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### First Women Series: Judge Kim McLane Wardlaw

By Ms. JD • March 10, 2009 • First Women

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*Ed. Note: The following post is a First Women series submission by Judge Kim Wardlaw.*

**Judge Kim Wardlaw Biography:** President William Jefferson Clinton nominated Judge Wardlaw to the Ninth Circuit Court of Appeals on January 27, 1998. She was confirmed by the United States Senate on July 31, 1998, and appointed to the Court on August 3, 1998. Judge Wardlaw had previously served on the United States District Court for the Central District of California since January 3, 1996. Before joining the district court, she was a litigation partner of the international law firm O'Melveny & Myers, and was based in Los Angeles. There she enjoyed a general business litigation practice, with special emphases in intellectual property and media defense law. While in private practice, Judge Wardlaw served in various offices of the Women Lawyers Association of Los Angeles, the Women Lawyers Public Action Grant Foundation and the Association of Business Trial Lawyers, from which she resigned as an officer upon assuming the bench. Also while in private practice, Judge

Wardlaw was involved in numerous community, political and governmental activities, taking leaves of absence from her practice to join the Clinton-Gore Presidential Transition Team, where she worked in the United States

Justice Department, and serving as Mayor-elect Richard J. Riordan's Government Liaison during his mayoral transition.

Judge Wardlaw graduated *summa cum laude* and Phi Beta Kappa from UCLA with an A.B. in Communication Studies in 1976. She obtained her J.D. in 1979 from UCLA Law School, where she was awarded Order of the Coif and named Outstanding Graduate of the Class of 1979. She was a legal extern during law school for the late Honorable Joseph T. Sneed, III of the United States Court of Appeals for the Ninth Circuit and upon graduation, clerked for Honorable William P. Gray of the United States District Court for the Central District of California.

She lives with her husband, William Wardlaw, and their two children, William, Jr. and Katherine Ann in Pasadena, California.

Dear Ms. JD Board of Directors:

I am deeply honored and humbled by your invitation to participate in the "First Women Lawyers" series as the first Hispanic-American woman appointed to the U.S. Court of Appeals. President William Jefferson Clinton signed the commission appointing me a Ninth Circuit Judge on August 3, 1998. But it would not be until July 11, 2007, that the first all Hispanic three-judge panel of the U.S. Court of Appeals, comprised of Judges Arthur L. Alarcón, Ferdinand F. Fernandez, and myself, would convene for oral argument. That, by the way, occurred many years after the first all women three-judge panel, comprised of Ninth Circuit Judges Betty B. Fletcher and Dorothy W. Nelson and the late District Court Judge Judith N. Keep (sitting by designation from the Southern District of California), sat together in March 1981—a time when there was not even the possibility that three judges from the same minority or ethnic group in our circuit could possibly convene.

You asked me to share some experiences and advice with young women who will soon be navigating legal careers. I will start with my family background. My mother's family immigrated from Lagos de Moreno, located in the Mexican State of Jalisco. Born in Victorville, California, my mother was raised with her five brothers and sisters in Morgan Hill, just south of San Jose. My father grew up in Rhode Island, though his mother had immigrated from Scotland and his father's family was from Ireland. What an unlikely couple they were. My mother was Mexican, Catholic, and Republican, while my father was a Scottish-Irish Presbyterian and a loyal Democrat. They found each other in San Francisco in the early 1950s, a time and place of racial and ethnic intolerance. Their interethnic marriage and our own mixed heritage subjected our family to the ugliness of discrimination as we grew up in the suburbs of San Francisco. After my sixth grade year, we finally moved to San Jose to be near my mother's large family or, as one of my schoolmates tauntingly put it, "to be with our own kind."

There are painful memories I could hold on to, but instead I have chosen to focus on the positive aspects of my experiences. My parents valued family, faith, education, hard work, and personal sacrifice as means of achieving the American Dream. These values, which I have always tried to integrate into my life, have made possible the rewarding and fulfilling professional and personal life I lead today. Although neither of my parents attended college, it was because of the lessons they taught me that I became the first in my family not only to graduate from college but also to attain a graduate degree.

