

WHO'S WHO LEGAL

An interview with **Hon. Elizabeth Stong**, United States Bankruptcy Court, Eastern District of New York.

[The Honourable Elizabeth Stong sits as a judge on the United States Bankruptcy Court, Eastern District of New York. Over a 20 year career, Judge Stong acted as a private practice litigator, mediator and arbitrator with Willkie Farr & Gallagher LLP, and previously with Cravath, Swaine & Moore LLP. Appointed to the bench in September 2003, Justice Stong has presided over dozens of corporate and consumer bankruptcy cases. Speaking at the IBA 5th World Women Lawyers' Conference in London in April, she describes her career progression and shares her views on insolvency and bankruptcy issues in New York.]

- 1. With an AB in History and Science, law does not seem an obvious choice; did you always want to be a lawyer? If not, how did you find yourself in this profession?**

An excellent question! I did not know many lawyers growing up, so I cannot say that I always wanted to be a lawyer. But I did always want to be engaged in work that would allow me to make a difference on issues that matter to me. As a law student and lawyer, and especially as a judge, I have found that the values of the legal profession, including due process and access to justice, are a central part of my daily work.

- 2. You worked in litigation for 20 years. What was your first case as a lawyer and how did it inspire you in terms of the direction of law you pursued?**

My first case as a lawyer was as the junior member of the trial team in Cuomo v. Baldrige. In this case, the City of New York, among others, brought an action against the U.S. Commerce Department and Census Bureau, among others, alleging that the decennial census

systematically undercounted New York City's residents. It was a terrific experience for a young lawyer, as we were in court every day trying issues of great consequence, with some of the best trial lawyers and statistical experts in the country. That trial experience taught me much about the importance of preparation and at the same time, the importance of being able to think on your feet. And it helped me to appreciate the role of the federal courts in our legal system and the importance of pro bono representation by lawyers in private practice on issues of consequence to society. Those lessons stayed with me throughout my years in private practice, and undoubtedly inform how I think about aspects of my role as a federal judge.

3. As a lawyer, what was your favourite aesthetic of trial – opening statement, cross examination, closing argument? Has it changed since you have become a judge?

As a lawyer, I represented clients, mostly defendants, in large and complex disputes that often did not go to trial. I enjoyed the process of understanding the law and the facts associated with a particular case. Against that background, I also enjoyed the challenge of solving the problem for the client – indeed, the problem-solving aspects of defending a big case were often even more challenging than the litigation aspects.

But it seems that some cases have to be tried, and when that happened, I found that the most engaging aspects of trial included the questioning of witnesses, and the arguing of issues to the court. As a judge, I enjoy all aspects of courtroom activity – arguments on motions, evidentiary hearings, case management conferences, and settlement conferences – but some of my most satisfying experiences have come from using the case management process to assist the parties in arriving at a solution that is even better for both sides than a victory would have been for either side.

4. *Who would you say have been your mentors throughout the years? What relatives, friends, colleagues, or adversaries have shaped you both as a person, as a lawyer and as a judge, and how?*

I have been very lucky to have a wide range of mentors throughout my career, even today. My first mentor, and one of the most important figures in my professional life, was undoubtedly the U.S. District Judge for whom I served as a law clerk, Hon. A. David Mazzone of the U.S. District Court for the District of Massachusetts. He was brilliant and thoughtful, but also compassionate and caring, and I learned from him that every experience you have in life can make you a better lawyer, or judge.

Other mentors include the partners with whom I worked in practice, who taught me much about the profession, the importance of your reputation, and what it means truly to think like a lawyer. Now as a judge, many of my colleagues in the Bankruptcy Court, the District Court, and on some of our State Courts, have been mentors and teachers, willing listeners when I have asked for advice, and occasionally even cheerleaders!

And no list of mentors would be complete without my daughter Margaret, age 12, who shares her fresh perspectives and insights every day, whether I ask for them or not!

5. *What made you decide to become a judge? And why bankruptcy court?*

The best way I can answer that question is with a story. On the first day of my federal judicial clerkship, Judge Mazzone looked down at me – he was quite tall, well more than a foot taller than I am – and said, “You now have the second-best job a lawyer can have – you are a law clerk to a federal judge.” He continued, “And I have the best job – I *am* a federal judge!” Over the year that I worked for Judge Mazzone, I came to appreciate the truth of that simple statement – as part of the federal courts, we had the opportunity to make a difference, every single day, by helping the federal court system realize its promise of

equal justice under law. So for all of the years that I was in practice, I loved my work, my terrific partners and colleagues and clients, my fine adversaries, but I also knew that it was my dream someday to be a federal judge.

In the US system, the Bankruptcy Court is a unit of the District Court, which is our federal trial or first-instance court. Bankruptcy judges hear principally two kinds of cases. One is reorganization and liquidation cases of businesses, large and small. And the other is repayment plan and liquidation cases of individual people, including people who are trying to save their homes. This means that one of the principal tasks of the bankruptcy judge is to manage a bankruptcy case, especially a reorganization case, in a way that preserves the transparency of the process and moves the case forward as promptly as possible to a successful conclusion. This may mean a discharge and fresh start for the debtor and payment to the extent that circumstances permit it to the creditors. Timing is important because in the bankruptcy and restructuring world, delay is usually bad for everyone.

My experience as a lawyer included representing many large clients in the financial services and accounting sectors, as well as many individuals who could not afford a lawyer, but still needed one – badly. It turns out that this combination of experiences has been a good background for bankruptcy court, where companies and people in financial difficulties can reorganize and get relief, and creditors can get paid.

6. You have served on the bankruptcy court for nearly 10 years. In your experience what makes a good judge?

So many things contribute to making a good judge, but some of the most important are patience, dedication, and a willingness to keep an open mind. It helps to like lawyers, too.

7. *As someone who has had many roles in bar associations and other organizations, what advice would you give to students and young lawyers, including those who may have aspirations for judicial service later in their lives?*

I have been active in the organized bar for many years, including in the American Bar Association, the New York State and New York City Bar Associations, and the Federal Bar Council. I have also been active in organizations that work to improve the law and to promote continuing legal education at the highest level, including the American Law Institute and the Practising Law Institute. For me, this work has been the source of tremendous professional and personal satisfaction, and it has taught me a lot as well. From my work in bar associations, I learned how to run a meeting, how to set an agenda, and how to give everyone an opportunity to contribute. This work also brought me into contact with countless lawyers and judges whom I might not otherwise have met, including people who became clients, colleagues, mentors, and friends.

So what advice would I give? I would strongly encourage law students and lawyers to become active in the organized bar, in whatever form is most interesting to them – state, local, national, or international, specialty or general interest. And especially for those who may feel a call to public service, I would encourage them to remain engaged in the issues and ideals that may well have led them to want to become lawyers, or prosecutors, or public defenders, or policy-makers, or even judges, in the first place.

8. *If you could be granted one wish to make your job easier what would it be?*

We do our best to meet the needs of our *pro se* debtors, creditors, and other parties in interest, and we receive enormous support from local bar associations and volunteer lawyers, who willingly take on hundreds of *pro bono* assignments every year. But if I had one wish, it

would be that every party who appears in our court could have their own lawyer, to explain the process and represent them.