

# 10 QUESTIONS

## for Judge Eduardo C. Robreno

U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

INTERVIEW BY MATTHEW T. STONE

**U**.S. District Court Judge Eduardo C. Robreno became the first Cuban-American appointed to the federal bench and the first Hispanic federal judge in Pennsylvania. During his 20 years on the bench, he has authored more than 1,000 opinions, touching on every aspect of the legal field, and has been commended for whittling the largest multijurisdictional litigation in U.S. history, *In Re: Asbestos Litigation*, down to a fraction of what it once was. From his flight from the communist-controlled Cuba to his appointment by President George H.W. Bush, Judge Robreno's path to the bench has been a remarkable one.

**MATTHEW T. STONE:** You immigrated to the United States without your family at age 15. What was it like in Cuba and why did you leave?

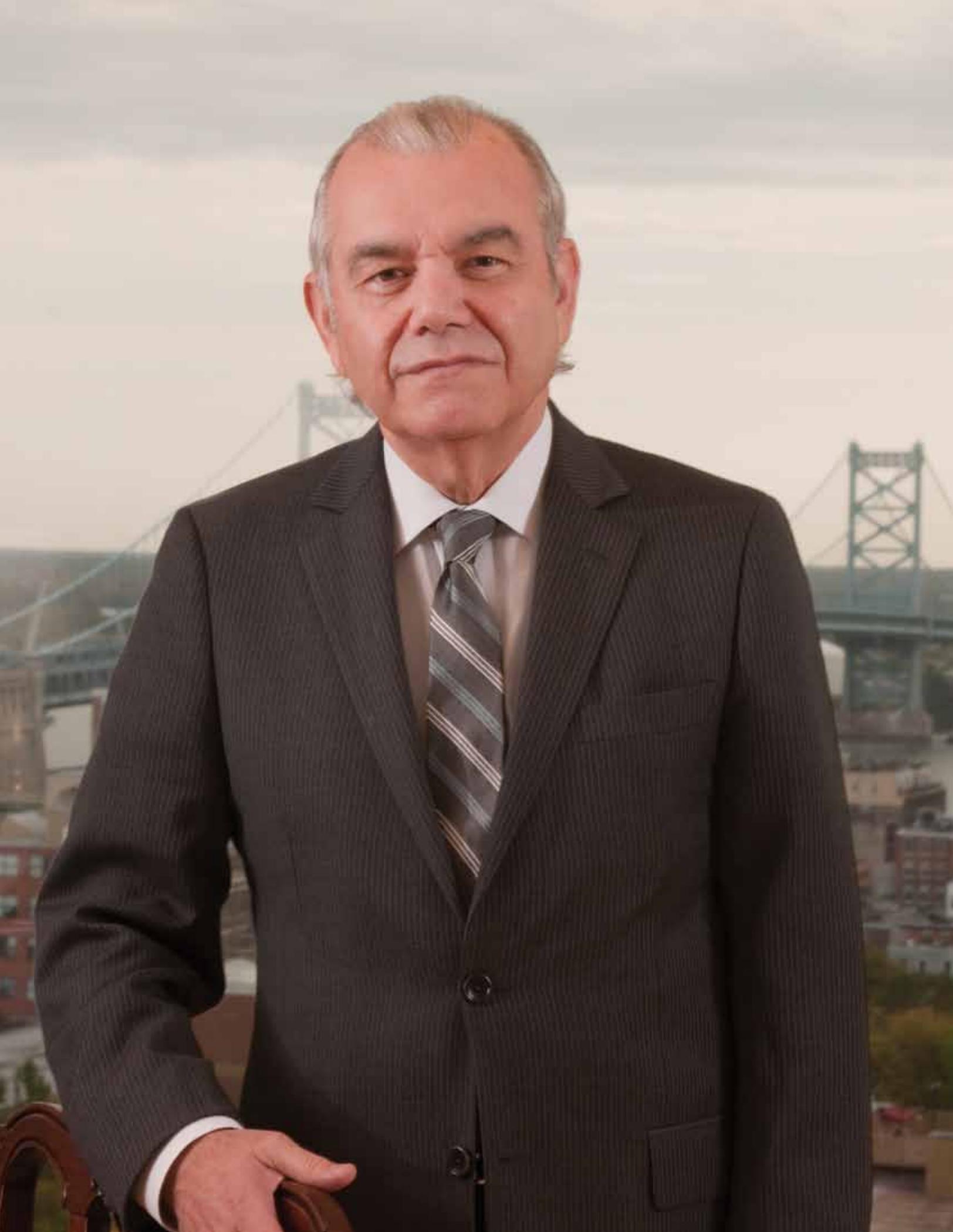
**JUDGE EDUARDO C. ROBRENO:** I was 13 years old in 1959 when Castro took over and up until then I had a fairly normal middle class upbringing consisting of family, church, school and sports. After Castro, things began to change rapidly. Cuba was soon in the midst of a full-blown violent revolution. So as the world around me was changing, so was my little world. My own family was split; while my father and my brother supported the revolution, my mother was skeptical. The LaSalle School, where I had gone since the first grade, was closed down. I saw neighbors and family friends carted off to jail for the slightest infraction. I thought this was all wrong and contrary to everything I had been taught. For me, the choice was to pledge allegiance to the régime and join one of the revolutionary militias or to leave Cuba. And although at the time I was very

