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Kane, Kendall & DeKalb

April 2014

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Justice, Not Money, Drives This Aurora Trial Lawyer

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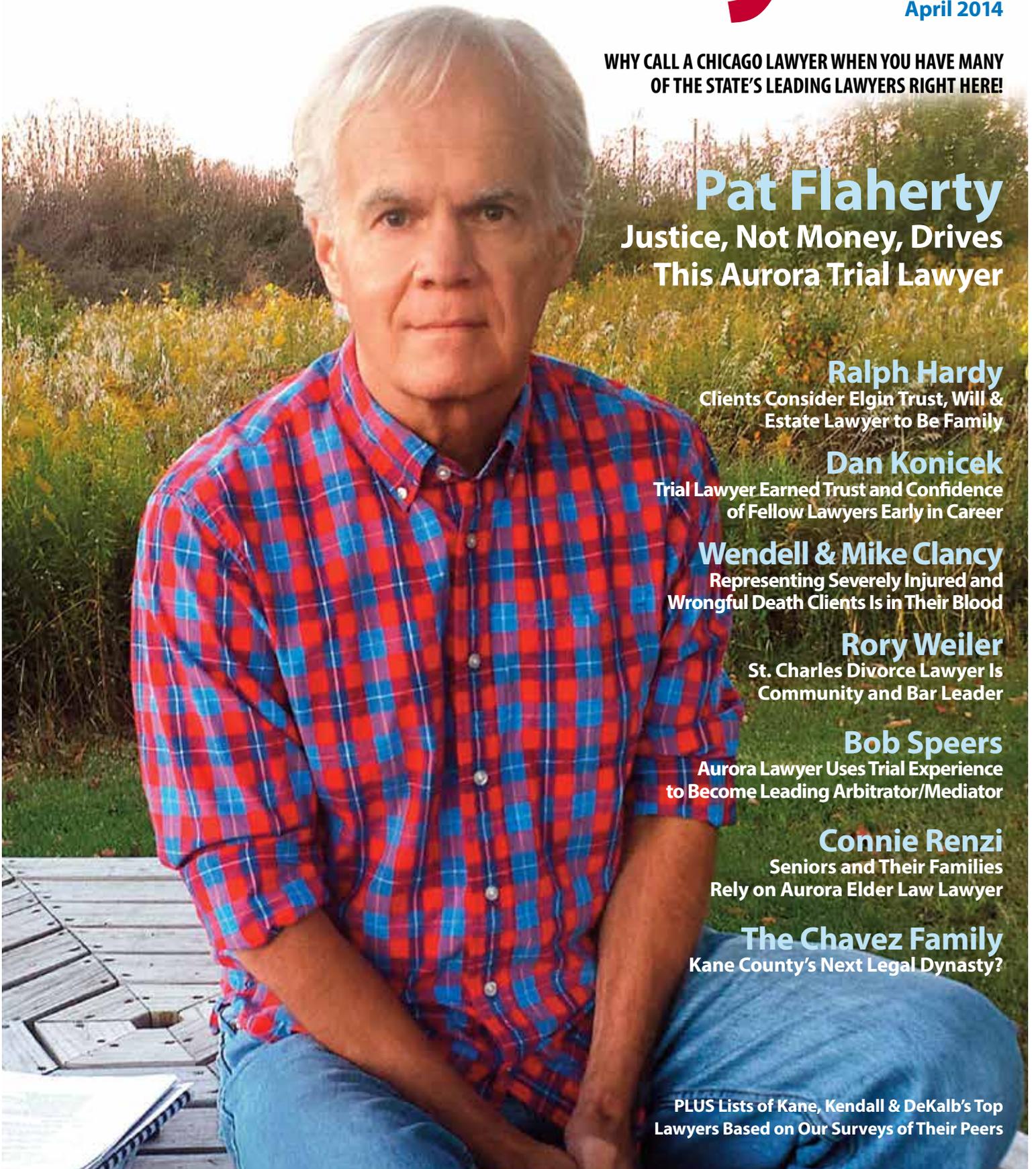
### Connie Renzi

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# PAT FLAHERTY

## Advocating for and Being with the Powerless

by Paul Dailing

AURORA—When Patrick M. Flaherty works, he often goes to the picnic table out back of the office.

