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FREDERIC K. UPTON TO RECEIVE 2007 KENISON AWARD

CONCORD, NH – The New Hampshire Bar Foundation selected Attorney Frederic K. Upton, currently Of Counsel to Upton and Hatfield, LLP, and on the Advisory Committee of Judicial Ethics, to receive the 2007 Frank Rowe Kenison Award. Kenison was a 48-year



member of the New Hampshire Bar and revered Chief Justice of the New Hampshire Supreme Court from 1952 to 1977. He was an exquisite legal thinker who committed his life to the legal system. The Kenison Award, established in his honor by the Bar Foundation, recognizes individuals whose work has contributed significantly to the betterment of New Hampshire citizens through the administration of justice, the legal profession, or the advancement of legal thought. Attorney Upton will receive the Kenison Award at the Bar Foundation's 30th Anniversary Dinner on May 10, 2007, at C.R. Sparks in Bedford, NH.

In 1977, when NH Supreme Court Chief Justice Frank R. Kenison asked Attorney Upton to serve on the newly formed Judicial Conduct Committee (JCC), created to investigate complaints against judges, Upton's response was, "I'm still trying cases, Judge, why would I want to antagonize the people who are deciding my fate in court?" Kenison's response, "Because I asked you to," was enough for Upton to agree. He served for two decades and says it was one of the most rewarding experiences of his career. Of his service, he says, "I think we made some important contributions that the public knows nothing about. [The Committee] enforces the Code of Judicial Conduct, Rule 38 of the Supreme Court. I think we contributed, in part, to high ethical standards in our judiciary." Upton served as the chairman of the JCC from 1989-1997.

In a 1995 interview conducted by Maureen Manning for the Bar Foundation's Legal History Project, Upton recounted many of his experiences. Born in 1918, he grew up with six siblings in Concord's south end and attended a two-room school. When he reached high school age, his father, Attorney Robert W. Upton, took him along on several out-of-town court cases to see the law in action. Fred's love for the law grew from those early days. He greatly admired his father, from whom he learned three critical lessons regarding the practice of law: 1) work hard and always be

prepared; 2) if you accept a client's case, you must give it your best shot, if you cannot do that, don't take the case, and, 3) persevere – cases can drag on for years, as he learned from a case his father brought under the Federal Employers Liability Act that went to the Supreme Court six times over the course of a decade. “Think of all the disappointment that case arose. I think you could compare it with the fabled case of Jarndyce against Jarndyce and Dicken's Bleak House,” he said. The case finally settled in favor of his father's client, an injured firefighter working for the Boston & Maine Railroad.

Saving Franconia Notch from the intrusion of a major highway is certainly one of Upton's most impressive achievements. During the building of NH Interstate 93, the Highway Department had plans to continue the highway through the scenic mountain pass between Kinsman and Franconia ranges, which includes the Flume Gorge, Echo Lake, Profile Lake, and the former site of the Old Man of the Mountain. Upton argued to protect the 8-mile stretch through Franconia Notch by presenting evidence of highway construction in another area of the state that inadvertently took down the side of a mountain due to the explosions necessary for construction. The compromise, the two-lane Franconia Notch Parkway, preserves the beauty of the area while still allowing easy passage. “Occasionally you get to do something worthwhile that doesn't involve money; it's satisfying just knowing you've made an important contribution,” Upton said.

Upton attended Dartmouth College, where he met Stanley Brown, one of the future founders of the New Hampshire Bar Foundation. For the first three years at Dartmouth, Upton said he was more interested in running than anything else. “I used to run the mile. I was in a race when Glen Cunningham came to Hanover. ...he set a new world record in the mile that night...I was very interested in running, and didn't think about a career for a long time.” It wasn't until his senior year that Upton decided on a career in law. Upton graduated from Harvard Law School in 1942. When World War II broke out, he immediately enlisted in the Navy. “I was home on leave in 1943, and as I had been advised to maintain contact with the Clerk of the Supreme Court, I called George Shovan. He asked me to come over, I did, and he asked me if I'd like to be admitted to the Bar. I said, well, George, I haven't taken the Bar exams. He said that doesn't matter, the court will waive that if you're in good standing at law school - did you graduate? I enlisted in January of my third year and [Harvard Law School] gave me my degree. I don't have to go back.” Upton was admitted to the NH Bar, as were many others with law degrees who enlisted at the start of the war. “I think the Court was acting on a burst of patriotic fervor, and anybody who was in that situation was eligible to be admitted without taking the Bar exam.” Upton served as an Anti-Submarine Warfare

