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Remarks from the Investiture of Judge William A. Fletcher

On February 12, 1999, Professor William A. Fletcher was sworn in as a judge of the United States Court of Appeals for the Ninth Circuit. In a ceremony at Boalt Hall, family, friends, colleagues, and students heard accounts of Professor Fletcher's many accomplishments and saw Judge Betty Binns Fletcher, United States Court of Appeals for the Ninth Circuit, administer the oath of office to her son. Herein we reprint speeches made at the ceremony, in honor of our teacher, mentor, and friend, Judge Willy Fletcher.

The remarks are reprinted with the permission of the speakers.

Dean Herma Hill Kay†

This is a proud day for Boalt Hall. Our esteemed colleague, Willy Fletcher, takes his well-deserved seat on the distinguished bench of the U.S. Court of Appeals for the Ninth Circuit, ending the longest confirmation period in the history of the federal judiciary. In Willy's case, it is tempting to say that the confirmation was a greater achievement than the nomination. But that temptation should be resisted, for Willy's appointment is so utterly right, both for him and for the country, that nothing can diminish its significance or tarnish its luster.

Look at the qualities that Willy brings to his new calling: the inquiring mind of a scholar, the compassionate heart of a counselor, the patient soul of a teacher, the silver tongue of an advocate, and the fluent pen of a drafter. These qualities will enable Judge Fletcher, the younger, to analyze the tangled problems presented to the Court, to understand the human conditions that produced them, to hear and respect the arguments of counsel, to persuade his colleagues to agree with his reasoning and to inspire those who study his opinions. I am confident that these qualities and abilities will quickly earn the admiration of Willy's new colleagues, and will provide the foundation of his reputation as a jurist.

But Willy's future work will also be shaped by his more personal attributes: his wit and good humor, his loyalty to the people and institutions that he cares about deeply, and his absolute commitment to the ideal of justice. Those of us who have been privileged to work closely with Willy Fletcher here at Boalt have come to admire and cherish those attributes in him, and we know that those of you who will soon be working with him will have the same experiences. So, with joy in my heart—albeit tinged with some institutional sadness—on behalf of Boalt Hall, I say, “Goodbye, Professor Fletcher; hello, Your Honor!”

† Dean of the School of Law, University of California, Berkeley (Boalt Hall).

Catherine Shuck†

Last fall, twenty-seven of my classmates and I—Module Four—had the pleasure and privilege of being Professor Fletcher's last small section class. We had Professor Fletcher all to ourselves at 8:55 A.M. for Civil Procedure. You may wonder how anyone could be pleased to have Civil Procedure first thing in the morning, but I assure you we were. Professor Fletcher took a genuine interest in each and every one of us, both as students and as individuals. And he knows a thing or two about civil procedure.

I never thought I would thank the Senate Republicans for anything, but I have to say that if they hadn't stalled on the confirmation process for so long, we wouldn't have had the opportunity to have Professor Fletcher teach our small section. So as much as it pains me to say it: Thank you, senators.

Professor Fletcher instructed me that my remarks should have the tone of a roast rather than an all-out eulogy. However, even if I did have the courage, as a first-year student, to roast a federal appeals court judge, I have to say I'm lacking somewhat for material. When I conferred with my classmates I just heard one eulogy after another. We couldn't think of anything as a roasting topic, except perhaps his unique and almost diabolical laugh. One student describes it as a cross between Dr. Jekyll and Elmer Fudd. I would have asked a class member to demonstrate it, but some of the most skillful imitators have Professor Fletcher again this term, and I don't want to incriminate anyone.

Professor Fletcher's interest in civil procedure sometimes bordered on the fanatical; he told us often that the one class we couldn't leave school without was Civil Procedure II, and he insisted that we would find it "fun" if we just gave it a chance. I don't know if he ever convinced anyone to stay home on a Friday night reading the Federal Rules, but he did manage to convey to us his intense interest in the stories and individuals behind the law. He loved to peel back the words on the page to reveal the story underneath, and tried to be sure that in addition to understanding the technical aspects, we understood that the lawsuits were about real people with real problems. As a former student said, "It's really wonderful to see someone with such a big mind and a big heart aligned."

A current student said, "It's amazing how he can seem so stern when he's being a law professor (which I'm sure will serve him well as a judge), but then instantly become such a nice guy right after class." He never makes any of us feel that our problems or questions are

† First-year law student in Professor Fletcher's Civil Procedure class.

insignificant, whether we need help understanding the intricacies of nonmutual collateral estoppel or just need a sympathetic ear.

Professor Fletcher's interest in individuals extends to all of his students, even prospective students. Another student told me that as an applicant working in Uganda, she received an e-mail from Professor Fletcher. He wanted to go to bat for her with the admissions committee, but needed a little more information. She said she could hardly believe Professor Fletcher had taken the trouble to track her down, and that he genuinely cared about having a diverse, interesting class.

