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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
HONORABLE DAVID O. CARTER, JUDGE PRESIDING

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A SPECIAL TRIBUTE and)
CELEBRATION of LIFE HONORING:)
)
) CEREMONY
PRESIDING JUSTICE DAVID G. SILLS)
(1938-2011))
)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
Santa Ana, California
Tuesday, November 15, 2011

Debbie Gale, CSR 9472, RPR, CCRR
Federal Official Court Reporter
United States District Court
411 West 4th Street, Room 1-053
Santa Ana, California 92701
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1 **SANTA ANA, CALIFORNIA, TUESDAY, NOVEMBER 15, 2011**

2 **CEREMONY**

03:57 3 *(Proceedings begin at 3:59 p.m.)*

03:57 4 **CALLS TO ORDER**

03:59 5 U.S. MARSHAL: All rise.

03:59 6 In the presence of our flag, emblematic of the
03:59 7 Constitution, and remembering the principles for which
03:59 8 it stands, the United States District Court is now in
03:59 9 session.

03:59 10 The Honorable David O. Carter, Judge, presiding.

03:59 11 COURT OF APPEAL SENIOR DEPUTY CLERK: The Court
03:59 12 of Appeal, Fourth Appellate District, Division Three is now
03:59 13 in special session. The Honorable William F. Rylaarsdam,
03:59 14 Acting Presiding Justice, presiding.

03:59 15 We welcome the Chief Justice of California, the
03:59 16 Honorable Tani Cantil-Sakauye.

03:59 17 JUDGE CARTER: We're going to invite all of you to
03:59 18 remain standing for the presentation of the colors by the
04:00 19 Marines of the Second Battalion, 23rd Regiment.

04:00 20 After the presentation of the colors, please
04:00 21 remain standing for the playing of our national anthem and
04:00 22 for playing of *America the Beautiful*.

04:00 23 Today we're joined by the Saddleback Master
04:00 24 Chorale. And it's led by Director Charles Stevenson.

04:00 25 Present the colors.

04:00 1 *(Presentation of colors by United States*

04:00 2 *Marine Corps.)*

04:01 3 *(Singing of national anthem by Saddleback*

04:01 4 *Master Chorale.)*

04:02 5 *(Singing of America the Beautiful by*

04:02 6 *Saddleback Master Chorale.)*

04:06 7 **OPENING REMARKS**

04:06 8 JUDGE CARTER: If you would please be seated.

04:07 9 Well, first, welcome to all of you: The legal
04:07 10 community and friends here in Orange County.

04:07 11 This is truly an historic honor and occasion, a
04:07 12 colleague, who is referred to oftentimes by all of us as
04:07 13 "Justice David Sills," sometimes by others of us as "Captain
04:07 14 David Sills," United States Marine Corps, but by all of us
04:07 15 in this room as a true and dear friend.

04:07 16 It's unprecedented that the California Court of
04:07 17 Appeal and the United States Federal Court would join
04:07 18 together in such a ceremony. It's literally a first. But
04:07 19 what makes this so absolutely special today is the honor of
04:07 20 having David's wife Susan Sills with us. She was escorted
04:07 21 by Captain Tetzloff of the United States Marine Corps to
04:08 22 start our ceremony today.

04:08 23 Susan, we're honored to have you. These accolades
04:08 24 that are about to be really lavished upon David because
04:08 25 they're so well deserved and so well earned today is really

04:08 1 an outpouring of our affection for you, for your guidance,
04:08 2 wisdom, gentleness, love from a colleague/friend that we
04:08 3 simply knew as "David."

04:08 4 We're especially honored to have the Chief Justice
04:08 5 of the California Supreme Court, who's an absolutely
04:08 6 gracious, gracious person, and Justice Bill Rylaarsdam,
04:08 7 who's been a friend.

04:08 8 I don't think we need to be reminded of the
04:08 9 following: If Lincoln could change the history of the world
04:08 10 with a few words in Gettysburg in less than two and a half
04:08 11 minutes, our speakers today will take less than five
04:08 12 minutes.

04:08 13 *(Laughter in the courtroom.)*

04:08 14 JUDGE CARTER: Because at 5:00 o'clock, we will
04:08 15 promptly gather at the corner and go across for a very
04:08 16 special ceremony presented by the United States Marine
04:08 17 Corps.

04:08 18 Without further introduction, I want to introduce
04:08 19 John Hueston -- I refer to him as "Local Boy "-- President
04:08 20 of the Orange County Bar Association. I don't think John
04:08 21 needs any introduction other than he represents the
04:08 22 thousands and thousands of people in our legal community,
04:09 23 this wonderful community.

04:09 24 John.

04:09 25 MR. HUESTON: Thank you, Judge Carter.

WELCOME

04:09 1
04:09 2 MR. HUESTON: Welcome, everyone, to this very
04:09 3 special tribute and celebration of life, honoring Presiding
04:09 4 Justice David Sills. It's my honor to introduce each of the
04:09 5 distinguished speakers today. Each one deserves a
04:09 6 comprehensive introduction, the likes of which I cannot give
04:09 7 today. I've been threatened with collective contempt of
04:09 8 over 50 Courts and Judge Carter if I go on at length, so I
04:09 9 will dive right into it and try to keep within your time
04:09 10 constraints.

