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Tribute to Justice Rosalie Wahl

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2014] TRIBUTE TO JUSTICE ROSALIE E. WAHL

Eric J. Magnuson[†]

I have been asked to speak about Rosalie's impact on the Minnesota legal community. You might expect an analysis of her contribution to the law during her tenure. While those are significant, her impact on the legal community was much greater than just her scholarship. I have been asked to speak from the perspective of a student and appellate practitioner, a somewhat more personal view.

I still have to start with the obvious—her legacy as a gender trailblazer: *The first woman on the Minnesota Supreme Court. A member of the first supreme court in the country composed of a majority of women.* Amazing.

When I was in law school in the mid-1970s, and Rosalie was my professor, women as part of the established legal community were still rare. True, my class had a significant proportion of women, but it would be a long time before women truly had an equal representation in law schools and a significant, if still unequal, representation in the halls of justice.

I was inspired by Rosalie's appointment, but not nearly as inspired as my women colleagues and friends. Countless women found in Rosalie's success inspiration to pursue careers in the law and other fields traditionally dominated by men. And that inspiration did not stop with her appointment and successful re-elections. It continued throughout her service on the court, as gender kept coming into discussions regarding the court and its members. Throughout, Rosalie showed that gender was important, but it was the person that counted.

When Minnesota became the first state in the country to have a supreme court with a majority of women, the *New York Times* took a great interest. It reported at length about Rosalie's appointment and the women who followed her.³⁰

I was scheduled to argue a case in front of the court having to do with sexual assault in the workplace. I was defending an employer against a claim that it was civilly responsible for the damages caused by the assault. The *Times* apparently thought that

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30. See David Margolick, *Women's Milestone: Majority on Minnesota Court*, N.Y. TIMES, Feb. 22, 1991, at B16, available at 1991 WLNR 3026004.

having such a case decided by a court with a majority of women might impact the outcome. They asked me for an interview, and I told them I was comfortable that all the justices would fairly apply the law.

The *Times* also interviewed Justice Mary Jeanne Coyne about women on the bench (without reference to the pending case).³¹ She observed, correctly I think, that a wise old woman and a wise old man would usually decide a difficult question the same way, which may explain the outcome in my case.³² The court ruled unanimously in my client's favor, including Rosalie, because that was the law.

But as it relates to Rosalie, I think that comment overlooked a significant fact—there is often a very real difference in how each jurist, man or woman, gets to that answer based on the totality of who he or she is. For Rosalie, her gender was just one aspect of who she was as a person. We need to remember that as well.

I was one of Rosalie's many students in the William Mitchell misdemeanor law clinic. It did not strike me as strange that this woman, old enough to be my mother, had gone back to school and achieved tremendous success in her chosen field. I started law school having just graduated from college with my own mother. I was exquisitely aware of the challenges Rosalie had faced, and fully appreciative of the strength required to fulfill her dreams.

That insight might have helped close some of the distance usually found in a student-professor relationship, but I don't think Rosalie ever had that much distance from her students. She saw each of us as individuals with our strengths and weaknesses, our struggles and victories. And that was how she saw everyone.

What we learned from her in law school is that clients are also always real people, not just "cases." Every case presents legal issues, some of them common and repeated, but all really are secondary to the impact of the legal system on the lives of clients. For Rosalie, the law was personal, because it affected people.

She carried that sense of humanity to the court. You could see it in her questioning, and you could read it in her opinions. Her conviction that the law was about people never wavered. Rosalie was a beacon of compassion on the court.

31. *See id.*

32. *Id.*

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I remember a particular act of compassion that affected me personally. I was scheduled to present an argument to the court at Hamline University. The night before the argument, my father-in-law passed away, and I was up all night with my wife and her family. Not the optimal way to get ready for a significant argument. When I showed up at Hamline, I ran into Chief Justice Keith, who mentioned that I looked a little tired. I told him my circumstance, and apologized in advance if I were not on the top of my game that morning.

The argument started all right, but then I experienced every lawyer's nightmare. In the middle of answering a question, my mind went blank. I couldn't remember what I had been saying; I couldn't even remember the question I'd been asked. I was lost, a fact that soon became apparent to the court and the audience.

Although I'm sure it was just seconds, it seemed like an eternity as I stood there, trying to gather my wits. It was Rosalie who leaned forward, looked me in the eye, and said, "Counsel, I think the answer you were trying to give us is XXX. That seems to me to be your response to Justice YYY's question. Is that right?"

My mind snapped back into focus, and I was able to not only answer the question, but complete the argument. As I thought about it afterwards, I realized that Rosalie was not doing me a favor because I was a former student. She was simply acting out one of her deepest held beliefs—we are all human, we are all in this together, and it is a collaborative effort not a contest of strength as we seek to find what justice we can. To Rosalie, helping me was helping the court and helping the parties, which I know she thought was the true purpose of the justice system.

I have known many jurists who have worn the robes of authority at both the trial and appellate levels. I have known very few who have worn them better than Rosalie, and none who have worn them with greater humanity. Her legacy to the Minnesota legal community is just that—humanity in all things.