

TERRY FRANKLIN - SOGI COMMISSIONER AND MAN TRULY WORTH KNOWING

Terry Franklin was born on the south side of Chicago to parents who were not college graduates but believed strongly in the importance of education. Franklin went to Whitney M. Young Magnet High School where he had a French class with a young Michelle Robinson, who later became Michelle Obama. Franklin says they were friendly both in French class as well as at Mayfair Academy where they both took dance (he took tap while she took ballet). Their friendship continued later in life when they were both at Harvard Law School at the sametime.

As a child, Franklin's parents suggested that he consider a professional career. However, the only professions which he knew existed at that young age were medicine, law and being a teacher. Also at the time, he was very interested in the arts and acting but Franklin felt that if he pursued acting, it would not sit well with his perceived obligation to his family, church and community to pursue a profession and felt it was "too risky" to get into the arts because he was concerned about "coming out" to everyone if he pursued acting. He did not feel his denial of his true identity was bad because he honestly believed he could live the "straight life" even though he knew that being gay is not a choice. Understanding that there are significant personal and societal pressures on all of us, he was able to convince himself that he could live "another way". So, "coming out" as gay and involved in the arts were both put on hold. Because he was not great at math, he concluded that becoming a lawyer, rather than a doctor, teacher or actor, made

the most sense to him. So, from an early age, law was something that he thought he might like.

While at Harvard, he met his future wife. They were married and lived together for 24 years. Their two daughters are now actresses, a career he denied to himself. After graduating from Harvard Law School, Franklin went into litigation because that was all he really knew that lawyers did. So, Franklin first started with Morrison and Foerster in Los Angeles and did general litigation from 1989 until 1992.

Some of his early career highlights included working pro bono on one of the most important housing discrimination cases in LA County. At the time, he was a pro bono staff attorney on the Independent Commission investigating the LA Police Department. There, Franklin worked on a case which went to the California Supreme Court and made new law on the issue of the fiduciary exception to the attorney-client privilege.

By about 2010, Franklin realized he had enough of self-denial. Realizing he was now 46 years old and living his life to please other people's expectations rather than his own, he knew he had to begin living his life as a gay man which included divorcing his wife. To this day, he and his "ex" remain close. Not long after his divorce, he met his partner, Jeffrey-Moline.

At the same time, another very interesting part of Franklin's life was developing.

Franklin's "will story", which he calls the most meaningful search in his life, began at a family reunion in 2001. One of his relatives prepared an excerpt from a Will of



his fourth-great grandmother, Lucy Sutton, which purports to not only emancipate her from John Sutton, a white farmer living in Jacksonville, Florida but also emancipates her eight children and six grandchildren. Until 2001, when he first saw the excerpt at the family reunion, no one in his family had mentioned the story before and the story came as a total shock to Franklin. He could not understand why a white slave owner farmer who owned Lucy and her children and grand-children would do such a thing and/or what their relationship really was beyond being slaveholder and slave.

Thereafter, Franklin did nothing with the Will excerpt for many years. However, in 2014, his interest in the story renewed when his family was preparing for his Great Aunt Viola's 100th birthday. Franklin decided to contact the Clerk's office where the Will was filed (in Duval County, Florida). He requested the Clerk provide him with images of the entire Will, including the signature page, which showed it was signed by John with an "X" (John died in 1846) but otherwise in proper order. The Will stated that Lucy and her family, including her children, shall be set free

but also sent to a place where “they and their children could live free forever”, all with the proceeds of selling John’s possessions. The Will further provided that John’s trustee, William Adams, whom Franklin believes was John’s half-brother, was directed to sell all of John’s possessions, including all livestock, furniture, etc. to fund Lucy’s travel to freedom. But still lingering to Franklin was why John was doing all of this for Lucy and her kids, including: did John have a white wife or white children; and, if so, why were there was no mention of them in the Will provided to Franklin.

Franklin is certainly aware of the nature of slavery and the then societal “norms” which existed during slavery. Nonetheless, Franklin wanted to believe that what existed between Lucy and John was, in reality, a relationship.

During a business trip in March 2015, Franklin took a long detour to Duval County to see the actual Will and seek answers to his lingering questions. The Clerk gave him the entire folder which included the Will and other handwritten pages, which turned out to be a trial transcript. Franklin discovered that one of John’s brothers, Shadrack, had filed a contest to overturn John’s Will. Contrary to John’s wishes, Shadrack was attempting to have John’s Will declared null and void so Shadrack could inherit Lucy and her family as his slaves. The transcript also provided clues to Franklin about Lucy and John’s relationship. Franklin learned that John, Lucy and the kids had lived in Georgia. Before writing his Will, John moved his household to Florida, believing Florida was a state which would allow Lucy’s emancipation during John’s lifetime. Unfortunately, John learned he was wrong. Franklin also learned that when the lawyer who assisted John about the Will came to John’s house for its execution, that John invited the attorney to eat a meal with John and his “family”

and that John specifically described the others in the house (meaning Lucy and her children) as “his (John’s) family”, and not his slaves. Franklin knew that it is one thing for John to have children with a slave but quite another for John to have established a household where Lucy and her children lived. Based on all his read, Franklin concluded John’s actions demonstrated that John was in a relationship with Lucy and her children. Apparently, Shadrack’s attempts to have the Will declared null and void failed. With the Will deemed valid, John’s estate was then sold and the proceeds used to allow Lucy and her children to travel from Florida to Illinois, emancipated, to Lucy and her children’s land of freedom. Lucy’s descendent, Franklin, was born and grew up in this land of freedom.

