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A Tribute to the Honorable Karen Townsend

Cynthia Ford

Alexander Blewett III School of Law

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FOREWORD

A TRIBUTE TO THE HONORABLE KAREN TOWNSEND

Cynthia Ford*

Once started, Karen Townsend hasn't wasted a minute of her legal career, but they didn't make it easy to get started. Back in 1972, when Mrs. Burke Townsend decided to become a lawyer like her father, there literally were only a handful of women students at the University of Montana School of Law. Then living in Bozeman, applicant Townsend came up to Missoula for an interview with the legendary Dean Sullivan. His primary question to her was how she intended to fulfill family responsibilities to her husband, Burke, and their young son Alan, while she was living in Missoula. Although Burke and Karen had a joint plan regarding that, her application was denied. Not to be deterred, she re-applied and was accepted the following year. Judge Townsend recalls that the only change in her application was that Burke had been hired at the University of Montana as a Professor of Philosophy, so the family address was now in Missoula. In any event, the law school's (perhaps grudging) admission of Karen, one of only seven women¹ in the class of 1976, proved to be an amazing gift to the bar, bench, and the people of Montana over the ensuing four decades.

Karen's equally talented spouse and child were, and are, her biggest cheerleaders on her journey in the law. In fact, although I am honored to have been asked to write this tribute, Alan, now the Provost at Colorado College, beat me to the punch with one of the most moving mother-son

* Prof. Cynthia Ford has had the honor of teaching at the law school in Missoula since 1990, and of knowing personally many of Montana's great lawyers.

1. The seven women who graduated in the Class of 1976 are: Janet Berry, Jean Ellison, Mae Nan Ellingson, Paulette Ferguson, Ann German, Ann Smoyer, and Karen Townsend. There were two or three women in the Class of 1974, and six or seven in the Class of 1975, so steam was gathering.

essays ever written. Until you get to read the full essay, here is one of its many beautiful passages:²

Only rarely do the sediments of her life shift to allow the molten forces beneath to reveal themselves, ever so briefly, until the fissure anneals almost as quickly as it appears. In those precious few moments you see the imprints of a requirement to be better, calmer, wiser, smarter than the men around her. You see the ever-present threat of a subtle shift in landscape form that could push the angles beyond what even she could grasp. You see, if you are paying attention, yet another example of how those angles are steeper throughout the geology of nearly every woman's existence. And yet the world travels through, scarcely noticing the adhesion required.³

Karen is, like all women of the law from her era, a pioneer. The list of "firsts" goes on and on, but Karen is not a horn-blower. She simply sees the task to be done, puts her head down and gets it done without fuss. In law school, this resulted in her being among the top students in her class,⁴ writing for the Montana Law Review, and being a member of the first women's flag football team, the "MsTrials." As her career continued, Karen combined and excelled at many other roles: being a "faculty wife" (when that still was a thing), mothering, prosecuting criminals, grandmothering, volunteering at Kiwanis basketball, ruling on evidentiary objections, and imposing sentences. As Alan says, the world sees the results.

Judge Townsend began her professional life not as a law student but as an elementary school teacher in Hawaii. The remnants of that first career can be seen in two of Karen's strongest traits: hard work and a genuine kindness to all she encounters. You may not be able to see it behind her signature blue judicial robes, but in Hawaii, the Townsends lived communally with another family, spending weekends barefoot at the beach. (Don't we all wish we had gotten to do that?) Later, Karen translated her love for, and knowledge of, young children to her work in prosecuting the crimes committed against them. Using stuffed animals, as well as her own warmth and compassion, she was able to provide some measure of comfort to them in the courtroom.

