Leadership in the Federal Courts: A Candid Appraisal

J. Rich Leonard
Campbell University School of Law, leonardjr@campbell.edu

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The Federal Courts:
A Candid Appraisal

Judge J. Rich Leonard
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(This article is excerpted from a speech Judge Leonard made to senior federal court administrators at the opening meeting of the Federal Judicial Center's Executive Leadership Program. Judge Leonard has 30 years of experience in the federal courts. He has been a law clerk, a clerk of a district court, a magistrate judge, a bankruptcy judge, and a chief bankruptcy judge and has also been on several Judicial Conference committees.)
I think courts are different, and I think federal courts are different from other courts. You always have to keep these differences in the back of your minds if you are to be effective.

I think these are the core principles of being an effective leader in the federal courts. Let me say at the outset that these perceptions are uniquely, and perhaps oddly, mine, based on my experience and having been on and chaired innumerable task forces, working groups, pilot projects, and the like. It is a career that has been intellectually satisfying, demanding of every skill I have, and full of wonderful and unique individuals all over the nation and world. My sincere hope is that each of you can say the same in two or three decades.

I think courts are different, and I think federal courts are different from other courts. You always have to keep these differences in the back of your minds if you are to be effective.

First, I want to lay out my understanding of the organizational structure, including what I think are the two great ambiguities in court administration right now that complicate your lives. Then, deriving from that context, I want to give you several reasons why I think being an executive in federal courts is different from the private sector, other governmental positions, and even state courts. Finally, I want to share with you my own idiosyncratic list of traits that I have witnessed in the most effective leaders I have known and worked with over my career.

I don't think you can be effective in any organization unless you understand its broad organizational framework. The federal courts are somewhat confusing; my own view is that this is because the underlying statutes that define the power and authority of the major players just don't match up to the way business is conducted today.

If you peruse Title 28, which is the organizational structure for the judiciary, here's what I think you find. It clearly sets up a decentralized structure for the exercise of judicial power, carefully defining the makeup of the courts of appeals, the district courts, and the bankruptcy courts. It carefully spells out the jurisdictional requirements for cases to be brought in the various courts, the numbers of judges, the locations of court, the order of precedence, and chief judge rotation.

Importantly for you, it places appointment and removal authority over clerks and chief probation officers in these local courts. But when you look at what administrative powers the statutes give to the local courts, they are strangely silent. For instance, Section 751, the appointing authority for district court clerks, says the clerk may appoint and remove necessary deputies as determined by the director of the AO (Administrative Office), and pay into the treasury all fees and other money collected. Section 956, the general powers-and-duties-of-clerks section, merely says that the clerk shall perform such duties as assigned by the court.

Why is this important? Basically nothing that you do today is actually statutorily codified. There's nothing about budget, buildings, procurement, telecommunications, or automation mentioned. What the original statutory framework envisioned (which is unchanged today) was a decentralized and autonomous judicial decision-making structure, with a very centralized and hierarchical administrative structure.

And in fact, that's the way it was when I became the clerk of a district court in 1979. All personnel decisions were made at the Administrative Office — local clerks were not allowed to have a copy of the judicial salary plan. You simply hired a person if you had a vacancy, and sent their information to the AO, and it came back in a few weeks stamped with an entry grade and step. All furniture and supplies were ordered off of the GSA (General
Services Administration) supply schedules and paid for centrally. About all that I was responsible for locally was maintenance of files and equipment, and supporting the judicial process. This actually worked to my advantage, because the part of the job I always loved best was case management, and I was free to delve into that without much distraction. I understand that's in no way the courts in which you work today. But the underlying statutory structure still reflects life 30 years ago, not today.

So where does administrative authority actually reside in the federal courts, as a statutory matter? Your first guess would probably be the Judicial Conference. When I try to describe federal court governance, particularly in international settings, I say grandiosely the Judicial Conference is the Congress for the judiciary. But when you look at its statutory authority, it is surprisingly toothless. It is largely contained in one statute, Section 331 of Title 28, and except where it acts as the final arbiter in judicial disciplinary proceedings, its role is surprisingly advisory. It is directed to submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business. And it does have the authority to abrogate local rules it finds inconsistent with national rules and statutes. It has no general regulatory or enforcement authority.

