

*Tribute*

HONORABLE  
LAWRENCE K. KARLTON

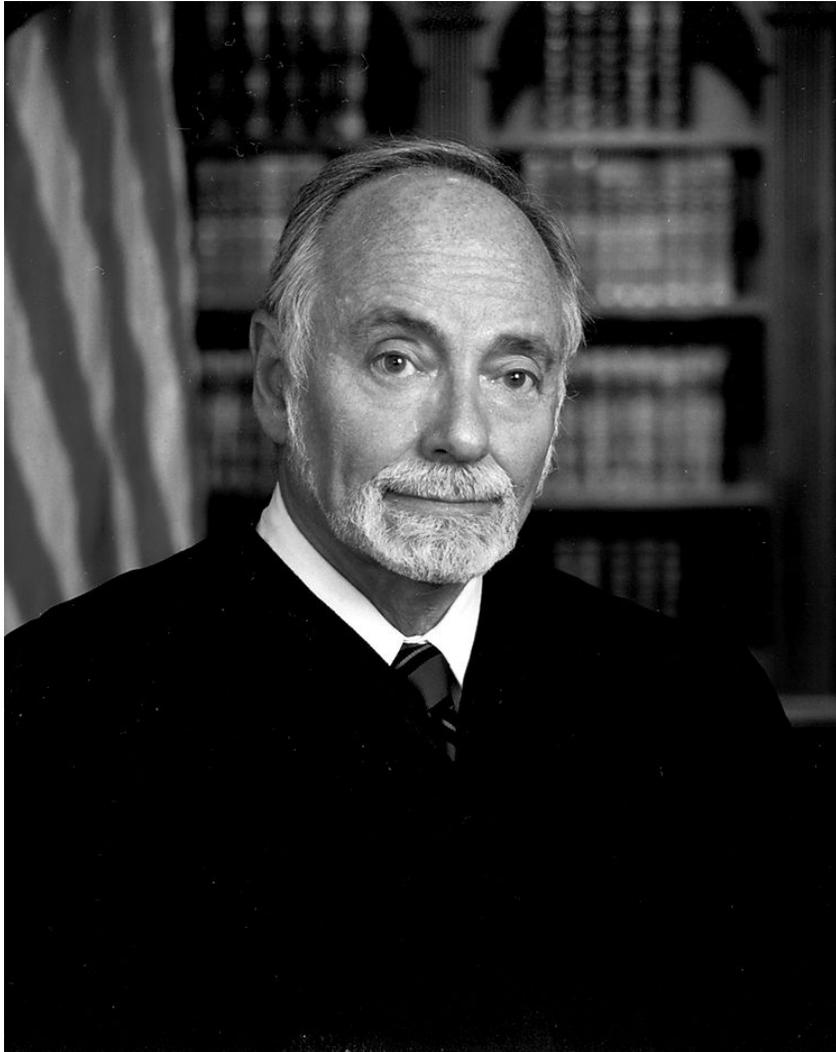


United States District Court  
for the Eastern District of California

*Tribute*  
HONORABLE  
LAWRENCE K. KARLTON

September 26, 2014  
4:00 p.m.  
Ceremonial Courtroom  
Sixteenth Floor  
Robert T. Matsui United States Courthouse  
501 I Street  
Sacramento, California





HONORABLE LAWRENCE K. KARLTON



# *Proceeding*

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MARIANNE MATHERLY, CLERK OF COURT: All rise. The Honorable Judges of the Eastern District of California. (Judges enter courtroom.)

MARIANNE MATHERLY, CLERK OF COURT: Oyez! Oyez! Oyez! The Honorable United States District Court for the Eastern District of California is now open. All persons having business with the court are admonished to draw near and you shall be heard in this ceremonial session for the retirement of Lawrence K. Karlton, Senior United States District Judge.<sup>1</sup> Please be seated.

HONORABLE MORRISON C. ENGLAND, JR., CHIEF JUDGE: Good afternoon and welcome, ladies and gentlemen, to this very special session of the United States District Court for the Eastern District of California.

This special session has been called for the retirement ceremony for Lawrence K. Karlton, as a United States District Judge. My first order of business here today will be to suspend the usual rule of no cameras or taking pictures within a federal courtroom. Please feel free to use your cameras during the course of the ceremony.

