

# Reflections on the Legacy of Justice Ruth Bader Ginsburg

*A Conversation Held on February 24, 2022, at  
The George Washington University Law School*

*The Honorable Goodwin H. Liu,\*  
The Honorable John B. Owens,\*\*  
The Honorable Paul J. Watford\*\*\*  
& Bradford R. Clark\*\*\*\**

MIRANDA HERNANDEZ: Good afternoon everyone, thank you so much for joining us. My name is Miranda Hernandez and I am the Senior Projects Editor of the George Washington Law Review and I have the distinct pleasure of introducing our moderator, Professor Bradford R. Clark, who is the William Cranch Research Professor of Law at GW Law, serves as the faculty advisor of the law review, and clerked for Justice Antonin Scalia. He's going to introduce our panelists, Justice Liu, Judge Owens, and Judge Watford at this time, and we look forward to hearing what everyone has to say, so thank you again for joining us.

PROFESSOR BRADFORD R. CLARK: Thank you Miranda and thanks to the Law Review for hosting this symposium.

One of the great things about this conference and this symposium is that all of our participants clerked for Justice Ruth Bader Ginsburg, and that includes the three judges we'll hear from today. And it includes all of the academic panelists you'll hear from tomorrow. I would be remiss if I didn't mention that the group of participants in this conference is one of the important parts of Justice Ginsburg's legacy. The law clerks that she hired and trained have gone on to have amazing careers in the law and were undoubtedly influenced by her jurisprudence, her character, and her intellect. So today we have with us three distinguished jurists. First, we'll hear from the Honorable Goodwin Liu, who is an Associate Justice of the Supreme Court of California. He was appointed in 2011 and then retained by the voters

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in 2014. Before becoming a Justice, he was a professor of law and an Associate Dean at UC Berkeley School of Law. His primary areas of expertise are constitutional law, education law and policy, and diversity in the legal profession. He earned his bachelor's degree in biology from Stanford University, a master's in philosophy and physiology from Oxford when he was a Rhodes Scholar, and he received his law degree from Yale Law School in 1998. Justice Liu then clerked on the DC circuit for Judge David Tatel and subsequently for Justice Ginsburg on the Supreme Court. He also worked in government in the U.S. Department of Education and in private practice in the Washington D.C. office of O'Melveny & Myers. He continues to teach constitutional law every year as a visiting professor at Harvard Law School. We're so happy to welcome him to this conference.

Next, we'll hear from the Honorable John B. Owens, who has been a circuit judge on the United States Court of Appeals for the Ninth Circuit since 2014. Prior to becoming a federal judge, he was a partner at Munger, Tolles & Olson where he focused on white collar investigations and appellate matters. Before that, he was a federal prosecutor for more than a decade in Washington, D.C., Los Angeles, and San Diego. Judge Owens graduated first in his class from Stanford Law School in 1996, where he was an Executive Editor of the Stanford Law Review. After graduation, he clerked for Judge J. Clifford Wallace on the Ninth Circuit, and then for Justice Ruth Bader Ginsburg on the Supreme Court. He's published works in the California Law Review, UCLA Law Review, Northwestern Law Review, and many other journals.

Finally, we'll hear from the Honorable Paul J. Watford, who has been a circuit judge on the Ninth Circuit United States Court of Appeals since 2012. He received his undergraduate degree from the University of California, Berkeley, and his law degree from the UCLA School of Law. After law school, he clerked for Judge Alex Kozinski on the Ninth Circuit and then for Justice Ginsburg on the Supreme Court. Prior to joining the bench, Judge Watford worked in government as an assistant US attorney in Los Angeles, and in private practice at Munger, Tolles & Olsen in Los Angeles, where he focused primarily on appellate litigation.

We are extremely happy and honored to have all three of you here with us today. We will proceed in alphabetical order, and we'll start with a pretty general question: In your opinion, what are the most significant aspects of Justice Ginsburg's legacy?

JUSTICE GOODWIN H. LIU: Well, good afternoon, everyone, and thank you, Professor Clark, for pulling together this wonderful symposium, and to the editors of the Law Review. It's a tremendous contribution to the legal profession and to Justice Ginsburg's memory that you are all doing this. It's an honor to be on this panel with my friends and colleagues, Judge Watford and Judge Owens. It's great to be with you both.

