

SUPREME COURT OF THE UNITED STATES

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JUSTICE RUTH BADER GINSBURG MEMORIAL

MEMBERS OF THE SUPREME COURT BAR

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SUPREME COURT OF THE UNITED STATES
JUSTICE RUTH BADER GINSBURG MEMORIAL

MEMBERS OF THE SUPREME COURT BAR

1:45 p.m.

Friday, March 17, 2023

Upper Great Hall
Supreme Court of the United States
Washington, D.C.

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P R O C E E D I N G S

(1:45 p.m.)

CALL TO ORDER

HONORABLE ELIZABETH B. PRELOGAR,
SOLICITOR GENERAL OF THE UNITED STATES

GENERAL PRELOGAR: Good afternoon,
members of the Ginsburg family, members of the
Court, members of the Bar, and friends.

This meeting of the Bar of the Supreme
Court of the United States has been called to
honor the memory of Justice Ruth Bader Ginsburg,
who served as an Associate Justice of the
Supreme Court from 1993 until 2020.

In addition to her time on the Court,
Justice Ginsburg served as a judge on the United
States Court of Appeals for the D.C. Circuit, as
the first tenured female professor at Columbia
Law School, and as founder and director of the
Women's Rights Project at the ACLU.

She was a visionary as an advocate who
championed equal citizenship for all persons and
as a judge who fought every day to fulfill this
nation's promise. She was a person of
principle, graced with a brilliant mind, quick

1 wit, tireless nature, and courageous soul. She
2 was a devoted wife, mother, grandmother, and
3 great-grandmother, a cherished colleague, an
4 inspiring teacher, and a historic figure in
5 American law.

6 She revered the rule of law and the
7 Constitution. The Court and this country are
8 forever honored by her service.

9 I want to express my appreciation to
10 Judge Paul Watford and Hajin Kim, who co-chaired
11 the Arrangements Committee for this meeting, and
12 to the members of that committee, Justice Rachel
13 Wainer Apter, Judge John Owens, and Amanda
14 Tyler. I also want to express my gratitude to
15 Judge John Owens and Amanda Tyler, who
16 co-chaired the Resolutions Committee, and to the
17 members of that committee: Payvand Ahdout,
18 Jennifer Clark, Kelsi Brown Corkran, Beatrice
19 Franklin, Abbe Gluck, Justice Goodwin Liu,
20 Michael Klarman, Amy Marshak, Deborah Jones
21 Merritt, Trevor Morrison, and Daniel Rubens.
22 The meeting today will be chaired by Judge
23 Owens, and Scott Harris will be the secretary.

24 I had the incredible honor of clerking
25 for Justice Ginsburg, so before I turn the

1 podium over, I wanted to share a few reflections
2 on three roles that defined the Justice's life
3 and career as a lawyer, a mentor, and a fighter.

4 Perhaps the most natural place for me
5 to begin is with Justice Ginsburg's role as an
6 advocate. It's natural not only because I'm
7 speaking on behalf of the Supreme Court Bar but
8 also because Justice Ginsburg is the person who
9 moved my admission to this Bar and was one of
10 the first people who encouraged me to apply for
11 a job in the SG's Office. Although I didn't get
12 to argue before her as Solicitor General, I like
13 to think that she'd be happy that I'm able to
14 speak about her today in that capacity.

15 Justice Ginsburg's accomplishments as
16 an advocate are extraordinary, the stuff of
17 legend. She argued six cases in this Court
18 between 1972 and 1978 at a time when few women
19 were arguing in any court, much less this one,
20 and she made those cases count, winning five of
21 them and establishing the principle of gender
22 equality as constitutional law, often through
23 her ingenious strategy of bringing sex
24 discrimination cases on behalf of men.

25 One of her big cases, litigated in the

1 Tenth Circuit alongside her husband, Marty, was
2 Moritz versus Commissioner. It involved a tax
3 code provision that allowed single women but not
4 single men to deduct the cost of caring for an
5 elderly dependent. The case is memorably
6 depicted in the movie "On the Basis of Sex," but
7 I'll always remember hearing the story firsthand
8 at a dinner that the Ginsburgs hosted for us
9 clerks during our clerkship year. As they told
10 it, Marty learned about the case through his tax
11 practice and ran into Justice Ginsburg's room to
12 tell her that she needed to read the lower court
13 decision. She said, Marty, you know I don't
14 read tax cases.

15 (Laughter.)

16 GENERAL PRELOGAR: He said, well, you
17 need to read this one.

18 At the oral argument, they divided the
19 argument time, and Marty went first. He told us
20 that as he was delivering his argument, she
21 started tugging on his sleeve because he was
22 going on too long.

23 (Laughter.)

24 GENERAL PRELOGAR: Without missing a
25 beat, the Justice quipped, you were cutting into

1 my time.

2 (Laughter.)

3 GENERAL PRELOGAR: Of course, they won
4 the case. When the Solicitor General sought
5 review in this Court, he attached an appendix
6 listing all of the federal statutes that would
7 be called into question by the Tenth Circuit's
8 decision because they classified based on sex.
9 Justice Ginsburg later described the appendix as
10 a treasure trove.

11 (Laughter.)

12 GENERAL PRELOGAR: It turned into a
13 sort of target list, and she took aim at many of
14 these statutes in the year ahead. So, whatever
15 else I do as Solicitor General, I won't be
16 filing any appendices like that.

17 (Laughter.)

18 GENERAL PRELOGAR: Although Justice
19 Ginsburg's advocacy transformed an entire area
20 of constitutional law, she never focused only on
21 abstract legal principles. Decades later, she
22 still remembered every client and the injustices
23 that brought them to court. Stephen Weisenfeld,
24 for example, lost his wife, Paula, during
25 childbirth, but he wasn't eligible for the

1 Social Security benefits that a similarly
2 situated widow would have received.

3 Justice Ginsburg won his case
4 unanimously in the Supreme Court, but she didn't
5 stop there. She kept in touch with the
6 Weisenfelds for the rest of her life, and almost
7 30 years later after the Court's decision, when
8 the little boy at the center of the case got
9 married, Justice Ginsburg officiated the
10 wedding.