At this time, on behalf of Judge Karlton and the judges of this court, I would like to take this opportunity to welcome all of the distinguished guests who are in attendance today. We have considered introducing each and every one of you individually, but there are so many distinguished guests here today that it would take much of our time this afternoon to recognize each of you. Please know, however, that your attendance here is greatly appreciated.

Also, on behalf of Judge Karlton's family, I want to thank all the attendees, specifically the family and friends of Judge Karlton, who are here to be a part of this very special event.

As many of you know, Judge Karlton just completed his 35th year of service to the Eastern District of California. There are a number of speakers here today who I am sure will speak to the specific highlights of Judge Karlton's outstanding career on this bench, so I will not belabor the point or step on anyone's toes with respect to the issues and facts that they will be bringing forward.

I do want to have just a very brief moment to say, for everyone's knowledge, that Judge Karlton was nominated by President Jimmy Carter to the position of United States District Judge and was confirmed by the United States Senate in 1979.

During his time on this bench, Judge Karlton served as the Chief Judge from 1983 to 1990. Judge Karlton has handled some extremely high-profile cases in this court which will be discussed later in today's program. But I have to believe that Judge Karlton's true legacy with the Eastern District of California during

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<sup>1</sup> Senior Judge Karlton is actually taking "inactive" status. All references herein to his "retirement" should be understood to be references to his taking "inactive" status.

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these past 35 years will be the people that have worked for him and with him in his chambers.

And if you look around, there's some that are here on the bench who have white badges with numbers on them. Those are people who have clerked for Judge Karlton, and that is their order that they clerked for him and their years. And there are a couple here that even have two badges, so they clerked at different times. So those are the very, very special people with the two badges.

We see that we do have two that are seated here in the rows, and those two are Judge Drozd, number 3, and Judge Claire, number 20. I think we have a new name for both of you now, 3 and 20. They were both clerks for him at that time.

Also, the Clerk of our Court, Marianne Matherly, who called the session of court here today, was a courtroom deputy for Judge Karlton back in the '80s. Now, I've just said back in the '80s, and, of course, what I meant was that she was a prodigy. She was only six years old when she started work, but Judge Karlton always knew talent when he saw it.

So there are a number of people that are here that have all had their start or been touched in some way by Judge Karlton.

There are a number of speakers that will be speaking here today, very distinguished, but before we get started with the actual speakers, we have a very, very special guest here, our own Congresswoman Doris Matsui, who is present, who has a special presentation to make to Judge Karlton on behalf of the United States Congress. Congresswoman Matsui, you have the podium, please.

CONGRESSWOMAN DORIS MATSUI: Judge Karlton, I'm honored to be here as you retire from the federal bench. You seem to me to always be here. I remember when my late husband was a lawyer, practicing lawyer in this town, and you were here. And I remember when he got elected to Congress, and you were here, and you also were appointed to the federal bench. So we are really going to miss you, but we honor you for the last 35 years. You have been such a champion of the rule of law and equal justice for all. And in 35 years, you handled such complex class-action cases, and certainly the constitutionality of issues that came before you. And, of course, recently regarding the overseeing of the prison crowding.

They were not easy issues at all, and you took charge, and you handled them. And it is with such distinction that you have served the Court. Distinction, honor and intelligence. And it is so hard to put it all into words, as I am sure the other judges will have much to say, but it was important to me to memorialize it in some way in my capacity.

And so we did have a Congressional Record here, an entry in here, regarding your wonderful chronicle of your history here. It doesn't really do justice for the man you are or the jurist you are, but I hope you know that people in this region, in particular the State and this country, really do appreciate you for everything that you have done.

I have this Congressional Record here, and let me just read it in part: "Mr. Speaker, I rise today in honor of Judge Lawrence K. Karlton, as he takes inactive status for the United States District Court, Eastern District of California. As his family, colleagues and community leaders gather to honor this remarkable career,

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I ask my colleagues to join me in tribute to Judge Karlton's service to the federal judiciary."<sup>2</sup> Judge Karlton.

(Applause and presentation.)

