DEDICATION

EULOGY FOR MATTHEW J. JASEN

[This eulogy was delivered at the funeral services for Judge Jasen on February 11, 2006, at Christ the King Chapel on the campus of Canisius College, the Judge’s beloved alma mater, in Buffalo, N.Y., the Judge’s beloved birthplace.]

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Three times I have traveled to Buffalo to pay special tribute to my former colleague and forever friend Matthew J. Jasen. The first time was in December 1985, days after his seventieth birthday, when he was required by law to step down from the Court of Appeals bench. He had served the Court brilliantly for eighteen years, having decided thousands of cases and written hundreds of opinions articulating the law of the State of New York. I well remember the accolades Judge Jasen received in Buffalo from friends and colleagues, who welcomed him back home with open arms. He was rightly revered. As the Buffalo News wrote: “He leaves behind a rich legacy of more than 800 appellate opinions notable for their unfailing clarity, common sense and independent thinking, including some memorable dissents.”

For Judge Jasen himself, clearly this was a time of mixed emotion. On the plus side, he enjoyed the accolades and the return to family, friends, and the practice of law. And I know he particularly enjoyed the fact that there would be no more rushing out of the courthouse to catch that Albany-to-Buffalo flight on Friday afternoons. But it was definitely not his choice to leave the Court and a life he loved. Indeed, on the day he left the Court, he spoke of a feeling of regret that time would not stand still so that he could continue for just a while longer.

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It was for him the capstone of an extraordinary life as a lawyer and as a judge, both here and in post-war Europe, where he confronted the spectacle of human evil and perversion of justice by Nazi Germany, acquiesced in by the judiciary. Judge Jasen talked often about that indelible experience. He said that he resolved, right then and there, to do his part to insure that our judiciary remained strong, and dedicated to government in accordance with the rule of law, and not the rule of man. And surely he was faithful to that pledge.

For me, however, Matt Jasen’s mandatory retirement from the Court of Appeals was decidedly not a time of mixed emotion. I had only shortly before joined the Court and was devastated to lose the company of my beloved colleague; the consummate gentleman from whom I learned so much; a true friend and partner in the incomparable, cherished life we enjoy as judges of the Court of Appeals.

He was, of course, the very picture of a High Court judge in every sense—in his distinguished physical appearance, in his dignity and integrity, in his work ethic, in his good sense and sound judgment, in his kindness to a brand new colleague. For me, his legacy went far beyond his appellate opinions, however well conceived and cogently articulated. No, definitely not my choice for Matt Jasen to have to step down from the Court of Appeals.

One memory I will always treasure from our days together in Albany is our breakfasts at Court of Appeals Hall. During Session, our day there begins very early, and ends very late. I count about 230 breakfasts Judge Jasen and I had together between Tuesday, September 12, 1983, when I joined the Court of Appeals, and Tuesday, December 17, 1985, when he left the Court. I will never forget a single detail of those incredible days.

It was our tradition at that time for five of us—Judges Jasen, Jones, Meyer, Simons and me—to gather every Session morning at 7:30 a.m. sharp for breakfast in the Red Room, just behind our magnificent courtroom in Albany. Breakfast, the morning papers and lively conversation (well, mostly lively, anyway). As a brand new judge, the first woman on the Court, a litigator by background with no prior judicial experience, there’s no way on Earth I would have missed a single breakfast with the Judges of the Court of Appeals—even after I was fortunate enough to become one of them.

Three of us, every morning, ate precisely the same thing. We each had unlimited quantities of strong coffee and one or two
blueberry muffins purchased for us by Judge Meyer at the crack of dawn from the Dunkin’ Donuts near his Albany apartment. I simply devoured mine. Judge Jones always carefully cut the top off his muffin, and ate the top part first. Judge Meyer meticulously cut his muffin into eight equal parts—bite-sized—and ate each one separately. Judge Simons had only orange juice and coffee.

But Judge Jasen had a distinctly different breakfast: a modest portion of Shredded Wheat with skim milk, and just one small cup of coffee. I remember feeling frustration, admiration—no, downright envy. How did he do it? Those muffins were utterly irresistible. And then he told me of his lifetime nutrition regime, which he attributed to his mother: only healthy foods, small portions, absolutely no seconds. Ever.

