

HELEN HAMILTON DAY: A TRIBUTE TO JUSTICE LEVINE

The University of North Dakota Law Women’s Caucus held a tribute to Justice Beryl Levine as a part of their annual Helen Hamilton Day.* The following speeches have been transcribed and are included in the tribute:

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WHY “FIRSTS” MATTER: A TRIBUTE TO JUSTICE BERYL LEVINE

KATHRYN R.L. RAND*

I clerked for Justice Beryl J. Levine at the North Dakota Supreme Court right after I graduated law school in 1993. But I knew who she was before that.

In law school, I took a class titled “Sex Equality” from Catharine MacKinnon, the noted lawyer, legal scholar, and feminist legal theorist credited with pioneering the legal recognition of sexual harassment as a form of sex discrimination.¹ One day in class, Professor MacKinnon discussed that while women had, after considerable time and struggle, achieved access to the legal profession—at the time, just under fifty percent of law students were women—women were vastly underrepresented among law firm partners, among judges, and among law deans.² In other words, among the profession’s most prestigious and influential positions.

Professor MacKinnon mentioned the “firsts”—the first women who were deemed exceptional enough to merit these positions of importance and power in a male-dominated profession—such as Justice Shirley Abrahamson of the Wisconsin Supreme Court, appointed in 1976 and the first woman to serve on that state’s highest court, and Justice Rosalie Wahl of the Minnesota Supreme Court, appointed in 1977 and the first woman to serve on that court.

From my seat in the back of the classroom, I called out, “And Justice Beryl Levine!” And Professor MacKinnon immediately responded, “Yes: the first woman to serve on the North Dakota Supreme Court.”

So, I knew who Justice Levine was. And so did Professor MacKinnon. Indeed, many, many people did—and not just in North Dakota. After all, she was featured in *People Magazine*, in an article titled, “Mother of Five Beryl

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1. See CATHARINE MACKINNON, *SEXUAL HARASSMENT OF WORKING WOMEN* (1979).

2. See, e.g., Elizabeth D. Katz et al., *Women in U.S. Law Schools, 1948-2021*, NW. PUB. L. RSCH. PAPER NO. 22-35, Aug. 26, 2022, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4194210.

Levine Cooks Up a Second Career as a State Supreme Court Judge.”³ I bet she loved that.

I knew who she was, but I didn’t know her. In the year of my clerkship, I got to know her as a judge and as a boss.

She had a well-earned reputation as a judge who asked tough questions. She had no patience for lawyers who were underprepared, who hadn’t researched an issue thoroughly, who hadn’t thought through their arguments and their implications.

And she was a tough boss, too. Early in my clerkship, after reviewing a draft opinion I had worked on, she called me into her office. “Karen,” she said—it took her a while to learn my name—”You can do better than this.”

She handed me back my draft without another word. As I walked out of her office, I started to tear up. Her longtime administrative assistant, Evie, gave me a little pat. “It’ll be all right. She makes almost all of the clerks cry, even the men.”

But here’s the thing: she was right. I was capable of a higher caliber of work product. And I worked hard to meet her expectations. I didn’t realize until later that she was passing on some hard-won wisdom: if I wanted the legal career I was capable of, I would have to work harder... not just because I was a new attorney... but because I was a woman.

My clerkship with Justice Levine was one of the highpoints of my career. I learned some hard lessons, and they made me a better lawyer. I respected her as a judge, and as a mentor. But it wasn’t until I became dean of the UND School of Law that I had the opportunity to really get to know Justice Levine, and to really understand the wisdom she had earned as a trailblazer.

One of the perks of serving as dean is that you get to meet our truly incredible alumni. By that time, Justice Levine had retired, and she and her husband Leo had moved to California. I had several opportunities to visit her in their Palo Alto penthouse. We had many chats over lunches and dinners and cocktails. She was a gracious host, and a great conversationalist.

A theme of our conversations was my deanship. “The first woman dean!” she’d crow each time I saw her. “Good for you, and good for the law school!” And invariably she’d add, “It’s about damn time!”

Justice Levine and I talked a lot about how hard it is to be a “first.”

