

OPEN NINTH:  
CONVERSATIONS BEYOND THE COURTROOM  
WHEN JOHN MET SALLY  
EPISODE 8  
OCTOBER 14, 2016  
HOSTED BY: FREDERICK J. LAUTEN

(Music.)

>> Welcome to Episode 8 of "Open Ninth: Conversations Beyond the Courtroom" in the Ninth Judicial Circuit Court of Florida.

And now here's your host, Chief Judge Frederick J. Lauten.

>> **JUDGE LAUTEN:** Well, good afternoon. We are here today with circuit judges John and Sally Kest, both of whom sit on the circuit bench in the Ninth Judicial Circuit, and they're both assigned to courtrooms in Orange County.

Judge John Kest and Judge Sally Kest enjoy the distinction of being the only husband-and-wife team in the Ninth Judicial Circuit, and so we're thrilled to have them here today to talk the about judging in general and what's it like to have two judges in the same household.

And while we would normally start with women first, if you'll permit me to, I want to ask your husband a question and then I'm going to turn to you.

>> **JUDGE SALLY KEST:** Sure.

>> **JUDGE LAUTEN:** John, I can't help but notice that your full name is John Marshall Kest. And I'm asking myself was there anyone more destined to become a lawyer and a judge than a child whose parents named their son John Marshall Kest. So talk to me a little bit about that.

>> **JUDGE JOHN KEST:** Ironically, as I understand it, my parents named me John Marshall Kest, Marshall being a family name. It wasn't until I was applying to law school that it suddenly occurred to my father that John Marshall was, in fact, a lawyer and judge. So it was pure happenstance that I ended up with the middle name of Marshall.

>> **JUDGE LAUTEN:** So for our listeners who may not know, although I think many of them do, John Marshall was the fourth Chief Justice of the United States Supreme Court, and he was the longest-serving Chief Justice in the history of the court. He served for 34 years, 152 days.

He's the author of *Marbury vs. Madison*, which established conclusively judicial review in the United States Supreme Court, which was an issue that the Federalists and the anti-Federalists fought over long and hard when the Constitution of our country was formed.

So John Marshall is a historical and strong landmark figure in American jurisprudence. And your name as John Marshall Kest, it's fascinating to know that it wasn't designed that way.

Sally, how about you, did you come from a family of attorneys or judges? Were you encouraged to become a lawyer? Talk to me a little bit about your family growing up.

>> **JUDGE SALLY KEST:** Well, when I was seven, my parents divorced, and about 15 years later, my father went to law

school and graduated from the University of Maine Law School, but I never lived with him or had anything to do with the lawyer part of that, so that's the only lawyer in my family.

And I went to undergraduate school. I was going to be a teacher. Took one education course and said, eh, this is not for me. So then I had to switch majors, and I switched to government and business.

And then when I realized that I had a bachelor's degree in government and business and that this was not a terminal degree, so to speak, that there were no jobs really out there --

>> **JUDGE LAUTEN:** Right. That degree didn't lead right to employment?

>> **JUDGE SALLY KEST:** No, it didn't.

>> **JUDGE LAUTEN:** Okay.

>> **JUDGE SALLY KEST:** So since I was putting myself through, I was looking for something that would make money, so I immediately looked at grad school. And I applied to grad school, took the GRE, and took the LSAT, got my scores back on both of them, applied to both, and got accepted at both, but I got my law school admission first, and so I decided that was the sign.

>> **JUDGE LAUTEN:** So I know you got your undergraduate degree at FSU.

>> **JUDGE SALLY KEST:** Yes.

>> **JUDGE LAUTEN:** And you got your law degree --

>> **JUDGE SALLY KEST:** My law degree at FSU.

>> **JUDGE LAUTEN:** So you're a double Seminole?

>> **JUDGE SALLY KEST:** Yes.

>> **JUDGE LAUTEN:** And how many women were in your law school class when you attended?

>> **JUDGE SALLY KEST:** There were -- it started out with five. We ended up with four who graduated. One dropped out the first year. And I know where all four of them are now. I kept track -- in touch.

>> **JUDGE LAUTEN:** So you and your colleagues were trailblazers. There weren't many women in law school when you attended?

>> **JUDGE SALLY KEST:** Right.