I mention those breakfasts because they were symbolic of so much more about Matthew J. Jasen. He brought that same amazing discipline to his work. Even to his handwriting! Clean, solid, straightforward analysis; simple, unadorned, readily comprehensible writing style. Careful, neat, precise penmanship. Clarity of thought; clarity of expression. No fuss; no waste; no fat.

Not that there was anything rigid or hypertechnical about Matt Jasen—not in his demeanor, not in his personal qualities, not in his jurisprudence. Quite the contrary. He was openly devoted to his wonderful family and spoke often of them, and he was lots of fun to be with. And as for his qualities as a judge, I concur wholeheartedly in Mike Powers’ recent description—and who should know better?—“[a]s a judge, he felt the most important things he could do were to judge cases fairly and to write clear, concise decisions that would provide guidance to lawyers and judges in the lower courts.” He was faithful to that pledge too.

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The second time I traveled to Buffalo to pay tribute to Judge Jasen was last spring, when the Court of Appeals held a special session there. We are not generally a traveling Court—a Buffalo session was a distinctly historic, and most pleasurable, venture for us. And the truth is, the opportunity for the full Court to pay tribute to Judge Jasen played a large part in our decision to visit there. No mixed emotion this time: for each of us it was pure joy to be with him, and I mean this in a couple of ways.

Above all else, it was great to see Judge Jasen in such good spirits and in such superb condition—fit, vigorous, and vibrant in every respect. Still the same dignified, distinguished appearance; still the
same spring in his step. And by the way, I don’t care what the newest studies say about low-fat diets having no effect on health—Matt’s mother was right. Plainly, she knew what was good for the body, and good for the mind. Even at the age of eighty-nine, Matt clearly was enjoying his life, which still included days at the office practicing law. In fact, that’s where I’d always reach him when I phoned to chat. His years after the Court were brimming over with work, whether as counsel on cases, or as Special Master appointed by the United States Supreme Court, or as Referee, or as a concerned member of the community.

He looked so good at that luncheon in his honor last spring, where he spoke—movingly and extemporaneously—about how much he enjoyed his life. There was absolutely no diminution in his physical agility, or his mental acuity. Indeed, the two of us took a private minute or two to celebrate the Court of Appeals reversal of a 1985 decision in which Judge Jasen and I were the two dissenters—that was, for me, definitely one of his “memorable dissents.” What a special pleasure, and special bond, that was for us.

Then too, it was pure joy to see him surrounded by his loving children and grandchildren, and his loving professional family—his former law clerks. There were several tables of each—all in a sense proud progeny, the people who so enriched his life. And his wonderful law clerks—talk about pride! I’m not sure which was greater, their pride in him, or his in them. One could only hope to have such a distinguished cadre of lawyers who attribute their professional successes to time spent with the Judge. We took a ton of photos with Matt that day, watched Mike Powers’ great video of Judge Jasen’s life story, and left Buffalo filled with smiles and wonderful memories.

Still, of course, there are all the wonderful memories, but the third trip to Buffalo, for Judge Jasen’s funeral, was tinged by the sadness of knowing that there will be no more calls, no more visits to be with Matt. That is sad for me, and for all of his Court of Appeals friends—his Albany family—whose condolences I took with me from Albany to Buffalo to convey especially to Judge Jasen’s children and grandchildren, who I know will miss him dearly.

But as much as we will all miss having just one more visit, or telephone chat—however deep our feeling of regret that time would not stand still so that he could continue for just a while longer—when we think of Matthew J. Jasen it can only be with enormous
pleasure and genuine pride. How privileged we were to have shared even a small part of his remarkable life. How well he lived out his years to the very end—indeed, January was the first time I had to phone him at home, though I did try the office first. A life of love and family—love given and love received. A life of kindness and goodness to friends and colleagues. Of service to community and society. A life of dedication to justice and the rule of law. Genuinely a life well lived, a life to be celebrated. All concur. No dissents.