Flaherty sits, surrounded by prairie grass and a breeze near the interstate just west of Aurora. A partner in **Kinnally Flaherty Krentz Loran Hodge & Masur PC**, he can focus there on the work that has led him to become one of the most respected personal injury trial lawyers not only in the suburbs, but also in the state.

“There’s a farmhouse that’s obscured by overgrowth there—it’s an abandoned farmhouse—but other than that it’s pretty much open farmland or open wild areas,” Flaherty, 62, says. “It’s nice. It’s remote enough to be nice, yet it’s accessible to every place we have to go.”

Where the firm has to go includes east to Chicago, north to the courthouse in Geneva, south to Yorkville, and west to DeKalb. The firm represents clients on matters ranging from personal injury to workers’ comp to immigration to business counseling and estate planning throughout the Prairie State, even in other states as the situation demands.

Like many firms in the collar counties, Kinnally Flaherty has to cultivate clients from the big city to small farm communities. Like many lawyers in such firms, Flaherty has to cultivate a set of skills that plays both in cutthroat Chicago and the nice and friendly downstate.

“You run into a lot of lawyers over the course of a quarter century of practice, and there are only so many people who impress you on so many levels as he did,” says Jim Sotos of the Itasca-based Sotos Law Firm. Sotos faced Flaherty in a wrongful death case in Kendall County nearly 20 years ago.

“Even in the hotbed of really contentious litigation, it was just impossible not to respect the way he approached the trial, the discovery process, all of it,” Sotos says. “He didn’t leave any stone unturned.”

From that picnic table by the prairie grass, Flaherty prepares cases for the clients who have been injured by the negligence of others. He sees it as a continuation of the political activism of his youth, when he and other young college students would band together to fight for justice and the end of the war in Vietnam.

“After I began to practice, it became clear to me that the best opportunity for advocacy was in the field of personal injury and wrongful death litigation,” he says. “That was the closest I was going to come to advocating for people who were disadvantaged, had little power, and needed someone to speak for them.”

He sees facing off against insurance companies, corporations, and the medical industry as a matter of principle.

“Personal injury and death litigation by

definition involves issues of, in my view, right and wrong and justice and injustice,” he says. “Your opponents are always powerful and your clients are always the victims and the people with little power.”

## An Early Activism

Flaherty grew up in Batavia in the Fox River Valley just north of where he now practices. He was the fourth youngest of eight children. His father had ambitions of being a lawyer, but had to drop out of law school because of World War II. He spent the war as a flight instructor in the Navy.

After his service, Flaherty’s father was married and had two kids and had to go to work. For years he ran a Standard Oil gas station in Batavia.

Flaherty considers his father’s legal dreams more coincidence than destiny. He was inspired to enter law not because of his father, but because of the sea changes America was undergoing at the time.

“For me it was growing up in the early ’60s and witnessing—mostly through television and reading—the violence and the inhumanity of both segregation and the Vietnam War,” Flaherty says. “I think both of those were such powerful influences on not just me, but on a lot of kids my age, and many of us gravitated to law school out of an interest in opposing the exercise of illegitimate authority.”

The economic imbalances he saw in his own community helped steer his thinking and his reading toward issues of social justice, class, and economy. Soon his bookshelf was lined with names like poverty researcher Michael Harrington, linguist and political theorist Noam Chomsky, and historian Howard Zinn.

“We had eight kids, my mom didn’t work, and my dad ran a gas station,” Flaherty says. “Poverty is a relative thing, and I don’t mean to suggest that we were at the same level of poverty that many, many unfortunate families experience, but I remember vividly having fried egg sandwiches several days a week because there wasn’t enough money for other groceries.”

It was an odd reading list for a student at an all-male Catholic high school with a military bent. Flaherty attended Marmion Academy, an Aurora-based school with ties to the Army’s

Junior Reserve Officer Training Corps program dating back to the 1930s.

In the 1960s, when Flaherty went there, Vietnam, Civil Rights, and the rest of the tumult outside simply wasn’t on the syllabus.

“It was disappointing, in that regard, that all of this was swirling around us on the outside, but in our classroom it was a very narrow and sheltered existence,” he says.