04:09 11 First, it is a great honor to have the Chief
04:09 12 Justice visit us in Orange County again. Chief Justice
04:09 13 Cantil-Sakauye has served more than 20 years on California
04:09 14 appellate and trial courts. She is the first Asian-American
04:09 15 to lead the State's judiciary. In addition to serving as
04:09 16 Chief Justice of the California Supreme Court, she oversees
04:09 17 the statewide judiciary that includes more than 1,700
04:09 18 judges, several hundred other judicial officers, 21,000
04:10 19 court employees, and a budget of roughly \$4 billion that
04:10 20 she's desperately attempting to preserve.

04:10 21 She's already shown her dedication to the courts
04:10 22 in her relatively short tenure by her active work on the
04:10 23 ground around the state. Many of you know that she just
04:10 24 visited last week, here in our Fourth District, Division
04:10 25 Three Court of Appeal. She's also equally dedicated to the

04:10 1 individuals serving so hard in the name of our courts. And
04:10 2 she's showing and demonstrating her commitment again by
04:10 3 honoring us with her presence in this special celebration.

04:10 4 Please join me in welcoming the Chief Justice.

04:10 5 *(Applause in the courtroom.)*

04:10 6 JUDGE CARTER: There are exceptions to every rule.
04:10 7 The Chief Justice is granted as much time as she would like.

04:10 8 *(Laughter in the courtroom.)*

04:10 9 **REMARKS**

04:10 10 CHIEF JUSTICE CANTIL-SAKAUYE: Really, I come here
04:10 11 in humility and out of tremendous respect for a remarkable
04:11 12 man. I do not come alone. I come with the admiration,
04:11 13 affection and respect from the California Supreme Court, the
04:11 14 California Judicial Council, and the Administrative Office
04:11 15 of the Courts.

04:11 16 I come here because today we honor a remarkable
04:11 17 man. We honor a man whose work and whose concern and
04:11 18 courage will live on. And I have only a few words to say in
04:11 19 that respect. I know that he will live on in his work.
04:11 20 Justice Sills, in his lifetime, authored over 2400 opinions,
04:11 21 400 published. The precedent he set in emerging law, in
04:11 22 surrogacy, land use, election law, and family law will
04:11 23 forever guide us in our decision making in California.

04:11 24 He also worked, as many of you already know, ten
04:11 25 years in service to the City of Irvine, four times as mayor.

04:11 1 and we've also heard reference to his work serving this
04:12 2 country, protecting our freedoms as a Captain in the Marine
04:12 3 Corps. His work will live on.

04:12 4 He will also live on through his efforts across
04:12 5 the street. He took on a project that usually is outside
04:12 6 the reach of most justices and judges, and put together a
04:12 7 building from the ground up with hands-on, with incredible
04:12 8 attention to detail. And we have for that now the beautiful
04:12 9 court building across the street. I was just there, and I
04:12 10 know in every detail and in every honor that Justice Sills
04:12 11 lives on. And he also lives on, as we know, in our hearts,
04:12 12 based on those here today because of his affection, his
04:12 13 courage, because we are his friends, and because he will
04:12 14 live on forever in memories in our hearts.

04:12 15 But I also want to take a moment to really extend
04:12 16 my support and respect for the courage and compassion of
04:12 17 Susan in these last few months, but also for the lifetime
04:12 18 you spent with Justice Sills. Because all of us know that a
04:13 19 hero in public life, a hero on the courts, and a hero in our
04:13 20 U.S. armed services, always has another hero; and we know
04:13 21 that, throughout it, it was you, Susan. So again, with
04:13 22 great respect and honor, we, the California Supreme Court,
04:13 23 the Judicial Council and the Administrative Office of the
04:13 24 Courts, salute you as well.

04:13 25 Thank you.

04:13 1 *(Applause in the courtroom.)*

04:13 2 MR. HUESTON: It is now my honor to introduce
04:13 3 Acting Presiding Justice William Rylaarsdam. Justice
04:13 4 Rylaarsdam served as a Superior Court judge for
04:13 5 approximately ten years before he was appointed an associate
04:13 6 justice of the Court of Appeal in 1995. Justice Rylaarsdam
04:13 7 has always attempted to give back to his legal community.
04:13 8 Over the years, he has published over 60 articles, served as
04:13 9 an adviser to the Executive Committee of the Litigation
04:13 10 Section of the State Bar. He writes a monthly newsletter on
04:13 11 new legal developments and he is a co-author of two popular
04:14 12 Rutter Group guides in his spare time.

04:14 13 Please join me in welcoming Justice Rylaarsdam.

04:14 14 *(Applause in the courtroom.)*

04:14 15 JUSTICE RYLAARSDAM: Thank you.

04:14 16 Before I start, I want to thank the Orange County
04:14 17 Bar Association, Joe Dunn, and particularly our colleague,
04:14 18 Richard Fybel, for organizing this memorial. Particularly,
04:14 19 Richard, when I asked him to take charge of this, and he
04:14 20 agreed to do so, I don't think either one of us had the
04:14 21 slightest idea how much work would be involved. And he has
04:14 22 spent a great deal of time and effort to make all the
04:14 23 arrangements. And I, on behalf of all my colleagues, thank
04:14 24 you Richard.

04:14 25 *(Applause in the courtroom.)*

04:14 1 JUSTICE RYLAARSDAM: A few weeks ago, actually
04:14 2 quite shortly after David passed away, one of our staff,
04:14 3 Attorney Bob Wolfe, came up with an idea, which we
04:15 4 implemented. We got a book and passed -- with blank pages,
04:15 5 and passed it around, over the past couple of weeks, through
04:15 6 our court for you, Susan. And everybody who wanted to --
04:15 7 and that included, I think, everybody there -- wrote a page
04:15 8 or a page and a half with some of their memories of David.
04:15 9 And we will present that to you later.

