.⁷ While I will be the first to admit, I did not always agree with Judge Ward's rulings on claim construction or on dispositive motions, I always appreciated the even-handed way he enforced the rules.

In preparing for this speech, I reached out to a number of lawyers on the East Coast, West Coast, Midwest, South, and other parts of Texas, and I asked about Judge Ward's requirement that lawyers strictly comply with the rules. And every single one of them, regardless of whether they were primarily plaintiff's counsel or defendant's counsel, agreed without hesitation that although Judge Ward required strict compliance with the rules, he was always even-handed in his enforcement of the rules.

With Judge Ward, there is also a balance between his protectiveness of the court's time in the courtroom and his generosity with his time outside of the courtroom. Judge Ward is well-known for limiting the time that parties have to put on evidence at trial, for his chess clock, and his strict adherence to time limits. With Judge Ward you learned early, in the words attributed to Franklin Roosevelt, "Be sincere, be brief, and be seated."⁸

Although Judge Ward was very protective of the court's time in the courtroom, he was also extremely generous with his time outside of the courtroom. He spent countless hours talking to lawyers across the country about the practice of law, about trying patent cases to juries, and about the Eastern District of Texas. He devoted countless hours working on patent cases filed in the Eastern District of Texas, and the harder he worked, the more cases they filed. But because of Judge Ward's generosity in patent cases filed in the Eastern District of Texas, and his generosity of his time, the Eastern District of Texas will never be the same. It will continue to be a better place for everyone.

7. See Julie Creswell, *So Small a Town, So Many Patent Suits*, N.Y. TIMES, September 24, 2006, available at http://www.nytimes.com/2006/09/24/business/24ward.html?pagewanted=1&_r=2&ei=5088&e=65001ada21beb03a&ex=1316750400&partner=rssnyt&emc=rss; Daniel Fisher, *Plaintiff Paradise*, FORBES, September 07, 2009, available at http://www.forbes.com/forbes/2009/0907/outfront-patent-law-texas-plaintiff-paradise_print.html.

8. See, e.g., Alice E. Richmond, *Tribute to M. Peter Moser*, 2009 PROF. LAW. 130, 130 (2009).

In the words of that very wise constituent, Judge Ward brought complete preparation, steady atmosphere, and most importantly, a balance in his role as a judge. And as that constituent predicted, he was a great judge. Judge Ward, we thank you for that.

JUDGE CHAD EVERINGHAM:

Thank you. It's a pleasure to be here today. Professor Nguyen asked me to visit with you a little bit today from the perspective of one who has worked for Judge Ward for many years. It is always nice to get to say a few things about a former judge. His contempt powers have been sharply limited lately. So I have a little bit of freedom here today. But in the words of one of our mutual friends, "Tell only what you know, but don't tell all you know."

In January of 1985, I showed up for a job interview at a small firm in East Texas. At that time I was halfway through my senior year in high school and halfway through my short-lived career as an electric guitarist in a garage band. I did not know it at the time, but I was the victim of a conspiracy. The confederating parties were my parents, who were not fans of my electric guitar career, and the managing partner of that small firm, who unfortunately was a fan of my parents. I suspect that the job I was interviewing for was mine when I showed up, but I did not know it at the time. I was hired on as a runner for that law firm, and I started work shortly after that.

I worked for that firm for a couple of years in high school, then in junior college and then in the summer times when I came back from studying at Stephen F. Austin in Nacogdoches. It was at that law firm I learned that lawyers were not punch lines for jokes. They were professionals. They were guardians of our liberties. They were advocates for the rights of their clients. They were spokespeople for the meek, philanthropists, and they were officers of institutions that existed to resolve disputes civilly as opposed to through the use of force. Lawyers taught me values like civility, compassion, honesty, diligence, and equality.

I do not know what other people's experiences were like working in high school, running errands for law firms. But that is what mine was like working for a law firm that was managed by John Ward. And that is what made me want to go to law school.