Another student told me how amazed he was when he spoke with Professor Fletcher about the paper we turned in for class, and could tell that Professor Fletcher actually remembered what he had written. We were all surprised by the amount of time and detailed attention he gave to our papers, especially the grammar; he even took the time to carefully mark each split infinitive.

Several weeks into the semester, Professor Fletcher invited us all to his house for an afternoon get-together. It just so happened that the date he had set was October 8th. That morning as class ended, he reminded us that he was looking forward to seeing us later and then said, "By the way, the Senate's voting on my nomination today." He was always very low-key about his pending nomination. Suspiciously quiet, even. Of course, maybe after three-plus years the excitement had worn off a bit.

But so intense was Module Four's excitement and pride at the thought that *our* professor was about to be confirmed that we scrambled all over campus trying to tune into the proceedings. We were thrilled when, a couple of hours later, he finally was confirmed. We assumed though that he would wish to postpone our gathering; surely a newly-confirmed federal judge, who had attracted national media attention, would have something more important to do than spend the afternoon chatting with first-year students. Well, if you know Professor Fletcher better than we did at the time, you can guess how the story ends—he told us there was no one he'd rather spend the afternoon with than his students. And so he did.

Henry Adams said, "A teacher affects eternity; he can never tell where his influence stops." In his twenty-two years at Boalt, Professor Fletcher had touched the lives of thousands of students. I can scarcely imagine how far the reach of his wisdom, kindness, and compassion extends.

As a member of the Ninth Circuit, he will rule on many of the significant issues of our day. Perhaps it is the handling of the large problems that makes someone a great judge, but my classmates and I will tell you that it is the handling of the small problems that makes someone a

great teacher, a great human being, and, of course, someone we all think it would be great to clerk for someday.

And so, Judge Fletcher, your students wish for you much happiness and success as you move to the bench. We wish you weren't leaving us, but we are grateful to have had the benefit of your tutelage. And we thank you from the bottom of our hearts.

Matthew T. Kline[†]

May it please the Court. My name is Matt Kline. I'm a third-year student here at Boalt Hall, and I've had the privilege of learning Federal Courts at the feet of a real master—Professor, and now Judge, William A. Fletcher. I've also benefited greatly from his friendship and mentorship. Now, I took first-year Contracts and know that every exchange needs consideration. So in return for his guidance and tutelage over the past three years, I've done my part—I've harassed him for letters of recommendation, given him one paper after another to read, asked him time and again what the words “all cases and controversies” mean, and pleaded with him on several occasions to write articles, essays, or book reviews for the *Law Review*. So, you may ask: (1) Did this third-year already forget his Contract Law, because surely he's provided Judge Fletcher with nominal consideration; and (2) why would Judge Fletcher ask someone in breach to speak here today? I'm thinking maybe it has something to do with the fact that when he sits in his chambers across the Bay and misses Boalt he'll remember students like me and be glad he's teaching only one class each year.

But I'm only kidding. I think the reason he asked me here today is that he has a sense of how much I respect him and care for him as an individual and as a teacher. And if you all will indulge me, I'm going to use a sports analogy to elaborate on this. If any of you watched major sporting events in the late seventies and early eighties—if you watched Super Bowls, basketball all-star games, the World Series, and major prize fights—you undoubtedly saw the man called the “Superfan.” For those of you who didn't, this gentleman wore an enormous rainbow-colored afro wig and an oversized pair of sunglasses, and sat front-row center at these sporting events holding a giant placard that read “John 3:16”. And I can remember thinking as a young kid, is this person trying to convey a message? Is he nuts? Whatever his purpose, I realized that he had the privilege of watching these incredible athletic performances.

What possible relevance does this have to Judge Fletcher's investiture, you may ask. No, I'm not here to tell you Judge Fletcher was the Superfan; the Senate Judiciary Committee would have dug up an embarrassing fact like that a long time ago. But I am here to tell you that, like the Superfan, I have witnessed some great performances. During my years at Boalt I've watched my fellow students and professors excel in the classroom, on the published page, in interactions with one another, and in the world outside this ivory tower. And I think one of the

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most amazing performers over the past three years has been Professor Fletcher. What's most amazing about him is that he has excelled in many different arenas.