04:15 10 I just received the book back this morning. And
04:15 11 I -- on reading it, I was really struck by a theme that ran
04:15 12 throughout the comments: The tone that David has set in
04:15 13 governing the court.

04:15 14 There were many comments, but -- such as, "When I
04:15 15 first arrived, the atmosphere of the court had a dramatic
04:15 16 impact. Compared to my prior working experience, I was in
04:15 17 heaven working in such a calm, peaceful and congenial
04:15 18 environment. Although I did not know it at the time, I came
04:15 19 to learn that much of this was due to Justice Sills'
04:15 20 management style. He allowed us to work without being
04:16 21 pressured or micromanaged."

04:16 22 Another comment written by another member or
04:16 23 employee of our court: "Justice Sills led by example,
04:16 24 showing respect and cordiality to everyone."

04:16 25 Here's another: "The judge was the most

04:16 1 remarkable, but more, admirable person I have ever known. I
04:16 2 think that was because of a unique personal security. He
04:16 3 brought out the best in everyone. He gave everybody he
04:16 4 touched a chance to flourish."

04:16 5 His certainly is a life of accomplishments, and
04:16 6 that most -- many of which has already been alluded to: His
04:16 7 distinguished military service; twenty years of legal
04:16 8 practice; his service to the City of Irvine as City
04:16 9 Councilman and as Mayor during a period when the City was
04:16 10 growing at a tremendous rate; served as chairman of the
04:16 11 Irvine Health Foundation for 26 years.

04:16 12 And in 1985 he and I, on the very same day, were
04:17 13 appointed on to the trial bench. I was appointed to the
04:17 14 L.A. Superior Court, and he to the Orange County Superior
04:17 15 Court. I didn't know David up to that point at all. And
04:17 16 actually, after a very short time, I transferred to
04:17 17 Orange County Superior Court, and got to know Dave while we
04:17 18 were both on the trial court. He was there for five years
04:17 19 before he moved on to the Court of Appeal.

04:17 20 But I really got to know David much better, of
04:17 21 course, after I came to the Court of Appeal, 15 -- no --
04:17 22 16 years ago. We worked together for that entire period.
04:17 23 David, of course, led our court for 20 years, far longer
04:17 24 than any of his predecessors, and he was a born leader.

04:17 25 As has been mentioned, David was the first justice

04:17 1 in the California appellate process to deal with the very
04:17 2 difficult legal issues of surrogacy when really there was no
04:17 3 legislation and there was no precedent, and he established
04:17 4 precedence in this area, and continued to serve our society
04:17 5 well.

04:17 6 Also, in my opinion, David was probably the best
04:18 7 writer on our court. You've all probably read his opinions
04:18 8 and know they're always clear and many times entertaining.
04:18 9 But he set the tone for our whole court. And as our
04:18 10 colleague Bill Bedsworth wrote, "He was as kind and generous
04:18 11 man as I've ever known. Rooms got warmer and brighter when
04:18 12 David Sills walked in. People got better. Problems seem
04:18 13 smaller. Leadership came naturally to him. Good and decent
04:18 14 people have a calming and reassuring affect on others. And
04:18 15 David was good and decent in spades."

04:18 16 And David's long-time staff attorney, Jeff Calkins
04:18 17 wrote. He said, "There was something profoundly
04:18 18 old-fashioned about Justice Sills. Perhaps it was his
04:18 19 midwest origins; perhaps it was his call to military
04:18 20 service. Somehow the old-school motto, '*God, Duty, Country*'
04:18 21 comes to mind. Whatever he did, he always was a Marine
04:19 22 Captain: Steadfast, calm, loyal, looking ahead. He picked
04:19 23 his battles with care, and worked with us with admirable
04:19 24 patience. Patience and tolerance were his chief virtues.
04:19 25 No wonder Churchill and Eisenhower were his patron saints."

04:19 1 David kept all the parts of our courts moving
04:19 2 together. He did so in his unique way, quietly and always
04:19 3 with sensitivity to the needs others. He was always willing
04:19 4 to listen to anybody's position. David and I did not always
04:19 5 agree, but I did never -- I never heard David raise his
04:19 6 voice in disagreement.

04:19 7 Finally, of course, I think I should mention
04:19 8 David's pride in obtaining our new courthouse, a project
04:19 9 that took many years before the first spade was turned. And
04:19 10 without David, this project would never have come to
04:20 11 completion. We will always miss him very much.

04:20 12 *(Applause in the courtroom.)*

04:20 13 MR. HUESTON: Thank you, Justice Rylarsdaam.

04:20 14 Rick Derevan is a certified specialist in
04:20 15 appellate law and a partner at Snell & Wilmer. He is a
04:20 16 current member and past president of the California Academy
04:20 17 of Appellate Lawyers, and a fellow of the American Academy
04:20 18 of Appellate Lawyers. He practices regularly before
04:20 19 Division Three of the Fourth District.

04:20 20 And Presiding Justice Sills appointed Rick to be
04:20 21 on the committee that planned the courthouse. And he's very
04:20 22 proud of that.

04:20 23 Rick, welcome.

04:20 24 MR. DEREVAN: Thank you, John.

04:20 25 Let me say this right off the top: Presiding

04:20 1 Justice Sills was a terrific judge; but, more importantly,
04:20 2 he was a terrific human being, as you've heard already, and
04:20 3 I think that speaks volumes about him.

04:20 4 I would like to focus my remarks from the
04:20 5 standpoint of a lawyer who did practice regularly before him
04:21 6 and his court and start out by saying that, quite simply,
04:21 7 it's the best appellate court I've ever appeared in front
04:21 8 of. And I'm convinced it started at the top with his
04:21 9 leadership, quite apart from the quality of his opinions --
04:21 10 which I'll get to in a minute.