I always knew that I wanted to become a judge, a job in which one takes an oath to administer equal justice. I developed a passion for equality and justice very early in life. Although many obstacles seemingly blocked my path, and there were many detours along the way, I achieved my goal. I firmly believe that you can accomplish anything you set out to do. While I would never

pretend to have all the answers, especially in these unprecedented times, I have learned a few things along the way—mostly from missteps of my own, but also from the guidance I have received. Here are my top ten pieces of advice, not necessarily in order of importance.

1. Don't take "no" for an answer. I started out my freshman year at Santa Clara University. My sophomore year I worked full-time as the manager of a women's clothing store and attended Foothill Community College while supporting myself and saving for college. I then transferred to UCLA to join the interdisciplinary Communication Studies major. Once on campus, I visited the chairman of the department, who told me that the 150 spots in the major were filled, and I would have to choose another major. Pleading my case—that the only reason I came to UCLA was to major in Communication Studies—we struck a deal. I could take the departmental classes and if I did well, I could join the major. I graduated from UCLA with an A.B. in Communication Studies, summa cum laude, Phi Beta Kappa, Departmental Highest Honors, and a life lesson: turn obstacles into challenges.

2. Take advantage of all the wonderful opportunities in law school and at work. If you choose to begin your career at a firm, do not allow your firm's expectations to define you. Get involved in whatever activities you enjoy. Join bar associations; become involved in governmental affairs; attend educational programs and conferences; do pro bono work; and, most importantly, give back to the community by volunteering your time. Not only will these activities enrich you personally and expose you to important experiences beyond the law, they will also make you more valuable to the firm.

For example, I became active early on in the Women Lawyers Association of Los Angeles and the Association of Business Trial Lawyers. I joined these groups because of the work they did, but they turned out to provide me with an early opportunity for leadership positions. Because I was at a large firm, many of the leadership opportunities were controlled by the more experienced partners and were doled out by seniority. At that time, few women had the seniority even to be considered. I thus had to create the opportunities for myself. Another life lesson: if they do say no, find another way to achieve the desired goal.

3. It is a sad reflection of our society that sexism and racism still exist in the workplace, sometimes in subtle ways, and sometimes in not so subtle ways. I could chronicle any number of vignettes or cite any number of statistics in support of this statement, but I think you are probably all aware of them. Keep in mind what Eleanor Roosevelt said: "No one can make you feel inferior without your consent." Don't let how others feel about you or act toward you define or limit you. If you want to succeed in an organization, however, pick your battles; go in prepared to make your best case, and line up your support in advance. It took me a long time to learn how to do this. Also, before you decide something is sexist or racist, examine closely whether other motivations may have been in play, and give people the benefit of the doubt.

4. Women can have it all, but not all at the same time. Mary Catherine Bateson's *Composing a Life* remains instructive reading. One of the principal points of Bateson's book is that women are uniquely poised to capitalize on the variety of relationships available to them through motherhood, sisterhood, and relationships with men. By doing so, women can change social and professional expectations.

The real life consequences of my desire to make partner as a litigator in an international law firm were that I did not marry until I was 30; did not have my first child until I was 35; and found myself at age 41 with a six-month-old infant daughter starting a job as a U.S. District Court Judge. Balancing family and work has always been a challenge. But it can be done, and some

people do not have a choice in the matter. Before I married and had children, my work days were very long. After marriage and children, I learned to work very efficiently, most days eating lunch at my desk, so that I could savor more of my precious family time. I do not recommend the latter approach, however, when you are starting out your career. It is important to have those social interactions and to “network.” This will enable you to establish important mentoring and peer relationships—relationships you should endeavor to maintain over your entire career. My personal priorities have always been dear to me, but I also have learned not to share those priorities with everyone in the workplace—if my “out-of-the-office appointment” is to watch my daughter play soccer, no one else really needs to know.