11 That enduring commitment to people
12 animated the second of Justice Ginsburg's roles
13 that I wanted to highlight, her role as a
14 mentor. First, Justice Ginsburg recognized the
15 importance of her own mentors. In the brief she
16 filed in the landmark case Reed versus Reed, she
17 insisted on including in the signature block
18 some of the lawyers and scholars whose work had
19 inspired her. As she put it, she stood on their
20 shoulders and should give them credit.

21 And here at the Court, she mentored
22 her law clerks in countless ways. She insisted
23 on mastering the facts of every case, reminding
24 us that the Court's cases are about real people
25 with real problems.

1 Clerking for her was also a master
2 class in legal writing. She edited opinions by
3 hand, so we would triple-space the drafts to
4 leave plenty of room for her notes, and she had
5 no trouble filling that space with red ink. If
6 she wanted to reorganize the draft, she would
7 literally cut out a paragraph and tape it
8 somewhere else on the paper. So it was an
9 old-school cut-and-paste. And then, when she
10 finished, she would call the law clerk into her
11 office and go over the revisions one by one to
12 explain her thinking. It was an amazing
13 opportunity to learn about the craft of legal
14 writing from an extraordinary writer.

15 She modeled her incredible work ethic
16 in many other ways. She was a famous night owl
17 who would often stay up half the night poring
18 over a draft line by line. The story was that
19 she and Justice Kennedy, a well-known early
20 bird, would pass each other going in opposite
21 directions in the garage.

22 For all of her devotion to her work,
23 Justice Ginsburg also reminded us that there's
24 more to life. She took us to the opera and
25 patiently explained what was going on when I

1 confessed at intermission that I had no idea
2 what was happening on stage. She was a fitness
3 enthusiast who lifted weights and did pushups
4 well into her 80s, often while wearing a Super
5 Diva sweatshirt. And perhaps thanks to Marty,
6 she appreciated good food, especially sweets.

7 One of my favorite memories came at
8 the annual Supreme Court Christmas recess party,
9 where I spotted the Justice across the room,
10 making a beeline for the chocolate fountain.
11 But she didn't pick up a strawberry or a piece
12 of cake to dip. Instead, she put her spoon
13 directly under the chocolate flow --

14 (Laughter.)

15 GENERAL PRELOGAR: -- and ate it
16 straight.

17 (Laughter.)

18 GENERAL PRELOGAR: As with so many
19 other things, the Justice knew exactly what she
20 wanted and didn't waste time with filler.

21 (Laughter.)

22 GENERAL PRELOGAR: The final aspect of
23 Justice Ginsburg's legacy that I want to touch
24 on is her fighting spirit. She was almost
25 certainly the physically smallest person ever to

1 serve on this Court, but I doubt that anyone has
2 ever punched further above their weight.

3 She faced profound adversity in every
4 phase of her life. Her mother died the day
5 before her high school graduation. Marty was
6 diagnosed with cancer early in their marriage.
7 She endured discrimination based on sex and
8 pregnancy and religion. She faced multiple
9 bouts with cancer. And she overcame again and
10 again, demonstrating a resilience, fearlessness,
11 and independence matched by few others. She was
12 the epitome of unrelenting grace.

13 And she was unyielding in fighting for
14 the things she believed in.

15 When she was preparing for her Supreme
16 Court confirmation hearings, a White House
17 staffer wrote a memo describing her "disdain for
18 the confirmation process."

19 The memo added that Judge Ginsburg
20 views the White House's interests and her
21 interests as being at odds with each other. She
22 sees us as having a stake in presenting her as a
23 moderate and in getting along well with the
24 Senate. She sees her interests as "being
25 herself, preserving her dignity, and promoting

1 her independence." I'll add only that Justice
2 Ginsburg was confirmed 96 to 3.

3 I witnessed one of Justice Ginsburg's
4 most difficult battles up close during my
5 clerkship. That was the year that Marty was
6 again diagnosed with cancer. The Justice
7 lovingly cared for him, juggling his medical
8 appointments and hospitalization with his --
9 with her work at the Court.

10 The morning after he passed away was
11 the final decision day of the term, and Justice
12 Ginsburg had a majority opinion in one of the
13 leading cases. The grief was so evident in
14 Court as Justice Ginsburg delivered her opinion.

15 As usual, her voice wasn't
16 particularly loud or particularly fast, but it
17 was steady and sure, confident in her decision
18 in the case and in her knowledge that by coming
19 to Court to hand down the decision, she was
20 doing what Marty would have wanted.

21 Justice Ginsburg's fight ended in
22 September 2020 following yet another hard-fought
23 battle with cancer. I stood guard with her
24 other former clerks as she lay in repose at the
25 Court.

1 Because of the pandemic, her casket
2 was placed outside the Court at the top of the
3 front steps rather than in the usual indoor
4 location, and as I thought about it, I decided
5 that it was fitting that she was outside,
6 accessible to the public.

7 Her life was a quintessentially
8 American story. She was born to a family of
9 immigrants and grew up with modest means. She
10 faced profound adversity and discrimination.
11 Yet, through her intellect, hard work, and force
12 of will, she not only reached the top of her
13 profession, she reshaped it.

14 She broke barriers for those who came
15 after her and she inspired multiple generations.
16 So many people came to pay their final respects
17 as she lay in repose, as I walked to the Court
18 down East Capitol Street, the line of mourners
19 stretched for block after block after block,
20 almost all the way to Lincoln Park.

