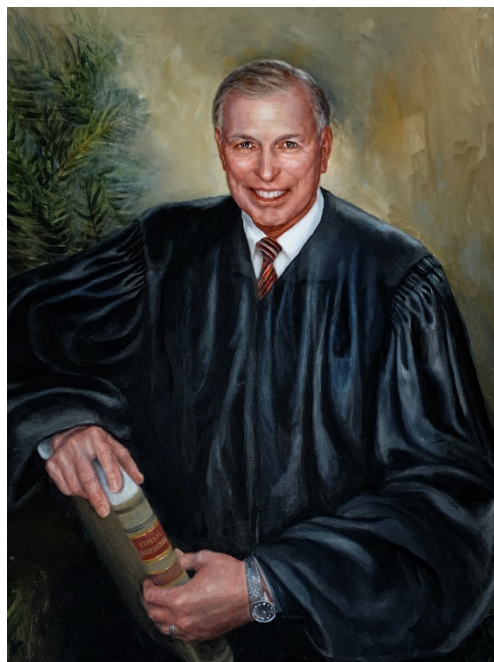


# **In Memoriam**

## **Honorable Peter T. Fay**



**Senior United States Circuit Judge  
United States Court of Appeals  
Eleventh Circuit**

**Born 1929  
Died January 31, 2021**

**Rochester, New York  
Miami, Florida**

### **Federal Judicial Service:**

**Judge, U.S. District Court for the Southern District of Florida**  
Nominated by Richard M. Nixon on October 7, 1970, to a new seat authorized by 84 Stat. 294. Confirmed by the Senate on October 13, 1970, and received commission on October 16, 1970. Service terminated on October 8, 1976, due to appointment to another judicial position.

**Judge, U.S. Court of Appeals for the Fifth Circuit**  
Nominated by Gerald Ford on June 11, 1976, to a seat vacated by David William Dyer. Confirmed by the Senate on September 17, 1976, and received commission on September 21, 1976. Service terminated on October 1, 1981, due to reassignment.

**Judge, U.S. Court of Appeals for the Eleventh Circuit**  
Reassigned on October 1, 1981, to a new seat authorized by 94 Stat. 1994.

**Senior Status:**

January 19, 1994

**Education:**

Rollins College, B.A.

University of Florida, J.D., 1956

**Previous Employment:**

U.S. Air Force lieutenant, 1951-1953

Associate, Patton and Kanner, Miami, Florida, 1956

Partner, Nichols, Gaither, Green, Frates and Beckham, Miami, Florida, 1956-1961

Frates, Fay, Floyd and Pearson, Miami, Florida, 1961-1970

**Committee Appointments/Professional Organizations:** Judicial Conference Committee to Implement the Criminal Justice Act, 1975-1981

Ad Hoc Committee on Cameras in the Courtroom, 1983-1984

Advisory Committee on the Codes of Conduct, 1979-1987

Judicial Conference Advisory Committee on Appellate Rules, 1987-1989

Eleventh Circuit Standing Education Committee

Attorney General's Advocacy Institute, faculty member, Department of Justice

National Judicial Council of State and Federal Courts, Co-chairman

Executive Committee of the Eleventh Circuit Judicial Council

American Bar Association

Florida Bar Association

Dade County Bar Association

Member, Special Panel of the U.S. Court of Appeals for the District of Columbia, Independent Counsel, 1994-2020



LOCAL OBITUARIES

## ‘Not even hospice could stop him.’ Legendary federal judge Peter Fay dies at 92.

BY MONIQUE O. MADAN

FEBRUARY 01, 2021 04:13 PM, UPDATED FEBRUARY 01, 2021 07:01 PM



Peter T. Fay died on Jan. 31, 2020. *COURTESY OF MICHAEL FAY*

Even on his deathbed, the law kept Peter Fay going.

Despite his declining health, the legendary 92-year-old federal appeals court judge would screen cases one by one as they came through the system.

“My dad worked till the very end — not even hospice could stop him,” said Michael Fay of his father, who died Sunday surrounded by the family he raised in South Miami-Dade. “He loved the law, loved his work, loved people. ... His mind was just so unbelievable. It’s just his body that failed him.”



A few months before his death, Fay joined a distinguished pantheon of federal judges who made it to 50 years on the job, a milestone only 26 others in U.S. history have reached. He had been appointed to the district court in South Florida in 1970 and, six years later, was elevated to the appeals court.

“Few judges have served our country for so long and in such an honorable and distinguished manner,” the U.S. Court of Appeals for the Eleventh Circuit said in a written feature of Fay. Even at 92, “Judge Fay continues to perform substantial work for the Court of Appeals and the citizens of the Eleventh Circuit.”

Through his senior years, Fay always emphasized he had no intention of retiring. “If I had to play golf every day, I’d shoot myself,” he said at the time.