04:21 11 Other things about the court made it a wonderful
04:21 12 place to practice: The court staff was just unfailingly
04:21 13 kind and gentle. I think they took after Presiding
04:21 14 Justice Sills. They took a practical approach to solving
04:21 15 things. Cases didn't get decided on technical matters, but
04:21 16 things got decided on the merits. And so, if you had a
04:21 17 problem with the court, they'd figure out a way to get
04:21 18 around it from the standpoint of processing cases.

04:21 19 And I think the court -- the clients who practiced
04:21 20 before the court and had lawyers who were there, knew that
04:21 21 the court took a kind view and a fair view of their cases.
04:21 22 And I think that really made the clients happy to be in
04:21 23 front of that court.

04:21 24 But the essence of Justice Sills, from a lawyer's
04:21 25 standpoint, I think, was the opinion writing that he did.

04:22 1 You can't help but appreciate his writing, regardless of
04:22 2 whether you won or lost. And when you picked up an opinion,
04:22 3 you knew instantly it was a Dave Sills' opinion. You didn't
04:22 4 have to go to the back of the opinion and see who signed it.
04:22 5 I mean, you knew.

04:22 6 Shakespeare and deadpan humor made frequent
04:22 7 appearances in his opinions. And I'd like to read a passage
04:22 8 from one of them, if I will, 'cause the writing is just so
04:22 9 good.

04:22 10 He says, "In Shakespeare's *Henry V*, there is an
04:22 11 early scene where the Archbishop of Canterbury delivers a
04:22 12 long, tedious and virtually incomprehensible speech to the
04:22 13 new king," parenthetical, he says, "incomprehensible unless
04:22 14 you have the text in front of you and you've taken a
04:22 15 graduate seminar on the law of royal succession in Medieval
04:22 16 France."

04:22 17 Now, who else would write something like that?

04:22 18 Then he goes on to describe this topic that is
04:22 19 being talked about. And then he goes on to say that, "Upon
04:22 20 that fine, pedantic, legal distinction would awake the
04:22 21 sleeping sword of war and as a consequence later in the
04:23 22 play, ten thousand French knights and soldiers would get
04:23 23 slaughtered in the mud at Agincourt. In the case before us,
04:23 24 by contrast, the worst thing that can happen as a result of
04:23 25 the fine, pedantic distinctions on which this case turns, is

04:23 1 that a case, which should be otherwise considered by one
04:23 2 court, will be heard by another, which is not quite the same
04:23 3 thing as dying in a battle from a gale of Welsh arrows."

04:23 4 *(Laughter in the courtroom.)*

04:23 5 How many opinions will you pick up and find
04:23 6 something like that. It's terrific writing. But it's not
04:23 7 the turn of a phrase that made him a great judge, I don't
04:23 8 think. It's the moral quality that he brought to his
04:23 9 opinions. And I want to talk about one case in particular
04:23 10 for a couple of minutes.

04:23 11 It's a case called *Passante v. Williams (sic)*. It
04:23 12 had to do with a baseball card trading company. And in that
04:23 13 case, it involved what he called a "rookie" baseball card
04:23 14 trading company, and it was on the cusp of success or
04:23 15 failure, depending whether it could obtain financing.

04:23 16 And its lawyer, in Justice Sills' indomitable
04:23 17 words, "stepped up to the plate" and, in the clutch,
04:23 18 delivered financing for the company. And the Board of
04:24 19 Directors was so happy, they promised the lawyer certain
04:24 20 number of shares in the company, which would later turn out
04:24 21 to be worth millions and millions of dollars.

04:24 22 And what happened, though, there was -- there was
04:24 23 not all joy at this company. Ultimately, the company, in
04:24 24 Presiding Justice Sills' words, quote, "Outright reneged on
04:24 25 its promise," forcing the lawyer to sue for breach contract.

04:24 1 While, ultimately Presiding Justice Sills held
04:24 2 that the company had a right to do that, he did, in the
04:24 3 course of the opinion, give the company a lecture and talked
04:24 4 about what is right versus what is strictly legal. He said,
04:24 5 "The Board had a clear moral obligation to honor its promise
04:24 6 to the lawyer. He had, as the baseball cliché goes,
04:24 7 "Stepped up to the plate" and homered on the Upper Deck's
04:24 8 behalf. "And if this Court could enforce such moral
04:24 9 obligations, we would advise the company even yet to pay
04:24 10 something in honor of its promise."

04:24 11 And I think that speaks volumes about where Dave
04:24 12 Sills was and how he ran his life, how he ran his court, and
04:25 13 how he interacted with other people.

04:25 14 Speaking of other people and lawyers, I'll leave
04:25 15 you with this: He did not like lawyers who adopted, what we
04:25 16 call "Rambo style" tactics in the courtroom, pressed for
04:25 17 every advantage, tried to take unfair advantage of people,
04:25 18 but he wanted lawyers to be colleagues.

04:25 19 And he wrote in another opinion, "The proper model
04:25 20 of professional relations between opposing counsel has been
04:25 21 around since Shakespeare "and do as adversaries do in law,
04:25 22 strive mightily, but eat and drink as friends."

04:25 23 We've all lost a great friend in Presiding Justice
04:25 24 Sills, but let's strive mightily in our work, and honor him
04:25 25 by eating and drinking as friends.

04:25 1 Thank you.

04:25 2 *(Applause in the courtroom.)*

04:25 3 MR. HUESTON: Thank you, Rick.

