

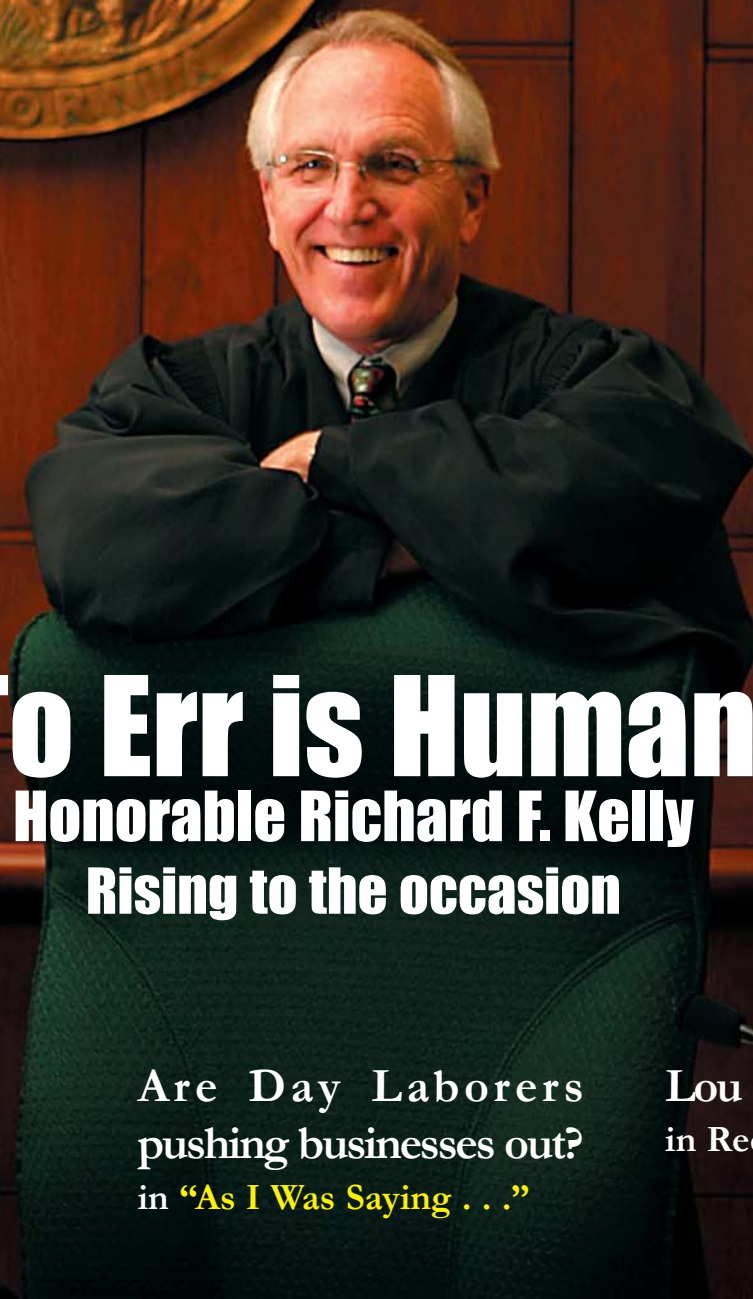
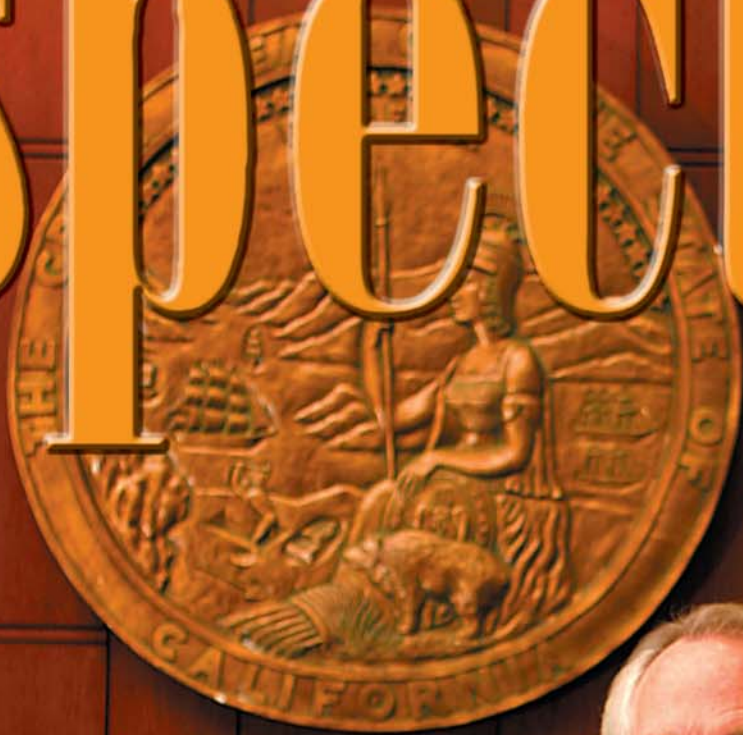
THE SPECTRUM

April 2005

Redwood City's

Monthly

Magazine



“To Err is Human”

Honorable Richard F. Kelly

Rising to the occasion

Emerald Hills shopping center to get a facelift

Are Day Laborers pushing businesses out? in “As I Was Saying . . .”