Officer on the USS Huse-DE 145. He was awarded two Bronze Stars for his participation in the destruction of German U-boats (submarines) and taking Nazi soldiers prisoner.

Although he was not involved in the establishment of the New Hampshire Bar Foundation, Upton knew all the founding members, including Stanley Brown, Frederick Hall, Joseph Kerrigan, N. Michael Plaut, and Gordon Tiffany. However, Attorney Upton was involved with the unification of the NH Bar Association years earlier; an effort spearheaded by attorneys David Nixon and Stanley Brown. Upton argued in favor of unification at the Supreme Court and got a 3-2 decision for a three-year trial period. Fred became NHBA president during the second year of the trial period. At the time “a small group of insiders ran the existing, voluntary NH Bar Association, few people paid dues, young members did not participate, there were no publications, few educational opportunities, ethical transgressions were not addressed, and the president nominated all officers.” By the end of the third year, the NHBA had established a democratic voting system, young members were involved and running for office, the preceptor to New Hampshire Bar News, NH Law Weekly, was created and distributed, continuing educational classes more than doubled, dues were paid, and the Code of Ethics was enforced. Judge Duncan, who originally dissented, was won over by the developments and determined that the public and the legal profession did indeed benefit by a unified Bar.

Throughout a long career, begun in 1952 as a partner in his father’s firm, Attorney Upton has distinguished himself in so many ways it’s impossible to recount them all in one article. "It's good that the Bar Foundation is giving public recognition to Fred Upton because so much of his contribution to the system of justice in New Hampshire has been done without publicity and fanfare. Few people in this state have done so much, for so long, to foster a high standard of judicial conduct, advance the professionalism of attorneys, and improve the delivery of legal services. Fred should be a model for the rest of us," said Attorney Anthony McManus, secretary of the Judicial Conduct Committee, and the Bar Foundation’s 2007 Honorary Fellow.

Fred and his wife, Beth, live in Contoocook and celebrate their 10th anniversary this year. Fred’s first wife, Jean, to whom he was married for fifty years, died in 1996. Of their five children, Robert and John are lawyers; Mark is a cardiologist; Evelyn is a geologist, and Katherine is a mother of two, who lives with her husband (also an attorney), in Denver. Fred and Beth have thirteen grandchildren.

In his semi-retirement, Attorney Upton is championing proper funding of public schools in New Hampshire through a series of articles he has written for the Concord Monitor. He is advocating for implementation of the New Hampshire Supreme Court ruling that ordered the State

to pay for an adequate education for every child, and for the Legislature to define what an adequate education is, in the Claremont education funding case.

Since 1998, nine others have received the Frank Rowe Kenison Award. The first award went to Hon. Edwin W. Kelly, followed by Attorney John E. Tobin, executive director of NH Legal Assistance (NHLA); Hon. Susan B. Carbon; Marcia Sink, executive director of Court Appointed Special Advocates (CASA NH); Hon. James E. Duggan; Attorney Ronald K. Lospennato; Attorney Jack B. Middleton; Nina Gardner, executive director of NH Judicial Council; and Attorney Elliott Berry of NHLA.

The New Hampshire Bar Foundation promotes philanthropy dedicated to ensuring that all people in New Hampshire, especially those with limited means, are able to understand and obtain meaningful access to the justice system. For more information, visit www.nhbarfoundation.org or call 603-224-6942.

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