04:25 4 Senator Joe Dunn is currently Executive Director
04:25 5 of the California State Bar. He served with distinction in
04:25 6 the California State Senate from 1998 until 2006. Among
04:26 7 other roles, he has since served as CEO of the California
04:26 8 Medical Association and as a founding member of the Senators
04:26 9 Law Firm.

04:26 10 Most importantly, he is a longtime friend of
04:26 11 Justice Sills. And he showed his trademark initiative in
04:26 12 recent weeks, taking a lead role in organizing this
04:26 13 celebration, something that we are deeply indebted to you
04:26 14 for.

04:26 15 Senator Dunn.

04:26 16 SENATOR DUNN: Is this where I'm supposed to say,
04:26 17 "May it please the Court"? Judge Carter, can I beg for a
04:26 18 minute, extra minute or two?

04:26 19 JUDGE CARTER: You have 6 minutes and 38 seconds.
04:26 20 Take your time.

04:26 21 SENATOR DUNN: Thank you, Judge. Thank you very
04:26 22 much.

04:26 23 And thanks everyone that is here, and thanks to
04:26 24 everyone who made this event happen.

04:26 25 I appreciate the comments, John, but, obviously,

04:26 1 it was a big team effort, and everybody at OCBA was
04:26 2 absolutely incredible. And thanks to all the others -- you
04:26 3 know who you are -- that made this happen.

04:27 4 My apologies. As you can tell -- for those I've
04:27 5 not interacted with yet, don't interact with me -- I have a
04:27 6 cold. This is the first day out after four days laid-up on
04:27 7 the couch watching football. So my apologies for my cold.

04:27 8 This is one of those ones that I -- the comments
04:27 9 where -- many of you have heard me speak, many times,
04:27 10 unfortunately. And you know, generally, I speak without
04:27 11 notes. It's something that I pride myself on, in my --
04:27 12 giving my presentations, publicly.

04:27 13 Perhaps the best honor I can give to David is to
04:27 14 admit I can't do that with this one. And so I wrestled with
04:27 15 what it was that I should say today, and how I should say
04:27 16 it. And I reached out to a very dear friend of mine, who
04:27 17 many of you know, but I will not identify, who made a
04:27 18 suggestion.

04:27 19 He had written a book a year ago, which is an
04:27 20 incredible book. It's simply a collection of letters he
04:28 21 wrote to people in his life that had passed on before him,
04:28 22 commenting, whether it was family, friends -- it could have
04:28 23 been his teenage heartthrob that he only met once -- but
04:28 24 these were folks who crossed his paths, and he wanted to put
04:28 25 a collection of letters together. And he published that

04:28 1 book about a year ago.

04:28 2 And I thought his recommendation was a good one
04:28 3 for me. So what I want to do today is quickly read my
04:28 4 letter to David.

04:28 5 "Well, here we are at the celebration of your life
04:28 6 event. And being the loveable curmudgeon that you are, it's
04:28 7 an event you didn't ask for, nor did you want, but we're
04:28 8 doing it anyways, David. Perhaps the first time we're
04:28 9 simply ignoring your requests, simply because we want to.

04:29 10 But I've struggled for months about what to say
04:29 11 today. On a personal level, our friendship was deep and
04:29 12 well-known. And over the course of the years, we laughed
04:29 13 together, we cried together, we spent your final days
04:29 14 together; and through that time, we talked history, we
04:29 15 debated politics, we wondered whether the big ten -- we're
04:29 16 both big ten graduates -- would ever produce a champion
04:29 17 football team again. We strategized for years over the
04:29 18 creation of the new UCI law school. We rolled our eyes
04:29 19 constantly at the lunatics in your political party and the
04:29 20 ones in mine.

04:29 21 *(Laughter in the courtroom.)*

04:29 22 We learned things about each other we can never
04:29 23 tell. And we readily agreed that World War I was the
04:29 24 seminal event of the 20th Century, yet could never agree on
04:29 25 whether FDR or Ronald Reagan was the best President of that

04:30 1 same century.

04:30 2 Through it all, you became one of the most
04:30 3 important people in my life. And I proudly stand by the
04:30 4 fact that you were, indeed, a second father to me. But I
04:30 5 think, in your heart, David, you know that.

04:30 6 What I do need to say today is something bigger
04:30 7 than our deep friendship. It is something that I think you
04:30 8 know but would never admit to anyone, including yourself.
04:30 9 It is something that was captured in that article I told you
04:30 10 about; that article that came up time and time and time
04:30 11 again between us."

04:30 12 And let me pause for a moment and just share with
04:30 13 you the article that I'm referring to, because I used it in
04:30 14 many of my speeches over the years. And it was an article
04:30 15 that David loved. It was an article I read in, of all
04:30 16 places, an airplane magazine. On the airplane, you all know
04:30 17 the magazines, of course. And it was an article about a
04:30 18 young man who had gone across the country to college in the
04:30 19 1960's. And, as a freshman, about a month into school, he
04:30 20 started to call his parents every single night.

04:30 21 For those who went to college in 1960's, when
04:30 22 there was no cell phones and, et cetera, it was that pay
04:31 23 phone at the end of the hall in the dorm.

04:31 24 And he started to call his family across the
04:31 25 country every single day, until, finally, once, after about

04:31 1 two weeks of the constant calls, his father finally said,
04:31 2 "Son, we appreciate hearing from you, but how are you paying
04:31 3 for these calls?" And the son said, very excitedly, that,
04:31 4 in fact, the pay phone at the end of the hall was broken,
04:31 5 and all the students can make as many calls for free as they
04:31 6 want. And the son was very excited.