Lou Gehrig's cluster in Redwood City's past

HON. RICHARD F. KELLY

Inside The Spectrum: Our cover photo shoot



*Spectrum photographer James R. Kaspar and cover subject Richard F. Kelly and designer Damaris Divito
Photo by Steve Penna*

The photo shoot was scheduled for Thursday March 30 at 4:00 p.m. When contacting this month's cover subject, the Honorable Richard F. Kelly, Publisher Steve Penna called his assistant Marguerite Waggener and left a message for Kelly to call him back. He did, and after having to explain to him what the Spectrum was - "oh yes, I have seen it," Kelly agreed to be interviewed. Of course, he had no idea he was to be the cover subject.

The Spectrum's special assignment photographer James R. Kaspar and Stylist Damaris Divito arrived together and was joined by Penna at a familiar site to them - the Traffic Court located at 500 County Center.

It was apparent to all of us from the moment we met him what sets Kelly apart from his counterparts, personality plus! He has an easy-going way about him and you just know he would be a great party invite.

We started the shoot in his chambers with Damaris primping him to look his best. We then moved to the place where sob stories are heard and fines paid the Traffic Courtroom. The room itself is less intimidating when court is not in session when you can feel the stress bouncing off the walls.

Along with Waggener, we shot various photos, one of which is our cover photo. It was one of the shortest sessions we have had but when you have a subject as natural as Kelly there is really no need to for extended time spans.

We expect our judges/commissioners to be experienced, well-educated, thought worthy and most of all honest. Kelly possesses all these qualities. We are honored to introduce our community to Richard F. Kelly and know that you will be as amazed as we were at his journey so far in life - and as he begins his next chapter.

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In the summer of 2004, Richard Kelly decided to apply for one of three positions as judicial commissioner. After 26 years in civil litigation practice in Redwood City, the time seemed right. When the short list of six candidates was announced from a total of 147 applicants, Kelly was honored to be named. Twenty-six judges would meet and decide the three commissioners, and in September 2004, Richard Kelly was announced as one of the three appointees.

Born in New York City, and raised in Seattle, Washington, Kelly landed in San Francisco in 1962. He attended San Jose State and graduated with a degree in Business and Industrial Management. Kelly's father, Albert J. Kelly, Sr., was one of the original founders of The Hyatt Hotel chain. His brother, Albert J. Kelly, Jr., became vice-president several years later. Kelly was fast-tracked into the hotel business, and joined the hotel chain after graduation.

But the hotel life was not quite what he wanted. So in December 1973, Kelly resigned and went to law school. Kelly could only land a day job to pay for school, so he chose San Francisco Law School, which was the only accredited law school which offered night classes.

Kelly graduated in 1978, and took a job with Mattoch and Kleintop, a law firm in Hawaii. But after four months, and a severe case of "rock fever," Kelly and his wife moved back to the mainland, settling in Redwood City.

Kelly practiced civil law for the next 26 years, mostly covering personal injury cases, but additionally representing clients in small airplane crashes, tenant disputes, and corporate disputes.



The pinnacle case of Kelly's career arrived at his door in 1993, under an assumed name of "James Lynch." James Lynch was none other than the infamous Irishman, Jimmy Smyth, an escapee from Long Kesh, a British prison in the north of Ireland. Smyth had been incarcerated for a bungled attempted murder of an off-duty prison guard in Belfast in 1976. Life was unbearable in the prison, with daily threats to all H-Block prisoners' lives. Rather than chance being murdered in prison, 38 IRA (Irish Republican Army) inmates plotted and succeeded in a "great escape" in 1983. The escape was embraced as folklore in Ireland, and the escapees became urban legend heroes.

The United States, for two centuries, had been a safe haven for Irish political prisoners seeking refuge, so Smyth emigrated to San Francisco. But the political climate changed under Ronald Reagan's administration, and the United States no longer offered political asylum to IRA members. Three other IRA prison escapees ended up in California as well. In 1992, the FBI arrested Smyth. He was the first of the four to be arrested.

Kelly, himself of Irish descent, had been very involved with the Irish-American community, through charities, social programs, and community activities. At the time of Smyth's arrest, Kelly was the natural choice to assist with Smyth's fight to avoid

All Rise for t

By Valerie Harris
Special to the Spectrum



extradition. Karen Snell, from the Public Defender's Office in San Francisco, teamed up with Kelly and they took a huge chance on Smyth, by raising bail money from their personal funds. They defended Smyth's fight against extradition and proceeded with the case.