>> **JUDGE LAUTEN:** Is law school where you met your future husband?

>> **JUDGE SALLY KEST:** Yes, it is.

>> **JUDGE LAUTEN:** Would you care to tell us a little bit about your first meeting from your perspective. And then I'm going to put him on the spot and ask him the same question.

>> **JUDGE SALLY KEST:** Okay. Well, we were in class together for quite a bit. But one weekend I was with a group and we were studying, and it was like 2:00, 3:00 in the morning, and we couldn't get to sleep, but we were tired of studying, so we went out to a local park and were playing on

the playground equipment.

And since I'm not real athletic, I figured the swing was a safe bet. And I was on the swing and somebody gave me a push, but they pushed the seat, and it was damp and I slid off the seat. The seat went forward. I didn't. And when I came down, I broke my two middle fingers.

>> **JUDGE LAUTEN:** Oh, my gosh.

>> **JUDGE SALLY KEST:** And they were both in -- by the time I went to the hospital, had both of them splinted and was in class the next morning. I'm walking around with my hands under my arms so that nobody can see. And I'm in the library doing some research, and you recall the books that had the open peg that the other one went in?

>> **JUDGE LAUTEN:** Right.

>> **JUDGE SALLY KEST:** And, of course, because I'm in splints, I can't get them together, and I'm trying to drop it and so all the papers go everywhere.

And this very nice gentleman said, how did you break both bird fingers --

(Laughter.)

>> **JUDGE SALLY KEST:** -- out loud in the law library. And I turned around and said, shut up. And he says, oh, can I help you with that? Yes. And that was it.

>> **JUDGE LAUTEN:** So that was your first meeting?

>> **JUDGE SALLY KEST:** Yes.

>> **JUDGE LAUTEN:** John, maybe you can tell -- talk to us a little bit about how you ended up at FSU. I know, because I'm a fellow alum, that you went to Rollins College as an undergrad. Talk to us a little bit about your activity there, your major, and how you ended up at FSU.

>> **JUDGE JOHN KEST:** Well, at Rollins I was a premed major. In fact, had -- most of my courses were in chemistry, biology, and physics.

And I had gone to visit a professor at Rollins in psychology -- in political science, a course I was taking. And he just wanted to talk to me about a paper. And he suddenly said to me, had you ever thought about law school. Because I was chairman of the student court at Rollins. And I said, I never thought about it.

And he turned around, placed a phone call to the law school, which was relatively new, turned around back to me and said, if you'd like to go to law school, they'd love to talk to you.

>> **JUDGE LAUTEN:** Wow.

>> **JUDGE JOHN KEST:** And I talked to my father who was a doctor, and he said medicine is changing. You do not want to get into medicine. So I decided to try law school. And if I liked it, I would stay with it. If not, I would go on to medical school. And I ended up applying to Florida State and was immediately accepted at Florida State.

>> **JUDGE LAUTEN:** I'm still struck by the coincidence of your name and then the fact that you were chair of the student court at Rollins, which is sort of a quasi-judicial position. Was it somewhat like being a judge?

>> **JUDGE JOHN KEST:** It was. But it was at a college entity, which is a bit different. We listened to people testify. We made decisions as a group, but, of course, with the faculty advisor, which was kind of our review court sitting there with us.

>> **JUDGE LAUTEN:** So is Sally's story about how you first met what you recall or did you have your eyes on her before that episode in the library?

>> **JUDGE JOHN KEST:** Again, you need to consider the setting. We have a relatively new law school building, 138 men, five women. They were not just my eyes on her. There were many, many eyes, about 260, as a matter of fact. I thought back then -- I guess I still feel the same way -- she was the most attractive woman in law school. I found out later on she was the smartest woman in the law school.

But I think my interest really piqued -- and I probably shouldn't be saying this in this interview -- one time when she was headed up the stairs in a very short skirt. And I said, I need to go say hello to this young lady.

>> **JUDGE LAUTEN:** All right. So then you met her in the library. And how long did you-all date when you were in law

school?

>> **JUDGE JOHN KEST:** Um, we dated for probably about a year and a half. And then after we graduated -- actually before we graduated, we took internships, myself in Key West as an assistant state attorney, and Sally in West Palm Beach as an assistant state attorney under the student practice rule.