My first exposure to Judge Fletcher came in my first year at Boalt while I was taking Constitutional Law with Professor Rodriguez. When we came to standing we read this *Lujan* case, and no matter how many times I read it or the cases and commentary surrounding it I never could completely grasp all the concepts and issues at play. I was overwhelmed and felt crushed under this ton of unfamiliar material. Professor Choper, who had written my case book, made reference to a standing article written by Professor Fletcher, Boalt's very own. Looking for some guidance, I took advantage of my free Westlaw access and printed a copy of the article. As I read Professor Fletcher's lucid prose and admired his keen analysis, I actually was reminded of a great prize fight. For you boxing fans, you no doubt remember that classic bout in the mid-eighties between Sugar Ray Leonard and "Marvelous" Marvin Hagler. For those non-boxing fans, Sugar Ray was one of the fastest, most skilled fighters of his generation. He was a shrewd technician who picked apart his larger opponents with speed and superior strategy. Marvin Hagler, he was the exact opposite. He was a bruiser who punished his opponents and used brute force and strength to earn a knockout after a knockout. As I read Professor Fletcher's article, I marveled at how he picked apart the crushing brute that was standing doctrine. He was like Sugar Ray throwing that jab and dismantling the larger champion. And although, like Sugar Ray, his theory never knocked out cases such as *Lujan*, to this student, he won on the score cards.

My second encounter with Professor Fletcher reminds me of Lou Gehrig at the end of the Yankee legend's career, when he was gravely ill and announcing his retirement. As a 1L, I still hadn't met Professor Fletcher, but lawyers I met who knew I went to Boalt would approach me and say, "Do you know what an honor it would be to take a class from Professor Fletcher? What a kind and truly intelligent man," or "Do you know what a wonderful person Professor Fletcher is? Through all this controversy he has not become embittered, he doesn't lash out at anyone, and he still is willing to help people." Again and again, I was treated to one inspiring story after another about how this amazing academic and teacher was handling the difficult situation in which he found himself with dignity and laughter instead of anger or spitefulness. His response to adversity taught me a lesson that proved invaluable later on in my law school career—something I'll get to in a minute.

A third sports analogy occurred to me as I prepared for this talk and thought about my time in Professor Fletcher's Federal Courts class. I remembered watching the Lakers and Celtics rivalry that developed

during the eighties, when these teams would play twice during the regular season, and then inevitably lock horns in the championship series. These were always incredible games, filled with the Celtic's inmasterful skill in the half-court set and the Lakers' unparalleled athleticism and coaching that allowed them to invent a fast-break style of play known simply as "Showtime." Amazingly, sitting in Federal Courts with Professor Fletcher last spring, I was reminded of those great games and teams. Like the Celtics, Professor Fletcher displayed a mastery of the basic skill set necessary to understand and teach Federal Courts. The way he knew the doctrine and the way he developed and linked all the different policy arguments reminded me of the Celtics passing the ball around the half-court until one of their teammates had a wide-open shot—fundamentals at their best. The way Professor Fletcher "stretched out the floor," so to speak, the way he incorporated theory and history, and the ways in which he wove together discussions of doctrine with the separation of powers and federalism, reminded me of my hometown Lakers in my days of youth. Like the "fastbreaking" Lakers, Professor Fletcher opened up the class and made it exciting. But I think the most important analogy I could draw from the Lakers-Celtics rivalry would be between Professor Fletcher and my early sports hero, Magic Johnson, the ringmaster of Showtime and the inventor of the "no-look pass." If you paid close attention in Federal Courts, Professor Fletcher, like Magic, would here and there throw "no-look passes" to students, either in the subtle questions he would ask or in little asides he would treat us to. If you paid attention—as Magic's teammates had to if they didn't want an unseen pass breaking their nose—you would realize that Professor Fletcher was touching on a difficult, unresolved question that you could read more about later, discuss with friends, or ideally, write a paper on trying to solve the problem. Moreover, often his no-look passes would end up on his exams. If you caught them early on, you did well in the class, because like Magic had for his teammates, Professor Fletcher had set you up for a lay-up.

A fourth way I came to know Professor Fletcher reminds me of the part of my relationship with my father that centers on athletics. My father was my coach as I grew up, and after each game he would sit me down in front of the chalk board and he would tell me, "This is what you did right, and this is what you did wrong." He would ask me, "Did you try your hardest at every possible moment before and during the game?" Professor Fletcher has similarly always taken the time to get out the chalk board and talk about questions I asked in class, clerkship applications, or my attempts at legal scholarship. Just the other day as Professor Fletcher was leaving school, arms laden with books and briefcases, to head across the bridge to his new chambers in San Francisco, I

handed him a paper of mine to read on the off-chance that he would have time to give me feedback. Two days later the paper appeared in my box. What was so nice was that even though Professor Fletcher was so busy, he went out of his way to provide me with detailed, substantive feedback on a paper I had not even written for his class. Not only were his comments the standard “good job,” “good luck,” or “hope you get published,” but he also gave me a line-by-line edit, with extensive analysis on the back. Admittedly, I was devastated for a day because he rightly ripped me apart, as my dad would have done, but his effort really made me want to get back in there and fix the paper.

