

Tribute to

JUSTICE KATHRYN MICKLE WERDEGAR

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You have heard some great and well-deserved encomia about Justice Werdegar, her history, her accomplishments, and the impact that she has had on this court as an institution.

And now it's officially the last session of the season. I think, for each of us who sits here, we are struck at how lastingly "last" this session is for all of us who have been a part of the Werdegar era. It has a nice ring, don't you think: the Werdegar era. But there is something else that will most assuredly last, and that is the impact that Kay Werdegar has had on each of us, her colleagues, how she has touched us as people and as judges.

Her influence will last not only in her opinions but in the way we have all learned from her how to approach the work, how to create consensus, how to guide the law. The Werdegar effect will last because she has become part of the heart of this institution. And I want to tell you just one little story about one way in which the Werdegar effect will last.

* Associate Justice, California Supreme Court. Adapted from remarks delivered at Justice Werdegar's final Supreme Court oral argument sessions — in San Francisco, May 30, 2017, and Los Angeles, June 6, 2017 — and the Retirement Celebration at the Supreme Court in San Francisco, August 2, 2017.

Judges are many things, and some of them are not so bad. But when you sit as a justice on a court of review, one of the things you are is a professional writer. Now when Justice Werdegar was elevated to this court, I was appointed to her position on the Court of Appeal. As it sometimes happens, when she left that court there were a few cases in the pipeline in various stages of readiness, from notes to outline to evolving drafts. And I got the unique opportunity to study those various stages of the work. It was a wonderful opportunity to delve into the architecture of a Werdegar opinion, to see how she built them from the ground up and from the inside out.

They say that easy reading is hard writing, and having the chance to study those notes and drafts showed me just how hard writing proceeds, the attention to detail, the solid grounding on which the logic of the opinion rests, the ear and the eye for the flow for the opinion that brings the reader along, the deft and memorable turns of phrase that enliven an opinion and urge the reader to keep going, the way a gifted writer teases clarity out of the fog of verbiage with each successive draft. I have to say it was a little like being able to look over Leonardo da Vinci's shoulder at his sketch book and see how he approached the work, not as a painter but as a writer.

Kay, now you've been compared to the pope and Leonardo da Vinci, so it's a good day for you. But I must say it was a wonderful tutorial for a rookie, who was working very hard to fill very distinguished shoes. When I came to this court, I got to know Kay not just from her work but as the woman behind the work, and she became a welcoming colleague, a mentor, and a role model.

As a justice, Justice Werdegar has been known for her scholarship, of course, and as well for the balance she strikes between her regard for precedent and the flexibility the law needs to grow with the evolving society that depends on it. Kay, it has been a pleasure to sit with you, to serve with you, to get to know you as a friend and a colleague.

Your wonderful career, your opinions, and your commitment to the law will help guide the future of California jurisprudence for generations to come. Your contributions will definitely last, because you have become part of our DNA, part of what you have passed on to us and what we will pass on to colleagues to come.

Your wonderful attention to the writing, your commitment to the notion that we are constantly called upon to be collegial, your understanding

of our history — have now all become a part of our history. You've made every one of us better: better judges, better teachers, better colleagues, better people. We will miss your gracious presence every day, but we will never forget your influence on each of us as a leader and as a friend.

We wish you and David every blessing in this new phase of the adventure. May it be filled with great joy and wonderful surprises. Thank you, my friend.

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