As the Guide to Judiciary Policies itself clearly says, the Judicial Conference does not have the statutory authority to issue administrative orders directly to the courts. Although it does set national policy for the courts, it has no enforcement mechanism.

If you try to discern what the overarching organizational theory of judicial governance was initially, it would be a mistake to skip the judicial councils of the circuits. Actually, I think, at least on paper, this is where the real authority over local courts was intended to reside. The judicial councils have authority to "make all necessary and appropriate orders for the effective and expeditious administration of justice in the circuit. All judicial officers and employees of the circuit are directed to carry into effect all orders of the council." Furthermore, the councils have subpoena authority and may enforce their orders by contempt. In most places, their role seems largely to be constrained to resolving disciplinary complaints, handling renovation requests, and rubber-stamping a variety of model plans required to be developed.

Without a doubt, administrative control of the federal courts as a statutory matter resides in the director of the Administrative Office, who must exercise it under the supervision of the Judicial Conference. The recent recodification of the powers of the director is breathtaking in scope. It goes on for pages and includes plenary authority over virtually every area of federal court administration except hiring and firing.

Probably the most important statute dealing with the administration of the federal courts is 28 USC § 602(d), which says that "The director may delegate any of the director's functions, powers, duties and authority (except the authority to promulgate rules and regulations) to such officers and employees of the judicial branch of Government as the director may designate, and subject to such terms and conditions as the director may consider appropriate; and may authorize the successive redelegation of such powers, duties, and authority as the director may deem desirable. All official acts performed by such officers and employees shall have the same force and effect as though performed by the director in person."

The overarching theme of federal court administration over the past three decades has been the enthusiastic embrace of this delegational authority. In virtually every important area, the directors have vigorously delegated more and more administrative authority to the local courts.

Nonetheless, I think it is critically important to remember that in most administrative areas, we act under very precise delegations of authority rather than under some independent statutory grant that gives with it some discretion and autonomy. Why does this matter?

First, it gives rise to what I refer to as the first of the Great Ambiguities: the authority of the chief judge versus the authority of the court. Let me explain.

As I indicated earlier, the statutes themselves contemplate little role in administrative matters for local courts. The powers statutorily given to local courts deal largely with hiring and removing personnel (clerks, chief probation officers, magistrate judges, bankruptcy judges) and adopting rules of procedure. The statutes are completely clear that these are decisions of the court, not the chief judge. They expressly say that only in the absence of a majority vote does the chief judge's decision control.

But the statutory delegations from the director do not reflect this basic theory of local governance. And I am not being critical here, because under the terms of the statute, I think the director is required to delegate to a specific person, not an entity. All of the important delegations go to the chief judge, who in most instances redelegates to executive officers, who delegate further down the line. But it is not clear to me that when the chief judge acts as the director's alter ego in exercising the administrative authority
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of the director, he or she needs in any way the concurrence of his or her fellow judges. Actually, the more I have looked at this, the more I have become convinced that as a matter of administrative law, the chief judge can act singularly.

Suppose the chief judge wants to spend $30,000 to upgrade the furniture and furnishings at a divisional office where only he goes, and then infrequently. The other two judges have told you they oppose this vehemently in these tight times. What do you do?

If you go to the handbook for chief bankruptcy judges, the answer is surprisingly oblique. It says, "With regard to those duties which Congress has assigned to the bankruptcy court, the chief bankruptcy judge works in collegium with the other judges. In the event the bankruptcy judges cannot reach a majority decision concerning an administrative matter, however, the responsibility to break the tie falls to the chief bankruptcy judge." But is the second sentence talking about only those administrative matters that Congress assigned to the bankruptcy courts, or all administrative matters?

What if the chief judge says if you don't spend the money, you're fired? Are you? Not in a court of more than two judges, unless a colleague votes with him.

Let me turn for a minute to what I call the Second Great Ambiguity in trial court administration right now. And it turns on the relationship between the district and bankruptcy courts. The simplest way to phrase this is: Does Section 151 of Title 28 have any administrative implications? That section says, "In each judicial district, the bankruptcy judges in regular active service shall constitute a unit of the district court to be known as the bankruptcy court for that district. Each bankruptcy judge, as a judicial officer of the district court, may exercise the authority conferred under this chapter . . . ."