The fifth way I’ve come to know Professor Fletcher probably means the most to me. It reminds me not of a revered sports figure on the field, as we often think of academics by their writing or their teaching. But it reminds me of a commercial involving a sports figure. I don’t know if any of you remember Mean Joe Green. He was the toughest, most ornery guy on the Pittsburgh Steelers during that era when that team was just crushing its opponents. At the height of his fame, Mean Joe Green appeared in this great commercial in which he walks off the field after a heartbreaking loss. Standing in the tunnel between the field and the players’ locker room is probably the biggest Mean Joe Green fan in the world. As Mean Joe Green walks toward the kid dejected and beaten, the kid looks him in the eye and says something like, “Here, Mean Joe,” as he holds out a Coke or a Pepsi. (As my friend reminds me, I was supposed to remember whether it was a Coke or a Pepsi, but I guess I’ve forgotten my trademark law as well.) The kid holds out the Coke or the Pepsi, and Mean Joe Green doesn’t take a swat at the kids as some of our most infamous athletes might today. Instead, the hulking hero says “Thanks, kid,” drinks the Coke or Pepsi and throws his fan his black and gold jersey. The kid walks away with a wonderful moment to remember and the souvenir to prove it.

Last semester, my grandfather, George Peterson, fell very ill. He’s one of my favorite people in the world. I found out on one of those days in law school on which you have hours of work yet to be done after doing a day’s worth of law review work, and you know you’re going to be at school for many more hours if you plan to meet your deadline. My grandmother called me and we had a long conversation about how sick my grandfather was. This was the second time doctors had found cancer in the last few years, and he going to start chemotherapy the next day; I was devastated. The last time he was sick and started chemotherapy his spirits were very high, my grandmother said, but now his spirits were very low.

As I walked down the lonely law school hallway at seven o’clock at night to get the caffeine fix I would need to make it through the night, I

turned the corner out toward the local coffee house, and I saw Professor Fletcher. After one of these very long days as a law professor and embattled judicial nominee, he looked like Mean Joe Green in the Pepsi or Coke commercial. He'd had students in his office all day asking questions (I knew so because I was one of them). He'd taught two classes. And this week had really been the height of the "Will he get confirmed? Will he not get confirmed?" talk around campus and in the newspapers.

As I walked toward him, I didn't know if he would remember this, but a few months before my grandfather had been at Boalt visiting, and we attended Professor Fletcher's Federal Courts class. My grandmother, grandfather, and I sat in the back of the class and listened to his impassioned lecture about the change in habeas corpus law in the last few years. My grandfather looked at me as if the class were being conducted in French, some of the discussion was so technical, but I could tell he appreciated the gusto with which Professor Fletcher taught that day. At the end of that day's class, Professor Fletcher announced that he would miss the next class because he was flying back to Washington D.C. for a second confirmation hearing. In jest to my grandfather, who found this announcement astonishing, I said, "Oh, this happens every day." After class, Professor Fletcher took the time to meet and talk to my grandparents, and ever since then they took a real liking to him.

Every time I talk to my grandfather now, he tells me about the latest article he read in the San Francisco Chronicle or the Sacramento Bee about Professor Fletcher. When I went out to dinner with my grandparents and their friends in the City recently, my grandfather talked about how he met this great man who would soon be a Ninth Circuit Judge, and will one day be a great Supreme Court Justice.

Thinking all this, but not thinking about how tired Professor Fletcher looked, when he asked how I was doing, I told him my grandfather—the one he had met last spring—had taken very ill. I realized how my grandfather admired and respected this man, and told him so. Not even thinking how out of the ordinary the request would be, I asked him to call my grandfather, and, if possible, to try to lift his spirits. Without hesitation, Professor Fletcher graciously said he would make the call the next day.

Professor Fletcher always has hundreds of people calling him and asking him for favors, and though he really didn't have to, he took the time to give my grandfather a call. Now, every time I see or talk to my grandfather, all he talks about is how Judge Fletcher called him that day. My grandmother and other members of my family often repeat the story of how my grandfather's spirits improved the day after he talked

to that kind man. And I feel good knowing that my professor may have played a small part in my grandfather's recovery.

So looking back through the lens of sports that so dominated my childhood, I realize I've learned a great deal at law school and from Judge Fletcher—the same way I learned important lessons from my sports heroes and family. I hope none of us forgets what an incredible man Judge Fletcher is—on and off the bench, or in or out of the spotlight—as he goes on to do great things.

Stephen McG. Bundy†

Honored judges, Fletcher family members, colleagues, and friends:

I speak today both as one of Willy's academic colleagues and as one of Willy and Linda's friends and neighbors in the Elmwood area. The excellent accounts of Willy's academic accomplishments that you have just heard free me to speak about the future. So I am going to talk about some of the reasons why Willy's colleagues, neighbors and friends are so excited and hopeful about the new career on which he embarks today.