And I would hop in my car every Friday night and drive four hours to West Palm to be with her on Saturday and then head back Sunday night for the entire summer.

>> **JUDGE LAUTEN:** That sounds a little bit like true love.

>> **JUDGE SALLY KEST:** With the hurricane coming --

>> **JUDGE LAUTEN:** Right.

>> **JUDGE SALLY KEST:** -- a hurricane hit that year.

>> **JUDGE LAUTEN:** Oh, no.

>> **JUDGE SALLY KEST:** And John was in West Palm. And I said -- he said, oh I've got to drive back. It's Sunday night. And I said nobody will be expecting you. They know there's a hurricane. You can't drive back.

Well, he insisted and he left and he drove. And when he got there, he called me -- because we didn't have cell phones -- and he said, gee, I only saw one police car. I didn't see any other cars the entire distance from West -- basically once he got into the Keys. And I said, that's not

surprising, John.

And what happened the next morning when you went into the office?

>> **JUDGE JOHN KEST:** There was nobody there.

>> **JUDGE LAUTEN:** Nobody but you.

>> **JUDGE JOHN KEST:** Nobody there at all except for me.

>> **JUDGE SALLY KEST:** Yes.

>> **JUDGE JOHN KEST:** They said, what are you doing here?

>> **JUDGE LAUTEN:** Okay. So you started your careers as interns at the State Attorney's Office. How did you end up in Orlando? Did you both end up in Orlando at the same time?

>> **JUDGE SALLY KEST:** No.

>> **JUDGE JOHN KEST:** I ended up in Orlando. Sally was in West Palm Beach.

>> **JUDGE LAUTEN:** Okay. And where did you -- where did you start your practice here in Orlando?

>> **JUDGE JOHN KEST:** I started and stayed and completed my practice all at the same place for 30 years. I -- we were in law school with several other folks, but the one that went to Orlando with us was Mel Martinez. And I went with a firm that was known at that point as Billings, Frederick, Wooten Honeywell. And I started with that firm in about February of -- it was 1973. And stayed there until I left to go on the bench.

>> **JUDGE LAUTEN:** And you became managing partner at

some point, I know.

>> **JUDGE JOHN KEST:** Managed and then the firm became Wooten, Honeywell, Kest, and Martinez and then Wooten, Honeywell, and Kest for 20 years, and I was the managing partner for about 20 of those years.

>> **JUDGE LAUTEN:** And tell our listeners predominantly what kind of practice your firm involved.

>> **JUDGE JOHN KEST:** We did personal injury, medical malpractice, products liability cases. This was at a time well before any advertising. Attorneys did not advertise back then. We -- during the entire time I was with the firm, we never did advertise at all. So it was a different time in the life of the legal profession.

>> **JUDGE LAUTEN:** About how many jury trials did you do as a lawyer, John?

>> **JUDGE JOHN KEST:** Probably over a hundred.

>> **JUDGE LAUTEN:** Right. That's a lot.

>> **JUDGE JOHN KEST:** Yeah. To a verdict.

>> **JUDGE LAUTEN:** So, Sally, you're down at a different location. John comes to Orlando. Tell us about your history of getting here.

>> **JUDGE SALLY KEST:** Well, when I graduated from law school, I had debt from undergraduate school and law school.

>> **JUDGE LAUTEN:** Right.

>> **JUDGE SALLY KEST:** And I was looking for a job, and

the truth is, firms were not hiring women back then. In fact, several of them just said, gee, you know, our wife won't let us hire a female lawyer. This is good --

>> **JUDGE LAUTEN:** Hard to believe today, but that's what you faced?

>> **JUDGE SALLY KEST:** Yes. And I had a friend actually who got invited down for an interview. They didn't offer to pay anything, but she checked out the firm, and it was a decent firm. Drove down on her own dime, stayed in a hotel, went to the interview and they were taking her around, introducing her to everybody.

And finally she says, you know, I just need to ask you guys some questions. What is the position like that -- you know, tell me about the position you have. And they said, oh, we don't have a position. We just wanted to see what the female law students look like.

>> **JUDGE LAUTEN:** Oh, my goodness.

>> **JUDGE SALLY KEST:** And that's a true story.

>> **JUDGE LAUTEN:** Oh, my goodness.