I think that the genesis of this provision was an attempt to get around the Supreme Court opinion in *Marathon* holding the independent bankruptcy courts set up in the 1978 legislation unconstitutional, an attempt we now know after *Stern v. Marshall* was unsuccessful. I don't think it was ever intended to suggest that the district court has supervisory authority, but the words push in another direction. I have heard any number of chief district judges opine that if the bankruptcy court is a unit of the district court, and its judges are judicial officers of that court, then the bankruptcy court falls within his or her general supervisory authority. The statute also, oddly, gives the district court the authority to name the chief judge of the bankruptcy court, not the court of appeals who appoints the judges, and arguably if you control who is chief judge, he or she works within your supervisory authority.

Of course, other provisions of the statute point in other directions. Section 154(b) expressly states that the chief judge of the bankruptcy court shall ensure that the rules of the bankruptcy court and of the district court are observed, and that the business of the bankruptcy court is handled effectively and expeditiously. (Interestingly, there is no parallel statute giving similar authority to chief judges of district courts and courts of appeals.) The deskbook for chief judges of the bankruptcy courts unequivocally states, "The chief bankruptcy judge is ultimately responsible for every aspect of the court's operation." The delegations of the director reflect this reality, made directly to the chief judges of the bankruptcy courts and not flowing through the district courts. Nonetheless, the ambiguity is there and persists in the minds of many district judges.
Now let me turn to what I see as the basic characteristics of working in the federal judiciary that make it unique.

1. You don't have some general power given by statute just to run the court as you see fit in your discretion. You have to know and understand the precise terms of the delegation in each substantive area in which you work. And you have to make sure that the paper trail of delegation is clear in your court. I know in our court, we have a special place on our intranet page where the delegations in an enormous variety of areas go on forever and ever. In times of economic crisis and shortfall, a return to a more centralized system or other alterations in control and authority takes just the stroke of a pen. The director can retract authority in any area he desires, so long as the Judicial Conference agrees. And more frighteningly he can delegate authority in a different fashion or down a different path.

2. These delegations have dramatically enhanced the status of chief judge. These delegations run directly to the chief judge of each court, who in turn can and almost always does re-delegate. This process suggests to a chief judge that because the authority runs through him or her, involvement in the decisions is critical. And even for chief judges who would be willing to sit back and let unit heads run the administrative operation, I think the AO has made this worrisome by their constant emphasis on the individual responsibility (and implicitly, liability) of the chief judge.

3. Another curious aspect of federal court administration is that there are no normative standards for governance at the local level that can be relied upon, except to the extent that a court imposes standards on itself. I think that's because the statutes didn't anticipate the local courts having the decentralized authority we have now. What do I mean? The smallest private or public corporation is held to some procedural regularity in how it conducts its affairs, in terms of regular meetings of its board, minutes reflecting actions, shareholder access to information, and the allocation of authority between its board and its management. I was clerk of a district court under three chief judges. The first had open, informal meetings involving everyone on a regular basis and worked largely on consensus. The second moved us to a very formal agenda.
with *Roberts Rules of Order* and motions, but still inclusive. The third excluded the magistrate judges and bankruptcy judges and had meetings of only the district judges. The chief judge who came after I left never had a single bench meeting in seven years. And no one had any grounds to complain, because each was completely free to structure affairs as he wanted.

That's not true, incidentally, of the Judicial Conference and the judicial councils of the circuits. The statutes are very precise about their makeups and meeting schedules. When the underlying statutes were written, the local courts had almost no administrative autonomy, so no mandatory administrative structure was required. As a unit executive, you have no consistent procedures on which you can rely to facilitate administrative decisions of the court.

4. Courts are unique in that the persons with the legal control of and responsibility for the organization do not have administration as their primary responsibility. Imagine if the primary job of the CEO of General Motors was not to run General Motors but to personally build cars eight hours a day. That's where we are in the judiciary. Judges come to these jobs not because they want to run organizations, but because they want to grapple with intricate and difficult legal issues at the highest levels. That's how our reputations are made. We are going to be measured by our judicial demeanor as demonstrated in your courtroom, and the quality of our written work. For most judges, our ultimate focus is not on the administrative operation of the court.

5. The judges in control have no administrative training whatsoever, other than what you provide locally. Other than a visit to the AO and some handbooks, a person who becomes chief judge of a federal court largely learns from his or her predecessors and colleagues and feeling his or her way.

