Chief Judge Katzmann, thank you so much for having invited me to be part of this celebration of Judge Wilfred Feinberg’s remarkable life as a judge, as a mentor to over a hundred law clerks, and as a devoted member of a loving family. I will speak briefly about Judge Feinberg’s judicial career and will then turn my attention to the truly extraordinary role he played as a mentor to his law clerks for more than half a century.

As you all know, President Kennedy appointed Judge Feinberg to the District Court in 1961 and President Johnson appointed him to the Second Circuit in 1966, to fill the seat vacated when Thurgood Marshall became Solicitor General of the United States. At the time of his death on July 31, Judge Feinberg had served as a federal judge for 53 years. That is a rare feat! To be able to aspire to such a record, one needs to be appointed to the federal bench at a young age and be blessed with a long life and good health. Both, thankfully, were the case for Judge Feinberg.
In the history of our country, only seven individuals have served as federal judges longer than Judge Feinberg did. At the time of his passing, he was the second longest serving federal judge in the nation. He was also very close to being the longest serving Second Circuit judge ever: His 48 years, 4 months, and 24 days on the Court of Appeals were less than two months short of the record established by Judge Thomas Swan.

Here is another extraordinary statistic. A total of 71 individuals have been Second Circuit judges since the court was established by the Judiciary Act of 1891. Judge Feinberg has served with 49 of them, from Judge Swan, who was appointed in 1926, to Judge Droney, who was appointed in 2011. No Second Circuit judge has ever served with more fellow judges. And the periods of service for these judges already spans 88 out of the 123-year history of the Second Circuit.
Judge Feinberg was proud of this record. In the months preceding his death, when he was no longer in good health, we would talk about these issues and the conversation would bring a smile to his face.

But, of course, Judge Feinberg’s most impressive feat was not that he served as a judge for a very long time. It was what his extraordinary accomplishments during that time. You have already heard from three of his judicial colleagues: Chief Judge Katzmann and Judges Leval and Lynch. There is not much that I could add to their moving, heartfelt tributes about Judge Feinberg’s judicial life.

I will instead focus on my connection to Judge Feinberg, first as his law clerk from August 1983 to July 1984, then as a former law clerk, and eventually as a friend. I was so pleased that his obituary in the New York Times described him in the way that I would have done: “Wilfred Feinberg, Federal Appeals Court Judge and Mentor.” The Judge was an amazing mentor and I think of him, in the same breath, as both a judge.
and a mentor. Over his time on the bench, he had 101 law clerks. I got to know most of them. And I believe that very many of his law clerks regarded him as one of their principal mentors and had experiences in this regard that are very similar to mine.

Ten years ago, at another moving Second Circuit ceremony, Judge Feinberg received the Edward J. Devitt Distinguished Service to Justice award, widely regarded to be the most significant recognition bestowed on a federal judge. My tribute started as follows: “It is often said that all we need to know we learned in kindergarten. In my case, though, perhaps because I wasn’t sufficiently precocious, it is more accurate to say that all I need to know, at least all I need to know to be an effective professional, I learned during the year in which I had the great privilege of clerking for Judge Wilfred Feinberg.”

I will focus only on a few lessons from the year of my clerkship. Interestingly, there is only a partial overlap between the lessons on
which I focused at the time of the Devitt Award and those that I will talk about today. It illustrates that Judge Feinberg’s law clerks carry with them a large number of significant lessons and that different ones appear most salient at different times.

Lesson 1. **Craft.** When we gave the Judge a draft that we had worked on, we would put on a library cart every single thing that we had cited. Because there was only one Judge Feinberg but three law clerks, he generally was not able to work on the draft for a week or so after we left it for him. Then, just as we were beginning to forget what the case was about, the Judge would call us in, begin to pull books out of the cart, and pose trenchant question after trenchant question: “Why are we citing a case for a particular proposition?” “Is our support too general?” “Could we state the principle in narrower terms?” With each of these questions and with the ensuing discussion, the text would become transformed, in an almost magical fashion, into something that made the prior draft look quite inadequate. Early in the year, I made the mistake of
referring to a document that I handed to him as an “opinion.” He gently reminded me that what I gave him was always a draft, whereas what he gave me back would be an opinion. What changed drafts into opinions was not only the blessing of Article III, but also the fact that every portion of every argument had been dissected, that every citation had been evaluated, that every sentence had been submitted to exacting scrutiny. What my co-clerks and I learned through this process was the enormous power of craft, and it was a wonderful lesson to take into the professional world.

Lesson 2. **Leadership style.** The Judge ran his chambers (and the court while he was Chief Judge) without ever raising his voice. But despite his very mild manner, he somehow was able to make everyone work at the highest level that they were able to. Every once in a while, the Judge would raise his eyebrows. He had bushy eyebrows and seemed to be able to raise them quite a long distance. It was a strong expression of disapproval and little more needed to said to effectively change the
errant behavior.

I had this experience early in my clerkship. The judge walked up to my desk one afternoon and asked: “Ricky, is the district court’s decision appealable? I remember what I thought: “Judge, it was a decision of the district court; you sit of the court of appeals, why would it not be appealable. And, in any event, if there was some problem, the briefs would have told us about it?” I can’t quite remember whether that’s what I said. For this gap in my knowledge, of course, I do not blame either Judge Winter or Judge Calabresi, who were two of my professors in law school.