21 There were all kinds of people, young
22 and old, women and men, parents with their small
23 children. Some cried. Some kneeled and prayed.
24 And many of them looked from her flag-draped
25 casket up the majestic columns of this Court to

1 the words inscribed in marble on the facade,
2 words that inspired Justice Ginsburg throughout
3 her career and that she brought to life for
4 generations to come: Equal justice under law.

5 May her memory be a blessing.

6 INTRODUCTION OF SPEAKERS

7 HONORABLE JOHN B. OWENS

8 JUDGE, UNITED STATES COURT OF APPEALS

9 FOR THE NINTH CIRCUIT,

10 CHAIR OF THE MEETING

11 JUDGE OWENS: Good afternoon,

12 everyone. Madam Solicitor General, Mr. Chief
13 Justice, Associate Justices, members of the
14 Ginsburg family, Mr. Attorney General, and
15 members of the Supreme Court Bar, it is a great
16 honor to be with you here today to remember
17 Justice Ginsburg. And I want to thank you,
18 Solicitor General, for your opening remarks.

19 Now, when I speak with high school and
20 college and law students, they usually look
21 pretty bored. They don't really ask any
22 questions about me. I was a federal prosecutor
23 for 10 years, I'm a federal judge, but, when
24 they find out I clerked for Justice Ginsburg,
25 wow, now they're interested. What did she teach

1 you? What was she like? Tell us about her.

2 Where do you start? How do you
3 describe who Justice Ginsburg was? You could
4 spend hours on her childhood in which she
5 overcame incredible family tragedy to rise to
6 the top. You could talk about her college and
7 law school career, where she had a baby, her
8 husband had cancer, and she finished first in
9 her class. You could explore her career as a
10 law professor, where she learned Swedish to
11 better understand the American civil procedure
12 system.

13 (Laughter.)

14 JUDGE OWENS: Or you could delve into
15 her efforts as a litigator which were just
16 detailed where she was a first ballot Hall of
17 Famer. I haven't even talked about the D.C.
18 Circuit yet. I haven't talked about this Court
19 yet.

20 Simply put, this is hard sometimes for
21 younger people to understand, you can't
22 Wikipedia-ize the life and career of Justice
23 Ginsburg. She was one of the most extraordinary
24 people to ever walk into this building and,
25 frankly, on the face of this earth. And today

1 we're going to do our best to highlight what
2 made her so special.

3 So what do I tell the students? They
4 always want to talk about the dissents, but I
5 stress to them Justice Ginsburg was a winner.
6 She understood how to persuade people. She was
7 a big-time winner. And she understood that
8 patience and calmness was much more effective
9 than yelling or demeaning someone who might not
10 initially agree with you.

11 I tell them that her love for civil
12 procedure was genuine and intense. This
13 surprises many law students. I describe when
14 she received the assignment in Baker versus
15 General Motors, which was honestly a somewhat
16 obscure civil procedure case, she was so
17 excited, so excited.

18 If you could imagine Justice Kagan if
19 the Jets, Mets, and Knicks all won the title in
20 the same year, not going to happen, but that's
21 what it was like for --

22 (Laughter.)

23 JUDGE OWENS: -- for Justice Ginsburg.

24 I also tell them it's important to
25 follow your passions, even if they are civil

1 procedure and opera. But -- but what I always
2 come back to, no matter how many times I've
3 spoken with students, is her mental toughness.
4 She is the toughest person I've ever met.

5 And I don't mean rough or uncivilized.
6 I mean, she had the gloves, the purse, the
7 outfits. We all know that. I mean, I've never
8 met someone who was so determined to make it, to
9 never let anything or anyone stop her and to
10 never ever make excuses for why you didn't get
11 something done. Just get it done. And I doubt
12 that anyone in this room -- and, Justice Thomas,
13 you've served here for a long time -- I don't
14 think you ever heard her make an excuse about
15 work. Never happened.

16 We all know she had plenty of excuses,
17 a lot of good excuses, as to why she couldn't
18 get to do something, but she always had the will
19 to fight through whatever the barrier was in
20 front of her.

21 Now I used to box, so I spent a lot of
22 time around tough guys. And boxers are tough
23 guys. But, honestly, none of them had the
24 mental toughness that she did.

25 You know, she taught me early on, if

1 you want to win a case, you could not be the
2 second-most prepared person in the room. Number
3 two is not going to cut it. She was always
4 number one when it came to being prepared, and I
5 cannot imagine a better lesson for young
6 lawyers.

7 Now sometimes students will ask, well,
8 why was she so tough, so determined, and why
9 didn't she just give up after everything that
10 happened to her? Well, look, I'm sure her life
11 circumstances made her feel like she couldn't
12 give up because, if she stepped out for a
13 second, the game would pass her by.

14 But I also think it's more -- more
15 than that. I think it's the Justice's love of
16 this country compelled her to never quit.
17 Justice Ginsburg loved the United States. She
18 said many times that only in America could
19 someone from her background rise to the level
20 that she did.

21 She once told me in effect that there
22 never would have been a Notorious RBG if there
23 wasn't the Good Old USA. And she passionately
24 believed that while America's pendulum might
25 swing wildly at some times, it eventually will

1 settle into a more stable rhythm, and she wanted
2 everyone to have the same opportunities that she
3 did to enjoy the American dream.

4 And so, when students ask me about her
5 judicial philosophy, I struggle at times to put
6 it into a few words, but I like to say that her
7 philosophy is that the United States is the
8 greatest country in world history, may not be
9 perfect, but it is, and that the Constitution,
10 especially the Fourteenth Amendment in her view,
11 was designed so everyone can take full advantage
12 of it. And that's why I think she fought so
13 hard for so long and busted through all those
14 roadblocks that stood in her way.