I eventually got in and out of Baylor Law School and had the privilege of going to work for Judge Ward as an associate lawyer in Longview. I can tell you that he instilled precisely the same values on his law partners and his associates that I had observed running errands for him while I was in high school and undergraduate school. There was, to put it mildly, a sense of camaraderie and teamwork in every legal effort we pursued.

When Judge Ward went to trial as a lawyer, we all went to trial, and we never thought that we would lose a case. In 1999, when President Clinton appointed him to the federal bench, I was privileged to get to go to work for him as a career clerk. It came as no surprise to me or to anyone else who had ever worked with him that he would quickly become known across the country as one of the hardest-working federal judges in America. I can recall a

time in East Texas where patent cases were few and far between. A judge has to want to work hard, pay attention to the details, and learn the technology and the law to manage these types of cases.

I was present at a discussion earlier this week where someone asked some law students, "Why do you want to go into patent law?" Someone said, "Well, it's the high-stakes stuff. Those are the sexy cases." I do not think I would ever describe a patent case as sexy; it is a tough duty on a judge. When a judge has to manage hundreds of them, it is really tough duty. Patent cases from an administrative standpoint, are weighted for statistical purposes, by the court administrative office between four and five times what a typical civil case is, for instance a car accident case is weighted. I would suggest to you that that number is too low.

There is no financial incentive or special stipend available to a judge who handles more patent cases than his colleagues, there is no year-end bonus tied to the number of *Markman* opinions that are turned out by a court, and no salary bump that depends on the number these cases that one tries to verdict. Judge Ward handled these cases, hundreds of them, with a sense of duty and a sense of diligence, and without apology. He dug into them like a judge is supposed to do. He encouraged the people who worked for him to help him develop creative ways to efficiently handle these types of cases to reduce the expense that is associated with them, consistent with the Federal Rules, in particular, Rule 1.⁹ I suspect that every single one of his law clerks would agree with me that the values he sought to instill on the people that worked for him at the court were precisely the same ones that I'd borne witness to them my entire working life. When you worked at the court you were part of a team. It was a collaborative effort fostered by a judge with an open door and an open mind policy where every point of view was honestly considered.

I cannot count the number of staff gatherings, holiday events, or other special type luncheons where Judge Ward addressed the staff and told them that any success he had had as a lawyer or as a judge was largely the result of the staff that worked for him. I would suggest to you that you should ask yourself, Judge Ward, why they tried so hard to turn out quality work for you. When your quarterback is, as Bill Dawson once called him, "top drawer," everybody on the team tries to step up his A-game. It is the difference between having a boss that does his job and having a boss that is just a figurehead. I was asked one time what judges I admired most and what traits about them were important to me. What I admired most about Judge Ward was when he got to work; he was completely devoted to his job as a judge.

Whatever case Judge Ward was hearing at that time was the most important case he had ever heard. And when he went in that courtroom and put

9. "These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding." Fed. R. Civ. P. 1.

on his robe, got on the bench, he didn't have any friends in there. He didn't have any enemies, but he didn't have any friends. He viewed the role of a judge as one that required him to dispense justice impartially, regardless of a party's race, religion, social status, or means. He certainly—unlike the cheer-leading effort—did not view it as some kind of a popularity contest, and he was not one to bow to critics or to rule based on what others thought he should do. Those dispositions would be inconsistent with his oath and with the independence that attaches to an Article III appointment. On behalf of those of us who are fortunate enough to have worked for you, thank you for letting us be a part of your public service and thank you also for doing your job as a judge that made us want to come to work every day.

PROFESSOR XUAN-THAO NGUYEN:

Well I do not know about you, but I had to drink a whole bottle of water because my tears just kept coming down from my eyes. I want to say thank you to the four distinguished panelists for sharing their stories. All of us in this room here are so privileged to hear what you have learned and also the fact that you did exactly what Judge Ward taught you. Be prepared. And you were extremely prepared. You even surveyed employers, your peers, and shared their stories with us as well.

So on behalf of SMU Law School, I say thank you to the panelists for doing your extreme preparation and sharing with us very intimate stories, as well. And as Mr. Bramblett pointed out, yes, I was the person asking for the free speech from Judge Ward and I'm so honored that Judge Ward is here with us.