It’s hard to be the first person who doesn’t fit the image that most people have of what a lawyer looks like, what a judge looks like, what a law

3. Barbara Kleban, *Mother of Five Beryl Levine Cooks Up a Second Career—as a State Supreme Court Judge*, PEOPLE, (Mar. 24, 1986, 12:00 PM), <https://people.com/archive/mother-of-five-beryl-levine-cooks-up-a-second-career-as-a-state-supreme-court-judge-vol-25-no-12/> (“For Levine now the career will do just fine. Being a judge ‘is very much like being a student, with a lot of status,’ she says softly. . . . ‘I love the research and the writing. And I am so privileged. I’m one of the very few people doing exactly what she wants to do.’ Case closed.”).

professor looks like, what a dean looks like—indeed, what a leader looks like. When you are the first woman to hold an important or influential position, everyone sees you not as your position but as a woman holding that position.

Justice Rosalie Wahl, the first woman to serve on the Minnesota Supreme Court, once explained that she was tired of being asked what it was like to be a woman judge. “I’m not a woman judge,” she said. “I’m a judge.”⁴

One of Professor Catharine MacKinnon’s most insightful observations is that when one woman succeeds, that is seen as proving that *any* woman can succeed—that there are no barriers, or no longer any barriers, to women’s success. And, when one woman fails, it is seen as proving that *every* woman will fail—that women aren’t suited or qualified for such roles.⁵

Justice Levine was acutely aware of her role as a first. She knew she was blazing a trail. She was actively and aggressively working to remove barriers and obstacles, and to change attitudes, so that we could follow in her path.

When we are the first woman to hold a particular position of power, our mistakes are amplified while our successes are diminished—and both are attributed to our gender.

If we mess up on occasion, we hear, “That’s why women aren’t good leaders” or “She’s too emotional to handle conflict well.” If we accomplish something important, we hear, “They gave it to her because she’s a woman” or “I guess all it takes is a short skirt.” I heard all of these when I was dean, and I imagine Justice Levine heard similar remarks, and likely much worse. After all, she was just a mother cooking up a second career, rather than one of the most respected jurists in the history of our state.⁶

4. I recall Professor MacKinnon sharing this quote in my law school class as a remark made by Justice Wahl during a panel presentation on “woman judges.”

5. CATHARINE MACKINNON, *FEMINISM UNMODIFIED* 76-77 (1987). In an address given in honor of Justice Wahl and Justice Mary Jean Coyne, the second woman appointed to the Minnesota Supreme Court, MacKinnon elaborated on this insight:

When a few of us, the exceptions, overcome all this, we are told we prove that there are no barriers there and are used as examples to put other women down. She made it, why can’t you? We are used as tokens, vaunted as exceptions, while every problem that we share is treated as itself an exception, as a special case. So to those who say, “Any woman can,” as if there were no such thing as discrimination, as if *that* were exceptional, I say this, and I say it as a woman: *all women can’t*. And that will be true so long as those who do make it are the privileged few. Until all women can, none of us succeed as women, but as exceptions. When we fail, we fail with 53 percent of the population; when we succeed, we succeed alone.

MacKinnon’s observation reflects the “dominance approach” in feminist theory, which describes sex inequality in terms of gender hierarchy. *See id.* at 32-45. For a discussion of Justice Levine’s jurisprudence through the lens of the dominance approach, see Kathryn R.L. Rand, *Making a Real Difference: The Dominance Approach in the Opinions of Justice Beryl J. Levine*, 72 N.D. L. REV. 1031 (1996).

6. *See* David K. Levine, *Justice Beryl Levine: Behind the Scenes*, 72 N.D. L. REV. 1049, 1051 (1996) (“When she started law school back in 1971, I did not know then that the then-dean of the law school described her and her quest for a law degree as ‘bored, spoiled, and frivolous.’ Unfortunately, that was not the last sentiment she encountered of a not-so-bygone day . . .”).

The weight of the group we represent in the eyes of others is on our shoulders, whether we want it or not. Justice Levine knew that if she were less than perfect, then it would make it harder for other women to achieve similar success in our profession.

And the sexism, the harassment, the stereotyping, the discrimination—that all comes with the job when you are the first. All of that makes a tough job, like being a state supreme court justice, even tougher. Firsts like Justice Levine have to work harder and achieve more than our male counterparts, just to get to the same place.