Franklin believes that his ancestor’s story also mirrors his own. Franklin fell in love and got married while in his 20s. They lived together for many years and had two daughters. When he realized he was living a lifestyle other than what he wanted, he “came out” and got divorced. It was then he realized that he had forced himself to not live the life he wanted but rather to live the life that everyone else expected of him and when that realization hit, he did something about it. He believes that John and Lucy are the same. They were not living the lifestyle they wanted either because the expectations and strictures imposed by society would not allow a relationship between a slave and John. So Franklin believes that John and Lucy did the best they could under the circumstances of the society norms during slavery, and after John’s passing John made sure that Lucy and her children would live in freedom, similar to Franklin living in his freedom, after his “coming out”.

Franklin states that while he ended up in a far different place in the practice of law than when he

started his legal career (now a trusts and estates litigator), he has no regrets about his path to the present since he believes that what he has done throughout his career has ultimately led him to a place where his law practice, his artistic interests, and his connection to his ancestors have all come together. So, for Franklin, had it not been for his legal career and his practice area being trusts and estates litigation, his connection to his ancestors may not have occurred or at that time in that he does not believe that he would have totally appreciated the legal subtleties that he learned while discovering his ancestor’s history if he had learned them earlier in his career, i.e. before he had the benefit of his lifetime experiences as a trust and estates litigator.

This amazing experience also shifted much of Franklin’s understanding of what history means to him and the importance of being involved in diversity activities. From his experiences, he realizes that he may have descendants who may look back at Franklin and wonder what he did to deal with oppression or to make the world a better place. As Franklin states, he has long been an activist. As a law student, he was involved in a “sit in” at the Dean’s office at Harvard protesting the lack of women of color as professors. His pro bono work also pointed in the same direction. As he states, “Through the ABA, I was always involved with Diversity, and later the Diversity and Inclusion Committee, which led to my being asked to consider applying for a Commissioner position on SOGI”, which he did. Currently, he is in his third year on the Commission. Franklin has also served in many capacities in the RPTE Section of the ABA and been a member of its Council. He is also currently Chair of the Diversity and Inclusion Committee of the American College of Trust and Estate Counsel.

As for his time on SOGI, Franklin

says he did not have any goals when first becoming a Commissioner except to make a positive difference and bring both his skills and efforts to SOGI. His future plans with SOGI and other parts of the ABA include helping to coordinate the screening of the anti-conversion therapy film, “The Miseducation of Cameron Post” at the 2019 mid-year meeting in Las Vegas and hopefully be a Showcase presenter at the ABA annual meeting in San Francisco in August 2019.

Lastly, Franklin is a very lucky man for many reasons but for one in particular—he was fortunate to have found love twice in his life. As mentioned earlier, he has had a partner now for many years. Well, on February 14, 2018, he came home and was unnerved by the events at Parkland High School that day. He was wracking his brain on how to combat the hate and violence in the world . . . as he continued to think, he heard a voice in his brain say “We [meaning he and his partner of eight years, Jeffery Moline] should get married.

Apparently, it was not said just in his brain but aloud. Jeffery stopped and asked Franklin to confirm what he thought he had heard, which Franklin did. Jeffery asked him to confirm it again before they went to sleep that night, which Franklin did yet another time. In October, Franklin and Jeffery were in Washington, D.C. for a meeting of the American College of Trust and Estate Counsel. While there, on October 25, they went from their hotel to the United States Court of Appeals to Judge Robert Wilkins’ chambers, a member of that Court and a former housemate of Franklin. Then and there, with Judge Wilkins’ secretary and four law clerks including the first African-American woman to be president of the Harvard Law Review as their witnesses, Judge Wilkins officiated and the proud couple are now united as one.

As Franklin later put it, he realized that in addition to the sheer joy and excitement about getting married, he says that he had a sense of comfort and relief in being able to

relax and exhale after the nuptials. As he states, he had been married to a wonderful woman for many great years and has two incredible children. He went on that he “had not expected to feel such a sense of relief [in believing] that my new marriage was a[s] valid in the eyes of the law as my last marriage. And I had not expected to feel a sense that I knew that I could rest easy—that the person I loved to whom I was bound to now was also bound to me, forever, and that we would always have one another”.

As my summation, all I can say is it has been my true honor and pleasure to bring this wonderful man to you. I hope you enjoy reading it as much as I had writing it.

JAMES L. SCHWARTZ

Jim is the founder of James L. Schwartz & Associates P.C. in Chicago and concentrates on securities, commodities, and real estate law. He is the SOGI Liaison from the Solo, Small Firm and General Practice Division and the Senior Lawyers Division.

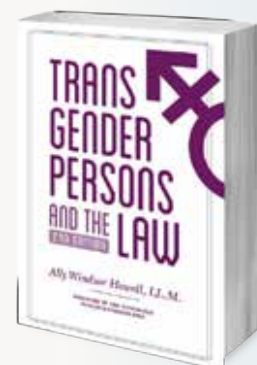
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