For starters, there is Willy's view of the law, which is not narrowly theoretical or technical, but attuned to historical particulars and animated by a gently stated but deeply felt sense of right and wrong. In his teaching and writing, whether he was rehabilitating the 19th century doctrine of *Swift v. Tyson* or fighting to rectify the terrible injustices done to victims of atomic testing, Willy has always tried to understand the law as made by, and having consequences for, real people with human strengths and frailties. We know that this humane and compassionate approach will continue to serve him well in dealing with the problems of the real litigants who will now appear before him.

Another reason for optimism is Willy's practical wisdom. Certainly for a career academic—and arguably by any standard—Willy has demonstrated an unusual facility in worldly affairs. He knows how to size up institutional and political problems and how to work out their solution, whether the problem is the search for a new dean at Boalt Hall, securing California's electoral votes for Bill Clinton and Al Gore, or defeating the profoundly unfair and misguided campaign to prevent his confirmation to this Court.

Finally, Willy is well balanced. He knows that the law, however important, does not encompass all that is worthwhile in life. Linda tells a story of how Willy studied for his Federal Courts examination in his third year of law school. Seated in a deep armchair, he held in one hand a copy of Hart and Wechsler's *The Federal Courts and the Federal System*, which, for those of you who are non-lawyers, is approximately the size and weight of a cinder block and printed in the kind of typeface commonly found on the back of an airline ticket. In his other hand, Willy held a fully rigged fly-rod, with which he was practicing casts as he read. He explained to Linda that he felt it was important to retain a connection, as he studied, with the fun side of life. In more recent years, younger faculty colleagues have similarly marveled at, and sought to emulate, Willy's ability, in the face of demanding commitments, to find

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time for family and friends, and especially for Anne, Leah, and Caroline, in whom he takes such joy.

That is not to say that Willy has perfect judgment. In fact, it must be confessed that on rare occasions his resourcefulness and resilience have outrun his common sense. His friends recall the evening a few years ago when the transmission in the Fletcher station wagon failed at a soccer practice in Albany. The car could move only in reverse, it was a dark winter night, and Willy was six miles from home on urban streets filled with rush hour traffic. A lesser man might have called AAA. But dinner was waiting and the girls were cold, so Willy loaded his young passengers into the far back of the car, where they could keep a lookout, and drove home backwards, all the way down San Pablo Avenue and up Ashby Avenue to Elmwood. All of us are praying that the sobering influence of his new black robes will save Willy from similar lapses of judgment in the future.

With so many good things going for him, the only visible threat to Willy's success as a judge is that the new job itself might change him, whether because of its necessary isolation from everyday life or because of the extraordinary freedom, security, and deference that are the common lot of federal appellate judges. Of course, his own fine characteristics are a powerful inoculation against any such outcome. But the best insurance that this will not occur is the very unusual person who agreed to marry him, Linda Morris Fletcher.

Now Linda sometimes like to project the image of a small town girl, wide-eyed and unsophisticated, and of herself and Willy as just two small town kids from Seattle. And it has to be admitted that this image embodies some important truths. It is true that Willy and Linda have deep shared roots in a more innocent time, way before Seattle had ever heard of Microsoft. Back then, Elvis joined the Army and got a crewcut, JFK asked us to ask what we could do for our country, and Bill Fletcher and Linda Morris were just two junior high school kids who lived in the same neighborhood and eyed each other from afar. And it is also true that over the past 22 years, Linda has rooted the Fletcher family in their great house on Elmwood Avenue, and that from that base she has devoted herself, responsibly, lovingly and with great success, to Anne, Leah, and Caroline, to her friends, and to schools and community, in ways that directly recall the best values of that earlier era, and that her friends find profoundly admirable and worthy of emulation.

Still, it doesn't take long to figure out that, for all its deep grounding in the best traditional values, Linda's self-presentation is too simple by half. For the truth is that Linda herself possesses a formidable and irreverent intelligence and a vivid literary and artistic imagination. The relevant sensibility isn't so much Norman Rockwell as it is an updated,

slightly edgy version of Jane Austen, with whom Linda shares a kind of x-ray social vision, an unerring eye for fakery of all kinds, and a strong moral sense. Simply put, no one fools Linda Morris Fletcher. And for those who are privileged to be her friends, that makes her generosity, her affection, and her companionship all the more meaningful.

So, we're counting on Linda, as she moves forward with her own endeavors, to keep an eye on Willy and to remind him, occasionally and gently, as she does for so many of us, about where he comes from, what he cares about, and what is really important. And because we know that she will do so, we are able to present our dear friend Judge William A. Fletcher to the Ninth Circuit, with every confidence that he will make grand contributions to the work of the court for years to come.

Martha Z. Whetstone†

May it please the Court—but I'm not sure that it will! I have always wanted to say that. I was reminded that this venue is a gloat free zone. I am tempted to start singing "It's Been a Long Time Coming" by Crosby, Stills & Nash on behalf of these two dear friends of mine. I can't help noticing that there are a lot of IQ points in this room.