Barbara Walters, who passed away a few months ago, was a first in her own profession. “So many times, women ask me, ‘How do we get ahead [in journalism]?’ I’d always say, ‘Just work harder than everybody else.’”⁷

Now, that sure sounds like something Justice Levine would have said.

But I think Justice Levine would have immediately gotten the not-so-funny joke: “Just work harder than everybody else.” Justice Levine knew that she had to be an *exceptional* judge in order to be respected as an ordinary (read: male) judge would.

Justice Levine recognized that while that was, and in many ways still is, the reality—that we have to work harder to get the same opportunities, the same recognition, the same respect—it certainly is not equality.

Equality is *not* having to exceed everyone’s expectations; equality is *not* having to outwork, outwrite, outrun, outscore, outsmart, outperform everyone else; equality is *not* about having to be exceptional, or having to be extraordinary.

Equality should be ordinary. It should be unremarkable that women hold positions of power in our profession. It should be unremarkable women are lawyers, judges, law professors, and leaders.

But we aren’t there yet.

Being a first is important. Because the first is what makes the second possible, what makes the third possible, what makes the fourth, the fortieth, the four hundredth, the four thousandth, the four millionth, possible, until it is no longer remarkable that a woman holds a position of importance, of influence, of power.

I think about that a lot, that Justice Levine was a first for all of us in this room. She helped to make our successes possible, and the fact of our gender less important than our abilities, our talents, and our accomplishments.

How can we ever repay a first like Justice Beryl Levine for blazing a trail for so many of us? I think we are obligated to pay that debt forward.

To make room for more people who have been excluded or discouraged from a career in law.

7. Emily Strohm, *Barbara Walters (1929-2022): ‘She Blazed a Trail,’* PEOPLE, Jan. 2023.

To mentor and encourage more women, more people of color, more LGBTQ+ people, more disabled people, more who in any way “don’t fit the image of what a lawyer looks like,” to succeed in the legal profession.

To call out and combat the sexism, racism, trans- and homophobia, and other forms of discrimination that continue to be more ordinary than true equality is.

To widen and smooth the path made by so many trailblazers before us.

That is the debt that we owe to Justice Beryl Levine, and so many other “firsts” in the legal profession.

Thank you.

HELEN HAMILTON DAY KEYNOTE PRESENTATION

THE HONORABLE LISA FAIR MCEVERS*

Beryl Levine: A woman, wife, mother, attorney, justice, trailblazer.

How appropriate to begin Women's History month with a tribute to a woman who made history here in North Dakota. Last fall, I contacted Jack Dura to see if he would work on a piece about Justice Levine. I'd like you to listen to the following tribute, which was broadcast yesterday for the first time. (Justice McEvers then played a piece by Jack Dura from the Prairie Public Dakota Datebook show.)¹

Beryl Levine, in her application to serve on the North Dakota Supreme Court, began as follows: "I am 49 years old, a woman, wife, mother, and attorney, who has experienced to date the best of all worlds—family and career."

The order in which she lists her roles is interesting to me and speaks volumes. I think many of us when applying for a career changing job would list our professional credentials first. But, Beryl Levine starts her application hitting head on the barrier she was facing. She was a woman. No woman had ever been appointed or elected to the district court bench, let alone the Supreme Court.

She then lists her next attribute: wife. How many men in job applications would include a reference to being a husband. But, Beryl Levine and her husband, Dr. Leo Levine, together charted her career path. A Supreme Court Justice should take their partners and their relationships into consideration before seeking out the position. Such a position affects the entire family.

Beryl Levine next addressed another role: mother. Talk about inviting discrimination. I can tell you first-hand that, in the mid-1980s, letting

*† The Honorable Lisa Fair McEvers prepared this piece and presented at the University of North Dakota School of Law's Annual Helen Hamilton Day put on by the Law Women's Caucus on Friday, March 3, 2023. This speech honors Justice Beryl Levine, an incredible woman who helped paved the path for women pursuing a legal career in North Dakota.