04:31 7 And the father simply said, "Son, that's not
04:31 8 right."

04:31 9 His son blew him off, of course, and thought just
04:31 10 a curmudgeon dad. But over the night, that comment, but a
04:31 11 few words from his father, ate away at him, until, finally,
04:31 12 the next morning, he felt he had no choice but to do the
04:31 13 right thing: Call the phone company, who promptly came out
04:31 14 and fixed the phone, much to the chagrin of all of his
04:31 15 classmates.

04:32 16 What that story was about was simply about those
04:32 17 few individuals in our lives who, with but a few words, can
04:32 18 change the path that we are on, short term or long term,
04:32 19 through their strength, through their wisdom, through their
04:32 20 ethical assuredness, and through their quiet determination.
04:32 21 For many of us, that person is our dad.

04:32 22 "David, that article was about you. Yes, for me
04:32 23 personally, but, more importantly, for our entire community
04:32 24 in Orange County for the last 20 years. Whenever there was
04:32 25 a problem, a challenge, a crisis facing our community,

04:32 1 inevitable we would say, 'What does David think?'

04:32 2 "It is though we are one large Orange County
04:32 3 family. But when we were worried, one of us kids would say
04:32 4 'Let's ask dad.'

04:32 5 "David, you have been the dad to our entire
04:32 6 community. It is a role you neither sought, nor relished,
04:33 7 and it came to you simply because of the person you are.
04:33 8 And, like a good Marine, like a great dad, you accepted the
04:33 9 role without fanfare or attention, knowing it was one of
04:33 10 responsibility, not privilege. You just did what was right.
04:33 11 It's what dads do. As a result, you made all of us better
04:33 12 lawyers, better citizens, better persons, like no one else
04:33 13 could. And indeed, it was your greatest achievement.

04:33 14 "I know by now you're saying, as you often did to
04:33 15 me, 'Wrap it up, Dunn' -- my apologies, Your Honor -- 'Your
04:33 16 Irish bullshit is getting the best of you.'

04:33 17 *(Laughter in the courtroom.)*

04:33 18 "But I wanted you to know that all of us stand in
04:33 19 awe of the true presence you provided to our entire
04:33 20 community. It's an presence that will last forever.

04:33 21 "Now, back to that Reagan-FDR debate.

04:34 22 "Signed, your colleague, your student, your
04:34 23 friend, your adopted son, Joe.

04:34 24 "P.S. It was FDR."

04:34 25 *(Laughter in the courtroom.)*

04:34 1 And one last comment for all of us. It is said in
04:34 2 time we get over losses of loved ones, but I always say we
04:34 3 never get over them; we simply get used to them.

04:34 4 With David, that will be a very, very long time.

04:34 5 *(Applause in the courtroom.)*

04:34 6 MR. HUESTON: Thank you, Senator Dunn.

04:34 7 It's my pleasure to introduce to you Brigadier
04:34 8 General Frank Quinlan of the U.S. Marine Corp.

04:34 9 General Quinlan practices with Newmeyer & Dillion.

04:34 10 General Quinlan is a longtime Marine Corps colleague and

04:34 11 friend of Justice Sills. A former FBI agent, Brigadier

04:34 12 General Quinlan is the current chairman of several

04:35 13 corporation board audit committees. Most importantly, he

04:35 14 knew Justice Sills well, and even more so, fundamentally

04:35 15 understood how important the Marine Corps was to Presiding

04:35 16 Justice Sills.

04:35 17 Welcome, General.

04:35 18 BRIGADIER GENERAL QUINLAN: Thank you, John.

04:35 19 Well, it's an honor to be here to recognize Dave's
04:35 20 extraordinary career.

04:35 21 Dave was a member of the November 10th

04:35 22 Association, a group of Marines. A number of us in this

04:35 23 room are part of that group. We meet annually, and have for

04:35 24 26 years, to celebrate the tradition of our Corps, the

04:35 25 annual birthday. Dave was a trustee of ours, a longstanding

04:35 1 trustee, and a trustee of our Corps' tradition.

04:35 2 When Dave retired, the Commandant of the Marine
04:35 3 Corps sent a letter to us. We'd hoped to read it and
04:35 4 congratulate Dave at the most recent birthday of the Marine
04:35 5 Corps. But, in talking with Justice Bill Bedsworth, we
04:36 6 decided we'd better present it to him right away.

04:36 7 So Bill and I drove to Dave's house. And there,
04:36 8 we found him among a group of loyal, old-time friends and
04:36 9 Marines in his library -- his extensive library, as
04:36 10 Senator Dunn knows. We told Dave we would like to read the
04:36 11 Commandant's letter aloud. And Dave looked at us for a
04:36 12 moment. Then pulled himself out of his chair and he stood
04:36 13 at attention, so everyone else in the room stood at
04:36 14 attention, and we read the letter. And if I may, I'll read
04:36 15 it to you.

04:36 16 **LETTER FROM COMMANDANT OF THE UNITED STATES MARINE CORPS**

04:36 17 "12 July 2011.

04:36 18 "Dear Justice Sills:

04:36 19 "On the occasion of your retirement from the
04:36 20 California Court of Appeal, I wish to extend my sincere
04:36 21 appreciation on behalf of the United States Marine Corps for
04:36 22 your lifetime of devoted service to Corps and country.