Peter Thorpe Fay was born in New York and graduated from Rollins College in Winter Park in 1951, before attending the University of Florida College of Law in 1956. In between, he served in the Air Force from 1951 to 1953.

In 1970, Fay was nominated by President Richard Nixon as a federal judge for the Southern District of Florida. In 1976, he was appointed by President Gerald Ford to the U.S. Court of Appeals for the Fifth Circuit in New Orleans. In 1981, he was reassigned to the U.S. Court of Appeals for the Eleventh Circuit in Atlanta, where he assumed senior status in 1994.

Fay’s star rose so quickly that in 1987, when U.S. Supreme Court Justice Lewis F. Powell Jr. resigned, South Florida politicians and lawyers touted him as a strong candidate to replace him.

Former Chief U.S. District Judge Federico Moreno said Fay’s “five decades as a magnificent judge is well known, but his humility, faith and generosity with his time is his legacy.

“He was a true American hero, who never forgot what it was like to be a trial lawyer,” said Moreno, who has assumed senior status as federal judge in the Southern District of Florida.

The Moot Courtroom, located within St. Thomas University’s College of Law, was named after Judge Fay. He has been named Outstanding Federal Appellate Judge by the Association of Trial Lawyers of America and received the William Hoveler Award for Ethics, Leadership, and Public Service from the University of Miami School of Law. His alma mater, the University of Florida College of Law, named its Jurist-in-Residence Program after him.

“That’s just the beginning of what my dad did, work-wise. What his resume doesn’t touch on is what an incredible father and husband he was,” Michael Fay said, as he recalled his dad’s “relentless” effort to never miss any of his kids’ sporting events.

“He never missed a single one of my basketball games in college,” Michael Fay said. “I would be in some town, Lord knows somewhere in the middle-of-nowhere in the southeast, and he would just drive hours to watch my game.”

“That’s who he was. He always made people feel important.”

Fay and his wife of 62 years, Pat Fay, adopted Michael and two other children from Catholic Charities Adoption Services when they were

infants.

“Somehow, he always knew how to utilize his time to be home for family dinners alongside having such a successful law career,” Michael Fay said, noting that his father wasn’t just a lawyer, but an exceptional athlete.

“We played hundreds of games of basketball or touch football in the yard,” he said, noting that his father was [inducted into the Rollins sports Hall of Fame for water skiing, basketball and football](#). “He’s likely also taught more than 3,000 people in his 92 years of life how to water ski.”

Senior U.S. District Judge Paul Huck described Fay — his first boss practicing law — as a kind, considerate judge who had a unique ability to make lawyers feel good about his rulings, even when he ruled against them.

Recalling an afternoon sitting with Fay on the back porch of his summer home in North Carolina, Huck said he brought up a case in which Fay had written the published opinion reversing one of Huck’s court decisions.

“I mentioned that it was the most generously, kindly worded reversal that I had ever experienced. He broadly smiled, explaining that when he circulated his draft opinion to the other two members of his panel for comments, one, noting the generous wording of the draft, inquired, ‘Pete, is Paul Huck your friend?’ to which he replied, ‘Yes, and don’t change a word!’ “

Fighting back tears, Huck said, “We both had a good laugh ... and that’s what he always did, he made people smile.”

Dick Capen, former U.S. ambassador to Spain and a former publisher of the Miami Herald, said his family was “blessed by [Fay’s] friendship for over 40 years.” Judge Fay administered Capen’s oath of office as ambassador in Washington in 1992.

“Pete was a perennial optimist,” Capen said. “He would literally will it to be a great day, even when the world around him was in turmoil. He often spoke about how small increments of encouragement and success build an optimistic spirit.”

Capen and other friends said that Fay and his wife, Pat, were anchored in family and faith.

“All in all, my dad lived an unbelievable life,” said his eldest son, Michael Fay.

“All blessings and love, literally, no regrets,” he said, reminiscing about his dad’s coined phrase. “He always used to say, ‘If it got any better, I wouldn’t know how to handle it.’ ”

Fay is survived by his wife Pat, three adult children and seven grandchildren. Funeral arrangements are being planned.

*Miami Herald staff writer Jay Weaver contributed to this report.*









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**MONIQUE O. MADAN**

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Monique O. Madan covers immigration and enterprise; she previously covered breaking news and local government. Her work has appeared in The New York Times, The Boston Globe, The Boston Herald and The Dallas Morning News. She is currently a Reveal Fellow at the Center for Investigative Reporting. She graduated from Miami Dade College and Emerson College in Boston. A note to tipsters: If you want to send Monique confidential information, her email and mailbox are open. The address is 3511 NW 91st Ave, Doral, FL 33172. You can also direct message her on social media and she'll provide encrypted Signal details.

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