1. Jack Dura, *March 1: Justice Beryl Levine*, PRAIRIE PUBLIC NEWSROOM (March 1, 2023, 1:00 AM), <https://news.prairiepublic.org/podcast/dakota-datebook/2023-03-01/march-1-justice-beryl-levine> ("Four women have served on the North Dakota Supreme Court. The first was Beryl Levine, appointed by Governor George Sinner in 1985." She was elected and re-elected to her position and served eleven years on the court and retired in 1996. "She is remembered for her passion for equality and fairness." The piece discusses several cases where Justice Levine wrote on the disparities, discrimination, and stereotypes women have faced in divorce cases. The piece also discusses Justice Levine's friendship with the late U.S. Supreme Court Justice Ruth Bader Ginsburg, and Justice Ginsburg's citation to a Justice Levine opinion in a case that struck down a military school's male-only admission policy. The brief piece provides insight into the importance of a woman's voice on the court and the contributions made by Justice Levine.)

employers know you had children was not necessarily an asset. At a job interview, I remember an employer asking me if I had any children. I replied that I had a baby at home. The employer responded: “Well I hope you’re not planning on having any more children if you come to work for me.” Yet, Beryl Levine not only addressed it, she spoke of her five living children, their academic and professional achievements, including David Levine, who was then a senior in high school at Fargo South. She also acknowledged a son who died at only three months old. Why bring up her large family when it could have been used against her as reasons she would not have the time and energy to serve on a busy court? Because, it showed she brought a different perspective.

In her application, she did not move directly into her experience as an attorney. Rather, she shared her journey to becoming an attorney. She discussed growing up in Winnipeg, the second child and eldest daughter of Russian immigrant parents. She spoke of graduating from high school, attending the University of Manitoba, but dropping out of school after meeting and marrying Leo. She described her further education as an odyssey to obtain her college degree: following her husband’s moves for career advancements, raising children, and being involved in her community. She and her husband discussed her future and what profession she should seek. She enrolled in law school at UND in 1971. She spoke in her application for the court of the gender bias she faced at law school. The Dean of the law school summoned her to the office and let her know he thought of her as a 35-year-old doctor’s wife: bored, spoiled, and frivolous. She proved him wrong, graduating first in her class and being elected to the Order of the Coif.

As an attorney, Beryl Levine practiced at one of the best law firms in North Dakota. By the time she applied for the Court, she was a shareholder in the firm, where she engaged in civil trial practice for about ten years. She spoke of her experience serving on various committees of the bench and bar. She indicated that she had met with many young women interested in the profession of law and advised them on how to achieve their goals. These were the roles that Beryl Levine had played to that point. But, she had more roles to play.

Beryl Levine’s next role, as the first female justice qualifies her for a special designation: Trailblazer. Trailblazer is defined as “one that blazes a trail to guide others,” a pathfinder.² Women who are the first to do something are commonly described as breaking the glass ceiling. I see it slightly differently. Broken glass generally stays broken. Justice Levine was like a

2. *Trailblazer*, MERRIAM-WEBSTER, [webster.com/dictionary/trailblazer](https://www.merriam-webster.com/dictionary/trailblazer) (last visited March 27, 2023).

<https://www.merriam->

trailblazer who cut a path through the tall grass making the way easier for me and others to follow.

In her application for a seat on the Court, she wrote:

I see my appointment to the Supreme Court for me, as a woman, to be yet another remarkable statement about this country, this state, and our community and the opportunities they provide for qualified, interested people. Doubtless, my appointment to the Court would be among my greatest personal achievements. Of far greater significance, it would send a clear and resounding signal to competent, qualified women in this state who seek and strive to stretch, that doors are indeed open and nothing is foreclosed merely because of gender.

She was right. Her appointment indeed opened doors for women in the law. Twenty-five women have been appointed or elected to the district court since 1985. The Supreme Court has had at least one female justice serving since then: Mary Muehlen Maring, Carol Ronning Kapsner, and myself. Governor Sinner was clearly impressed with Beryl Levine's qualifications stating: "The nominating committee did a superb job. It was impossible to select a bad justice. Any two of the eight would have been a credit to us all." Noting particularly, that he was not going to appoint a "token" woman to the court. Beryl Levine was no "token woman" and helped all to see that qualified women belong on the North Dakota Supreme Court.

I count it a personal honor to have followed, and been inspired by, Justice Levine and other women who have gone before me. I remember being in awe of Justice Levine when I appeared before the Court and when meeting her during the Court's annual trips to the law school. I felt her presence wearing her robe for my Supreme Court investiture. I am always impressed by her willingness to write separates on different topics, often with no other justice joining her separate. It takes courage to stand alone in writing your thoughts on legal topics that will be "on the books" for all time. When I feel like the cheese standing alone, I think of her courage.