>> **JUDGE SALLY KEST:** But I went to work for Judge Gerald Mager in the Fourth District Court of Appeals because I had known a young lady who was interning as a high school student at the same time I was interning as a law student, in the state attorney's office and her last name was Reed. She was the daughter of -- later Federal Judge John Reed, and he

was then the Fourth District Court of Appeals judge.

>> **JUDGE LAUTEN:** Right.

>> **JUDGE SALLY KEST:** And so he made the introductions at the Fourth DCA. I filed my application and Judge Mager called and offered me the job.

>> **JUDGE LAUTEN:** Great. How long were you there, two years?

>> **JUDGE SALLY KEST:** No.

>> **JUDGE LAUTEN:** Longer than that?

>> **JUDGE SALLY KEST:** Just short of a year.

>> **JUDGE LAUTEN:** Okay. And then from there to Orlando?

>> **JUDGE SALLY KEST:** Came to Orlando. And we already had a wedding date set, and I went to work for Bob Egan in the State Attorney's Office.

>> **JUDGE LAUTEN:** I see. How long were you there?

>> **JUDGE SALLY KEST:** Um, let's see. Four years.

>> **JUDGE LAUTEN:** Gotcha. So -- and what assignments did you have there?

>> **JUDGE SALLY KEST:** First I was in county court with Bill Vose. You can imagine that. And then I went out to juvenile, and was with Steve Thomas Kirk.

>> **JUDGE LAUTEN:** Who the building is now named after.

>> **JUDGE SALLY KEST:** Who the building is named for.

And he had been the division chief out there, but he was part time. And once there were three full-time attorneys there,

they decided one of them needed to be -- the division chief needed to be full time. So he left and I took over as division chief with Walt Komanski and Joerg Yager as --

>> **JUDGE LAUTEN:** So Walt Komanski, for our listeners, was a circuit judge. Joerg Jaeger is a recently deceased attorney.

>> **JUDGE SALLY KEST:** Yes. You know those two personalities, so could you --

>> **JUDGE LAUTEN:** Yes. That would be an interesting challenge.

>> **JUDGE SALLY KEST:** They shared an office and a desk.

>> **JUDGE LAUTEN:** I don't know how you managed those two. But -- so eventually private practice. Tell me about the move to that.

>> **JUDGE SALLY KEST:** Well, when I was pregnant with our first child, I gave my resignation on his due date, and then he was a month late. But then I started getting calls from people whose kids were in trouble, who wanted an attorney to represent them in the juvenile court, so I was just ad hoc representing miscellaneous people.

And then started -- got an office, and started practicing. And then family law came in, and I got some calls about family law because of the -- there is the relationship between dependency, delinquency and family. And so I was -- started doing family law. And pretty soon it was

almost exclusively the family law area.

**>> JUDGE LAUTEN:** So I know that you were a preeminent family attorney before you became a judge. How long did you practice in that area?

**>> JUDGE SALLY KEST:** From 1970 -- about 1978-79 until the end of '96 when I left to come on the bench in January 2007. Not '96, 2006.

**>> JUDGE LAUTEN:** Was there a discussion in the household about one of the two of you wanting to be a judge? I know the order, I know how you got here, and we'll have the listeners listen to that in a second. But was there a conversation about one of the two of you saying, you know, I'd like to end my career as an attorney on the bench as opposed to in practice?

**>> JUDGE JOHN KEST:** Well, we had to make -- there was a discussion -- or a lecture. I'm not sure which. But I listened to what I was told. I'd wanted to go on the bench about that time. We both strategically and financially made the decision that we need to complete our kids' college and graduate school before we could afford to go on the bench because it was a massive salary cut as individual practitioners for us to go on the bench. And we were prepared to take that, but we wanted to make sure the family was okay.

So I talked with Sally about it and told her I was

interested, and she was very supportive. And went on, got on the bench. And Sally indicated that at some point she might do that, and she waited a few years. And then at that point decided that it was appropriate.

**>> JUDGE LAUTEN:** Well, not only do you enjoy the distinction of being the only married couple serving at the same time on the bench, I think both of you ran unopposed for your seats. Is that -- is that -- am I correct about that?

**>> JUDGE JOHN KEST:** When I ran, I understand that I was the first judge ever elected unopposed for a circuit position in the Ninth Judicial Circuit.