6. Administrative control goes to persons who have no particular interest in it or aptitude for it, simply because of seniority. Very few judges actually decline their turn at a chief judgeship, even though they may personally disdain the administrative responsibilities that come with it.

7. Administrative control transitions from one person to another at irregular, haphazard intervals that make no sense in the life of the organization. You can be in the middle of a $100 million building project to which your chief judge has devoted a considerable portion of her time, and the day her term runs out, she loses authority over it. In many large courts, most chief judge tenures are much less than the statutory seven years. And there are no national normative rules with regard to the chief judgeships of the bankruptcy courts. The selection and tenure of the chief judge of the bankruptcy court is completely at the discretion of the district court. Respect for seniority is not required; there have been several instances where the district courts departed from seniority to the surprise of everyone involved.

8. The job security of judges gives them a de facto immunity from the consequences of their decisions. The head of GSA lets a conference get out of hand and loses her job. Legislators get caught sending inappropriate text messages and are voted out of office. Other than a very few cases involving outright criminal activity, I can't recall a single judge who ever lost his or her position or suffered any adverse consequences because of bad administrative decisions by his or her court. Lifetime appointment is real.

9. There is an enormous power differential between the judges and everyone else. It is no secret to any of you that the federal courts are the last great bastion of at-will employment. Unless an adverse employment action runs afoul of the antidiscrimination provisions, you have absolutely no entitlement to your position and can be removed for any cause or no cause. It doesn't happen often, but it does happen. I can recall any number of instances where a clerk or chief deputy just disappeared from the scene with very little fuss or explanation.

10. Judges have a collegiality and bond that they will in almost every instance respect, and will be rare to criticize or call to account a colleague. These jobs are hard, and they can be pressure-packed, and you
don't understand it until you are sitting up there by yourself with absolutely no idea how to sort out some complex mess. No matter how good your relationship may be with individual judges, and even when they might slip informally in discussions with you to criticize a colleague, when it really matters, they will almost always close ranks and support, or at least not challenge, each other.

11. Unlike some other branches of government, courts have to function effectively and efficiently on a daily basis. We can't take a few weeks off to regroup or go on recess, even if we have not managed to perform our basic constitutional responsibilities (like pass a budget). If trials don't start on time, the Speedy Trial Act lets bad people go. If motions for relief from the stay aren't heard in 30 days, the relief is automatically granted. If search and arrest warrants aren't issued, bad acts go unpunished. No matter what the institutional crisis at hand, the doors still have to open every morning, and the processes have to work. And as an executive officer in the courts, you have no option but to make sure this happens. There really are no acceptable excuses.

12. And this is the good news — the ambiguity inherent in your situation can support endless creativity. Assuming that you work in a collaborative court, there is a huge degree of autonomy in how you manage your affairs, in terms of money and people, to get the work done. You can achieve extraordinary results solely as a result of your own imagination and creativity.

The third set of issues I want to talk to you about in this environment is how to maximize your personal effectiveness. This is my own quixotic list, but it derives from close observation of the major players in the federal judiciary over the past three decades, both judicial and administrative.

1. Don't be a dilettante — make yourself a substantive expert in some area. One of the wonderful things about being an executive in the federal courts is the vast array of responsibilities you have. In my view, you can't be an expert in all of them, constantly abreast of all of the changes; so, play to your strengths. Become a substantive expert in the one or two areas where you have an interest or affinity, and delegate the details of the other areas to senior staff. I'm not saying shirk your responsibility for understanding the lay of the land in every area for which you have supervisory responsibility and accountability.

Let me give you an example. I took the job as clerk because I really loved working with civil rules and case management, and thought I could make a difference in a court that had no good procedures and was abysmally slow. Eventually I got asked to speak at regional and national seminars, and then in 1990, when the Civil Justice Reform Act was foisted on the courts with all of its requirements, I got invited to be the liaison clerk working with the Committee on Court Administration and Case Management to implement its requirements. After I joined the bankruptcy bench in 1992 and the seat on that committee allocated to a bankruptcy judge became vacant, I was able to jump over many able and more tenured colleagues because the judges on the committee I had already worked with wanted me as a member. And I am not singular. Don't be afraid to make yourself a self-proclaimed expert in an area, especially if you do the homework to back it up.