At the time of his involvement, Kelly knew that he was testing new waters. Relations between England and the United States were deteriorating primarily due to Clinton's friendship with Sinn Féin/IRA leader, Gerry Adams. But Britain wanted Smyth back, and the US government knuckled under the strain, and sought extradition, citing the earlier Reagan/Thatcher Supplemental Extradition Treaty between the US and the UK. Kelly and Snell set a precedent.

After a three-month trial, Kelly and Snell won, and blocked extradition of Smyth. The victory was short-lived. The US government appealed the ruling, and the judgment was overturned by the Ninth Circuit Court of Appeals. Although Kelly and Snell argued for asylum based on past persecution, the judge argued that under the current cease-fire, there was no evidence of future persecution, so Smyth was ordered back to Ireland.

Smyth was re-incarcerated in 1996. Around that time, the political animosity between England and Ireland diminished under a cease-fire agreement. Both English and Irish political factions sought a permanent agreement, and with the newly elected Labour Party Prime Minister, Tony Blair, at the helm, all parties with the exception of the Democratic Unionist Party, signed the treaty on Good Friday in 1998. Dubbed

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Photo by James R. Kaspar

the “Good Friday Agreement,” it would maintain the cease-fire; decommission paramilitary weapons; and add provisions for amnesty for political prisoners. In May 1998, the referendum was passed by a narrow margin by both the north and south. The architects of the treaty, David Trimble and John Hume, were awarded the Nobel Peace Prize.

Kelly’s client, Jimmy Smyth, applied for amnesty under the new treaty’s provisions, and in the fall of 1998, Smyth was released. Smyth now lives in Ireland near Dublin with his American wife and young son. Kelly visits them when he goes back to Ireland every couple of years.

“The case took about four years from beginning to end,” Kelly said. “We took a gamble on Smyth, and he kept his word to us. I worried about ‘waking up in the morning in Government Housing’ because I had to pledge my home to make the \$1.5 million bail for Smyth’s release and that is why we respected him for hanging in there and facing the music if the Court of Appeals reversed the verdict. And even though Smyth knew they were coming to get him, he still showed up on the day they sent an RAF (Royal Air Force) jet to get him.”

After this case of international intrigue, Kelly settled back into his law practice of civil suits. Kelly’s caseload shifted to suing and collecting damages through lawsuits against child molesters. But after a few years of such emotional litigation, Kelly simply burned out.

Kelly recounts: “I handled child molestation cases years before Michael Jackson’s case came up. I became sick of listening to 8-year-olds testify about what occurred and eventually stopped taking any more such cases.” He was looking for an alternative.

After practicing law in Redwood City for 26 years, Kelly had grown to know most of the judges on the bench. Kelly’s reputation was stellar and when three openings for commissioner came up, Kelly applied and was accepted. Kelly considers the job quite an honor, since 26 judges who know him chose him for the position.

“The job is based on merit,” says Kelly. “Twenty-six judges, who were your peers, voted, and the top three got in. You stay as long as they want you to.”



Photo by James R. Kaspar

The job doesn’t end with the appointment. After the appointment, Kelly attended New Judges Orientation School for two weeks. In addition, he will attend the California Center for Judicial Education and Research in Berkeley, California.

The greatest part of the job is the camaraderie with the other judges. “As an attorney, there was always an adversarial roll with the other side,” Kelly points out. “The best part of this job is the help I get from the other judges. Whenever I have a question or need advice, I know I can pick up the phone, and everyone is there to help.”

Now Kelly’s days are spent deciding the merits of cases from traffic tickets, misdemeanor arraignments, eviction settlements, and small claims disputes. When asked if Kelly ever watched the television program, *Judge Judy*, Kelly states: “No, when I go home, I try and leave it behind.” But Kelly admits, some cases permeate his mind outside of the courtroom.

When asked what is the best strategy to win in small claims court, Kelly advised: “Make sure you have a good case. Keep focused on the case. Don’t throw extraneous information such as: ‘he did it to the other neighbor, too’ into the case. And personal snipes don’t help the case.”

Kelly continues to reside in Redwood City with his wife of 36 years, Ann. Kelly has a son, Michael, 24, and a daughter, Kristen, 27, who recently married.

After the interview, Kelly was proud to show off his recent name plate that his wife, Ann, had specially commissioned for him. Made out of malachite, the name face states: “Honorable Richard F. Kelly.” On the other side, the side that faces Kelly when he’s on the bench, it says: “To err is human.”



Photo by James R. Kaspar

Richard F. Kelly confers with Marguerite Waggener