**>> JUDGE LAUTEN:** Which I'm gonna say this is -- because I know it to be true -- speaks highly of your credentials and your talent and your respect among the Bar. And our listeners don't know this, but I know you've served as president of the Orange County Bar and you've served as a member of the Board of Governors of the Florida Bar and you have this distinguishing legal career.

And then, Sally, you ran for judge and you ran unopposed also.

**>> JUDGE SALLY KEST:** Yes. It was a blessing.

**>> JUDGE LAUTEN:** And as I mentioned to our listeners, you had a very distinguished career as a family law attorney and were -- were -- you were viewed as an expert in that field.

So when did you become a judge, John?

>> **JUDGE JOHN KEST:** I believe -- the years have gone by quite a bit.

>> **JUDGE LAUTEN:** Right.

>> **JUDGE JOHN KEST:** I believe it was in 2003.

>> **JUDGE LAUTEN:** All right.

>> **JUDGE JOHN KEST:** I was deemed elected in 2002 and took the bench in January of 2003.

>> **JUDGE LAUTEN:** And, Sally, what about you?

>> **JUDGE SALLY KEST:** January 2007.

>> **JUDGE LAUTEN:** All right.

>> **JUDGE SALLY KEST:** Which is the same year our first grandchild was born.

>> **JUDGE JOHN KEST:** Another thing you may or may not be aware of, Fred, Sally in her work with the juvenile -- we both did a lot of guardian ad litem work in juvenile, but Sally was also not only the attorney for but was one of the founders for the Child Protection Team here in Central Florida.

>> **JUDGE LAUTEN:** I didn't know that. That's great. And I know as judges you were both interested in teen court and sort of continuing this lifelong dedication to professionalism and children and juveniles who enter our system.

But we get to 2007 and now there are two individuals in

the same household who both wear a black robe all day long, and I'm just curious about the dynamics that that has in the household.

So who gets the final say in the Kest household?

>> **JUDGE JOHN KEST:** I don't get any say.

(Laughter.)

>> **JUDGE JOHN KEST:** I'm able to comment and express thoughts, but not make final decisions.

>> **JUDGE LAUTEN:** So you are kind of the trial court and the appellate court in your household, Sally?

>> **JUDGE SALLY KEST:** I wouldn't term it that way, but he does. He characterizes it --

>> **JUDGE LAUTEN:** You wouldn't describe it that way?

>> **JUDGE SALLY KEST:** No.

>> **JUDGE LAUTEN:** Are you able to answer this? Tell me if this is a fair question or not. What's the hardest thing that you have to deal with between the two of you as married judges? Is there one thing in particular that's challenging, both being judges in the same household?

>> **JUDGE JOHN KEST:** Both of us have different challenges, as you know, from sitting in different divisions, depending on the divisions. And at least the hardest thing for me, and I suspect sometimes with Sally, is not bringing the thoughts, the fears, the concerns, home and fretting about those at home. Because it's hard enough to absorb them

yourself, but if your spouse has to absorb them and they have their own, it gets doubly hard.

So I think both of us do not really talk about much of our cases with each other, even though technically we can, we're both judges.

>> **JUDGE LAUTEN:** Sure.

>> **JUDGE JOHN KEST:** But it's hard because of the stress that it puts on us that we just generally -- the hardest thing for me anyway is not to talk about those cases.

>> **JUDGE LAUTEN:** Gotcha. Sally, what about you?

>> **JUDGE SALLY KEST:** It's pretty much the same. But being a family lawyer, I actually have represented other lawyers too, and learning, you know -- we don't talk -- we didn't talk about cases when we were in practice, and you develop that habit of keeping the confidences of clients. And then when you go on the bench, it just carries over that you don't talk about work at home. And besides, at home, had three kids and now seven grandkids.

>> **JUDGE LAUTEN:** Let's talk a little bit about your children.

>> **JUDGE JOHN KEST:** And I will tell you that when Sally was in practice, there was more than one occasion when we would see somebody in a restaurant and they would come over and say hello to me and Sally. I don't know who he was. And I'd turn to Sally and I said, how do you know him? And she'd

look at me and say, I can't tell you.

>> **JUDGE LAUTEN:** Gotcha. Let me ask this question, and I'll start with Sally and go to John first. What are some of the qualities that you admire most about John that makes him a good judge?