04:36 23 "You answered our Nation's call and proved your
04:36 24 mettle as platoon and then a Company Commander in our Corps.
04:37 25 When you left our active ranks, you continued to use your

04:37 1 exceptional leadership skills and legal talents to benefit
04:37 2 your community and your country. While practicing law and
04:37 3 serving as a city councilman, a mayor and a judge, you
04:37 4 consistently demonstrated the utmost integrity,
04:37 5 professionalism and commitment.

04:37 6 "Your most recent assignment as a Presiding
04:37 7 Justice of the California Court of Appeal is a culmination
04:37 8 of many years of outstanding service and accomplishment.
04:37 9 The myriad of honors and awards you've received throughout
04:37 10 your career are testament to your outstanding professional
04:37 11 leadership and unwavering fidelity. As you now prepare to
04:37 12 leave the judicial ranks, know that you have earned the
04:37 13 admiration and respect of all who have known and served with
04:37 14 you, as well as the appreciation of a grateful nation.

04:37 15 "Thank you for dedicated service and job very well
04:37 16 done.

04:37 17 "On behalf of all Marines, my wife, Bonnie, and I
04:38 18 wish you and Susan all the best as you began the next
04:38 19 chapter of your lives.

04:38 20 "Semper fidelis.

04:38 21 "James F. Amos, General.

04:38 22 "United States Marine Corps.

04:38 23 "Commandant to the Marine Corps."

04:38 24 As we finished the letter, Dave stayed firmly at
04:38 25 attention. It's as though he was reporting for one last

04:38 1 duty. Dave knew that the Commandant reaching out is an
04:38 2 extraordinary event, and it signified our motto: Always
04:38 3 faithful. Always faithful to fellow Marines, as Dave was.

04:38 4 Judge Carter will close by directing us to a flag
04:38 5 presentation, rifle salute ceremony, over in front of the
04:38 6 Court of Appeal.

04:38 7 That was personally ordered by the Commandant of
04:38 8 the Marine Corps in honor of Dave, and to acknowledge
04:38 9 Susan's loyalty and fidelity to her husband and to our
04:38 10 Corps.

04:38 11 Thank you.

04:38 12 *(Applause in the courtroom.)*

04:38 13 MR. HUESTON: Thank you, General Quinlan.

04:39 14 Judge Andrew Guilford has served as a
04:39 15 United States District Court judge since 2006. Everyone in
04:39 16 here knows that he has been a pillar of the Orange County
04:39 17 Bar for decades, as a long-time resident partner at the
04:39 18 Sheppard and Mullin law firm, as a former Orange County Bar
04:39 19 President, when he called for the founding of a public law
04:39 20 school in Orange County as well as for a federal courthouse
04:39 21 to be built in Orange County, and as our former California
04:39 22 State Bar President. And during his extensive period of
04:39 23 public service and private sector work, he naturally came to
04:39 24 know the friend and greatly admired Justice Sills.

04:39 25 Judge Guilford.

04:39 1 JUDGE GUILFORD: Well, I'm really humbled as I
04:39 2 look out over this audience with so many great giants of our
04:39 3 legal community who have contributed so much. I thank those
04:40 4 who have put this together. I particularly thank them for
04:40 5 honoring me with the request that I speak. Indeed, it is
04:40 6 with humility that I do so.

04:40 7 You know, lots of paper crosses my desk, and much
04:40 8 of it reflects the shortcomings and disputes and squabbles
04:40 9 among people. But occasionally, over the last 20 years or
04:40 10 so, I've been blessed to get a document like this.

04:40 11 It is classy. It is usually brief. It is
04:40 12 sometimes handwritten. It often raises fascinating points
04:40 13 to think about. And it has always made my day. It's been a
04:40 14 personal letter from Presiding Justice David G. Sills.

04:40 15 Now I have a stack of these letters, and I'm sure
04:40 16 many of you have, likewise, been so blessed. I treasure
04:40 17 them.

04:41 18 We've had a reference to letters today from Joe.
04:41 19 We didn't coordinate our comments here. Historically, such
04:41 20 letters have been common from great people. But now the art
04:41 21 seems to have been lost, except for truly legal great
04:41 22 people, truly great and gracious people. In many ways these
04:41 23 letters are the measure of this truly great and gracious man
04:41 24 we honor here today.

04:41 25 Here's one, very old, discussing plans to get a

04:41 1 law school at UCI.

04:41 2 Here's one about getting more justices for our
04:41 3 Court of Appeal in Orange County.

04:41 4 Here's one with some insights about the war in
04:41 5 Iraq.

04:41 6 Here's one sending an article on, yes, our mutual
04:41 7 hero: Sir Winston Churchill. Graciously sent to me. It's
04:42 8 like I had a clipping service in the Presiding Justice of
04:42 9 this county.

04:42 10 *(Laughter in the courtroom.)*

04:42 11 Here's one graciously recommending a young man for
04:42 12 a job.

04:42 13 And here's one saying we need to get together to
04:42 14 discuss our lists of the greatest U.S. Presidents.

04:42 15 *(Laughter in the courtroom.)*

04:42 16 Joe, I don't think it was Ronald Reagan.

04:42 17 But, you know, Dave used to dine with Ronald
04:42 18 Reagan. And I do wonder, maybe you wonder -- except Joe may
04:42 19 have stolen my thunder -- whether Ronald Reagan would be
04:42 20 first on that list. Knowing Dave got me within one degree
04:42 21 of separation of that President. But, more importantly,
04:42 22 knowing Dave put me in personal contact with a truly great
04:42 23 man.