I think that it's fair to say that if Justice Ginsburg—Ruth Bader Ginsburg, the lawyer—had simply hung up her law license after being the founding director of the ACLU women's rights project, her place in history would have already been secure. She litigated some of the most important decisions in the equal protection area as applied to gender discrimination and then saw the fruits of those precedents take even greater shape when she was a judge and then a justice. I think there's much that can be said about her legal legacy, and she said so much of it in her own confirmation hearings, which she then lived out, in her work on the bench. She believed so much in this country and its widening circle of inclusion, as she might put it, and that the promises made in the Declaration of Independence and the Constitution were essentially works in progress and that she herself was devoted to playing her own small but eventually big part in realizing those promises. And there's a long list of decisions and opinions that could be cited to support all of that.

I wanted to say a couple words, and I know John and Paul will probably say even more, about her personal legacy as well. I think it's interesting that she became such a notable public figure in American life. That was a later stage phenomenon in her career. For most of her career as a public servant, she was a pretty shy person, and her very larger-than-life husband Marty was the front person when it came to social outings or just generally being in public. He was very funny and outgoing and sometimes made jokes at her expense. She was sort of shy and retiring and often hanging out giggling in the background. But I think that she—in the last decade of her life, especially—showed just tremendous savvy in how to manage her own public identity and how to use her voice both on and off the bench. And I think it's instructive to any of us who live public lives to study how she did that, because it's not something people typically think of when they think of judges. She was not a politician, but she certainly had great political instincts, and that's part of her legacy as well.

PROFESSOR CLARK: Judge Owens?

JUDGE JOHN B. OWENS: Yeah, I would echo a lot of what Goodwin just said. I think one of the things that is overlooked about her is that she was definitely not a politician, just like Goodwin said. You'd be at a big conference, and everyone wanted to talk to her, and she wanted to hide in the corner, or hide with Marty, or if she saw someone she knew, like a law clerk, she'd want to talk with them the whole time. One time, there was a mob of people waiting to talk to her and she kind of hid behind me. I'm sure she hid behind Paul and Goodwin in other settings. But all that being said, she was very, very savvy, and here's what I mean by that. If you look at her career as a lawyer, she had to convince panels of three men of a position that, back then, seemed crazy. And she kept winning. She kept winning over and over and over again. She knew how to connect with people. And even though Marty Ginsburg was certainly the master handshaker and one of the most socially intelligent people I've ever met—she had her own way of convincing people she was right. And maybe because she was the opposite of Marty, right? Maybe because she was so reserved, if she spoke, you just wanted to believe her, that she wasn't putting on a show. But her ability as a litigator—and as a colleague on the Court—to make connections with people, was extraordinary. I've talked about this before. Everyone talks about her bonds with Justice Scalia and that's very well known, but when I was at the Court, I was more impressed with the bonds she had with Chief Justice Rehnquist and Justice O'Connor. Those were the ones that she had very strong bonds with, and especially in Paul's instance and my instance, we were there on the Court when she was very new to the Court. It was very different than later on, in 2016, 2017, 2018—when she played a different role on the Court. But her ability to connect with those two, and the Chief especially, Chief Justice Rehnquist, really respected her. And they had this connection. What do they have in common? You know, he even kind of made a crack one time, I think about the Susan B. Anthony dollar one time when she was trying to argue a case before him. And yet, she was still able to connect with this guy, and I saw it. So that was one of the things I think that it's hard to know about unless you actually saw it happen, but she really had an amazing way to connect with people in her own way, not as a big showman. But in her own way, she got people to go her direction. And that's what, as a litigator, you want to do, and she was really good at it.

JUDGE PAUL J. WATFORD: I agree with everything my friends just said. The only thing I would add is that, you know, we certainly look at Justice O'Connor as being the first woman to serve

and she rightly gets a lot of the attention in that respect, but I sometimes think it's lost—that people forget—that Justice Ginsburg was just the second woman to serve on the Court. She also played a role in kind of blazing that path for women. I'm trying to remember the phrase she used when she was nominated, but I think she said she looked forward to the day when women in these kinds of high places would not be one-at-a-time curiosities or something to that effect. I think the contrast between her and Justice O'Connor on the bench was a really beneficial one and I do think she, in her own way, following obviously in Justice O'Connor's footsteps, blazed a path for women on the bench. And hopefully today we think of it as much less of an extraordinary thing, and hopefully soon we're about to have four women on the Court. So, that's all I would add to that in terms of her legacy.

PROFESSOR CLARK: Thank you. I just want to add one recollection. In the Fall of 2005, just a few months after Chief Justice Rehnquist passed away, GW Law Review held a Symposium on the Legacy of the Rehnquist Court and Justice Ginsburg was kind enough to come over and open the conference for the Law Review. And she spoke so fondly of Chief Justice Rehnquist and how kind he was to her, especially when she was ill, and how he tried to accommodate her in every way possible. So, that just came back to me when you were speaking.