I am also pleased to walk in her footsteps in other ways in my service on the court. Beginning with her internship during law school in the Cass County Juvenile Court, she became a devout advocate for juvenile justice. With humility and pride, I strive to continue her work in a manner worthy of her early efforts serving on the Children's Cabinet and chairing the Juvenile Policy Board.

I was reminded during my commute here from Bismarck on icy roads and blustery weather of the personal sacrifices she made to serve on the Court. She made that trip between Bismarck and Fargo for eleven years. She gave unselfishly of her time, intellect, and leadership to improve the world

around her, including chairing the Commission on Gender Fairness in the Courts and Legal Profession. While I don't feel that I measure up to her near goddess like attributes, I find it reassuring that our lives had some parallels.

I, too, dropped out of my university studies to marry and have a family. Like her, it took me many years to complete my undergraduate degree, and I went to law school in my thirties. Yet, I know my journey has been easier because of the path she made, and that Justices Maring and Kaspner kept open for me. You see, unlike broken glass, a path will grow over if it is not kept.

Shortly after Justice Levine's passing, at last year's meeting of the Women's Lawyer Section at the annual State Bar Convention, I moved that an Achievement Award be designated in her honor. My motion passed unanimously at the meeting. Then a group of volunteers met several times to develop proposed criteria for an award named after her. The group of volunteers included Magistrate Judge Alice Senechal, District Judge Cherie Clark, Professor Denitsa Mavrova Heinrich, Meg Morley, Ashleigh Ensrud, and me.

We were hopeful that the SBAND Board of Governors would approve of such an award. The award would recognize and honor individuals for their exceptional dedication and contributions to promoting gender diversity, equity, and inclusion in the legal profession. The criteria has been forwarded to the Board of Governors. I occasionally press for more information on the status of the proposed award and, while I cannot say that it has been formally adopted by the SBAND Board of Governors, I have it on pretty good authority that approval is likely to occur next month. I hope so.

The Supreme Court has dedicated a conference room to remember Justice Levine and her contributions to the Court. The dedication ceremony was held in the Supreme Court courtroom. It was awesome to see the standing room only crowd that gathered to honor Justice Levine. A room filled with judges, justices, lawyers, the Attorney General, the Executive Director of the State Bar, court staff, family, and friends.

It is right that we continue to honor Justice Levine for her contributions. And, not just for being the first. But, even if that was all she did, it was a feat worth remembering. I don't want any of us to forget who opened a path for us. A recent ABA article discussed "paths to the bench" and the five most important attributes in a judge: passion, caring, integrity, a heart for service, and, the most important attribute, courage. The different roles Justice Levine played during her life ticked all the boxes.

The challenge now is to keep the path open. That is up to you, my sisters and brothers in the law. Why is it important? Women's voices matter. They bring a different perspective on the application of law. Women see through a lens a man cannot see directly: that of a woman, a wife, and a mother. As

United States Supreme Court Justice Ruth Bader Ginsburg stated, “Women belong in all places where decisions are being made.” I heard another great quote recently: “If you aren’t at the table, you are on the menu.” Author unknown.

Let’s continue to honor Justice Levine by encouraging qualified women in this state to seek leadership roles and to strive and stretch. I leave you with a quote by Belva Davis: “Don’t be afraid of the space between your dreams and reality. If you can dream it, you can make it so.

JUSTICE BERYL J. LEVINE: THE FIRST WOMAN...AND SO MUCH MORE!

DAVID LEVINE*

Good evening to you all. It is heartwarming for me to be here for this celebration of my wonderful mom. I am grateful to Erica Solberg and the entire Law Women's Caucus for organizing this event and allowing me to participate.

Justice McEvers and Professor Rand – thank you for your tributes to my mom.