HONORABLE MORRISON C. ENGLAND, JR., CHIEF JUDGE:

Thank you, Congresswoman Matsui, for that wonderful presentation. I'm sure that Judge Karlton will cherish that always. Thank you again.

At this time, I would like to now introduce a colleague of this bench and friend of Judge Karlton, and that would be Senior United States District Judge William Shubb. Judge Shubb.

HONORABLE WILLIAM B. SHUBB, SENIOR JUDGE: Thank you. I knew Judge Karlton before he was Judge Karlton. He was Larry Karlton, a partner in the up-and-coming Sacramento law firm of Karlton and Blease, representing the ACLU and other similarly-situated clients.

I first observed him in action in the courtroom when I was a law clerk for Judge Sherrill Halbert in this court, and Larry Karlton had cases before Judge Halbert. That was in 1963 or 1964.

We first crossed swords, so to speak, in the following years when I was a young Assistant United States Attorney, and Larry Karlton represented several clients with disputes against the Government.

I recall two cases in particular, and I know Judge Karlton recalls them as well. They both involved Air Force officers who were seeking to be released from their military obligations because they had become conscientious objectors. Both of those cases went to trial. I don't remember the outcome of either of those cases. I was going to say maybe it was because I lost, but that may not be it either.

But what I do remember was the zeal with which Larry Karlton prosecuted those cases. He always had to have the last word. If he took the witness on direct examination, and I cross-examined the witness, he had to take the witness on redirect. If I did re-cross, he had to do re-redirect.

So I finally decided to test that situation. And after Larry Karlton had completed his re-redirect, I stood up and said, "Mr. Witness, was your answer to Mr. Karlton's last question 'yes?'" And he said, "That's correct." And I said, "Thank you." Whereupon Larry Karlton got up and said, "So your answer was 'yes.'" Now, I don't think he was doing that to play games or to be cute. As a matter of fact, I don't think he really realized what he was doing.

But what I was observing for the first time was the intense passion of a lawyer who seemed to be absolutely convinced not only that his client's position was legally correct, but that his cause was just.

Larry Karlton, of course, eventually became Judge Karlton, and he was appointed and then elected to the Superior Court. I can't say that I had any cases before him there, but I did appear before him many times after he was appointed to this court. I was in private practice by that time, and there was that same intensity again.

I remember one law-and-motion calendar in particular. I had a motion for summary judgment, and as I got up to approach the bench, before I could say

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<sup>2</sup> For the entire entry in the Congressional Record, see 160 Cong. Reg. E1617 (daily ed. Nov. 18, 2014) (statement of Rep. Matsui).

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anything, Judge Karlton looked down at me and said, “Have you read the such-and-such case?” I said, “No, I don’t believe I have.” And he said, “Well, it’s on point, and you should look at it.” I said, “I don’t believe I have the citation; could you give me the citation?” And he said, “It doesn’t have a citation; I decided it last week, and it’s against you.”

This was before they had electronic case filing, and the only way you could find out about a district court decision was to look in West’s Federal Supplement, and the only way that it could get in the Federal Supplement would be if the judge sent it there. So I just had to wing it — and he decided the case against me based on the such-and-such case.

I remember another status conference that I had before Judge Karlton. I had made the mistake of setting it very close to a settlement conference I had in Superior Court before Judge Sapunor. My settlement conference before Judge Sapunor started to run a little longer, and it was encroaching into the time that I had for the status conference before Judge Karlton. Those were the days before cell phones, and I had no way of calling.

So as soon as the settlement conference was over, I rushed to the nearest pay phone, and I called Judge Karlton’s chambers. And I said, “I’m very sorry, I was tied up in Superior Court, can we reset the status conference for another time?” Judge Karlton’s secretary said, “Just a minute,” and she put the judge on the line. I said, “I’m very sorry, Judge, can we reset this status conference?” He said, “No problem; we’re here; the other lawyer is still here; if you’ll show up, we’ll do the status conference.” I said, “That’s great, thank you very much.” And he said, “Oh, bring your checkbook.”

So when I got to the status conference, I wrote a check for \$75. That was the only time I ever had to pay sanctions as a lawyer. So any of you who want money from the non-appropriated fund now, remember some of that is mine.