young and politically naïve, from what I had seen so far I thought that things were pretty unlikely to change for the better and if I stayed in Cuba. I then learned from a family friend of a program called "Pedro Pan," or the Peter Pan Program (named after the "Children who could Fly"), which was run by a priest in Miami and through which you could obtain visas for children who were sent to the United States unaccompanied by adults from Cuba. How the program worked was that once you came to the United States, through Catholic relief agencies,

you were placed either with foster parents or in the still-open orphanages of the U.S. I talked it over with my parents and although I think that their hearts said no, their heads said yes. That is, I think they realized there was nothing but a life of danger for me in Cuba. So I contacted the Pedro Pan program, obtained a visa and an exit permit, packed one suitcase, and said goodbye to Cuba and my parents. I left for Miami in July of 1961.

**How did you go from refugee to becoming a lawyer?**

Once in the U.S., I was placed in a foster home; first in Miami and later in Northampton, Mass. I finished high school, and went to college and graduate school in Massachusetts. It is hard to believe that back then, tuition at state schools was \$100 a semester, so I was able to support myself and pay tuition through a series of part-time jobs during the year and full-time work in the summer. Throughout my 20s I worked in the



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labor field. At the age of 30, I applied to law school. Although I don't recall any "Road to Damascus"-type moment where I decided to go to law school, I had wanted to be a lawyer ever since I can remember. Rutgers Law School in Camden, N.J. took a chance on what was then considered to be an "older" student by the conventions of the time. So I quit my job and moved to the Philadelphia area in 1975 to go to law school and have remained here ever since.

**Your wife is also Cuban-American. Where did you meet and what has your life been like together?**

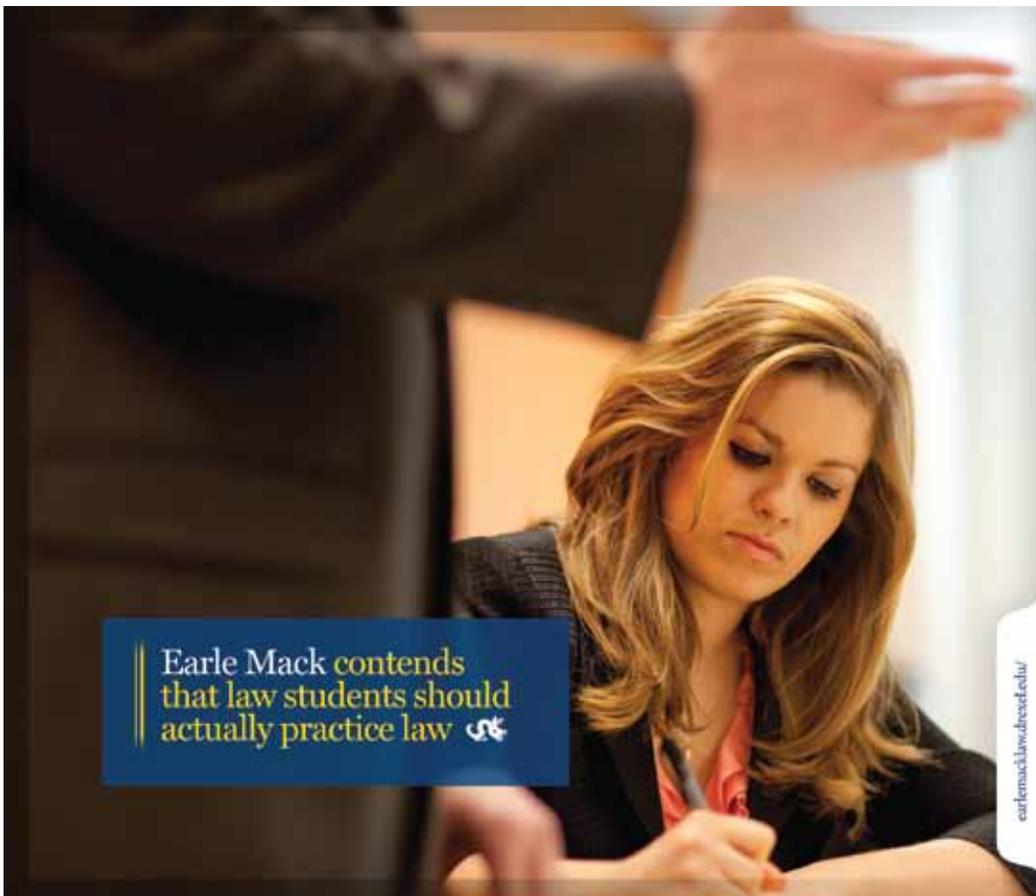
She came to the United States under different circumstances, later in the 1960s and with her parents and siblings.