I must say that I am honored to appear before Willy, his family and friends, and before so many distinguished members of the legal community. In my past, I too was a practicing attorney before going into politics. So, provided that I don't return to law, I relish the notion that I can say anything here, amongst so many powerful, distinguished judges, without the slightest fear of knowing I could possibly end up before you in one of your courtrooms on Monday morning. However, I have noted that working in politics and for the federal government doesn't offer any safe haven from seeing the inside of a courtroom—as many of our friends can attest to.

I represent Willy's political past, or as Darth Vader might term it, Willy's dark side. Willy and I met when our mutual friend Bill Clinton decided to run for President. Actually, I had been exposed to Willy when he had been one of my Bar Review course instructors after law school. However, no friendship developed at that time, because I'm sure I couldn't conceive then that anyone so enthusiastic about civil procedure could possibly be someone you would want to cultivate for a good time.

In any event, our paths crossed again in 1992 when we worked side by side on the presidential campaign. Willy was a true voice of logic, reason and steady judgment in a campaign atmosphere which always seemed to dwell in turmoil, chaos, and constant confusion—a world of chips, candy bars, pizza, late nights, seven day weeks, and T-shirts. Willy represented civility and sanity to us in this insane and totally unnatural state. Willy, in his usual good judgment, left politics after the campaign and returned to the normal world here at Boalt Hall.

Willy left politics, took his sanity with him, and look what has happened. Everything has gone to hell. Politics and the legal field have been turned upside down. In case you haven't noticed lately, legislators aren't legislating. Congressmen are acting as prosecutors and trying cases in the Senate where the senators are acting like judges and jurors. Do you want to see the inside of a courtroom? You had better work in the White House. Want to find the Chief Justice of the Supreme Court? Well, he's presiding in the Senate. If you aspire to be a judge, you may

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have to spend a few years, maybe three and a half years, being a witness in the Senate, and have jealous legislators tell you that you can't be a judge because they think you want to do their job by legislating from the bench. I say, why should they care? Someone's got to do it.

I just don't understand any of this. It is truly a crazy world. These days, if you want to practice law, you don't know whether to go to law school or run for Congress. Not to mention that if you want to be a judge these days, it obviously helps to have campaign skills.

I am sorry. I don't mean to imply that politics enters into the process. We all know politics doesn't play any role in the judicial confirmation process. But I can't figure out, to save my soul, how forty-one senators couldn't figure out that Willy was really the least controversial and the most qualified person for the position who could ever be put before them. I guess qualifications such as Harvard University, Yale Law School with Honors, Rhodes Scholar, and honored professor at Boalt Hall don't count for much with those guys. After all, it took almost four years to sort this out. Maybe it is us who should judge the qualifications of those forty-one folks who could find fault with such a smart guy who loves civil procedure.

Speaking of another William with a fancy resume, the President of the United States has asked me to personally convey his enthusiastic congratulations to Willy. He also wanted Willy to know how particularly pleased he is that this day had finally arrived for him. Let me say, and I know this for a fact, that no one had been more supportive or worked harder to ensure this confirmation than the President. The President was not willing to settle for less than seeing Willy on the bench, knowing full well what extraordinary qualifications, common sense, dignity, and decency Willy would bring to the Court.

Finally, I will leave you with a little secret. Some time ago, I wanted to convey to Willy just how much I thought of him. It seemed that mere words would truly be inadequate. Thus, I told Willy that the only way to convey just how special he was and to what degree I held him in high esteem was simply to make him an "honorary woman." What makes Willy even cooler is that he took it as the highest of compliments. This guy gets it, but I would expect nothing less from the son of Betty Fletcher, the husband of Linda, and the proud father of three darling daughters.

Willy, or Ms. Fletcher, as someone who considers you family, I love you and am proud of you. You will be a great judge. This is one decision our friend the President won't regret.

Anne Fletcher†

Driving home from the airport last night, my sisters and I started comparing notes about what we would say today about our dad. But right off the bat, because Mom's given us all instructions about what to say, I want to mention Mom and how important she is. Not just to say what an amazing job she's done in organizing this whole event, but every day, and every step of the path that's led to this day, Mom has been there supporting, advising, directing, and editorializing. So while Dad has been writing all his articles and textbooks, Mom has been the living, breathing, talking, opinionated advice giver.

When we were younger, Mom used to tease us that she knew everything and could read our minds. Although we didn't like to admit it, as we grew older we realized she wasn't teasing. You can ask her anything and she'll have an opinion about it. From local politics to presidential politics. From the *Berkeley Voice* to the *New York Times*. From Leah and Caroline's love lives to mine, Mom knows all. This day couldn't have happened without her, so congratulations, Mom!