Status conferences before Judge Karlton were memorable. He had his status conferences in chambers, and the lawyers would sit on the other side of the desk from him, and he would dictate the status order into his state-of-the-art Dictaphone which had a floppy disc in it. He would say, “Discovery cut-off, the usual language, motions deadline the usual language.” So I interrupted, and I said, “Your Honor, may I ask what the usual language is?” And he said — (indicating) — “You’ll like it.” And I liked it.

Since I was appointed to this court in 1990, I’ve come to know Judge Karlton as a colleague. We share the same birthday, May the 28th. The only difference is we’re three years apart. I have had the privilege of working with him. By my rough count, we’ve attended more than 50 weekend judges’ retreats together, hundreds of judges’ meetings, countless circuit and district conferences, educational seminars, casual discussions in chambers and in the hallways. We haven’t always agreed. We usually have.

But whenever he speaks out most passionately, it is invariably in the best interest of the litigants that we serve. We have talked a lot about money. His concern has not been so much about our salary — and there would have been a lot to say about that — but his concerns have been more about ensuring that we have the money to hire the staff, or to get the equipment that we need to serve the litigants.

We talked about new judgeships. His emphasis has not been so much on how we could ease his own workload — and there would have been a lot that we could

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have said about that — but his concern was about preserving the ability of the court to administer the quality of justice that the people deserve.

I think I speak for all of us, Judge, when I say that we are going to miss your counsel and advice at those meetings.

You know, Judge Karlton has often been heard to say that his is the best job in the world. It certainly has been a remarkable journey. One day, you take the oath, and you're the junior judge. All of your colleagues are judges before whom you practiced as a lawyer. You come to work every day. You do your job. And then one day you look around, you're not the junior judge anymore. You're the most senior judge, and all of your colleagues practiced before you when they were lawyers.

So I'm sure there comes a time when you start to ask yourself in the words of the song — should I stay or should I go? Each of us has to make that decision for himself. But I can say this: like Derek Jeter, Judge Karlton leaves the Court at the top of his game.

(Applause.)

I just want to tell one short anecdote in closing. In his last week on the job, I went down to Judge Karlton's chambers to say good-bye, just to chat. I expected to see his chambers all cleared out and him sitting at his desk staring out the window contemplating the last 35 years. Instead, his office looked as it always has, papers and files on the desk, and he was working on an opinion.

As he talked about what he was doing, there was that same intensity, that same passion, the same energy and enthusiasm that I had observed 50 years earlier.

You know, this notion that judges must somehow lack passion and concern is wrong, particularly when it comes to Judge Karlton. Those have been the characteristics that have driven him throughout his entire career as a lawyer and as a judge. The only thing different is that as a judge he has not been concerned anymore about who wins or loses. He has just been passionately concerned about getting it right. And for that, he deserves our enduring respect.

(Applause.)

HONORABLE MORRISON C. ENGLAND, JR., CHIEF JUDGE: Thank you, Judge Shubb, for those very inspiring words regarding Judge Karlton.

I have to say, from a personal standpoint, I only had one appearance in federal court as an attorney, and that was at one of those status conferences with Judge Karlton. He scared me out of the federal court forever. And it is ironic that I am the one that succeeded him to the seat that he held. But I said I will never go back there again.

The next speaker that we have is Associate Justice Coleman Blease of the California Court of Appeal, Third Appellate District, here in Sacramento, one of Judge Karlton's law partners before they both reached the bench in 1979. Justice Blease.

HONORABLE JUSTICE COLEMAN A. BLEASE: Thank you. Bill, I have to tell you, you lost both cases. Also, the number of meetings that you've attended, I hardly understand how you got any work done.

I find this is a sad and nostalgic occasion. My friend and former partner, Larry Karlton, is retiring after 35 years as a judge of the district court. I've been

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his law partner, his friend, his student, and his lunch companion for almost half a century. We became judges — Larry on the federal court, and I on the appellate court — within two months of each other in 1979. We have shared both the joys and heartaches of life. His diligence, energy, enthusiasm, and contributions to the law have long impressed me and energized me. Others will speak to the many historic contributions, his contributions, to the law. I wish to contribute a personal note.