15 So we will now hear from some fellow
16 clerks about what made her so special. My
17 colleague, the Honorable Paul Watford of the
18 Ninth Circuit, the Honorable Justice Rachel
19 Wainer Apter of the Supreme Court of New Jersey,
20 Professor Amanda Tyler of Berkeley, and
21 Professor Hajin Kim from Chicago.

22 And Professor Kim will then move the
23 adoption of the resolutions to be presented to
24 the Court, and as Justice Ginsburg law clerks,
25 we promise to be concise and stay on schedule.

1 (Laughter.)

2 REMARKS BY HONORABLE PAUL WATFORD
3 JUDGE, UNITED STATES COURT OF APPEALS
4 FOR THE NINTH CIRCUIT

5 JUDGE WATFORD: It's an honor to be
6 here this afternoon and to have been asked to
7 provide some brief remarks paying tribute to
8 Justice Ginsburg, whose impact on the shape of
9 our society is probably too profound to measure.

10 I'd like to focus my remarks on the
11 Justice's role as an advocate for equality,
12 women's equality most importantly, but a quality
13 for other marginalized groups as well during the
14 years that she spent litigating cases before
15 this Court and during her four decades of
16 distinguished service as a federal judge.

17 A common thread runs through the
18 briefs she filed in this Court, beginning the
19 influential brief in Reed versus Reed. The
20 legal principle she sought to vindicate there
21 and in the cases that followed in the 1970s was
22 a simple but essential one, the desire to be
23 judged on one's individual merits, not on the
24 basis of overbroad generalizations or
25 stereotypes.

1 The Idaho statute at issue in Reed
2 versus Reed was a poster child for laws of the
3 latter sort. It mandated that as between
4 individuals equally -- equally entitled to
5 administer a decedent's estate, males must be
6 preferred to females. As Justice Ginsburg wrote
7 in her brief seeking to invalidate that statute,
8 the law was based on the unfounded assumption
9 that, in general, men are better equipped to act
10 as an administrator than are women.

11 What Justice Ginsburg objected to in
12 Reed was not, of course, the notion that in a
13 particular case a man might prove to be better
14 qualified to administer an estate than a woman
15 seeking the same appointment and thus could be
16 selected on the basis of his personal abilities.
17 It was the notion that the state could do away
18 with any inquiry into the individual merits of
19 the competing applicants and simply presume
20 conclusively that the male applicant was better
21 qualified.

22 She urged the Court to view
23 discriminatory classifications of this sort, in
24 which gender bears no necessary relationship to
25 ability, as no less suspect than discriminatory

1 classifications based on race or religion. She
2 wrote: "Surely this Court would find offensive
3 to the Constitution and to common sense a
4 fiduciary selection statute that preferred
5 whites to blacks or Christians to Jews. A
6 statute preferring men to women should fare no
7 better."

8 Given her pivotal role as an advocate
9 for women's -- for women's equality, it seemed
10 entirely fitting when, nearly 25 years later,
11 Justice Ginsburg authored the majority opinion
12 in the VMI case, captioned United States versus
13 Virginia. Her opinion for the Court vindicated
14 the same principle she had successfully
15 championed as a lawyer, the right simply to be
16 judged on one -- on one's individual merits.

17 There, in -- in the VMI case, Virginia
18 excluded women from the opportunity to attend
19 VMI based in part on the assumption that the
20 adversative method the school used to train its
21 cadets was inherently unsuited to educating
22 women. But the expert testimony established
23 that while many women would not want to be
24 educated in a VMI-type environment, just like
25 many men would not either, some women would

1 prefer that option and would be capable of all
2 of the individual activities required of VMI
3 cadets. Those women, Justice Ginsburg wrote,
4 could not be categorically excluded in total
5 disregard of their individual merit from the
6 unique opportunities for military training and
7 civilian leadership development that VMI
8 afforded.

9 Justice Ginsburg's impact extended
10 beyond the principle of formal equality
11 enshrined in Reed versus Reed and the VMI
12 decision. She also showed by example that when
13 members of marginalized groups gain access to
14 institutions, they bring with them useful
15 insight and perspective that can advance the
16 cause of equality.

17 Two examples that come to mind stem
18 from the period in which Justice Ginsburg was
19 the lone woman on the Court. First, dissenting
20 in Ledbetter versus Goodyear Tire & Rubber
21 Company, a case interpreting the statute of
22 limitations applicable to pay discrimination
23 claims, Justice Ginsburg observed that women
24 working in male-dominated fields might be averse
25 to making waves over a small discrepancy in pay

1 that later compounds into a large discrepancy.
2 Although that practical consideration did not
3 carry the day at the Court, Congress later
4 amended Title VII in a way that accounted for
5 Justice Ginsburg's concern.

6 Two years later, the Court was called
7 upon to decide whether the strip search of a
8 13-year-old girl at school was reasonable in
9 Safford Unified School District versus Redding.
10 Justice Ginsburg voiced the view that a strip
11 search might be particularly intrusive for a
12 girl of that age, a perspective she found absent
13 in some of the questions asked during oral
14 argument. The majority opinion ultimately found
15 the search unreasonable, citing a previous
16 holding that the permissible scope of a search
17 depends on the age and sex of the student.

18 In these two instances, Justice
19 Ginsburg brought a sensitivity to real-world
20 gender dynamics into the law, further securing
21 the promises of equality.

22 Justice Ginsburg's work as an advocate
23 and a judge helped transform our society into
24 one in which all people can more fully utilize
25 their skills and talents unencumbered by, as she

1 put it in VMI, artificial constraints on an
2 individual's opportunity. Her influence on the
3 Court serves as a forceful example of the
4 benefits that follow when opportunities are
5 available to all.

6 I think it's fair to view the Justice
7 as a transformative legal figure akin to Justice
8 Thurgood Marshall, although she tended to resist
9 those comparisons despite the obvious
10 similarities between their roles as advocates
11 for equality, first as lawyers and then as
12 members of this Court.