5. Learn to recognize what you do not know. Listen to and learn from those who have gained experience. Ask for guidance and help when you need it. Throughout my life, I have had role models of both genders, every race and ethnicity, and have learned from young and old alike. I still learn something new every day, currently primarily from my law clerks and my children, and often from my colleagues on the bench. Learning should be a lifelong process.

6. Make time for yourself to do things for pure enjoyment, to indulge yourself, or simply to just be. The current pace of life is too fast. I try to find ways of slowing it down. I have learned to think before I hit the “send” button and maybe not to send it at all. I have troves of turtles surrounding my office to remind me to slow down and relish the moment. We work long and hard hours in my chambers, but we try to make it fun and enjoyable at the same time. I learned early on at my law firm to take advantage of the “down” time—after the summary judgment motion is filed, go to a movie, go shopping, or see a friend, because there will be plenty of times that you will be working hours that will preclude such delights.

7. Have girlfriends. We are our best support group. And don’t hesitate to join affinity groups focused on women’s or ethnic issues, or even simply to engage other lawyers in discussions on this topic. You can learn a lot from other women who are also thinking about how to use differences as strengths and overcome obstacles that women in the workforce still face.

8. It’s OK to make mistakes—no one is perfect. Just don’t repeat them. Mistakes are a great opportunity for learning and growing; it is how you handle them that reveals your character. Remember that nothing is more important than the reputation you are building even now among your fellow law students, your professors, and soon, your colleagues. You must work diligently and do your very best at any job you accept, regardless of whether you like your boss, your peers, or your assignments, or resent the long hours or pace of work. And keep in mind your past successes as you learn from constructive criticism—a thick skin and a sense of humor will serve you well in this profession.

9. Treat your peers as well as you treat those more senior to you and treat your staff even better. Reach out to those coming up behind you. Because I owe so much to my own mentors, I have tried to mentor others and to pass down the wisdom and knowledge that was so generously given to me.

10. Finally, prepare yourself to be ready when opportunity strikes. Who would have predicted that in 1992, California would elect two women senators and our nation would elect President Clinton, ushering in a new era of opportunity for “people who look like America.” I will always be grateful to Senator Feinstein for recommending me, to President Clinton for appointing me, and to the many friends and supporters on both sides of the aisle who made it happen. So many things contributed to my ultimate Senate confirmations: my time at UCLA; my sixteen years of experience at O’Melveny and Myers and the terrific training I received there; the many friends and

mentors who have lent support and given sage advice along the way; my community involvements—the list could go on. Although I was horribly naive about the process of becoming a federal judge, I was ready when the stars aligned. My advice to you is to prepare yourself, not necessarily in the same way or for the same goal, but for whatever your dream is; it just might knock at your door one day.

One final comment: I am often asked whether and, if so, how my Hispanic heritage, gender, and life experiences affect my judicial decisionmaking. The answer to the first question is of course—the individual personality and judicial philosophy of judges matter greatly, and those are informed by one’s life experiences. No one illustrates this principle better than John Marshall, the third Chief Justice. Marshall’s personal qualities allowed him to unify and speak for the Court for thirty-five years, and his judicial philosophy, which viewed the Constitution expansively, helped our fledgling nation become an international power. Marshall viewed the judiciary as a coequal but independent third branch of government. He solidified the Supreme Court as the authoritative arbiter of the supreme law of the land, declaring its authority to hold acts of Congress and the President unconstitutional, while maintaining continuing judicial review over the states. Imagine if Marshall had thought his job entailed only calling balls and strikes! And as any sports fan knows in this day of instant replays, even those calls are informed by the perspective of the umpire. Although all judges can agree with Justice Oliver Wendell Holmes that the law should not be interpreted in accordance with one’s personal subjective views, the background and life experiences of a judge cannot help but come into play in the interstices of the law. How my personal experiences have influenced my philosophy can be found in my opinions. I can only assure young lawyers that developing and maintaining a diverse bench is essential if we are to give real meaning to the words “equal justice.”

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