Larry was a young man when I met him. We first discussed a joint practice in 1966 while sitting on the stairs outside the State law library. He had a small general practice. I had nothing . . . until the social workers went on strike. That, and the Vietnam War, and the California Teachers Association, and a few personal injury cases funded our early practice.

By the time of Larry's appointment to the Superior Court, our firm had grown to seven members, three of whom became judges, and three others, John Poswall, Mike Rothschild, and Jay-Allen Eisen, became among the best trial and appellate attorneys in the State.

Practicing with Larry was an intellectual adventure. Our discussions ranged through minute details of procedure and the substance of administrative, criminal and civil law. We had a great empathy for our clients. At times, our practice took on the ambiance of an encounter group.

Larry gave me much useful advice. For one, he told me, "Cole, you must write briefs for judges at the appropriate level of simplicity," which he pegged at about the third-grade level. We called them Dick-and-Jane briefs. I followed his advice, and we were very successful.

Then I went on the bench, and Larry hectored me for writing obtuse opinions; and I replied, "Larry, I'm now writing for lawyers."

Larry has suffered an occasional minor defect in judgment. He once had a Chevrolet engine installed in his Jaguar automobile, and he hired a construction company called the Berkeley Building Commune to build his house. Particularly, construction proceeded in a highly-relaxed manner. That altered Larry's normal sunny disposition for the duration of the lengthy construction, notwithstanding out of it came a delightfully unique house.

That is not the Larry we honor today. When he was appointed to the federal bench, he told me that he had died and gone to heaven. Now, frankly, that's the only time I've ever heard federal courts described in that manner. But it did actually measure Larry's intense enthusiasm for the law. An enthusiasm that remains unabated to this day, though tempered by the frailties of age.

The Larry we honor has unexcelled knowledge of the law, has mastered its infrastructure and its substance, the building blocks of its magnificent conceptual edifice.

His commitment to this institution is as profound as anyone's I know. His disappointments, when they occur, always stem from some failure to live up to his high expectations. That is the source of his occasional impatience with counsel. He reveres the law and wants lawyers to measure up to his own high standards. When they did not, he could visibly show it.

My oldest son, Christopher, described the visit of his high school class to Larry's courtroom years ago when Larry was on the Superior Court. Larry was intently listening to an oral argument. He became increasingly disenchanted

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with the current course of the presentation. As the argument wore on, he moved from an upright posture to a position resting his head on his hands, and finally put his head flat on his arms on his bench. He said not a word. Of course, that was long ago, and the Larry I know now is as appreciative of good legal work as any judge I know. On many occasions, he has expressed to me his appreciation for the impressive performance of counsel in his courtroom.

It is all too seldom that we publicly show our appreciation for the accomplishments of somebody who is still alive. So this is indeed a fitting occasion on which to measure Larry up for some well-deserved accolades.

Lastly, Larry has blessed my life as partner, friend, and mentor for almost five decades. It was little enough for me to say, thank you, Larry, from the bottom of my heart.

(Applause.)

HONORABLE MORRISON C. ENGLAND, JR., CHIEF JUDGE: Thank you so much, Justice Blease. The next speaker will be our distinguished guest, the Honorable Thelton Henderson, a Senior United States Judge for the Northern District of California. He is headquartered in San Francisco. Judge Henderson has worked with Judge Karlton on one of the most involved cases that there is right now pending in the federal system in California, which is the three-judge panel on the *Coleman*<sup>3</sup> [prison overcrowding] case that they've been working on literally for years, almost decades. So Judge Henderson will have a few words to say about Judge Karlton.

HONORABLE THELTON E. HENDERSON, SENIOR JUDGE: I'm going to stand for Larry. Let me start by asking Judge Shubb to whom I make my \$75 check out for being late?

Larry, first, I bring you remarks from our colleague on the three-judge court, Judge Stephen Reinhardt:

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Larry,

As you surely know, I'd be there if I possibly could. As I can't, I've asked Thelton to read this for me:

It is with great sadness that I am forced to accept the fact that Larry Karlton, a true giant, is retiring from the federal judiciary. It is not a cliché to say that they don't make them like Larry anymore. I think that even Governor Brown Jr. would agree with that. I knew and admired Larry long before the prison case on which Thelton, Larry, and I have spent so much time together. After that experience, I admire him even more. I'll miss the phone calls of which the first ten minutes were taken up by Larry's ranting and raving about the latest outrage, and then saying, "Well I guess whatever you fellows want is OK". Of course, what we fellows wanted was not always OK. After he calmed down, Larry's ideas were always thoughtful and practical and always influenced our panel mightily. Much as I like Judge Mueller, I think it is accurate to say he cannot be replaced.