We met in Cherry Hill, N.J. where she lived at the time and we have been married for 30 years. She is a mental health therapist at a charter school in Camden. She is a daily source for support and my best friend. Together we have raised two children; a daughter who is a lawyer in New York City and a son who works on Capitol Hill.

**What was the selection process like when you became a federal judge?**

We have been fortunate in Pennsylvania that our senators, both Democrats and Republicans, have been committed to selecting a qualified bench and while politics obviously plays a role they have viewed the selection process generally as legacy appointments. Back in the early 90s, when I was going through the

selection process, Sen. (John) Heinz and Sen. (Arlen) Specter had established a merit selection commission. I was, at the time, in private practice after three years of working with the Department of Justice Antitrust Division. So I applied to the commission and along with now-Judges (John R.) Padova, (J. Curtis) Joyner and (Anita B.) Brody made the short list of candidates. The White House agreed with the senators' selections and in time the president submitted the nomination to the Senate. Incidentally, it was then the practice began by President Reagan for the president himself to tell the nominee that he intended to send the nomination to the Senate. So it happened in my case that the call came to my law office and when I picked up the phone I heard a voice say "this is the White



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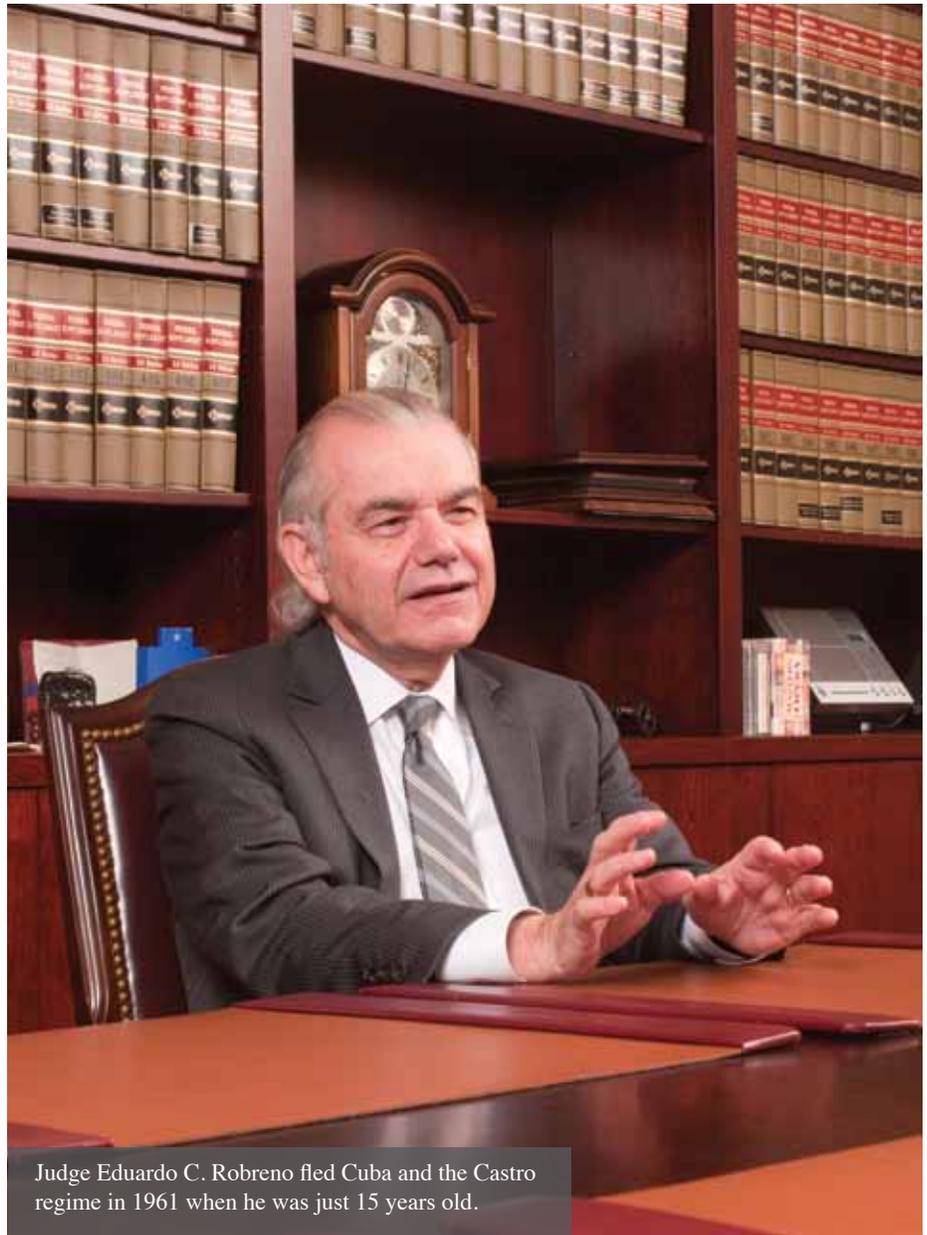
House operator, would you hold for the president.” My brief conversation with President George H.W. Bush stands out as the most memorable and personally touching moment in this selection process. He could not have been more gracious. After eight months of emotional ups and downs, waiting for the Senate to act, I was confirmed by the Senate 20 years ago, in July of 1992.

**You were the first Cuban-American to be appointed to the federal bench and the first Hispanic to sit on the federal bench of Pennsylvania. Does this achievement have special meaning to you?**

Well, I feel proud to have been the “first,” but the appointment says much more about America than it says about me. My story, while perhaps somewhat improbable, is just one of the literally millions of stories of immigrants in America who left their homeland behind whether for economic, political or religious reasons in search of freedom and opportunity and they found it here. It is truly a unique experience in the history of the world. Every year I preside over the naturalization ceremony during the week of the Fourth of July. It is inspiring to see so many people from so many different backgrounds and of different colors who speak with different accents, but who all believe in the American Dream. I wish every American would get a chance to see it. It should remind us all that America with its flaws and faults still remains what Lincoln called, “the last best hope on Earth.”

**What is life like day-to-day as a federal judge?**

It is a busy and challenging environment where you have to multitask. Our docket consists of both civil and criminal cases assigned on a random basis. We follow the individual calendar practice so that each judge is responsible for his or her own docket. On the civil side, the job is both adjudicative and administrative. In the adjudicative side the range of legal issues is very diverse. We spend a good deal of our time at hearings deciding motions and writing opinions that dispose of cases on the merits or sharpen