04:42 24 You know, his letters were straightforward and to
04:42 25 the point, like a Marine who gets the job done, takes the

04:43 1 hill. These letters were eloquent and well-written from a
04:43 2 very skilled writer of California's common law. These
04:43 3 letters all reflect a brilliant mind from a devoted student
04:43 4 of history and the law. These letters reflect a kind and
04:43 5 selfless heart, always generous and anxious to help others.
04:43 6 These letters were humble and gracious, sometimes providing
04:43 7 undeserved thank yous and support.

04:43 8 Here's a fairly recent one, where he said, "As you
04:43 9 know, I always feel uncomfortable when people start to sing
04:43 10 my praises."

04:43 11 Keeping that in mind and keeping in mind what our
04:43 12 chief judge down here told us, in terms of time limits, and
04:44 13 keeping in mind the hour that we now have, and keeping in
04:44 14 mind Justice Sills' appreciation of the skill of brief
04:44 15 communication, I'll bring my comments to a close. But I'll
04:44 16 go back to that letter about getting together to discuss our
04:44 17 rankings of the greatest Presidents.

04:44 18 I'm sorry I never got a chance to have that
04:44 19 discussion. I will forever regret that. Sadly, I'll never
04:44 20 know the true insights of Dave that would have been provided
04:44 21 in that discussion. But Dave will always be on my list as a
04:44 22 great man, who served his country and his state and his city
04:44 23 and his beloved Orange County, all with the loving support
04:44 24 of his wife, Susan.

04:44 25 *(To Mrs. Sills:)* I hope you'll keep in touch with

04:45 1 us and all those who loved you, and love you, and loved
04:45 2 Dave.

04:45 3 I want to close with the words of a President and
04:45 4 a general ranking pretty high on my list. I'll close by
04:45 5 paraphrasing what President Eisenhower said at the funeral
04:45 6 of Winston Churchill.

04:45 7 Again, we didn't coordinate. It was referenced,
04:45 8 from the quote read by Justice Rylaarsdam, about his two
04:45 9 heroes: Eisenhower and Churchill.

04:45 10 And the words of Eisenhower at that funeral, I
04:45 11 think are largely applicable to our friend David Sills, so I
04:45 12 paraphrase:

04:45 13 At this moment, as our hearts stand at attention,
04:45 14 we say our affectionate, though sad, goodbye to the leader
04:45 15 to whom we all owe so much. In the coming years, folks will
04:45 16 strive to interpret the motives, describe the
04:45 17 accomplishments, and extol the virtues of David Sills --
04:46 18 judge, soldier, statesman, and citizen -- that this great
04:46 19 county was proud to claim as its own.

04:46 20 Among all the things so written or spoken, there
04:46 21 will ring out one uncontestable refrain: Here was a
04:46 22 champion of justice.

04:46 23 May God grant that we, and the generations who
04:46 24 will remember him, heed the lessons he taught us in his
04:46 25 deeds, in his words, in his life. May we carry on his work

04:46 1 until no one is denied justice, and no person is denied
04:46 2 opportunity for fulfillment.

04:46 3 Now, to you, Justice Sills, my old friend:
04:46 4 Farewell.

04:46 5 Farewell, yes, for now. But my faith tells me
04:47 6 that I will again be in the presence of this powerful force,
04:47 7 who will again be teaching me what it means to be great, not
04:47 8 through his vast knowledge of history, but through being
04:47 9 himself.

04:47 10 *(Applause in the courtroom.)*

04:47 11 JUDGE CARTER: Well, in a few moments, we're going
04:47 12 to retire the colors.

04:47 13 *(To Justice Cantil-Sakauye:)* In a few moments,
04:47 14 I'm going to ask, after the retiring of the colors, if you
04:47 15 would be so gracious as to adjourn us at the conclusion,
04:47 16 Chief.

04:47 17 But before doing so, I want to give you some
04:47 18 directions, because I don't think we'll have your attention.
04:47 19 We're going to gather in a true military operation that Dave
04:47 20 would be so proud of, at 5:00 o'clock -- the big hand's on
04:47 21 the "12" and the small on the "5" -- across the street at
04:48 22 the Court of Appeal. And the Santa Ana Police Department is
04:48 23 waiting to block the intersection during rush hour.

04:48 24 So they're asking us to exit the courthouse as
04:48 25 quickly as possible, gather at the corner, and they're going

04:48 1 to escort us and close -- if you can imagine -- the
04:48 2 intersection for a few brief seconds.

04:48 3 If you're lucky enough to make that group, you're
04:48 4 blessed. The rest of you are on your own in terms of
04:48 5 traffic.

04:48 6 *(Laughter in the courtroom.)*

04:48 7 This ceremony will take place at 5:00 o'clock.
04:48 8 There will be a traditional rifle salute. The flag will be
04:48 9 presented to Susan.

04:48 10 When we retire these colors, we're retiring the
04:48 11 colors for the ceremony. But our affection, Susan, for you
04:48 12 and Dave will never be retired.

04:48 13 God bless Captain Sills, Justice Sills, our friend
04:48 14 David.

04:48 15 Retire the colors.

04:48 16 *(United State Marine Corps retire the*
04:49 17 *colors.)*

04:49 18 Captain, if you would step forward, please, and
04:49 19 escort Mrs. Sills.

04:49 20 *(Marine Captain Tetzloff escorts Mrs. Sills*
04:49 21 *from the proceedings.)*

04:49 22 Chief, would you adjourn our courts.

04:49 23 **ADJOURNMENT**

04:49 24 CHIEF JUSTICE CANTIL-SAKAUYE: Yes. Thank you for
04:49 25 the honor.

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In honor and memory of Justice David Sills, we stand adjourned.

(At 4:49 p.m., proceedings were adjourned.)

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