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<sup>3</sup> See *Coleman v. Schwarzenegger*, 922 F. Supp. 2d 882 (E. D. Cal. 2009), *implementing order*, 2010 WL 99000 (2010), *aff'd sub nom. Brown v. Plata*, 131 S. Ct. 1910 (2011).

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Yet time goes on for all of us and Larry well deserves the peace and quiet that he will have (or won't have) during retirement. In fact, it's hard to imagine Larry becoming a quiet submissive citizen allowing the world to go by without his active participation. If we don't hear Larry's voice some way or other putting us all to shame in the years ahead, I will be flabbergasted. I would miss that voice, and he owes it to all of us to continue to be heard, challenging all unjust actions, and fighting to preserve the rights of those who need their courts and government to enforce them and to help provide for their general welfare. Larry, keep up the fight. You're one in a million.

So, I won't say goodbye Larry, I'll just say, "See you soon and hear from you even sooner."

Lots of love, and lots of luck.

Your friend,

Stephen.

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(Applause.)

And now my words, Larry. And I'll start by saying that in the time that I've been given, I can't possibly fully capture your enormous impact as a judge, nor my affection and appreciation for you as my one-time mentor and soon to be ex-colleague.

We first met in 1980, when I was a brand new district court judge, attending my very first Ninth Circuit Judicial Conference, and we met there. Your reputation preceded you.

My former law partner, Joe Remcho, who had practiced and knew Cole, had so often sung your praises as a consummate lawyer, a superb judge, and one heck of a good guy. He always made sure I knew that, and I couldn't wait to meet you. And when we finally met, and it was at Sun Valley, Idaho, as I recall, I immediately bestowed upon you my very highest honor: I adopted you as a mentor and for the next several months, I peppered you and no doubt harassed you with sometimes urgent phone calls whenever I had a difficult decision that needed wisdom beyond that which I possessed at that time. Neither of us could have possibly known way back then that we were fated to work so closely together one day on two of the biggest prison cases in California history — indeed, probably national history.

We started off as a two-some, you on the mental health case, and me on the medical or "health-health" case, as I sometimes call it. And we ended up as a three-some — you, the bashful Steve Reinhardt, and me — working on the overcrowding aspects of the *Coleman* case and the *Plata* case.

Your command of every aspect of the *Coleman* case always left me in awe because my way of judging the *Plata* case is to make sure my law clerk knows every aspect. And so did your heartfelt compassion for people whose only hope for a humane existence on this earth lay in your fervent insistence that the State of California abide by the Eighth Amendment ban on cruel and unusual punishment.

And you should be proud, Larry, that I can tell this group that I've heard you rage against the machine that is the CDCR. And I've heard you shed tears of

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outrage after a day on the bench of listening to horror stories from our State's prisons. That is but one reason why you remain my mentor and my judicial hero.

Larry, you are, indeed, a unique individual. You leave behind a legacy of intellectual rigor, collegial generosity, and unwavering devotion to social justice. It is clear to me that my proudest and fondest judicial memory will be working out important solutions to a problem that was literally causing human beings to die. That memory will be even more proud, and even more fond, because I did it with you right by my side — or, to be more accurate, often leading the charge for me to follow close behind.

Thank you, Larry, for all you have done for the people of California, for our nation's judiciary, and for me personally. You have given your all for the cause of justice, and you will be missed dearly.

(Applause.)

HONORABLE MORRISON C. ENGLAND, JR., CHIEF JUDGE: Thank you so very much, Judge Henderson. Our final speaker this afternoon is Magistrate Judge Allison Claire, or, number 20.

As I mentioned earlier, she is the 20th in the row of law clerks, and she has gone from working with Judge Karlton to the Federal Defender's Office of the Eastern District, and is now a magistrate judge on this court. Judge Claire.