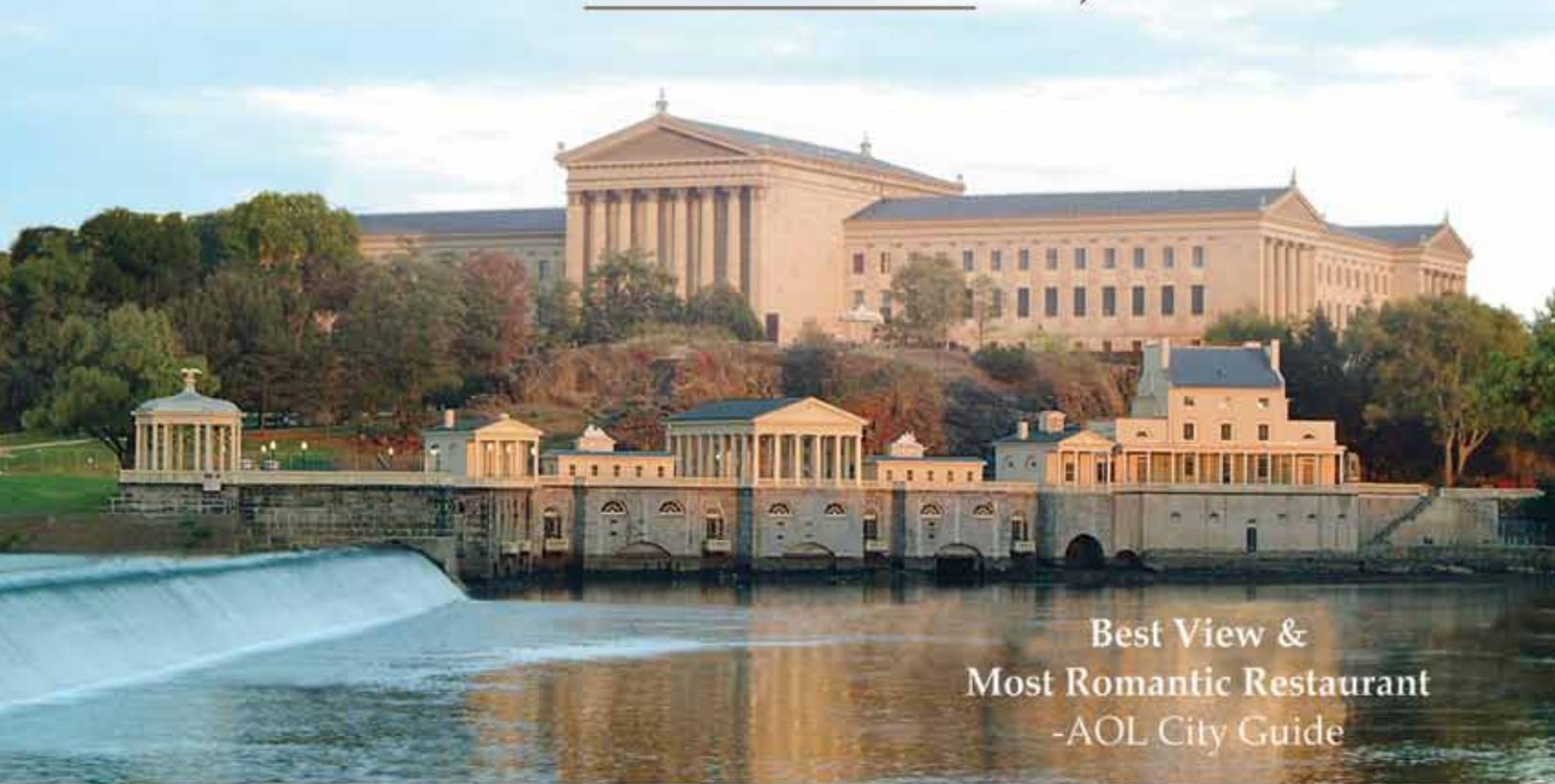
Judge Eduardo C. Robreno fled Cuba and the Castro regime in 1961 when he was just 15 years old.

the issues for settlement. If settlement is not achieved and the case has not been dismissed, though increasingly rare, we preside over jury trials. On the administrative side, we are tasked with what we may call “moving cases.” So we hold conferences with counsel, set deadlines, resolve discovery disputes, encourage settlement; in short, try to remove the obstacles or barriers leading to a settlement or trial. On the criminal side we are in charge of ensuring deadlines of the Speedy Trial Act are kept. We rule on the availability of bail, revocation or modifications of supervised release, pre-trial motions and discovery matters. Our statistics show that perhaps as high as nine out

of 10 cases will result in pleas. So the most significant act for a judge, at least on the criminal side, is sentencing. And although we have sentencing guidelines, the process calls for looking at a defendant at the time of sentencing in full, warts and virtues, and to arrive at a judgment which reconciles the interest of the public, the defendant and the victims. Framing a fair and lawful sentence is the most stressful part of the job and the one over which I agonize the most.