The second question for the panel is do you have any personal recollections of Justice Ginsburg that you want to share with us today? Things that she imparted to you, or an impact that she had on you personally or on your career that you can share with the audience today?

Justice Liu, we'll start with you.

JUSTICE LIU: There are so many. So, I'll tell a couple stories.

I think her attention to detail and her carefulness as a writer, as an editor, are really legion. I think people know this about her, that she was an incredibly focused and meticulous person. And this was driven home to me by this recollection. One time during the clerkship, I happened to go into her office in the chambers, probably to retrieve a case file she was reading. She wasn't there, but I happened to notice on her desk there was a bench memo that one of us law clerks had written—luckily, I don't think it was me—and on this bench memo there were faint pencil marks with her little corrections of typos or missed commas or wording differences that she would've made, and those kinds of things. I was so shocked to see it because she never

handed back these bench memos to us. They're just internal documents from us telling her what we think about a case, and it's not something that's a written product that's going to be circulated. Yet here she was reading these things, and not handing them back, but correcting as she went along. And it impressed upon me that this was her way of demanding perfection in everything that appeared before her eyes. Of course, after seeing this, I was completely mortified that any of us law clerks might have turned in something to her that was less than perfect. I duly reported this back to my co-clerks, and I'm sure we all triple proofed everything thereafter. It makes an impression to see someone at her level sweat all the small stuff, and it's something that I carry with me today.

JUDGE OWENS: Yeah, I mean her work ethic was incredible. She always taught us you can never be the second most prepared person in the courtroom if you want to win. I mean, that was one thing that came across.

But in terms of a funny story, she was pretty funny actually in her own way. And I'll give you an example. So, Walter Dellinger, who sadly passed away last week. I think, Goodwin, you and I both worked for him. He was a great man, and you could probably do a symposium on him as well. But he argued before her when he was the acting Solicitor General and he was one of the people who made the mistake of either calling Justice Ginsburg Justice O'Connor or calling O'Connor Ginsburg—he got the names wrong. And he might've done it twice, actually. I don't know—Goodwin, do you remember—he botched that maybe more than once. So, anyway, he did that. I think he was there '96 to '97 as the acting Solicitor General. So, I'm a law clerk of the Court '97 to '98, and there was some ceremony for Walter at the SG's office, and someone from the Court has to go over there and talk and Justice Ginsburg is eight of nine, right, so, low on the totem pole, and she gets set to go speak at this thing.

So, she's at the Walter Dellinger event, and she gets up there and says, there's never been an advocate as smart, as funny, as intelligent, I've ever seen before the court as Drew Days. So, she intentionally got the name wrong. And that was good, and it was her way of kind of a little bit of a zinger and that's where her pauses would be so perfect because she paused before the name. The pauses were tough at times when you're supposed to say something or not say something, when are you supposed to leave the room not leave the room. But she could deliver a good joke and so that's one thing I always, I liked about her, that was a good one.

JUDGE WATFORD: Yeah, as all of us would say, there are just too many personal recollections to try to recount. I'll just offer two quick ones. On the personal side, one of the side benefits of the clerkship with Justice Ginsburg was getting to watch her and Marty interact with one another. That's just one of the most extraordinary marriages and partnerships that anyone could ask to witness. I have a distinct memory of Marty coming by in the evenings. It'd be maybe 7:00 or 7:30 and he would come by to pick her up because she didn't want to drive very much. And he was always trying to make sure that she got enough sleep and got enough to eat and so he would be trying to kind of gently usher her out. And I just remember her scolding him constantly, "Marty sit down I'm not done yet." I'd be sitting there having a conversation with her about a case and he'd say, "Ruth we really do need to get home, it's getting late," and she'd say, "no, I'm not done, sit down and take a nap or something, I'm almost finished." But just the love between the two of them, how much he supported her in her career and just took so much pride in all of her achievements and vice versa. That really has affected me in a big way, and I've tried to model what I saw between them in my own marriage to be quite honest. So that's on the personal side. On the professional side, before the clerkship with Justice Ginsburg, I didn't know people who were good friends with others with whom they really, really strongly disagreed on important things. And, as John said, it wasn't just her friendship with Justice Scalia, but that certainly was the most significant one that we got to watch and observe. But that has had a lasting impact on how I interact with other people, how I try to go about my relationships certainly with my colleagues on the court. I just really can't say enough about how that affected me. My interactions up until then with people I strongly disagreed with was basically, I don't want to have anything to do with you, I'm not going to be able to be friends with you, we can't see eye to eye on some really fundamental issue. But she really taught me that that is something you can do, you just need to be open minded and obviously have respect for the other person. But I've certainly taken that lesson to heart in my own professional life since then.