See if this quote from a 2005 article in The Court Management and Administrative Report applies to you:

Studies have shown that managers work at an unrelenting pace, that their activities are characterized by brevity, variety and discontinuity; and that they are strongly oriented to action and dislike reflective activities. . . . No study has found important patterns in the way managers schedule their time. They seem to jump from issue to issue, duty to duty, continually responding to the needs of the moment. . . . The manager is plagued by the possibilities of what might be done versus what must be done.

My caution to you is to buck this trend — carve yourself out a thoughtful, reflexive area where you are confident of your knowledge and ability.

2. Do what you say you will do, and here's the important corollary, if you can't do what you said you would do, forthrightly admit it. I don't think anything destroys your
Take responsibility for failure and give away credit for successes. People in courts are smart. They generally know who does the work and give credit where credit is due. You don't need to be your own cheerleader. Any accolades to which you are entitled will come your way without self-nomination.

effectiveness faster than to not meet the deadlines you represent to others you will make. The only thing that is more damaging is to leave the other players wondering what happened. We all overestimate our abilities and just can't do all we promise. Be forthright about it, and suggest an alternate plan. For example I just spent two years chairing one of the task forces dealing with NextGen, the one designed to elicit the views of our outside users. I was handed a task force already populated mostly by court folks of strong reputation and talent, and then we were allowed to add some outside representatives. Some of the folks on this task force, both from inside and outside the courts, didn't perform according to the timetable we established, and I had no idea why. In a couple of instances, I had to get more autocratic than is my style to get the work done. These are all good, smart people who I suspect are hopelessly overcommitted. But that doesn't change the fact that there are five or six people on that group I would not work with again, given the choice. You don't need to flub many of these high-profile opportunities before they don't come your way. Conversely, most of the group worked enthusiastically and hit every mark with a quality product, and I'd advance their cause any chance I get.

3. Take responsibility for failure and give away credit for successes. People in courts are smart. They generally know who does the work and give credit where credit is due. You don't need to be your own cheerleader. Any accolades to which you are entitled will come your way without self-nomination. So even though you may have played the pivotal role in some major initiative, I suspect you didn't do it singlehandedly. So give away the lion's share of the credit. Conversely, step up and take responsibility for failures even if they aren't personally attributable to you. I don't mean excuse misfeasance or laziness. But, this is a very complicated business we are in, and if you hire smart people and give them some autonomy, they are going to make mistakes. Don't sacrifice them — protect them. The loyalty you get back will serve you well.

I remember early in my career as clerk, a defendant who had decided to plead guilty changed his mind late in the day before his trial was to begin, and the judge informed me that he needed the jury panel after all. This was before recorded messages, and we had already called the panel and told them not to come. With a sinking feeling, I asked my brand new jury administrator what she had told them. And she cheerily replied, "I told him the guy came to his senses and pled guilty so they were excused." We had obviously contaminated that entire panel, and had to get another one showing up by the next morning. I called four or five of my senior staff and asked them to return to the office, went by the convenience store and bought a case of beer, and we worked the phones cheerily until we had another panel reporting. And within a decade, that jury administrator was leading national workshops, and always included the story of her botched release of a jury panel. (And I went out the next week and bought machines with recorded messages so it couldn't happen again.)

4. Shake off disappointment and move forward.
Form alliances with colleagues with more power and prestige to achieve your strategic goals. Often you can accomplish your goals by forming a strategic alliance that gets you closer to the result you want.

Everything you want professionally will likely not come your way and the decision denying it to you may be fundamentally unfair. You have to figure out a way to let the past be the past, and move forward.

5. Provide indispensable, value-added analysis to the flow of information coming into the court. We are bombarded with communications from the director, from Judicial Conference committees, from the circuits, the Federal Judicial Center, and any number of other entities. Most judges are not attuned to the administrative intricacies of court administration and are not clear what all of these communications really mean. Busy judges don't have time to digest all of this. Don't just be a courier. Take the time to analyze the gist of this information, and more importantly, what it is changing, why, and what the local impact will be. Assuming you are good at these jobs, it would be enormously helpful to have some interpretative assistance about all of this information to tell me just enough not to make a mistake.