One of the places he was able to get away from Marmion’s sheltered environment was at his part-time job after school, working in the kitchen of the hospital now known as Presence Mercy Medical Center.

It wasn’t the job. It was the co-workers, particularly a fellow 16 year old who attended the nearby all-girls Catholic high school. Her name was Judy. She and Flaherty celebrated their 40th wedding anniversary over the summer.

“Judy is probably the smartest person I’ve ever known,” Flaherty says.

While the gas station in Batavia provided for the 10 members of the Flaherty family, the eight kids had to pay for their own college “with whatever grants or loans we could piece together,” Flaherty says.

Unable to afford living in Chicago, Flaherty commuted to DePaul University daily as an undergrad. He was involved in the student political scene, going so far as to wait day after day freshman year for a seat to watch radical lawyer William Kunstler defend the Chicago Seven in the conspiracy trial following the 1968 Democratic National Convention riots.

After DePaul, he went to Northern Illinois University Law School in DeKalb. He graduated in 1978 and clerked at the appellate court in Elgin for two years.

He knew he and Judy wanted to start a family in the Fox Valley, so he set about building a world-class practice in a suburban environment.

“It was a matter of my practice being driven by the destination, which was home,” he says as he sits at the picnic table by the prairie grass.

## Justice Blind, Snoring

When he handled solely defense work, David Meyer of Meyer Mediation faced Flaherty in the courtroom for a wrongful death case.

He says Flaherty’s ability to think on his feet was particularly evident during one incident.

“The case he and I tried, he was questioning a witness and the judge fell asleep in the middle of the examination,” Meyer says. “I objected to one of (Flaherty’s) questions and it was an extremely awkward situation.”

Justice was not only blind, but fast asleep, Meyer says.

The two lawyers agreed in front of the jury on the question, and then Flaherty spoke to the bailiff. On Flaherty’s advice, the bailiff took a stack of legal books and set them loudly on his desk. When that didn’t work, he dropped them from higher. And when the noise still didn’t wake the judge, he tried again from even higher.

The bailiff had to drop the heavy tomes onto the desk from about four inches in the air before the judge jolted awake.

That’s funny, but it’s not what impressed Meyer. What impressed him was that Flaherty continued the questioning as if nothing happened, in order to spare the judge any embarrassment.

“Pat just handled it so smoothly and so nicely,” Meyer says. “Of those who are very professional, I put him among the top rung.”

Meyer says that incident exhibited how tactfully and respectfully Flaherty handles every situation in the courtroom, and every person, from judges to juries to witnesses.

“He’s steady and appropriate,” Meyer says.

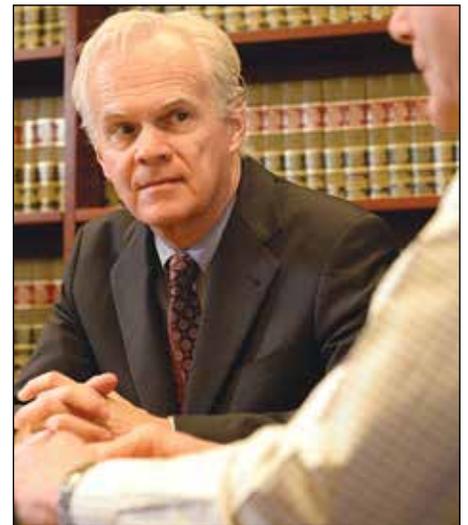
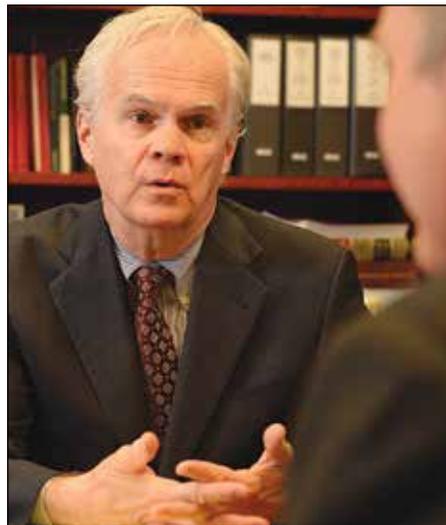
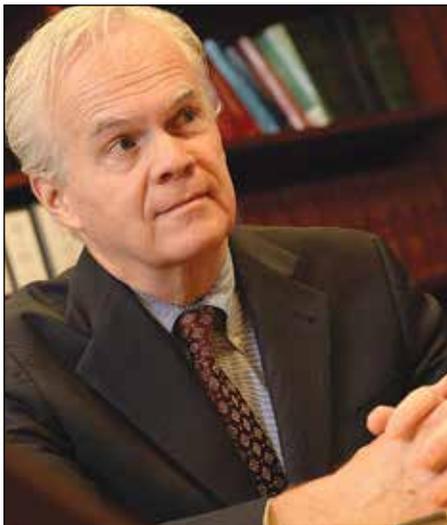
Charles Cole of Schuyler Roche & Crisham PC says the respect Flaherty shows in the courtroom extends to his opponents as well.