I didn’t realize at the time that Judge Feinberg was one of the leading experts on the law of appealability. In fact, when the Judge’s good friend, Professor Maurice Rosenberg wrote a tribute to him in the *Columbia Law Review* in 1986 entitled “Chief Judge Wilfred Feinberg: A Twenty-Five Year Tribute,” there was a whole section in that piece
entitled “Feinberg on Appealability.” I wish that article had come out a few years earlier! In any event, the Judge did raise his eyebrows but not his voice and then proceeded to give me a wonderful short summary of the law of appealability, which turns out to be quite complicated. He had made the point in a very gentle way and from then on, I was always on the look-out for appealability problems. For reasons that I don’t quite understand, though, for the rest of the term no more appealability seem to have come up.

Lesson 3: **Personal discipline.** Those of you who have been in Judge Feinberg’s chambers know that it was incredibly neat. A casual observer might think that no work at all got done there. There were no piles of paper, no stacks of unanswered phone messages, none of the usual indicia of work that one often finds in the offices of successful professionals. At the beginning and end of each day, all the work surfaces were completely clear. The Judge firmly believed that each piece of paper should be looked at once and then disposed of in some
way, never to be seen again. Mere mortals tend to put aside things that are difficult and plan to return to them another day. Perhaps they will then seem easier to tackle, perhaps then they will have more time to do it. The Judge understood that behavior of this sort is very inefficient. But unlike almost anyone I know, he had the personal discipline to avoid the problem.

As a result of his discipline, while he didn’t work the longest hours, he accomplished a great deal. In his article on the office of the chief judge, which was published by the *Fordham Law Review* in 1984, he estimated that he spent half his time on judicial administration while he was chief judge and that he carried 80% of a normal judicial workload. By my count, he therefore performed 160% of a normal judicial job. But the judge went home at a normal time to have dinner with Shirley and Jessica, who was then a high school senior. He did take work home but I am sure that he wasn’t up most of the night doing it. He taught us by example that it was possible to be a successful professional
and a responsible family member.

Our education did not end of the day we left his chambers. In later years, it is inconceivable that I would have made an important career decision without consulting with Judge Feinberg. I would call Frances Wasserman, then Lois Levine, then Amelia Kaufman, answer their questions about I wanted to eat for lunch and show up at the appointed time. (Sadly, Frances and Amelia, both extraordinary people and extraordinarily devoted to the judge, have passed away.)

Visits with the Judge followed a routine. (The Judge was quite a follower of routines.) The considerable public resources available on-line are inadequate to answer this question, but I am reasonably confident that in addition to his record for long judicial service, he also holds a lifetime record for eating the most cream cheese and jelly sandwiches—his lunch staple. He might also have had another record had he not, over the years, cycled between stewed peaches and stewed
pears as his dessert of choice.

The Judge would always start the lunch-time conversation by showing me pictures of his grandchildren, of whom he was enormously proud, and he would then focus deeply on my latest news, both personal and professional. He was never overbearing but when he had views he gently (and effectively) let me know. Towards the end of lunch, we would talk about the political issues of the moment, which the Judge was always interested in. I’m convinced that he remained young in spirit in part because he remained so deeply connected to different generations of law clerks.

My father died when I was only eight years old. I came from a small family and there was no close relative to play that role. Over time, though, I came to see Judge Feinberg as a father figure. He was wise, he cared about me, and he took a deep interest in both my family and my professional life. Many significant moments during the 31-year period I
knew him (more than half of my life), are associated with him. I was
talking to the Judge in his chambers when Frances walked in to say that
Justice Marshall was on the phone. The judge started walking to his desk
when Frances said, “No Judge, the call is for Ricky.” I looked at him,
somewhat frozen, because our conversation had been interrupted by a
call for me, not by the Circuit Justice calling the Chief Judge. But he had
read my mind: “Of course, Ricky it is fine for you to take the call; we
can resume our conversation about the case later.” That’s when I got my
next clerkship.

In 2000, when the tall ships came to New York, the Judge and
Shirley invited me to come with my wife Vicki Been and our two
children to their apartment in Battery Park City to watch these beautiful
ships sail by their window on the Hudson River. My son was very
interested in flags and the famous Judge and the 9-year old boy quickly
became engaged in a long conversation about the flags of different
countries. Several times in the years that followed, the Judge reminded
me of that conversation.

When I was deciding whether to be a dean candidate and when I was deciding to step down as dean I, of course, consulted the judge. Whenever I considered taking another position, I, of course, consulted, the judge. And very movingly, just over a year ago, the Judge came in his wheel chair to the ceremony marking the end of my deanship. It meant so much to me!

On June 21, 2011, we had what turned out to be the last law clerk reunion for the Judge. He spoke to us movingly: “The relationship between a federal judge and his or her law clerks has been one of the most interesting and rewarding aspects of being a federal judge. Before I went on the bench, I had not fully realized this would be so, but I am delighted that it is. In the 50 years I have been a judge, I have learned that as a group, you are remarkably able and accomplished. You are willing to work hard, you are interested in the work, you have been good
at it and good company. I have enjoyed and appreciate that relationship. In other words, I regard you all, as well as your spouses or significant others, as good friends.”

Thanks you, Judge Feinberg, for having been such an extraordinary mentor and friend. I really miss you.