And now I'm going to take her advice, as I always do, and say a few words about the guy we haven't really heard about. The one that we know who's not the academic, but just my dad. My dad lied to be on the ski team in college. To be on the team, you had to have had three or fewer concussions in your life. And he had had six or seven. One of them was when he let go of a ski rope about ten feet from the dock at full speed. Another one was when he was fifteen, riding his bike to piano lessons on a rainy November evening, when he was hit by a car. When he came to, the first thing he said was "I told you those piano lessons would be the death of me."

Dad's always been the adventurous parent for me, aiding and abetting me in all my various escapades. When he taught me to sail, he would take us to the edge, always. Always on the verge of capsizing or hitting some rocks. One time he took us out (against Mom's advice) on a day with a little too much wind. As we sailed upwind, trying to come back around the point to come home, the wind started pushing us back towards the rocks. Leah and I were getting a little worried. We thought we were doomed. As we approached the cliff, finally, at the very last minute, Dad dove out of the boat, was chest-deep in water, on the edge of the cliff, and pushed us around with his hands. He saved us that day, but I think he had some work to do to save the marriage.

Later when I was learning to ski, and following his steps into ski racing, he was always up for anything. He would take me down scary

† Judge Fletcher's eldest daughter.

faces and off big jumps when I was eight, and would act as a race coach and get free lift tickets when I was sixteen. He was always so patient and encouraging, giving me his full attention, the attention that his students have talked about. His patience as a teacher. Making me feel confident and safe on some pretty wild adventures that weren't very safe. I just want to say thanks for putting up with us, putting up with me and my adventures. For being so patient. And congratulations today.

Leah Fletcher†

I'm here to talk to you a little bit about how my dad's helped me though my college process. As a professor and as a father, he's been very helpful. At the very first stage, I was quite nervous about all my college applications. I worked very hard on my essays and I sent them away and I sat there nervously for several months awaiting the results. I would see my father, sitting there in his place on the couch, reading admissions folders from applicants to Boalt. He took great time with these students, trying to figure out who they really were and what was going on. So finally, I asked, "Hey Dad, what's the essay question they need to answer?" He said, "I don't know. Seems like they're just telling me stuff about themselves." And I said, "Oh, gosh, I really hope that the admissions officers who are reading mine know a little bit more about that question that I tried so meticulously to answer properly."

About that time some admissions officer perhaps misread my essay and let me into college, and my dad's been helpful ever since. Of course, I'm no longer quite as near my father's spot on the couch as I once was, so the benefits of technology have had to help out with editing papers. I've learned how to fax home and e-mail home my papers, and I have gotten quite prompt responses. But the technology has helped us in a couple of other ways. My dad has responded to my thoughts and worries at college over e-mail. He's a very prompt responder. I'll send him something early in the day, and I can always be sure that he'll send me something back by the end of the day before he leaves the office.

Over the years, he has given me some interesting advice. I'll start out with the romantic advice. (He has no one to blame but himself, because I'm reading the words he sent to me.) Of course, he had to get romantic advice first from Mom. I'd tell her things on the phone, and then she'd relay it to him. So Dad writes: "Mom told me about your evolving romantic life. Well, hmmm, very interesting. Too bad you thought you couldn't go to lunch with the other guy too. Maybe you could have. Amazing things happen when you just do things without letting people around you think that this particular thing is something they have some say in. I shouldn't tell a daughter this, but there's a saying going around: 'It's a lot easier to get forgiveness than permission.'" Umm, thanks, dad.

Later, when I had broken off the relationship with that first young man, I was quite distraught, and I called home every night. My mom, of course, knew everything to fix my romantic life. My dad just sent this

† Judge Fletcher's middle daughter.

comment: "Eat greasy food and milkshakes, none of this health food stuff. Orange juice if you have to. But I recommend espresso shakes." Thanks again, Dad.

This is just one of my father's interesting thoughts on coffee. I was worried at this point about roommates, and he said: "Well, what doesn't kill you makes you strong. I am counting on that. I know that cappucinos do not kill me, so I drink a lot of them. I'm waiting for the strong part."

Now, being far away, I am never in tune with the local politics, so when it comes time to vote I often ask my parents for their advice. My dad has some very important advice on voting: "Vote yes on both propositions. They will provide taxes for parks and something else. I forget what." I probably did vote yes, but I don't know if I ever knew what I was voting for.

My dad's e-mails have also given me a little bit of insight into his life as a professor. One day I sent home a whole list of things I had to do, and I was very worried I was going to be up all night. My dad was quite concerned, and he was, I think, sorry that I had so much to do. He wrote: "That sounds like too much to do. You have more energy than us old folks have. Just reading the list of things and time requirements makes me tired. Good thing there is such thing as tenure, retirement for old professors." But I'm sure that my father did get his work done, and he wasn't exactly as retired as he may have joked about in his e-mail.