>> **JUDGE SALLY KEST:** He's thoughtful. He's considerate and kind and very thorough.

>> **JUDGE LAUTEN:** So I know and you know, but our listeners don't know, it's not uncommon that before the sun rises, John's in this building preparing for the day's work.

>> **JUDGE SALLY KEST:** Yes.

>> **JUDGE LAUTEN:** So he has almost an unparalleled work ethic.

>> **JUDGE SALLY KEST:** Yes. Definitely.

>> **JUDGE LAUTEN:** Is that what helps in this preparation --

>> **JUDGE SALLY KEST:** Yes, that is it.

>> **JUDGE LAUTEN:** John, how about you? What are some of the qualities that you most admire about Sally that makes her a good judge?

>> **JUDGE JOHN KEST:** I almost have to answer that in two parts.

>> **JUDGE LAUTEN:** Okay.

>> **JUDGE JOHN KEST:** And the reason for that is I have never seen her in court. Partially because I don't think she

wants me to, and time hasn't permitted it. And so the reason I say in two parts is what I've heard and what I've observed.

>> **JUDGE LAUTEN:** Okay.

>> **JUDGE JOHN KEST:** I hear from people who have appeared in front of her, who may be talking to me directly or who I just overhear talking, that she is very well respected as a judge. She's considered to be the most knowledgeable -- or one of the most knowledgeable people in the family law and the juvenile areas. That she has apparently the patience of Job in dealing with some of these issues that come up, and that she's very dedicated to getting her work done and getting the cases completed. She wants to give everybody a chance to be heard. And with a lot of pro se litigants, which apparently they have in family -- I have not sat on family -- that's difficult to do. And I've heard that from everybody.

From my personal observations, she also looks very professional. She's insistent on looking professional. We'll talk about coming in on a day when there's no cases before us, about wearing jeans or sports shirt, she won't do it. She wants to look professional the whole time she's here because she is a judge and she feels like there's an obligation for that.

She's very pleasant with people, from what I've seen. She's very pleasant working with the clerks and the court

reporters and the fellow judges in this matter. And in talking with other judges, she is always there to answer questions for new judges, experienced judges, or anybody else.

>> **JUDGE LAUTEN:** I second all of that as to both of you.

Let me ask you both, and this time I'll start with John. Before you were a judge, did you hold any misconceptions about the office that you found not to be true once you became a judge?

>> **JUDGE JOHN KEST:** Most of my experience with judges was in upstate New York and was a smaller town. There were not a lot of judges. There was one federal judge. There were about four state judges.

I do distinctly remember -- and this story may help you give some concept of what my thought was of judges. My father was a doctor. We were discussing something one time when I was a teenager, and I didn't know the answer. My father didn't know the answer, which was rare because he almost always said he knew the answer.

And I said, well, I don't think that's correct. He said, well, let's go ask Judge Baratta. And I said, well, he won't know. He said, Judge Baratta's a judge. He knows everything and he is always right and he will tell us something, we know it's true.

So my concept of a judge came from, literally, my father's perception of judges as people who were held at a higher pedestal than doctors or anybody else. Times have changed a little bit, unfortunately.

>> **JUDGE LAUTEN:** Right.

>> **JUDGE JOHN KEST:** But that's the concept I had of judges. I still like to believe that is true with most judges. There's always a few -- there's always a few in every profession.

But I think judges work harder than I thought. It takes more time to do what you need. Part of it, as you know as Chief Judge, we don't have the assistance that we need from staff attorneys and we need more judges. But it's a much harder job than I had envisioned.

>> **JUDGE LAUTEN:** So does that hold true through your experience as a trial lawyer too? Having tried a hundred jury trials, you saw a lot of judges, I'm sure a lot of different judges. Did it look easier from where you were sitting as lawyer? Did you think, oh, that's an easy call, Judge, why are you struggling with that, than you found as a judge?

>> **JUDGE JOHN KEST:** It not only looked easier, it looked like a lot less work. It looked like they went, got on the bench, made the decision, went home, and never worried about it. I never realized there was work being done in

chambers before, work being done after. And I never realized how hard those decisions were.