13 Justice Ginsburg resisted those
14 comparisons not because she failed to recognize
15 the significance of her own contributions but
16 because, she said, her work as a lawyer for
17 women's rights never exposed her to -- to the
18 kind of life-threatening danger Justice Marshall
19 faced when pursuing his work, particularly in
20 the Deep South.

21 What seems to me remarkable in
22 retrospect, and I think you'll hear others today
23 echo this view, is just how humble Justice
24 Ginsburg was in the face of all that she
25 achieved over the course of her career. For

1 example, I cannot recall a single instance
2 during the year I clerked for her or in any
3 conversation -- any of the conversations we had
4 during the many years that followed in which she
5 even brought up her victories as a litigator or
6 her role as a leader of the women's rights
7 movement during the 1970s.

8 Nevertheless, despite her innate
9 modesty, the Justice did seem to enjoy the fame
10 that came toward the end of her career when she
11 was crowned "the Notorious RBG." Any
12 incongruity between her innate modesty and her
13 joy in seeing her life and career garner so much
14 attention is easily explained, I think. What
15 the Justice seemed most taken with was not that
16 her story would reveal to the world her
17 greatness but that it would reveal to others
18 like her their potential for greatness.

19 That she became such a powerful role
20 model and inspiration for others must be, I
21 imagine, one of the things from which she drew
22 the greatest satisfaction in an extraordinarily
23 rich and fulfilling life.

24 During her confirmation hearing in
25 1993, Justice Ginsburg said to members of the

1 Senate Judiciary Committee: In my lifetime, I
2 expect to see three, four, perhaps even more
3 women on the high court bench, women not shaped
4 from the same mold but of different complexions.

5 She did largely see that vision come
6 to pass. Today, the Court reflects that ideal
7 to an even greater extent, due in no small
8 measure to the trail Justice Ginsburg helped
9 blaze.

10 REMARKS BY THE HONORABLE RACHEL WAINER APTER

11 JUSTICE, NEW JERSEY SUPREME COURT

12 JUSTICE WAINER APTER: Good afternoon,
13 everyone. I'm honored to be with you here
14 today.

15 When Rabbi Lauren Holtzblatt eulogized
16 Justice Ginsburg from this lectern, she compared
17 her to a modern-day prophet, with the vision to
18 see beyond the world as it was and the courage,
19 strength, and steadfastness to build a more just
20 world within her own lifetime.

21 As an advocate, Justice Ginsburg
22 persuaded this Court to enshrine equal
23 citizenship for women into the United States
24 Constitution. As a judge and then a justice,
25 she protected and defended the rule of law.

1 And, as the notorious RBG, she became a Supreme
2 Court celebrity, with her face emblazoned on
3 T-shirts, tote bags, and even tattoos. The
4 Justice was also an incredible boss, mentor, and
5 friend.

6 I want to speak about four things that
7 made the Justice extraordinary that did not get
8 as much play in the RBG memes.

9 First, Justice Ginsburg took language,
10 both written and spoken, extraordinarily
11 seriously. The Justice fundamentally believed
12 in the equal dignity of all people. As she put
13 it, "equal opportunity for all to aspire,
14 achieve, participate in, and contribute to our
15 national life."

16 She brought many around to this
17 vision, largely with words. In both her briefs
18 and opinions, she used carefully chosen words to
19 help lawyers, members of the public, and even
20 her colleagues understand that which they may
21 otherwise have been unable to see, whether it
22 was a complicated point of civil procedure,
23 which the Justice so loved, or the idea that
24 stereotypes undermine all of us.

25 When we handed in draft opinions to

1 the Justice, as General Prelogar mentioned, we
2 did so in 14-point font triple spaced. With her
3 red pencil, she would scrutinize each word,
4 revising until it was perfect. But the
5 Justice's edits were not confined to opinions.
6 She once even edited a Post-It note that I had
7 placed on a cert petition.

8 (Laughter.)

9 JUSTICE WAINER APTER: After a draft
10 of an article about what the Justice had taught
11 me about balancing work and parenting, I
12 e-mailed it to her to read. Two days later, I
13 received this response: "Dear Rachel, your
14 comment is excellent. I've marked a few
15 suggestions for you to consider, but it's fine
16 as is."

17 (Laughter.)

18 JUSTICE WAINER APTER: Attached was a
19 scanned copy of the draft that I had sent but
20 printed out in 14 point font, triple spaced,
21 with edits written in the Justice's famous red
22 pencil. I, of course, immediately incorporated
23 all of them.

24 The Justice was the same in her
25 everyday speech. She paused to think before

1 speaking, never resorting to like, um, uh, or
2 oops. She also had an incredible memory. When
3 entering her office, we always had a notebook in
4 hand just in case.

5 Once, I walked in expecting a brief
6 conversation. Instead, after several of her
7 signature pauses, the Justice dictated a full
8 page court order, including a citation from a
9 case to the 1980s, with no notes, no revisions,
10 and no detours midstream. She asked me to check
11 the citation, but, of course, she had it
12 correctly.

13 Second, the Justice worked tirelessly.
14 The Justice recognized that each case before the
15 Court was significant not only to the litigants
16 but to every person who would be affected by the
17 Court's decision.

18 She painstakingly reviewed facts and
19 analyzed legal arguments, dedicated to truth and
20 precision. But she also focused on how the law
21 operates in the real world and how it impacts
22 the lives of real people. That's what kept her
23 up until all hours of the night, sometimes
24 leaving telltale red marks on the page if she
25 nodded off while editing at 2 a.m.

1 (Laughter.)

2 JUSTICE WAINER APTER: Nothing was
3 more important to the Justice than the work of
4 this Court, and she expressed that reverence
5 through her superhuman work ethic.

6 Third, the Justice was humble.
7 Although she was a national hero before she even
8 became a judge, I never heard the Justice tout
9 her own accomplishments. Instead, she credited
10 those who came before her.