6. Work out a communication strategy on an individual judge-by-judge basis. I think you favor the chief judge and neglect the other judges at your peril. In most courts, virtually everyone will have an opportunity to be chief judge. But judges, like everyone else, like to get information in different ways. I have had the privilege of sharing the Raleigh courthouse with two remarkable colleagues. I came to realize early that the first really did not enjoy spontaneous legal discussion. If I wanted to talk about an issue, he preferred to know beforehand, have some time to think it through, and talk at a later designated time. His successor, like me, likes nothing more than off-the-cuff legal discourse, and we are in and out of each other's offices with no notice several times a day. You can either intuit out the styles of your individual judges, or if comfortable, have an express conversation about it. I do think that unless it is an absolute emergency, you should avoid what I call the "recess ambush." That is, you sit in a judge's antechamber until he or she takes a ten-minute morning break. Of course, you only need five minutes, but I will tell you, I already have that ten minutes planned to the hilt. I think these are often not very satisfactory encounters; the judge heads back to the courtroom not having done what he or she wanted with the rest of the day disorganized, and the clerk feels like he or she got the brush-off. Work out a different strategy for dealing with everything but true emergencies.

7. Take the time to know your staff. And I mean a couple of things by this. The first is to know the basic biographical information about them and their significant others. Know whose spouse will be upset by the results of the basketball game last night, or whose daughter is in the final round of competition for a prestigious scholarship. One of the things that has surprised me over 30 years is what sometimes is a complete disconnect between the reputation a court executive has nationally, and his or her reputation at home. I suspect all of you know what I'm talking about. And I think some of that comes from just not taking the time or effort to know the folks who work for you. To the extent you are invited, participate in the major events of their lives. Shortly after I became clerk, my operations manager lost her mother suddenly. The funeral was on a Saturday afternoon, my wife was out of town, we had two
small children, and I just didn't go. Monday morning, the chief judge and I were in the elevator together. And he just said, "I missed you at the funeral Saturday. I thought I would have seen you there." It cut like a knife, and I learned my lesson.

I mean something a little deeper. Try to figure out the best model for your staff to function — how do they best receive information, give input, know what is happening in the court, and respond to praise or criticism. After I had been clerk about three or four years, we were getting some good results in a lot of measurable ways, but there were a lot of undercurrents, bickering, and rivalry that I couldn't seem to figure out. I hired a trainer and took everyone offsite and put all of us through a set of personality tests and exercises. And guess what: it turns out that my personal style was so different from almost everyone else that as much as they liked me, I was driving them crazy. I completely changed the way I ran my office, and it made a world of difference. We went to a model of a senior staff meeting every Tuesday morning with an open agenda on which any employee could put an item, and public minutes circulated to everyone by the end of the day. Once a month I conducted a general staff meeting at which no topic was off the table. The buy-in was immediate and pretty transformational. I didn't think any of it was necessary. We went to a model of a senior staff meeting every Tuesday morning with an open agenda on which any employee could put an item, and public minutes circulated to everyone by the end of the day. Once a month I conducted a general staff meeting at which no topic was off the table. The buy-in was immediate and pretty transformational. I didn't think any of it was necessary. Here's something else I learned. Out of a staff of 40, two other persons were typed like me. These were the two others accused of being my favorites and there was some truth to that. After that exercise, I worked scrupulously to make sure our similar approach didn't lead to unfairly favorable treatment.

8. Depending on your ambition, you may have to make some "deep breath" moves to be as successful as you want. Courts are not as local and parochial as they were 30 years ago. In terms of hiring and promotion, most courts have learned that cronyism in this complex environment only gets you into trouble. For many of you, you may be in the job you hope to retire from, and just want to do it better. For others, you may have to move out of your comfort zone and move laterally among courts, or even into the AO for a while, if hiring freezes ever relent. For instance, a fellow I hired as a deputy clerk more than 20 years ago while he was attending night law school is the chief deputy in a court that is his fourth.

When opportunities come your way, don't dismiss them out of hand. Try to be clear-eyed about where they might lead.