PROFESSOR CLARK: That's great. I actually saw that dynamic with Justice Ginsburg and Justice Scalia, but I also clerked for Judge Robert Bork on the DC Circuit when she was a judge on the same court. Her chambers were right next to Judge Bork's and she was actually quite good friends with him. They even published a joint majority opinion together at her insistence. Judge Bork offered her some comments on an opinion she was writing, and she insisted on issuing it as the joint opinion of Judges Ginsburg and Bork. I think that shows

the respect she had for her colleagues and for people with whom she didn't always see eye to eye.

This may have been covered a little bit, but I wanted to ask a bit more about your experience working for Justice Ginsburg as a clerk. Is there anything else that she taught you that you've incorporated into your own work as a judge or in how you run your chambers now?

JUSTICE LIU: I got to see Justice Ginsburg in a particularly unusual situation. I clerked in the *Bush vs Gore* year, which was unusual to say the least. And it was a fairly stressful time. There was a lot happening all at once and much of it was unexpected and new. The most stunning thing about the whole experience in watching her through it was just how calm she was the whole time. The law clerks all over the building were highly exercised; people were in the building all hours of the day and night because there was such a time crunch on everything that was going on. We wanted to make sure that we were exhaustive in dealing with all of the issues and we never knew when certain filings were going to come through or how long they'd be. It was such an unusual time, but Justice Ginsburg was so incredibly steady. Even in frustrating moments, she was not of a frame of mind to let an unusual case rattle her or rattle the Court. She was very attentive to the personal relationships involved and very much had the long view in mind. Throughout it all, no matter how high the passions were about the matter, she knew that she had to work with these people for a very long time. And I think it's a good reminder that, and she always said this, when one case is over, you move on to the next and you can't dwell. You do the best job you can on that matter, and she was very much of the [view that you] don't look back, don't second guess yourself, don't torture yourself by thinking what you could have done. So, although I didn't know it then, these were all things that have been helpful to me when I have disagreements with colleagues over matters far less significant than the presidency of the United States. To watch her be a model of calm temperament in that very high-pressure setting set a standard for all of us and all the other disagreements we could possibly have.

JUDGE OWENS: My recollection is a very technical one. When Justice Ginsburg got an assignment from the Chief on a Friday to write an opinion, she would just launch, like boom, right then she would start writing. We had the old school fax machine back then that she used because although we had email in the office, we couldn't use it at home. So, she had this fax machine, it was awful, it was like the size of a car, and it was one of those fax machines that relied on basic



encryption and decryption of the fax, so it was difficult to use. But she would just start sending stuff. Paul talked about how Marty would pull her out of there at 8:00, but she wasn't done working. She was back home going and going and going until 10 o'clock at night all of the sudden you hear this sound of the fax machine and here she is she's writing something I think she thought you're never going to be better at an opinion than right away. And that kind of flows with what Goodwin was saying that don't look back, get it done, move onto the next one and I definitely adopted that because one thing on her Court is there is a term and you gotta get it done. On our court in the Ninth Circuit, there technically is no term and so you could take a lot of time, and I think the discipline that she had and showed me really helped me in my job and it's good for everybody. You have to spend time on it but there is a time when you have to be done because more stuff is coming, and she was always really good at modeling that work ethic. So, from a technical aspect, that's one of the biggest favors she ever showed me.

JUDGE WATFORD: I'll echo the comment about watching how hard Justice Ginsburg worked. I mean she loved the work of the Court and gave it her all. But I think what I took away was that people who are successful at that level, at least most people, really have to work extremely hard to get there and to achieve that level of success and perfection. Her work hours were the strangest work hours of anyone I've known. She would usually get in, as I recall, around 1:30 or 2 in the afternoon maybe even a little bit later. I mean she would work until 3:00 or 4:00 in the morning. I remember coming in in the morning and getting these voicemails from her from 3:30am leaving a five-minute message for you about some opinion she was working on or some case she was working through. And I have two recollections about the sort of non-morning person that she was. I remember this one emergency stay application we got that needed an answer before noon and so around 10:00 o'clock I realized I was going to have to call her at home. And I went to Linda, her lead JA, and said is it okay if I call the Justice? Linda said this is way too early and it better be a real emergency. I said no it really is, we need to get her vote. So, I remember calling and I did not recognize the voice on the other end. I asked, Justice Ginsburg is this you? She said yes, basically like what do you want, do you realize what time it is, it is 10 am. So I explained to her that we had this emergency and was able to get her vote. That story reminds me just how stupid and immature or unknowing we were when we were much younger. I remember when I got the interview with Justice Ginsburg, I was told to call her office and set up the inter-

view. I called and her JA said yes, she'll see you at 2 o'clock on such and such day, and I said well could it be earlier in the day because I was hoping more for like 10:00 am, not knowing at the time that this was the dumbest thing you could possibly ask. She said let me check with the Justice and I'll call you back. She called back and said the Justice will see you at 11:00 am, which is just ridiculous. She made a special trip in at that early hour just to do a law clerk interview. Anyway, I just think back on how stupid I was to ask for an earlier time not knowing that she is definitely not a morning person.