11 As General Prelogar mentioned, in her
12 first brief to this Court as an advocate,
13 Justice Ginsburg listed as her co-counsel
14 Dr. Pauly Murray and Dorothy Kenyon, two civil
15 rights lawyers who worked at the intersection of
16 discrimination based on race and gender.

17 Although neither had actually worked
18 with the Justice on the case, she sought to
19 illustrate that it was because of their
20 path-marking work that she was able to argue
21 that gender discrimination violated the United
22 States Constitution.

23 Incidentally, path-marking was one of
24 the Justice's favorite words and likely one that
25 she coined.

1 (Laughter.)

2 JUSTICE WAINER APTER: And in her
3 remarks upon her nomination to this Court,
4 Justice Ginsburg called her mother the bravest
5 and strongest person I have known and said, "I
6 pray that I may be all that she would have been
7 had she lived in an age when women could aspire
8 and achieve."

9 Fourth, the Justice was endlessly
10 generous. She made others feel brighter in her
11 presence. As law clerks, we felt this
12 generosity in small kindnesses and grander
13 gestures. She celebrated our birthdays with
14 champagne and fancy pastries. She took us to
15 the opera and spent time with our parents and
16 spouses and children.

17 In the years following my clerkship,
18 whenever I returned to visit the Justice, she
19 would sit with me, sometimes for an hour or
20 more, even towards the end of the Court's term,
21 as if there was nowhere else that she needed to
22 be.

23 When I brought my two daughters to
24 visit, who were then 8 and 10 years old, she
25 showed them the same kindness.

1 Alongside her vision, courage,
2 strength, and persistence, the Justice brought
3 these attributes to bear in striving for a more
4 just and equal world. Through her attention to
5 language and tireless work ethic, her humility
6 and generosity, she coaxed others to join her in
7 creating it.

8 May her memory be a blessing.

9 REMARKS BY PROFESSOR AMANDA L. TYLER
10 UNIVERSITY OF CALIFORNIA,
11 BERKELEY SCHOOL OF LAW

12 PROFESSOR TYLER: It is a tremendous
13 honor to be with all of you here today to
14 celebrate the great life of Justice Ruth Bader
15 Ginsburg.

16 Justice Ginsburg has been described as
17 a prophet, an American hero, a rock of
18 righteousness, and a national treasure. She was
19 all of those things and so much more.

20 A Brooklynite born and bred, as she
21 introduced herself at her confirmation hearings,
22 Justice Ginsburg was a first-generation American
23 on her father's side and barely
24 second-generation on her mother's.

25 She liked to say, what has become of

1 me could happen only in America. Like so many
2 others, I owe so much to the entry this nation
3 afforded to people yearning to breathe free.

4 That gratitude fueled her deep love of
5 this country and spearheaded a life of public
6 service. Begin with Justice Ginsburg's time as
7 an advocate before this Court, when she changed
8 the course of American history by successfully
9 promoting gender equality as fundamental
10 constitutional principle.

11 Forty years of service as a federal
12 judge followed, including 27 years on this
13 Court. Throughout, Justice Ginsburg left an
14 indelible mark on the law while playing a
15 crucial role in what she celebrated as the prime
16 part of the history of the Constitution, namely,
17 the extension of constitutional rights and
18 protections to people once ignored or excluded.

19 Serving on this Court, Justice
20 Ginsburg amassed a record that represents the
21 best qualities a judge can have: lawyerly
22 precision, an abiding dedication to procedural
23 integrity, a commitment to opening up access to
24 the justice system to ensure, as she liked to
25 say, that the least shall be heard and

1 considered side by side with the greatest,
2 recognition of the importance of government
3 accountability under law, and an acute
4 appreciation of how the Court's work intersects
5 with the lived experiences of persons from all
6 walks of life.

7 Central to Justice Ginsburg's legacy
8 are the votes and opinions in which she advanced
9 the principle that real equality means, as she
10 wrote in her 1996 opinion for the Court in the
11 VMI case, allowing all persons to achieve their
12 full human potential.

13 The law was not some abstract notion
14 to Justice Ginsburg. In her hands, it was a
15 vehicle for progress and for making people's
16 lives better.

17 To be sure, the Justice found herself
18 sometimes in the minority during her time on
19 this Court, and when that was the case, she
20 recorded her position for posterity, embodying
21 the dissenter's hope that one day her opinions
22 would hold sway.

23 Here, as elsewhere, Justice Ginsburg
24 played the long game. Along the way, she gave
25 us the gift of her precise prose that could,

1 just as her college professor, Nabokov, taught
2 her, paint pictures with words.

3 Case in point, her dissent in Shelby
4 County versus Holder in which she wrote that
5 throwing out preclearance when it has worked and
6 is continuing to work to stop discriminatory
7 changes is like throwing away your umbrella in a
8 rainstorm because you are not getting wet.

9 To serve as Justice Ginsburg's law
10 clerk was a privilege beyond measure, one that
11 led all of her clerks to appreciate what Gloria
12 Steinem has said of our boss, her heart was as
13 great as her mind.

14 During our clerkships and in the years
15 that followed, the Justice taught us countless
16 lessons about the law and about life. We
17 learned the importance of humility and engaging
18 with different viewpoints. She liked to quote
19 Judge Learned Hand for the proposition that the
20 spirit of liberty is not too sure that it is
21 right and so seeks to understand the minds of
22 those with whom it disagrees.

23 These were more than just words to
24 Justice Ginsburg. Case in point, her great
25 friendship with Justice Scalia.

1 Through her legendary work effort --
2 work ethic and exacting standards moreover, the
3 Justice brought out the very best in her clerks,
4 revealing to us our own potential. I can recall
5 sitting down with her -- this is going to be a
6 familiar story in these speeches -- to go over
7 literally every single word in an opinion to
8 make sure that each one was accomplishing
9 something.