**District judges, unlike panels of the Court of Appeals, are by themselves without official interaction with members of the**

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**court. What is your relationship with other members?**

We are a most collegial court. This is one of the pleasures of coming to work every day. I consider my colleagues on the court to be part of my extended family. And in my 20 years on the bench, I have never seen or heard any of my colleagues take into account any outside pressures and their sole concern expressed to me is “what is the right thing to do.”

**You have been commended for bringing the largest MDL in the U.S., the Asbestos Federal Multidistrict Litigation, to a near conclusion. How were you able to do that and are there any lessons your learned from handling mass tort litigation?**

The asbestos litigation has proven to be a legal and medical challenge to the country for the last 40 years. I was appointed to preside over the

litigation by the panel on multidistrict litigation in October 2008. At the time, the docket consisted of approximately 150,000 cases and more than 10 million claims with cases from every jurisdiction in the country. For a variety of reasons, efforts to create national classes or to achieve global settlements had not been successful. So we took a different approach; rather than seeking a kind of grand bargain or a class-wide treatment, we decided to deconstruct the litigation to what we call “one plaintiff, one claim.” We severed all multi-plaintiff cases to a single plaintiff and then directed that each plaintiff file a diagnostic report supported by medical evidence. If the plaintiff could not or chose not to meet that requirement, the case was dismissed. Those who did satisfy this threshold requirement were placed on individual scheduling orders with fixed deadlines for discovery, summary judgment remands or trial. Each case

was then assigned to one of our four magistrate judges – Judges (M. Faith) Angell, (Thomas J.) Rueter, (David R.) Strawbridge and (Elizabeth T.) Hey – who supervised that discovery, resolved any scheduling issues and participated in settlement discussions. Their work has been spectacular and they deserve much of the credit for the day-to-day success of the program. We also appointed two special masters, Bruce Lassman and Chris Lyding, both former law clerks for Judge Charles R. Weiner, who had presided over the litigation for about 15 years, who help in discovery and settlement of cases. Judge (Lowell A.) Reed, before his retirement, also lent a hand, as did Judge (Mitchell S.) Goldberg, who issued a critical opinion which was ultimately affirmed by the U.S. Supreme Court. Mike Kunz and the Clerk’s Office staff were invaluable, transferring to the docket of our court cases from all over the country, some of which were at least 20 years old. The



Clerk's Office has handled, so far, more than 500,000 docket entries. The docket has been reduced from 150,000 to about 5,000. We think the end of the litigation as mass tort litigation is now near although surely individual cases will continue to be filed for the foreseeable future. Throughout it all we have had the support of both plaintiffs' and the defendants' bars. So I think the lesson learned is that with the application of appropriate resources, federal courts are capable of handling mass tort litigation fairly and efficiently no matter the size and based on the collaborative effort of the bar and the bench.

**Are you involved in any professional activities outside of the court?**

Being on the bench can be an isolating experience; the Canons of Conduct as well as basic notions of propriety limit one's professional and even social contacts. So getting out and talking to other judges and lawyers outside the court in the proper context helps break

down this isolation and I believe combats a tendency toward parochialism. So I teach a couple of courses at the local law schools, participate in CLEs for the Bar Association and Pennsylvania Bar Institute, and since I have been presiding over asbestos litigation, I speak regularly at conferences on asbestos or mass tort litigation. And one particularly enjoyable extracurricular activity is to be a member of ABA Site Evaluation Committee that reviews law school accreditations and which allows me to visit different law schools every couple of years.

**What is the main lesson you've learned in the last 20 years on the bench that you would like to pass on to a judge who is new to the bench?**

After sitting on the bench for a while we run the risk, I suppose inherent with any job that you hold for a long period of time, to think that we have seen it all before and to pigeonhole cases or type of cases into categories. Now some years

ago I learned a valuable lesson from our late colleague Judge Louis Pollak, as to how to approach a case. Judge Pollak was amicably discussing a particular case with one of our colleagues at lunch and he was reviewing the difficulties he was having coming to judgment in a case. Our other colleague, himself a distinguished member of the bench, dismissed Judge Pollak's predicament by pointing out, "Lou you're treating this case like it's the Sacco-Vanzetti case," obviously meaning, you are giving it too much importance. To which Judge Pollak responded without missing a beat, "Every case is Sacco-Vanzetti to the litigants." So I would say to a new judge always remember Judge Pollak's injunction that "every case is Sacco-Vanzetti to the litigants." Every case big or small, high-profile or ordinary, merits our highest personal attention. ■

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