I also ask for your indulgence while I take another moment to thank two very special people – Madelyn Levine and Lexi Levine. In addition to being my wonderful daughters, they are my mom's granddaughters – two special parts of her incredible legacy. My wife, Aviva, and our son, Zachary, were unable to attend today, but Madelyn and Lexi were able to take time out of their hectic lives to be here to celebrate their grandmother. As you might imagine, my mom adored them. They are an example of why I feel the Law Women's Caucus chosen theme for this year's Helen Hamilton Day – "Trailblazing Women" – and their decision to honor my mom, are so fitting. Madelyn and Lexi are a testament to their grandmother – they personify her in different, yet strikingly similar ways. They both have her intense commitment to excellence, morality, and integrity in their chosen professions, Madelyn as an actor and Lexi as an attorney, and her loyalty to family and friends that is personified in the depths of their relationships. To explain how I feel about my daughters and my son, I will quote my mom, who, in her speech during her investiture thirty-eight years ago, said this about her children: "Those among you who are parents will surely understand

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my belief that luck is a major component in the end product of our child-rearing endeavors. That being the case, Lady Luck has not only smiled upon Leo and me – she has laughed herself silly.” So, to Madelyn and Lexi, thank you for being here to honor your extraordinary Baba.

In preparing my words to share with you today, I had a couple of goals. First and most importantly: not to be a cure for your insomnia! And second, to share with you some things about my mom that you may not know. Mom’s position as the first woman to sit on this great state’s Supreme Court is not the whole story. She authored more than 400 opinions, and although I am proud of what she accomplished on the Bench, I want to share some of the other parts of what made her the unique and wonderful person she was.

First, a bit of biography: Mom was born on November 9, 1935, in Winnipeg, Canada. She was the second of four children. Mom adored her parents, Bella and Maurice Choslovsky. She often spoke to me about them – about their intelligence and how rare it was that her mom had a formal education, a woman in that era. I tell you this not to bore you with any stories about her childhood. Rather, to explain that she had many role models – some were women, some were men, some were older, some were younger, but the first two were her parents.

Mom’s parents placed great emphasis on education. She always planned to earn a college degree, and she did begin college, like many of her friends, at the University of Manitoba in Winnipeg. Then she met my dad at a wedding. He announced to his friends upon meeting her that he was going to marry her, and believe it or not, just three months later, that’s exactly what he did. They celebrated their 65th anniversary before my dad passed away in 2020. Following their wedding, Mom dropped out of college as my dad had graduated from medical school in Winnipeg and was set to begin his residency in Cleveland. They moved there and had the first two of their five children by the time Mom was just 20. Mom took some college courses there, but was still far from completing the credits needed to graduate.

The four Levines then moved to Grand Forks for Dad’s first post-residency job. While here, Mom gave birth to their third child – in fact, she came a bit early and Dad had to deliver her at home. They had their next child here as well, but sadly, though healthy when born and for the first three months of his life, he passed away suddenly in November 1962. Mom and Dad were devastated at the loss and moved back to Winnipeg to be with their families to mourn and re-group. They had their next child during that ten-month stop in Winnipeg, and then moved to Fargo in 1965. Their last, and some have argued, favorite, child was born the following year in Fargo, which was their home for the next 31 years.

Mom had many passions – the law was chief among them, and those who knew Mom, knew that one of her other passions was babies! She often

explained that she realized after I was born that she, and I quote “could not over-populate the world single-handedly,” so she had to “find something to do with her life to complement being a wife and mother, the combination of which would be as fulfilling for the next 35 years as the first 35 had been.” She sat down with my dad, and they did what my dad always advised me to do when faced with a challenging or serious decision – make a list, either of the pros and cons or of the various options, depending on the circumstances. Mom kept coming back to the law for a few reasons – perhaps even more because she was an immigrant, the American judicial system was fascinating to Mom; she wanted to help people; she wanted to be part of a respectable profession; and perhaps most importantly, she loved learning, which she viewed as an essential element to being a good attorney and a good judge. So, the law was the choice. Now she just had to finish college! Over the next several years, she took courses at North Dakota State, what was then Moorhead State, and back at the University of Manitoba in Winnipeg. Computers, let alone the Internet and online learning weren’t yet part of the vernacular, so that required her to spend a non-trivial amount of time back in Winnipeg. But she did what she needed to do, and more than a decade-and-a-half after she entered college, she earned her degree in the early 70’s and applied to be a member of the class of 1974 at the School of Law here at UND.