10 And that attention to detail never
11 waned. In the last year of her life, I had the
12 great honor of working with her on a book
13 project. Even in her final weeks and while
14 hospitalized, she was still marking up my drafts
15 so much I could barely read the type script
16 underneath.

17 More embarrassing yet, here we go
18 again, she also sent back corrections on my
19 cover letters to her.

20 (Laughter.)

21 PROFESSOR TYLER: Justice Ginsburg
22 modeled for her law clerks the importance also
23 of lifting up others and paying it forward,
24 which she did for us on countless occasions to
25 advance our careers.

1 And the Justice always made sure that
2 we all knew that in every aspect of our lives,
3 she was in our corner rooting for us, whether
4 celebrating our successes and important life
5 moments or supporting us with her wise counsel
6 during the most trying of times.

7 Through her example, Justice Ginsburg
8 likewise taught us the importance of leading a
9 well-rounded life. For her, this included,
10 among other things, her great love of the arts,
11 most especially opera. A good life, she taught
12 us, also includes plenty of laughter. The
13 Justice possessed a great sense of humor. How
14 could she not? After all, she married her
15 beloved Marty, who regularly called chambers to
16 request an audience with Her Highness.

17 (Laughter.)

18 PROFESSOR TYLER: Able to land a joke
19 and bring the house down in her own right,
20 Justice Ginsburg also taught us the importance
21 of never taking ourselves too seriously. Along
22 these lines, I recall fondly a visit to chambers
23 a few years ago when she welcomed me into her
24 office and ushered me around behind her desk
25 because she wanted to play a movie trailer for

1 me on her computer. After it finished, she
2 turned to me, shaking her head, and said: Just
3 what the world needs, another documentary about
4 RBG.

5 (Laughter.)

6 PROFESSOR TYLER: Justice Ginsburg
7 also taught us the centrality of family to a
8 life well lived. Her family was everything to
9 her, and one of the greatest privileges of
10 clerking for her while Marty was still alive was
11 witnessing their grand love affair and seeing
12 all that a marriage and true partnership could
13 be.

14 Finally, her law clerks saw firsthand
15 just how much Justice Ginsburg loved this
16 country, the rule of law, and the Constitution.
17 Over the course of her lifetime, she had
18 witnessed generations of progress in the
19 continuous march toward equality. Right up
20 until the end, she remained steadfast in
21 continuing the work toward achieving the more
22 perfect union to which the Constitution aspires.
23 She likewise remained ever optimistic for the
24 future of this nation.

25 In the time since her passing, I have

1 reflected often on our last conversation. It
2 was just a few weeks before she died and during
3 the height of the COVID-19 pandemic. I recall
4 talking with her about Marty, who remained as
5 ever at the center of her universe. And I
6 recall she asked about my children. She was
7 curious if they would return to school in the
8 fall of 2020 in person or online. She then
9 expressed deep concern for children everywhere,
10 who were being so profoundly affected by the
11 ongoing pandemic. That was Justice Ginsburg,
12 always thinking about others and always thinking
13 about the future.

14 I keep coming back or I kept coming
15 back to that conversation as I ushered our book
16 project across the finish line. After her
17 passing, I took the liberty of adding a handful
18 of images beyond those she and I had assembled.
19 These included images of her law clerk family
20 standing on the steps of this Court to honor her
21 service, tell her how much we loved her, and
22 thank her for changing our lives.

23 I added as well an image of her lying
24 in state at the Capitol, still making history
25 even in death as the first woman and first

1 Jewish person ever to be so honored.

2 I took the liberty of adding one more
3 image. It is of a child dressed in a Supergirl
4 costume saluting the Justice as she lay in
5 repose just outside the doors of this Great
6 Hall. I love the image. For one, it
7 underscores how Justice Ginsburg's legacy is
8 woven into the fabric of this country's soul,
9 something those of us who were here during those
10 solemn days witnessed in the droves of mourners
11 who came to pay their respects to her.

12 I also love the image and I believe
13 Justice Ginsburg would have loved it too
14 because, in that little girl, one sees the
15 embodiment of the Justice's unwavering optimism
16 and hope for the future.

17 MOTION TO ADOPT COMMITTEE RESOLUTION

18 ASSISTANT PROFESSOR HAJIN KIM

19 UNIVERSITY OF CHICAGO LAW SCHOOL

20 PROFESSOR KIM: It is an honor to be
21 here. Justice Ginsburg was a superhuman and an
22 inspiration. I clerked for the Justice in the
23 2016-2017 term. Life since then has made me
24 appreciate the Justice and her wisdom all the
25 more.

1 Her law school years read a little
2 like the horrible first part of a fairy tale
3 written by an author who wanted to hit you over
4 the head with how hard life was for the main
5 character. Beyond the burden of overt gender
6 discrimination, the Justice also had on her
7 plate, as Judge Owens described, a beloved
8 husband ill with cancer whose notes and papers
9 she typed and a then two-year-old daughter who,
10 no matter how well behaved, surely did not
11 consistently lighten the load. I always found
12 that story incredible, but it hits so much
13 harder after dealing and experiencing a
14 real-live two-year-old.

15 (Laughter.)

16 PROFESSOR KIM: The Justice was
17 superhuman. Yet still more incredible than the
18 mere fact of her survival -- and she did not
19 just survive, she thrived, graduating at the top
20 of her class -- was her attitude. Rather than
21 complain that she had fewer working hours than
22 the rest of her classmates and certainly fewer
23 hours of rest, she was grateful, she said. Each
24 part of her full life gave her respite from the
25 other.