I really, as a judge -- as an attorney, I probably worked -- for each day I was in trial, I spent three hours the night before getting ready for that day in addition to all the work from the years before, and I thought the judge just walked in, sat, and left. I never realized judges were working as hard as they do behind the scenes.

**>> JUDGE LAUTEN:** How about you, Sally? Any misconceptions about judges or anything you found about being a judge that you didn't anticipate?

**>> JUDGE SALLY KEST:** Well, I did find that there's a lot more preparation that you have to do as a judge. You can't just walk in and ask -- and listen to what the lawyers say. You have to prepare ahead of time, read up, know what the case is about, and that takes time. And particularly when you're on the bench from 8:30 to 5:00, it doesn't leave a lot of time for the preparation, except lunch, after hours or weekends.

**>> JUDGE LAUTEN:** So it sounds like you both take work home to get ready for the next day. Is that a fair assertion?

**>> JUDGE SALLY KEST:** Not as much now. But in family, yes. The preparation was always -- because you have to write orders and in family, if you have a trial, you have to make

lots and lots of findings.

>> **JUDGE LAUTEN:** Right.

>> **JUDGE JOHN KEST:** And it's hard with grandkids now, our alter ego is babysitters, so it's hard to take work home. But I find if I can put two hours in the morning before I go on the bench, spend my lunch hour, an hour there, and then spend two hours in the evening, I've got five hours I can get some -- using to get ready for the next day and also get ready for what I did.

>> **JUDGE LAUTEN:** I know you're proud of all of your accomplishments, but I know from personal experience that nothing makes both of you more proud than your children and your grandchildren. And I know that there are lawyers in the family, so if you're comfortable, because you might not want to talk publicly about your children, are you okay talking a little bit about your children and what they do?

>> **JUDGE SALLY KEST:** Sure.

>> **JUDGE LAUTEN:** All right. Sally, why don't you start. Tell the listeners.

>> **JUDGE SALLY KEST:** We had three children, and all of them made pinkie swears that they wouldn't become lawyers because they work too hard and all of this. So the two boys each did something different. And Christopher was a police officer for several years and Michael was a dive master.

Our daughter, on the other hand, kept the pinkie swear

and she is a school administrator. She's an assistant principal.

But both the boys, after several years at what they really loved doing, decided it didn't pay enough to support a family, so they went to law school.

>> **JUDGE LAUTEN:** And they're both actively practicing law in the community?

>> **JUDGE SALLY KEST:** Yes.

>> **JUDGE LAUTEN:** John, tell us a little bit about grandchildren. How many are there?

>> **JUDGE JOHN KEST:** There are seven. They are active, ultra active. I thought it was difficult raising three kids, which I enjoyed. Keeping up with seven is more taxing.

>> **JUDGE LAUTEN:** Right.

>> **JUDGE JOHN KEST:** But I will tell you, I love to play golf. I'm not very good, but I love to play golf. But since our grandchildren were born, other than at a Young Lawyer's golf tournament, I don't play golf. I spend all my available time with the grandchildren.

>> **JUDGE LAUTEN:** Now, parents, you know, there's that old adage, if I knew grandkids were so great, I would have had them first. But you do get to kind of hand grandchildren back if they're challenging to you.

(Laughter.)

>> **JUDGE JOHN KEST:** But the grandchildren don't want to

go back.

>> **JUDGE LAUTEN:** That's right. Because they love their grandparents.

>> **JUDGE SALLY KEST:** Yes.

>> **JUDGE JOHN KEST:** That's right.

>> **JUDGE LAUTEN:** Have your sons expressed any interest in ever sitting on the bench now that you-all -- they get to see both of you and what you do? Is that a pursuit they might be interested in or is it a little too soon to say or what are your predictions about that?

>> **JUDGE JOHN KEST:** They're both -- of course my daughter's got her doctorate as an assistant principal. But the two boys, both are in their own practice now. One was with a firm and the other one's been in his own practice for a while. But they're both in their own practice separate.

I think at some point they may want to, but they realize they have a family to raise. And, financially, they can't afford to go on the bench. They're both top lawyers in what they do. As you know, Christopher recently won a large award, and Michael was head of the professionalism committee.

But I think at some point in their life, once they have 20 years or plus under their belt, they would probably have some interest in going on. And, quite frankly, again, going back to what I experienced as a child, the judges that came on the bench were the ones that had 20, 25 years of

experience on the bench.