“Perhaps most impressive about Pat is he’s an honorable guy,” Cole says. “When he gives you some information about a particular matter, it’s accurate and truthful. He doesn’t try to deceive you in any way. That’s an honorable trait for a lawyer.”

Honesty brings results. In his career, Flaherty has obtained millions of dollars for injured clients, including what then were the largest reported birth injury settlement or verdict in Kane County history and the largest wrongful death verdict in Will County history.

“I remember all the cases I tried because they all had their own little twists and their own little challenges,” he says.

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While many of the cases he handles involve medical malpractice claims, the lawyer's life is an odd one, and cases can take unexpected turns.

Take, for example, *Vickroy v. Sportsman Park*. Flaherty obtained a \$2 million verdict in Cook County for a person knocked to the grandstand floor when the crowd panicked after a gun went off at a racetrack. It was an early, seven-figure victory for a suburban lawyer arguing a case in Chicago.

Flaherty was able to prove that the racetrack had policies in place to search bags, so no one should have been able to sneak in a gun in a brown paper bag.

The defense's response to this angered the jury more.

"The defense suggested in some of the testimony that the policy of checking containers, although it existed, was really designed to protect the operators' own economic interests—to prevent people from bringing in pop and food and less the concern about the safety and welfare of the customers," Flaherty says. "I think that dichotomy worked well in our favor, also."

That type of vigorous and unexpected intellectual discourse is lost in the current shift toward mediation, Flaherty believes.

Flaherty does mediate cases and always leaves that decision to the client, but he's an outspoken supporter of advocacy. He writes articles and speaks passionately for trial work and what it offers the client, the profession of law, and the community.

"For some clients who seek justice, they are viewing their case more about justice than about money," he says. "And there are many clients like that. For those clients, mediation can be the equivalent of a backroom deal."

But Flaherty says the biggest loss is to society as a whole.

"When you look at the history of trials, whether it's in the criminal arena or in the civil arena, it has been about the vindication of rights. I fear that we lose some of that when we relegate the resolution of disputes to mediation, and you take it out of the hands of your community," he says.

"A verdict is an opportunity for the jury, for the community to express its attitudes and its opinions about the issues in the case, about right and wrong, and about fairness and compensation. When we don't have trials, we're depriving the community of an opportunity to set the standards of fairness and justice. I think that's a loss to the community."

The lawyers of Kinnally Flaherty don't believe being represented by a vigorous advocate should be an opportunity reserved for the rich.

"Unfortunately, in this day and age simply wanting to help someone who you think has been wrongfully harmed isn't always enough," he says.

"We—not just me, but my partners—all take on a number of those cases every year where there's no economic profit in the case, but we want to be able to help the person. It's our instinct that a wrong in fact has occurred and that they need help righting that wrong."

## Activism and Joy

Flaherty sometimes wonders what his life would be like if he had pursued a career in legal aid or some other form of public advocacy.

"My hat is off to those people every day," he says. "I didn't have the courage to do that, even though that might have been the best expression of my outlook."

Lynn O'Shea, executive director of the Kane County-based Association for Individual Development, respectfully disagrees.

"We would not be where we're at today without Pat," O'Shea says.

AID provides more than 20 programs for more than 5,000 children and adults with developmental, physical, or mental disabilities in 45 suburban communities.

In addition to serving on the board, where he's currently vice chair, Flaherty heads a committee trying to get a referendum passed that would fund services for tens of thousands of Kane County residents with disabilities.