Judge Townsend carried her education mission into the law. As she gained hard-won experience as a prosecutor, she became a valuable mentor to newer lawyers in the Missoula County Attorney's Office ("MCAO"). Those training skills led to a position with a national prosecutors' training organization, and for her to spend several years living away from Montana, before returning once again to the MCAO to serve as Chief Criminal Dep-

2. Reprinted with permission from Alan R. Townsend. He turned out ok, even though his mother went to law school.

3. Alan Townsend, *Angles of Repose*, State Factors (Oct. 26, 2019), <https://perma.cc/5TCM-JUSL>.

4. Of the seven women in the class, three (including Karen) ranked in the top six academically.

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uty. Lawyer Townsend was also a key part of the Advanced Trial Advocacy School started by Sam Haddon. Once he became a judge himself, Karen took over the reins of the program, enlisting volunteer trial lawyers, judges, and communication experts from around the state to donate intense weeks toward improving the trial skills of Montana’s lawyers and law students.⁵ Karen also donated months of her weekends and evenings during more than a decade as co-coach of the University of Montana Trial Team, producing regional championships and high placements at the national level. As a result of all these efforts, dozens of Montana’s best trial lawyers (civil and criminal) now practice trial skills passed down from Judge Townsend.

You might not remember but this is *not* Judge Townsend’s first retirement. Several years ago, she decided to join Burke in retirement, and left the MCAO. Then, as now, Karen tried hard to enjoy the new phase of her life, but just couldn’t leave the law behind, much to the benefit of her pro bono clients. Then there was that great moment as a Special Deputy Prosecutor for Glacier County in an elder financial abuse case: as the defense lawyer hypothesized about the policy behind a recent criminal law change, Karen rejoined “Well, I was ON that commission, and this is why we changed it . . .” Guess who won that argument?

Eventually, Karen decided to return to full-time active duty by running for District Judge. On her first attempt, she lost a close race to her former boss at the prosecutors’ office, Dusty Deschamps. Not one to give up, Karen filed for the next opening, and through dint of hard work was elected to be the first woman to serve on the Missoula County District Court bench—ever.

Karen never suffered from (or, more accurately, the lawyers and parties before her never had to suffer) “black robe” disease, and not just because she chose to wear blue instead. As a newly-elected judge, Karen recognized that although her practice background was deep on the criminal side, her new caseload would include many civil and family law cases. Accordingly, before taking the bench, Judge Townsend convened meetings with lawyers practicing in those areas, soliciting both knowledge and advice from them to ease her (and their) transition. During her two terms on the bench, Judge Townsend exhibited a hallmark combination of knowledge, intelligence, hard work, compassion and courtesy to everyone in her courtroom. At the same time, there was no doubt who was in charge. Judge Townsend made tough calls, but made them because the law required them, not to vindicate her own ego. Whether the case was big (Mountain Water’s condemnation case or Jordan Johnson’s rape trial) or small (pro se family

5. The Advanced Trial Advocacy Program has not occurred in the past two years; if it is revived, do yourself a favor and sign up.

law), Judge Townsend gave the lawyers and parties her full consideration, and applied the law fairly. What better thing could you say about any judge?

Judge Townsend timed her departure so that she could help her replacement, Judge Jason Marks, ease into his new role. At the very end of the transition, concerned with correct use of taxpayer dollars, Judge Townsend chose to move out of her office on a weekend rather than using her official last paid day for that personal purpose. Then, only a few weeks into this second retirement, Karen sacrificed her new freedom to help a former colleague: when Judge Deschamps' law clerk left, Karen served as the substitute until he could hire a new clerk.

Now the former judge is packing her suitcases for back-to-back trips on behalf of the prestigious American College of Trial Attorneys.⁶ The first mission is to Saipan, as part of a team training both judges and lawyers. The second is to Seattle, to help run the regional Trial Advocacy competition, using both her years of experience as a Trial Team coach and, more recently, experience spearheading a very successful regional competition in Missoula in 2017.⁷

The bottom line is, even now, after more than four decades in the law, both as a trial lawyer and as a judge, and in her second retirement, Karen Townsend is still going strong. Further, after decades of family life, Karen is still dedicated to her husband, her son, and her three grandchildren. Dean Sullivan's fears were proven entirely wrong—Karen Townsend was able to do it all, with grace. She is a stellar example to young lawyers, women and men alike. Thank you, Judge Townsend, for all you have done for the bench, the bar, and the judiciary. We are forever honored to be your colleagues.

6. Karen was elected to the organization in 2000, the first female attorney from Montana to be so honored.

7. See Cynthia Ford, *CLEAR, CONVINCING AND BEYOND A REASONABLE DOUBT: MONTANA LAWYERS ARE AMAZING!*, MONT. LAW., at 24–26 (Apr. 2017).