PROFESSOR CLARK: Great, I'm glad you got the job! The next question is are there any aspects of your working relationship with the Justice when you were law clerks that you've incorporated into how you use your own law clerks or, conversely, that caused you to go in the other direction and do things differently?

JUSTICE LIU: As can be discerned from all the stories we've told today, one thing is that when you're in this intimate relationship in a chambers, it's just you and the law clerks, that's really it and they're the only people who you can talk with about anything of substance. It's a very close working relationship and it's important to remember now that we are on this side of the desk that the law clerks really pay attention to every little thing we do, just as we did when we were law clerks paying attention to every little thing that our bosses did. So, it's really important to think carefully about what kind of behavior you're modeling for your clerks and what might be the memorable takeaways that they get from the experience. You realize that even small acts or doing something that you may think is not that significant, may provide an important lesson for your law clerk. So, I think about that when I give feedback on a document that my law clerk has sent me. I think about how the editing process could be used to be a teachable moment. Often, in the press of business, these are not very conscious things because you're just trying to get the work done and you're trying to move as quickly as possible, but you never know when a small thing that you do could make a real impression. Justice Ginsburg was also very good about the personal stuff, like birthdays and taking an interest in her law clerks' marriages and meeting their children. My kids have met Justice Ginsburg, as is true for probably the kids of every law clerk that she's had. She was really good about all the personal things. In fact, she was just perfect at that. It's very hard to be that good at those things, and it really makes an impression because you think these really busy people surely have other things that they could be worrying about. But Justice Ginsburg

definitely sweat all the small stuff, including answering every note I ever sent her. I think about what comes into my inbox these days and I realize it's important to answer every single thing. These are some of the things I think that I took away from my relationship with the Justice.

JUDGE OWENS: I have a kind of a small one and a big one. The small one is that, at least back then in the mid-nineties, Justice Ginsburg would often start the first draft of an opinion. Now, that might have changed over the years I don't know, but during my time with her she did a lot of that. And I now do the first draft of opinions in chambers. Sometimes it doesn't look like something that I would hire someone with. If that's what they gave to me, I probably would say get lost, but I do, do the first drafts now and I did learn that from her. I think the more important thing for my job is, she taught me that at the end of the day it's the judge's call. Now sometimes that can really destroy a law clerk's ego, when the judge has to say, you know that's great but I'm making the call, not you. But at the same time, it's actually reassuring to a law clerk to tell them, look, just do your best. I've got to make the decision and as long as you gave me your best recommendation, you're good. You're not charged with figuring this thing out, your job is to help me figure it out, but ultimately, I'm the one who has to figure it out. I definitely learned that from her, that I can make a recommendation to her, and she may not agree with it, but that doesn't mean I did my job wrong. That means I'm doing my job, but it's her decision.

PROFESSOR CLARK: I feel like you haven't had any GW clerks because this is one of the things that we talk to our students about when they're applying for clerkships which is, your job as a law clerk is to assist the judge, and it's the judge's job to make the decision.

JUDGE OWENS: Yep.

JUDGE WATFORD: You know, when I think about the clerkship experience I had with Justice Ginsburg, I guess what I feel the most is just how far I'm falling short with my own clerks, because I don't think I am able to give them nearly the learning experience that I got working for Justice Ginsburg. I clerked maybe a term or two before John did, and she definitely had us do the full first drafts, so what she would draft was just the opening introductions, it was usually a paragraph or two that set the table in terms of what the issue was. But she would just give us that, and then we'd talk through what the rest of the analysis would look like and then she left it to us, at least at

that time, to do the first draft. But, boy the editing process involved a lot of back and forth. You'd put the drafts in triple space, so she'd have plenty of room to write with a really sharp pencil in this very meticulous handwriting. I remember that process of going back and forth with her, over several drafts, and just seeing all the changes she made. Very often she'd sit down and explain why she thought this word was better or we needed to break this sentence up into two, just that whole teaching process that comes from having somebody sit down and carefully edit your work. And then, just watching over that succession of drafts, something that was pretty pedestrian that you produced and then it just got transformed somehow into her voice. Her opinions have a very distinctive voice, and you can always tell when she's written something. And I have not been able to figure out how she was able to do that. I get a draft from my clerks, and I pretty much just rewrite the whole thing because I can't sit there and just edit in the way that she would and go through that iterative process. I do that on the back end, but I haven't been able to do that on the front end, and I feel bad about that because I learned so much from her about what good writing entails. The other thing I would say is that she was an incredibly kind and caring boss. I have very much tried to replicate that in my own chambers. I don't think I ever heard her raise her voice a single time. She always treated everyone in chambers with respect and demanded that we treat each other with respect. The chambers atmosphere was one of just real collegiality and regard for one another. And so, I've tried to do the same thing in my own chambers, in terms of the relationship I have with my clerks and that they have with me.