9. Form alliances with colleagues with more power and prestige to achieve your strategic goals. Often you can accomplish your goals by forming a strategic alliance that gets you closer to the result you want. Let me give you an example from my career. I began to explore with my automation staff whether we could upload the digital recordings of our hearings to the docket and make them remotely accessible. When we figured out we could, I went first to Judge Jack Tundheim, the chair of CACM, and sought a private green light. I laid out for him how I wanted to proceed with a pilot project, have a simultaneous FJC (Federal Judicial Center) evaluation, and ultimately ask CACM's endorsement. Why did I do it? Because if he had been negative at the outset, it wasn't worth wasting my time. He was in a position to advance the project on its merits, or make sure it never saw the light of day. For anything you want to do, you have to figure out where the approval points in the process are, and who are the strategic players with power and prestige that you could bring to your side.

10. One of my favorite quotes about leadership comes from an old political science professor of mine at UNC, Thomas Cronin. It goes like this:

Leaders have those indispensable qualities of contagious self-confidence, unwarranted optimism, and incurable idealism that allow them to attract and mobilize others to undertake demanding tasks these people never dreamed they could undertake. In short, leaders empower and help liberate others.

The truth is that no one willingly follows grumpy, pessimistic, mercurial people. It's no fun to work with such people, you never know where you stand, and their treatment of you from day to day is unpredictable. One of my closest colleagues over the years who is a fine human being and one of the best judges...
I know is unbelievably moody. He's the first to tell you that about himself. When he was chief judge, I worked out a set of hand signals with his secretary about whether it was a good time to approach him. We had three signals: all's clear, stay away unless the courthouse is on fire, and do what you need to do but do it quickly.

11. Set some bold and audacious personal goals and try to meet them. People like to be led by leaders who challenge themselves to reach new heights. In my late 40s I took up mountain climbing. I summited Mt. Rainier twice and climbed Mount Kilimanjaro. And when things get tough and I feel overwhelmed, I still flash back to a freezing morning sitting on a ledge halfway up Rainier in the middle of a blizzard sucking on frozen raisins. And suddenly, my current troubles seem manageable.

Setting big goals and meeting them does two things: it gives you the self-confidence that you need to lead, and it inspires others to follow you.

12. Develop some maintenance strategies that enrich and refresh you or you will burn out. This is different from audacious goals, which you need to do a handful of times in your life. This is about developing and building into your days some activities that counterbalance the incessant work demands on us, particularly now in this electronically wired environment where we really never leave work anymore. I am a firm believer in the power of physical exercise and make it pretty much a part of every day. By this point each of you have probably found your own balance on this, but the empirical evidence about the benefits of even modest exercise cannot be denied.

But it goes beyond physical exercise. I know what many of you are thinking — I work hard, go home to a busy spouse and family chocked full of activities and chores, fall into bed exhausted, and wake up early and do it again. So do I. You will burn out and get jaded unless you build in some countervailing pressures. I garden pretty seriously. I can do it while I watch children, and my walk through my yard every morning with my coffee gives me daily pleasure. And two or three days a week, I duck into my favorite coffee shop on the way home and over a glass of wine, race to see how quickly I can do the crossword puzzle.

13. Keep a long view when events you can't fix impact your life. I have hesitated to say this, but let me explain what I mean. I have watched literally hundreds of men and women move into federal judgeships. In more than 95% of the cases, they become better people. They take the responsibilities with the utmost seriousness, treat litigants and staff courteously, try to find common solutions, and are humbled by the responsibilities they have. Hopefully, these are the judges you work with.

But somewhere less than 5% slip through the process, and the power and prestige of the job, magnify some preexisting character flaws. They become haughty and impatient. They often have scorn for rules and procedures, play favorites, and insist that actions be taken for impermissible partisan or personal reasons. When a judge such as this comes to a chief judgeship, you have to accept that you likely can't control or fix the situation, although hopefully you can protect your tenure and that of your staff and perhaps minimize the damage. You just have to make your own personal calculus about whether you have the stomach to wait it out, or need to make a move. Chief judgeships don't last forever in the federal courts, so you need to have some personal strategies to get you through. If you are lucky, you will never encounter such a judge in your career.

14. Finally, avoid parochialism as much as possible. Keep your eye on the fact that we aim to be a federal court system, and look for consistencies and commonalities. The biggest criticism our outside users make is that we are a federal system in name only, but have so Balkanized our local filing and case management practices that each court is its own universe. And I've come to think there is a lot of merit in this criticism. I think that for our courts to be the effective and efficient dispute resolvers that the world needs for us to be, we have got to move back toward a more central model. And I think the people in this room could be a big part of that.