>> **JUDGE LAUTEN:** Right. I remember when I was young, the tradition was serve a full career as an attorney, and then the last phase of your professional career, you would consider public service as a judge. But today that's not quite as true, is it? There are -- we kind of have a whole variety of experience levels on this bench. We have 65 judges, so that might not be so surprising, given how many we have.

Let me ask you this: What advice would you give to a new judge who walked in for the first day? Sally, I want to start with you. You've done this for a while.

>> **JUDGE SALLY KEST:** I'll tell you what John told me about my first day is when you walk in the courtroom after being a practicing lawyer, you're used to walking in and standing until the judge sits.

>> **JUDGE LAUTEN:** Right.

>> **JUDGE SALLY KEST:** So he said when you walk in, remember to sit down.

>> **JUDGE LAUTEN:** Or no one will sit down. Or nothing will get started.

>> **JUDGE SALLY KEST:** Or sit down so everyone else can sit down. That's one thing. I would also say do look at your cases ahead of time. Don't think you can just walk in cold and be effective, that it's so much easier to deal with

these matters if you've read the files ahead of time and have some idea of what you're looking at.

>> **JUDGE LAUTEN:** How about you, John, what advice would you give to new judges?

>> **JUDGE JOHN KEST:** I probably have a couple comments. I would say before you run for election or seek to be appointed, write down on a piece of paper why you want to be a judge. What is it that you think you can bring to the bench. And when you write it down, put that piece of paper away.

And then once, while you're either running for election or waiting for appointment, talk with your fellow trial lawyers, the one you respect, and say, if I were a judge, what are the two most important things to you?

And then once you get on the bench, try and comply with those. And then about every other year, take that piece of paper out and look at it again. I think while -- when you're going on the bench, once you're elected or once you're appointed, you need to have a mentor, you need to have a good mentor, somebody who you respect, who you want to be.

Now, it may not be one judge. You may have one judge who's very bright, one judge who's very good in the courtroom, one judge who's very good at writing orders. You can have three mentors if you want.

But you've got to have somebody you can go to and ask

questions so that you have some guidance when you need it.

>> **JUDGE LAUTEN:** All right. Here's my last question, and it has nothing to do with the law. What do you think makes a successful marriage? What are the requirements for a successful marriage?

And, Sally, I'm going to start with you and then, John, maybe have the last word on that.

>> **JUDGE SALLY KEST:** Being flexible and communicating. You have to understand the other person has some -- you know, you're going to have to compromise. So you have to be flexible in dealing with issues as they come up and recognize that you both have something to say about them, and then come to some resolution that may not make both of you happy, but that both of you can live with.

>> **JUDGE LAUTEN:** John?

>> **JUDGE JOHN KEST:** I think we've been married 43 years; is that right?

>> **JUDGE SALLY KEST:** Yeah.

>> **JUDGE JOHN KEST:** I think it is.

>> **JUDGE SALLY KEST:** Come November.

>> **JUDGE JOHN KEST:** And one of the keys is doing what you just did. If there's a decision to be made, you ask Sally first.

(Laughter.)

>> **JUDGE JOHN KEST:** And then you make whatever comments

you want, and then you do what she wants to do.

(Laughter.)

>> **JUDGE JOHN KEST:** That's the secret.

>> **JUDGE LAUTEN:** So it sounds like you're the chief justice at home. At least that's what it sounds like.

>> **JUDGE SALLY KEST:** He keeps saying this, but I think there's a mischaracterization here.

>> **JUDGE LAUTEN:** You might dissent from this opinion; is that right?

>> **JUDGE SALLY KEST:** Yeah.

>> **JUDGE LAUTEN:** I want to thank you both for taking time of your busy schedule and talking to us today. And I also, as Chief Judge, want to thank you for your hard work that you put in as judges.

We know that you took financial sacrifices to become judges. Both had highly successful, productive legal careers, and on behalf of the citizens of this region, I want to thank you for moving from that field onto the bench and for bringing your talents and skills and the hard work that you put in.

So thank you so much for sitting with us today, and thank you so much for your dedication as circuit judges. Thank you.

>> **JUDGE SALLY KEST:** Thank you.

>> **JUDGE JOHN KEST:** Thank you for having us.

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