PROFESSOR CLARK: So just to pick up on something that's coming through, perhaps Justice Ginsburg's relationship with her law clerks was influenced by the fact that she was a law professor before becoming a judge. Justice Liu, you were a law professor before becoming a justice and I clerked for two judges who were law professors as well and I always thought that clerking for a judge who had been a law professor was an especially great opportunity because they have an instinct to teach you something. I think a lot of judges have that instinct, but I wonder if you think Justice Ginsburg's career as a law professor influenced the way she saw her role as a judge not just to the outside world, but as a teacher to her law clerks within her chambers. Do you think that played a role?

JUSTICE LIU: The amazing thing about Justice Ginsburg is that she really had four careers, each one of which would have stood on its

own bottom as an accomplished career. Her first was being one of the early tenured women law professors in the United States, and she was an expert on civil procedure. But not just civil procedure, comparative civil procedure, including spending a year mastering Swedish civil procedure and then writing one of the (at the time) definitive treatises on Swedish civil procedure. It just showed you a little bit about the kind of scholarly devotion that she had to this subject. Unsurprisingly, when procedure issues arose inside the court, it was clear that she was a subject matter expert and she occasionally got assignments that reflected this and I think it's fair to say she was pretty good at it. She sorted things out quite clearly and it was very impressive, especially because many other members of the Court, or more generally the profession, might find these issues somewhat arcane, but she was just really good at it. In terms of her knack for teaching, I think it's overdetermined in a way because it wasn't just her role as a professor, but it was the way she was as a human being. As John and Paul have relayed, she was a teacher to all of us through all of the ways and modes they shared. I will say that she was very comfortable in academic settings and so had many friends throughout the professoriate and this would occasionally result in lectures that she agreed to give. I remember helping her with one or two of these, and that was another great opportunity to interact with her on something that was extracurricular. But it was also another window into seeing her mind at work, the way she stayed at a very high level on many themes. I think the year I was there she was working on variations on a lecture on judicial independence, and she was very careful in choosing her evidence and examples to illustrate the general theme. It was neat to see how she thought about these broader issues in the law, and that she entrusted a law clerk to help her articulate those ideas.

PROFESSOR CLARK: Does anyone else want to comment on Justice Ginsburg's role as a teacher?

JUDGE OWENS: Well, I would say the one time she got frustrated with me was when I made the mistake of disagreeing with her on a civil procedure case. You know, me with my vast years of experience, obviously I knew something that she did not know. So, yeah, that was the one time I heard her raise her voice. I think Paul said he never did, but he didn't clerk my year. It was on the phone, and she made it pretty clear that I was the law clerk in that case. So, she taught me that.

PROFESSOR CLARK: That is a great story because, as Justice Liu mentioned, she kept her cool during *Bush v. Gore*,<sup>1</sup> but when it came to disagreements over civil procedure, that was a bridge too far.

JUDGE OWENS: She actually said what the case was at an event I attended so I feel comfortable now discussing it. The case was called *City of Chicago*.<sup>2</sup> It had to do with removal jurisdiction and whether you could review a decision from an administrative agency whether it was removed or not. She was pretty fired up about it, which was funny because you know, you think about what were the things that got her upset. Boy, you get civil procedure wrong, woo baby, that, that was not good. And she would get really worked up. I remember her kind of walking around saying you know Justice Stevens agrees with me on this, but it was seven to two, so we were kind of out gunned in this case. But she was glad to have his vote and remarked "oh he agrees with me and I know I'm right on this." Your boss, Justice Scalia, did not agree with her on that one, so on that one I was with Justice Scalia, but I was just the law clerk so what did I know.

PROFESSOR CLARK: She actually wrote Justice Scalia a note about his dissent in a different civil procedure case, *Ferens v. John Deere*.<sup>3</sup> This was before she was on the Supreme Court, and she wrote him a private note saying that his dissent was one of the finest procedure opinions she'd ever read. I remember him beaming with pride when he received that letter from then-Judge Ginsburg. Judge Watford, do you have any thoughts you'd like to share?