After she had been admitted, the then-dean of the School of Law, Robert Rushing, encouraged Mom to drop out, suggesting she would not make it to graduation because she was “just a doctor’s wife” who was “bored and spoiled,” and this was a “frivolous endeavor” on her part. Now, if you knew my mom, you know that she did not do anything in life, great or small, to prove anything to anyone other than herself, so if she stayed in law school, it would not have anything to do with Dean Rushing. As we all know, she did stay, drove the 170 miles roundtrip for the next two-and-a-half years and graduated in 1974. (The last semester she was able to remain in Fargo most of the time, and she clerked for Judge Ralph Maxwell, a district court judge.) And she demonstrated that although Dean Rushing may have been a good dean, he was not a good prognosticator, as Mom didn’t just graduate, she graduated number one in her class. In fact, I understand that at least the top three members of her class were women.

I love stories with symbolism or connection, so I am going to share one of my favorite stories about Mom’s class that not too many people know. Following Mom’s appointment by Governor George Sinner to the Supreme Court in 1985, one of her classmates gave her a paperweight with three words engraved on it. Those three words? “Bored, Spoiled, Frivolous.” And who was that classmate? David Maring, the husband of Justice Mary Maring,

whom Governor Edward Schafer appointed to succeed my mom following her resignation in March 1996.

I was with my mom throughout her career. She brought me each semester for registration here at the law school. I was there for her first day on the Court, and for her last. I was also with her on the drive from Fargo to Bismarck for her investiture in February 1985. She told me how nervous she was – not about the investiture but about her tenure on the Court. I told her what any devoted child would say, “Don’t worry, Mom, you’re going to do great!” She said she wasn’t worried about failing for her sake – she would be fine if she failed, not happy about it, but fine. No, she was very worried about failing because of the impact that would have on the women who followed her – she was benefitting from the successes of Helen Hamilton and the other women who had blazed the trail for her, and she didn’t want to make it more difficult for the Justices Maring, Kapsner, McEvers and others who would follow her.

Mom gave many speeches across the state during her time on the Court. She felt it was important for the people of the state – regardless of gender, age or other demographic or characteristic – to see and hear a “real live Justice” who happened to be a woman.

In many of her speeches, Mom paid tribute to the women, like Helen Hamilton, who blazed the path for her. She recognized that the women who preceded her faced many challenges, some far greater than the ones she faced, and those challenges meant the path was not yet a perfectly-paved blacktop road – there was still work to be done, and she was prepared to do her part to make the path a bit smoother for the women who would follow her, like her granddaughters and daughters, and of course Justices Maring, Kapsner and McEvers, Professor Rand and so many others.

Mom always emphasized that everyone needs supporters, mentors. And for women, those supporters and mentors could, and in her case, had to, include men. I recall many instances when people would refer to Mom as “Superwoman.” Mom always rejected that moniker. She explained how fortunate she was to have her family’s and colleagues’ support and that her family had the resources to provide what we referred to initially as a “housekeeper” who quickly became a treasured member of our family. That was essential given that my parents had five children aged 4-11 when Mom entered law school. And beyond the financial support, Mom was grateful for my dad’s unqualified emotional and moral support. After all, she had thrown him for a bit of a loop – he likely expected, being a product of that generation, that his wife would take care of things at home while he provided the family income. But he adapted, no doubt with some coaching from Mom. But he didn’t need much – he as much as Mom showed me how to be a proud

feminist, and he was the President of the Beryl Levine Fan Club, evidenced by the six enormous scrap books he created with mementos of Mom's career.

Mom's message to her audiences was not just that girls and boys could grow up to be whatever they wanted to be, which she truly believed, but that if they were fortunate like she was to have people around her to support her efforts, that was OK. She knew not everyone was as fortunate as she was. And for those who had to go it alone, they could do it, and she could serve as a role model for them in that she was just an ordinary person who had made it. But for those who had supporters, there was nothing wrong with relying on them, for seeking help along the way and for expressing gratitude.

Mom did all of those things. She was very grateful to her family for supporting her, to Governor Sinner for appointing her, to Justice VandeWalle and her other colleagues on the Court and at her law firm, to the state for the opportunities it afforded her and the wonderful life it allowed my dad and her to provide for their family and to the UND School of Law. She consistently expressed her gratitude to UND, including in one final, special way upon her passing, as she made a generous bequest to the UND Law Foundation in her will. She never forgot her roots here at UND and was forever grateful for the opportunity, Dean Rushing's urgings notwithstanding.