1 The Justice was an inspiration. Many
2 law professors, if forced to choose between
3 spending an hour on research or on teaching
4 prep, would often choose their research, present
5 company, of course, excluded. Justice Ginsburg
6 was, as we all know, reshaping the very
7 landscape of constitutional law in an ambitious
8 and critically important project that has made
9 our nation more equal and more just. Yet, she
10 always emphasized the importance of her
11 students, of her teaching too. She chose to
12 call herself a law teacher, not professor.

13 She also showed us all by example how
14 to approach disagreement and friendship with
15 grace and a strong belief that good people could
16 hold diverging and, from one's perspective,
17 terrible opinions.

18 As an advocate, the Justice did not
19 view the nine men considering whether sex
20 discrimination to be unconstitutional as
21 potential villains if they disagreed. Rather,
22 if they did not understand the problem, it was
23 her role to explain, to teach them, and so she
24 did.

25 That same perspective is what allowed

1 her famous and longstanding friendship with
2 Justice Scalia to flourish. They both had the
3 remarkable ability to separate their love for a
4 person from their dislike of their views, and
5 that friendship and deep mutual respect helped
6 them both sharpen their battling opinions.

7 Justice Scalia, Justice Ginsburg
8 reports, gave her an advance look at his VMI
9 dissent so that she would have more time to
10 respond. Even in opposition, they each wanted
11 the other to be their best.

12 Now, in all the stories, Justice
13 Scalia and Marty get all the credit for being
14 the funny ones, casting Justice Ginsburg in the
15 role of appreciative audience. But, as
16 Professor Tyler mentioned, the Justice had a
17 delightful sense of humor all her own.

18 When a staff member confessed
19 admiration for a particular football player, the
20 Justice responded with a small smile, ah, he is
21 handsome, yes? She brought pompoms to
22 conference on a case about cheerleader uniforms.

23 The Justice got and gave great joy
24 from life. Sweets gave her so much joy, in
25 fact, that she had to keep them in the room far

1 away from her in Kim and Lauren's office.

2 The justice shared her joy and good
3 humor and even her candy with those around her.
4 The term I clerked, the Justice had a small but
5 thrilling role in the opera "The Daughter of the
6 Regiment." She invited us to attend the dress
7 rehearsal. The Justice owned the stage. I
8 cannot do this justice, but you have to imagine
9 Justice Ginsburg doing this. Upon her entry,
10 she announced: "I am the Duchess of
11 Krackenthorp."

12 And she didn't stop there. Justice
13 Ginsburg had license to write the lines of her
14 performance. She talked about how the best
15 Krackenthorpians had open but not empty minds
16 and were willing to listen and learn and that
17 the most valorous of them had thus
18 unsurprisingly been women.

19 The Justice was superhuman. We all
20 know that. As a legal thinker and advocate,
21 jurist, and teacher, she was an inspiration, but
22 above all else, Justice Ginsburg was a wonderful
23 human. She was a terrible singer and apparently
24 driver but a hilarious stage performer.

25 She cared deeply about those before

1 her, her clerks, her staff, her family, her
2 friends, this great nation. She approached life
3 with an open and far from empty mind and was
4 willing to listen and learn as well as teach and
5 explain.

6 It is an understatement to say that it
7 was our great good fortune to have Justice
8 Ginsburg in our lives and in our nation.

9 The Committee on Resolutions has
10 prepared resolutions summarizing and honoring
11 Justice Ginsburg's immense contributions to this
12 nation and its laws. Together with the
13 Committee co-chairs, Judge Owens and Professor
14 Tyler, I have the honor to move their adoption.

15 CALL FOR SECOND AND CLOSING REMARKS

16 HONORABLE JOHN B. OWENS,

17 CHAIR OF THE MEETING

18 JUDGE OWENS: Thank you, Professor
19 Kim. We do have a motion. Is there a second?

20 UNIDENTIFIED SPEAKER: Second.

21 JUDGE OWENS: Thank you.

22 The resolutions are now before us for
23 adoption. If adopted, they will be presented to
24 the Court by the Solicitor General. I now put
25 the resolutions to a vote.

1 All in favor of adopting the
2 resolutions, please signify by saying aye.

3 (Chorus of ayes.)

4 JUDGE OWENS: Any opposed?

5 (No response.)

6 JUDGE OWENS: Hearing no opposition, I
7 declare the resolutions adopted, and I want to
8 thank Professor Tyler for taking the laboring
9 oar in putting these together.

10 Now this completes our work here. I
11 just want to say in closing that since I clerked
12 for the Justice, hard to believe, 25 years ago,
13 over the years, I always made it a point to
14 visit Chambers while I was in Washington, D.C.

15 Now the excuse that I always gave was,
16 oh, I need to give See's Candy to the law
17 clerks. That wasn't the reason why I was coming
18 by. I was coming by to visit the Justice and
19 see how she was doing.

20 And I remember one time I was here to
21 deliver See's Candy and Judge Watford was here
22 with me, and we were told, no, she's not
23 available right now, but meet her in the gym,
24 which is different than the gym we worked out.
25 They have a special gym now for the Justices.

1 And we went there, and, literally, she did the
2 workout in front of us and talked to us, asked
3 how we were doing, doing the pushups and the
4 whole thing, you know. It was a good day.

5 (Laughter.)

6 JUDGE OWENS: But, look, that's -- you
7 know, it's part of life. That's changed now,
8 and I can't make those visits and none of us
9 can. But, thankfully, her wisdom and way of
10 doing things will never leave me, the law
11 clerks, the Court, or our nation.

12 Now, before we proceed to the Court
13 session, I would like to thank Counselor to the
14 Chief Justice, the Honorable Robert Dow, Marshal
15 Gail Curley, Clerk Scott Harris, Kim McKenzie,
16 and all their staff for helping us with this
17 memorial. Thank you very much.

18 (Applause.)

19 (Whereupon, at 2:37 p.m., the Bar
20 Memorial in the above-entitled matter
21 adjourned.)

22

23

24

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Official - Subject to Final Review

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