JUDGE WATFORD: Not so much on the initial question you posed about her background as a professor, but she absolutely was a natural teacher. I don't know if that came from her experience as a professor, and I don't know that I'm even sure that she was making a conscious effort to try to impart so much to us as law clerks. Maybe it was just kind of second nature to her. I never remember feeling like she was going out of her way to try to say hey this is a teachable moment let me sit down with you and explain something, it just came naturally to her. I know the respect she treated us with, and I have no doubt that that was the same for each of the three of us. I mean, we know that our law clerks are just at the very beginning of their careers and hopefully they're going to go off and do great things. So certainly, we do feel a responsibility as judges to try to impart as much as we can to give a firm foundation to build on as they go forward. But just in

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1 *Bush v. Gore*, 531 U.S. 98 (2000).

2 *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156 (1997).

3 *Ferens v. John Deere, Co.*, 494 U.S. 516 (1990).

my interactions with her after the clerkship, she really took a lot of pride in seeing what her law clerks went on to do. She was really interested in keeping up with what was happening in our professional lives and, as Goodwin said, in our personal lives as well. None of it was forced. All of it was just purely instinct on her part. I think it just had to do with her regard for us as part of her clerk family.

JUDGE OWENS: You know, Brad, if I could just add one thing to that. We gave her a year, and I think all three of us would agree it was a hard year. I don't mean hard like she was mean, but she was demanding. And we didn't want to embarrass her. We didn't want to let her down. That, at least for me, was so important. I cannot let this woman down. But we gave her a year. But in my experience, and I think all three of us would say, she gave us her whole life. Our clerkship ended after that year. But her duty to us never ended. She never said, "well you had a good year, good luck." No. It was always supporting us throughout the whole way. And that's something I try to do with my law clerks. Now, I'm no Justice Ginsburg, but I really try to tell them "Look, you gave me this year, my job now is to try to help you however I can the rest of the way through." And I definitely learned that from her. She would go to bat. She really, really fought for us. I know I would not have this job without her, and I think these two guys would say the same thing.

JUDGE WATFORD: Can I jump in with one story? I've told it before, but I think it's emblematic of what John just said. Probably about three or four years after I clerked for the Justice, it was the first time I was back in DC. I went to the Supreme Court to watch an argument. I wasn't arguing myself. I was just there in the audience. After the argument ended, everyone was kind of filing out and I thought "Oh man, it sure would be nice if I could go up and say hi to the Justice, I haven't seen her in a couple of years." I thought, no she doesn't have time for me, she's busy. Obviously, she's just finished the argument, she's gotta go do this or that. And a couple of days later, maybe the next day, I got an email from her assistant saying "hey the Justice saw you in the audience and wants to know why you didn't come by to say hello." And I was just so shocked. Not only did she not mind if I stopped by, but she was disappointed I didn't. So, every time I was in DC after that, I would make a point of reaching out to her Chambers to see if she had time to see me. And again, I can't think of an occasion she didn't make time. The conversations I had with her during those visits, they are some of the best memories I have of my

relationship with the Justice. As John said, this relationship continued even twenty plus years after the clerkship ended.

PROFESSOR CLARK: That's wonderful. Well, for our last question, it's kind of an open-ended question for the three of you which is, is there anything else that we haven't covered that you want to share about Justice Ginsburg, or your working relationship, or her legacy that you think is important to mention on this occasion?

JUSTICE LIU: I just have a couple memories that I'll share. One of them is about her battle with illness. I think the year I clerked was the year just after she had gotten her very first cancer diagnosis. And she was in and out of the hospital to do treatment throughout that Term. And anyone who's ever been through it, or who's had a close loved one who's been through this kind of thing, knows that is really hard. She was absolutely tenacious. She showed up to conference every week, and she showed up to arguments every time. She was determined not to let any of her health issues get in the way of anything in our experience as clerks, but also the work of the chambers and the work of the Court. And I don't think at that early stage of life, I really appreciated what kind of fortitude it takes for a person who is really ill to do that. Over the years—over the next 20 years, when she would have a bout of this or a bout of that—it almost became desensitizing how capable she was of fending off mortal illness and bouncing back repeatedly. One time, she relayed to me this funny story. She said, "There's so much speculation about my health," and I said, "well Justice, obviously people are very concerned about you." And she said, "Well, it's a little excessive." She said one time she was at argument, and she was a little slow in getting up from the bench at the end. Later that day, the press office had passed her an inquiry from a reporter who asked, "Is Justice Ginsburg sick? What happened at the end of the argument?" because she was slow getting up off the bench. And she told me, "I had just kicked off my heels during argument and I was having difficulty getting one of my shoes back on"—which was very her of course. So, we—meaning not just law clerks, but the citizenry—were really witness to a person of tremendous tenacity and fortitude. And the last thing I'll share is that all the law clerks had the great honor of being at her memorial service in DC in September a couple years ago when her casket was placed on the top of the steps of the Court for public viewing for a period of few days and the clerks stood vigil next to the casket for this period of time. And it was so interesting. I had numerous shifts, as did many law clerks, to observe the people below who were paying their respects to her. It was an