I think he did, at some point, write some books by which my college education is being funded. So when I was worried about how much I was spending on books at school, my dad responded, "Only \$475 for books? Well I think professors should get more money than that for all their hard work."

In the two and a half years I've been at school, my dad has been nominated or confirmed through the whole time. As you know, it's been kind of a process, and so of course there were e-mails occasionally about what was going on. This one I thought was quite funny. As always, it relates to my mother. He said, "I was in *USA Today* today, along with all the other current Clinton judicial nominees. The story was about how rich almost all of the nominees are. Needless to say, I did not advance the theme of the story very far. You know the line from the song, 'Your daddy's rich and your momma's good-looking'? Well, at least the part about your mom is true."

And then I have one last thought. You may have worried about my father over the past couple of years stressing over his nomination, but there were always more important things to think about. He says, on the 7th of January 1997: "I think I'm going to be renominated today. That's the plan anyway. I have not heard the final word. The sun is out.

It is cold. Bonnie [the dog] is on the carpet next to me here at the office. I think Bonnie's pee-stain is coming out of the living room carpet." So far as I know, it did.

So that's all I have to say about my father, or he has to say about himself. But he has given me a lot of insight into his mind over the years through e-mails we've exchanged, and I just hope that he will have the new e-mail up and running over in his new San Francisco office pretty soon. Congratulations, Dad.

Caroline Fletcher†

In our house, my dad doesn't have a private office or a little study. Instead, he does all of his paperwork sitting on the couch in our living room. His textbooks, files and articles, and who knows what else, are stacked up along with our family catalogues, newspapers, coffee cups, and junk mail. After dinner, on school nights, on weekend afternoons, Dad sits there with his shoes resting on our coffee table and our dog lying next to him. So, whenever I need my dad, I just walk downstairs and sit next to him on the couch, and he never tells me he's too busy.

Blue book season is really the only time I've been able to sense the extent of my father's job. The stacks of the blue books pile up on the floor by the couch. And Dad sits there with his glasses down his nose and his pencil in his hand as he reads through one exam after another. There are always more and more. When I was little I would crawl up next to him and ask for a game of gin rummy or maybe crazy eights. Let me finish this one blue book he would say. Sometimes he would have one more question, and sometimes he would have to grade two more blue books. So I learned how to count by blue books. I knew how much time it took for one blue book, for two blue books, for three blue books. And then he would get out the cards and we would play.

As I've gotten older and into high school, the station on the couch has turned into a place of emotional and academic salvation. I know that after a whole Sunday of struggling with an English paper, by 7:30 I can run downstairs for an incredibly helpful editing job. Not only does he read it and help me with sentence structure and paragraph flow, but he listens carefully to every single one of my weird and confusing ideas. When I am overwhelmed and babbling on and on about Hester Prynne or something like that, he'll unwrap a popsicle and settle down with me for a really, really long time. The way he nods and then he smiles, it's like he's almost having fun. He gives me the confidence that what I have to say is, as he puts it, actually quite good. And so he'll stay up way past midnight just so he can read my conclusion. Not really so much for a line-edit, but because he's interested in and proud of what I'm working on. So, Dad's not just a great teacher here at Boalt Hall, but also in our own house.

One night about a year and a half ago, one week into my sophomore year, I had a full scale breakdown over one of my classes, AP Chemistry. One problem I was working on just sent me over the edge. I absolutely couldn't do it. I was reading about carbon, oxygen, grams, moles, how many atoms in an I-don't-know-what. I was really scared. I

† Judge Fletcher's youngest daughter.

just put my head down on my desk and started to cry. I was about to drop the class, but then I headed down to the couch with my chemistry book and worksheet in my hand. Slowly but surely, Dad read through the first chapter of the book while I sat there trying to stop crying. Well, it took us over two hours to complete one side of one worksheet, but we did it. Not only did Dad's outstanding patience pull me through; it was his faith in me. When I didn't think I could do it, he thought I could. And I finally did conquer the concepts of chemistry, mostly on my own. So thanks, Dad.

I'd like to emphasize that I was certainly not only seeking Dad's academic skills. I needed his emotional support. Anyone can explain conversion factors in chemistry, but it takes a lot more to soothe the tearful panic attack of someone like me. So, it's just so nice to have Dad close by on the couch whenever I need to snuggle against his shoulder and express my worry about lacrosse tryouts, romantic problems, complain about school and ask him generally "What's going on?" And even if he doesn't have quite all the solutions that I want, he always has a very large stockpile of very dumb jokes.

Mom has told me, because Mom does know everything, that over the years while sitting on the couch Dad has written some superb, nationally recognized academic papers. But as his daughter, that's definitely not what I think about when I see Dad sitting on the couch. I think about games of cards, help for an impossible essay, a funny story, or just sanity in moments of collapse. So congratulations, Dad, on becoming a judge. I think the humor, love, and intelligence you bring to me every day will make you a very good one.