This number includes approximately 16,000 children currently receiving services through special education programs. About half of them will need community support after they turn 22 and "age out" of their program.

There are more than 1,300 Kane County residents with disabilities currently languishing on the state waiting list with no services at all.

"The importance of this referendum is that it would provide a permanent funding source for the most overlooked and vulnerable members of our community," Flaherty says.

The board work is only a portion of Flaherty's involvement in the organization, O'Shea says.

"He's the best of all worlds in terms of a board member who gives time, talent, and treasure," O'Shea says.

Flaherty has also served on the Aurora Preservation Commission and coached a team of children with developmental disabilities, an experience he calls "my absolute joy."

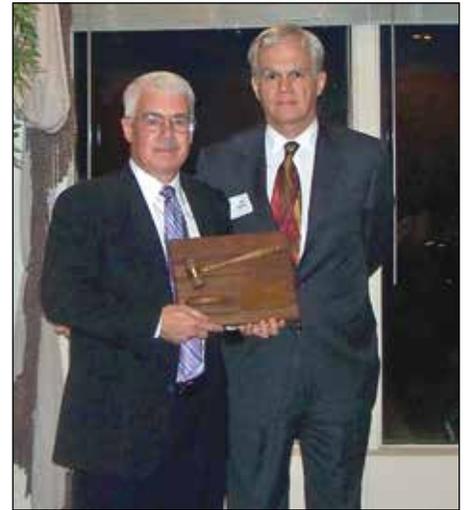
He had come from the more competitive world of Little League coaching, where the kids take each strike to heart and the parents get fierier about the game than the players.

"It was a joy for me to leave that environment and go to a team of developmentally disabled kids where they hit the ball and run to third base and everybody thought it was great," he says. "It's just the joy of witnessing that unharnessed and unbridled innocence that you have with people with developmental disabilities."

That commitment comes from a personal place. Flaherty's son Mark, now 32, was born with Noonan syndrome, a suite of developmental delays that includes intellectual disabilities.

"He is the joy of our life, I'll tell you. All our kids are—we have four. But Mark brings that innocence that I was talking about, unhampered by all of the other worries the rest of us have growing up and being adults, and it's a joy," Flaherty says.

Judy Flaherty, after years working in medical nonprofits, quit her job for a different suburban organization working with the developmentally disabled 10 years ago to take care of Mark full time.



From left: Bob Britz with Flaherty when he became Kane County Bar Association president in 2007.

Flaherty calls it "one of the most selfless acts of love I think I've ever seen."

Flaherty's free time is spent with Judy and Mark. Family is important to Flaherty, despite distance. Two of his children are in Los Angeles and one is in Madison, Wis. His oldest son, Ben, is getting married in the fall, the first of the children to do so.

Due in large part to Mark's disabilities, the Flaherty life is one of pleasant routine.

"Mark has a very simple life and very simple pleasures," Flaherty says. "Unlike all the rest of us, Mark derives great joy and satisfaction from doing it all over again."

One regular family activity is going to rail yards to watch the trains come and go.

"People have been so kind over the years," Flaherty says. "The workers, they'll see us out in the train yards, and they'll come up and give him a hat or they'll give him train gloves."

They had to stop going on bike rides due to a seizure disorder that's part of Mark's Noonan syndrome, but recently they started searching for tandem bicycles so the family can again enjoy this activity without risk to Mark.

One of Flaherty's mentors in the professional arena was Bill Murphy, who is currently of counsel to Kinnally Flaherty Krentz Loran Hodge & Masur PC and was a partner at the firm where many of the Kinnally Flaherty lawyers got their start.

"There are still things I do today, every day, that I learned from listening to Bill Murphy," Flaherty says. "So when I answer a phone, it's 'Hi, Jim. How can I help?' And that was something Bill Murphy said with every person he called. 'How can I help?'"

Another bit of advice from Bill Murphy was to have people terrified to open any letter with the firm's return address on it.

"You get to that point by how you conduct yourself in your professional life," Flaherty says, "by being aggressive but professional, courteous, by being as competent as you can be."

Flaherty was talking about Bill Murphy. Today, that's how people describe Pat Flaherty. ■