During Mom's life and perhaps even more since she passed away, I was and am guided by her. When faced with a challenging situation in my practice or in life, I often ask myself "What would Mom do?" She had what I describe as an impeccable moral compass. Her ability to balance various factors was truly amazing. She judged – both literally and figuratively – without being judgmental. She spoke eloquently without lecturing or being patronizing. She led by example. She did not agree with everyone around her and of course, not everyone agreed with her. But when she disagreed, she was not disagreeable – she did so with respect, dignity, and professionalism, something missing all too often in today's world.

Mom was committed to fairness. Her commitment to gender and racial equality is well known in the legal community. But I remember that commitment to fairness showing itself long before I took the call from Governor Sinner, when he called our house to let Mom know he had decided to appoint her. I remember when her law firm was going to increase her rate to what to her was an unthinkable \$100 per hour. She insisted that it remain at \$75. And I remember that even though she worked full time – five days a week and at least half a day on many Saturdays – she insisted she be paid at a reduced salary so she would not feel guilty about taking all of Saturday to be with her family or taking vacation.

Loyalty was one of Mom's many qualities. She was fiercely loyal to the law, to the Supreme Court, and to the state of North Dakota. Mom was also incredibly loyal to her family and friends. My daughters' presence here is

testament to Mom's loyalty to her family. Her friends were also the beneficiary of that loyalty: at each stop in her life, from Winnipeg to Cleveland to Grand Forks to Fargo to Bismarck to California – Mom had friends who adored and were committed to her. At the time of her passing last year, Mom had close friends, whom I consider family, of more than 80 years from Winnipeg, more than 50 years from North Dakota, and more than 20 years from California. If you were friends with Mom, you were her friend for life.

Mom had a real talent for making an impression on people with her words, but she wasn't wordy. Mom definitely subscribed to the old adages "less is more" and "don't overstay your welcome." I was present for many of her speeches and at so many of them, people would say to me, "I loved what your mom had to say but I wanted to hear more!" Back in 1996, when Mom called to tell me she was resigning from the Supreme Court, I was sad and asked her if she were sure that she wanted to give up what she frequently described as her "dream job." She told me she still loved the job, but she had her time and now it was time for someone else to have the opportunity. And she said, "nobody is calling on me to quit, yet – better to leave now before they do!" This also translated into her personal life. My parents moved to Palo Alto, about 35 miles south of San Francisco, in 1996, following Mom's resignation. Aviva and I were living in San Francisco at the time. We would see my parents regularly – sometimes in Palo Alto and sometimes in San Francisco. Whenever my parents came to our home, after about 45 or 60 minutes, Mom would stand up, say to my dad "OK, dear, it's time to go," and they would leave. After a few months of this, Aviva asked me "Why do your parents always leave so fast?" Being a dutiful husband, I asked my mom: "Mom, Aviva wants to know why you guys always leave so fast." Her response? "That's exactly how I want her to feel." Her passing came too soon for my liking, but she would say that's how she would want it to be because it is better than the alternative. But I wanted more, and I miss her every day.

Finally, as long as her legacy didn't include anything that made things more difficult for the women like Justice McEvers, Justice Kapsner, Professor Rand and others who followed her, my mom's legacy wasn't something she was concerned about, but I am. I want her legacy remembered and honored, and with that in mind, I conclude with where I began – by expressing my gratitude – to the Law Women's Caucus for honoring my mom as you have in dedicating this evening to her and for allowing me to participate, to you all for indulging me as I spoke for too long (hopefully not curing your insomnia) – it's a good thing for me that we're not in the Supreme Court courtroom today, as I am sure the red light would be flashing brightly! And thank you, of course, also to Justice McEvers, Justice Kapsner, and Professor Rand for taking the baton from my mom and making your own

contributions to the ultimate goal of equality about which my mom was so passionate, and last, but certainly not least, thank you to my daughters, Lexi and Madelyn – to all of you, I say thank you for honoring, preserving and commemorating my mom’s legacy in a way that gives me comfort and confidence that she and her contributions will not be forgotten, which she would not have cared about, and will continue to be built upon, which is absolutely what she would have wanted.