amazing tableau of people—young, old, every race, men and women, people from every walk of life. And the line was around the block and more. I have these indelible images of some of the people: There was an elderly woman who came in a wheelchair. She was wheeled to the center of the viewing area and just sort of stared up. She didn't want to leave, and she was eventually wheeled away, and she wiped away a tear. And then there was a mother who had brought three young girls—they looked like triplets actually. They were all wearing "RBG" emblazoned t-shirts with a little picture of RBG on it – it was so cute. They don't even know who she is, but they will be reminded that they were there at some later point in their lives. And the last one was a middle-aged African American woman who was walking the length of the viewing area and just before exiting off to the side, she paused for quite some time, and she just looked up—and burst into applause. It was so moving to see all these people who didn't even know her personally but were so touched by all that she stood for.

JUDGE OWENS: I think the one characteristic of hers that stands out to me the most was something that Goodwin just said. . . it's that she's the toughest person I've ever met. And I don't mean rough. I just mean tough. I mean she was a tough person. And if you think about all the things she went through in her life. I mean all the things that happened by the age of 25! All the things that had happened to her. She had so many off-ramps in life where she could have said "you know what, I don't need to do this anymore. I don't have to do that anymore." And yet, she just kept getting up and going forward. We always talk about "this athlete is mentally tough" and "that athlete is mentally tough." I used to box. And you deal with boxers, those guys are tough. But no one is as tough as her. And you never heard her make an excuse. Goodwin when you were there, she was having all these health problems. I'm sure you never heard her say "Sorry guys I didn't read that I wasn't feeling well." Never. The excuses that we offer all the time, about why we didn't do this, about why we didn't do that. I'm guilty of it. Never heard her say that one time! Not once. We know her background. She was not in a space where she could make excuses given the hands she was dealt at an early age. But just to have that toughness really inspired me to think. . . "what am I really complaining about? What's the problem? Let's get this done." And I think that's a good reminder for everybody when we're feeling sorry for ourselves about why we can't do this and why we can't do that. Look what she went through! And look what she accomplished despite all of that. And I think that's a good thing no matter what age you are or what stage your life is at. It's a good

thing. You gotta reflect a little bit. You know. . . keep going. No one ever stopped her – she’s incredible.

JUDGE WATFORD: I’ll share just a quick story rather than any kind of grand pronouncement about her legacy that follows on John’s point about toughness because it involved both of us. We were going to the Court for some kind of a reception. And she, true to form as I said before, was going to make time to see us. I don’t know if she was delayed with work – John you remember what it was – but anyway, it finally came down, it was about 7 o’clock. And they told us you know that she’ll be happy to see you, but you’ll need to go down to the Supreme Court gym, because she’s gonna go down there to work out. So, John and I walked down, and we got to watch the whole RBG workout! And of course, she had the book that her trainer published, which had just come out. She had a copy for each of us. And you know, how old was she at that point, John? She was well into her eighties I would say.

JUDGE OWENS: Oh yeah. . . yeah. . . that was probably 2017 or 2018.

JUDGE WATFORD: Yeah. But she was just tenacious! She was not going to miss her workout. We watched the whole routine, and it was just amazing to see. She knew it was good for her health and that she needed to stay in shape. Just even at that age to watch her go through that. But also, just to see her regard for her clerks. . . She was going to run out of time and wouldn’t have been able to see us. So, she just invited us down to come talk to her while she worked out. That’s one of the fondest memories I have. That wasn’t the last time I saw her, but it might have been the second to last time. That memory came to mind when John was talking about her toughness.

JUDGE OWENS: And it was funny because we both thought we’d just pop in and say hi. Noooo! Oh no no no. We spent a full hour!

PROFESSOR CLARK: That’s great. That speaks to her work ethic and her determination, which obviously came through in all aspects of her life and career. Well, this has been a tremendous panel. And we really appreciate the fact that all three of you took time out of your busy schedules—and maybe your exercise schedules as well—to be here with us today. This is a great way to start off the symposium today. . . first with Justice Breyer and now with all three of you. So, I’d like to sincerely thank each of you on behalf of the law school and law review for being here today.