HONORABLE ALLISON CLAIRE, MAGISTRATE JUDGE: Thank you, Judge England.

Well, as Judge England just indicated, Judge Karlton swore me in two different times. The first time in September of 1993 as his law clerk, and then as a magistrate judge in 2012. And I wear the robes because of the second oath, and this number proudly because of the first. I'm 20 out of 42. And I trust that I speak on behalf of all 42 of us because he taught us all the same fundamental lessons.

If you ask a former LKK clerk what's the most important thing you learned from the judge, he or she will almost certainly tell you the first principle of clerking for Judge Karlton is — say it with me — “The file is not the person.” Thank you very much.

In the criminal context, that means the file defines the case. It does not define the defendant. And in the civil context, it means that cases are not hypotheticals. They are real disputes about the lives of real people. And that means that our decisions have consequences that matter in human terms no matter the scale of the case.

That matters to judging. Not because the outcomes for the parties drive the decisions, they shouldn't, but because a real understanding of the lived experiences of the parties is necessary for a judge to understand what the issues are that are presented to him or her, and what the facts are to which we must apply the law.

The principle that the file is not the person means that our job is not about case management, even though that's really important to doing the job efficiently. The job is to resolve the disputes of people who come before us fairly and with equal respect to all.

Judge Karlton has exemplified this principle by remaining always mindful of the dignity of the pro per and the criminal defendant and the humanity of the

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prisoner. Even as he has applied the law as he understands it, whether or not he agrees with it, and whether or not he likes the result.

LKK always taught us that the most important thing is to get the law right. And the best way for me to explain what I think he meant by that is to divulge the great secret of the inner sanctum of LKK chambers: the law clerk interview question.

When I was a student applying for my clerkship, I was forewarned that the interview with the judge would involve a hypothetical question for which it was impossible to prepare. One that would not test my understanding of the law but that would explore how I thought.

On the day of the interview, the law clerks told me that I must be sworn to secrecy as to the contents of this hypothetical because he used it every year. So if word got out, it would destroy the integrity of the hiring process. So I solemnly swore never to tell. But there will be no more LKK law clerks, so I feel released from my vow.

And I also understand that he stopped using the hypo at some point, and I don't know why, but I sure hope it had nothing to do with a security breach.

So the hypothetical, as I recall it, was this: You are working on a motion that turns on an issue of first impression. Now, I don't remember if the judge specified whether it was a question of statutory interpretation or of constitutional law, but it was definitely a question on which neither the Supreme Court nor the Ninth Circuit had spoken. So there is no binding authority.

You're a diligent law clerk, so you scrupulously apply those canons of statutory construction or those principles of constitutional jurisprudence and stay up all night working, and you come to conclusion X, and you are firmly convinced that conclusion X is correct. And just before going to bring the judge your memo, you realize that there are two circuit courts of appeal out there who had considered your question, and both of them reached the conclusion Y. What do you do?

Now, I don't know whether Judge Karlton had some rubric in his mind to evaluate our answers to this question, but I am pretty sure that any quick and absolute answer was the wrong answer — whether I stick to my guns, dammit, or I change my answer immediately so as not to look like a fool.

What mattered was the conversation we had. And the conversation that Judge Karlton and I had 21 years ago, and I'm sure he had with all the other clerks, was an exploration of about how to grapple, really grapple, with conflicts between our own legal instincts and the conclusions of others.

In other words, how to balance intellectual honesty and courage with judicial humility. Yes, humility. And we didn't use the word, and I know his critics have sometimes said he has a deficit of this particular characteristic, but they would be wrong, at least in this, what I think is the most important way. Judge Karlton taught me by example not to be afraid to question my assumptions and to reconsider my opinions. He taught me by example to consider contrary analyses with an open mind, as if they might be right, in order to test the validity of my own conclusions. And he taught me that if, after doing so, I concluded that X was the right answer after all, I needed to write the most tightly-reasoned and clearly-explained X opinion possible.

Then there was a follow-up question. Of course, there was a follow-up question. There is always a follow-up question with Judge Karlton. And it was

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this: If you settle on X, after having considered the implications of the out-of-circuit Y holding, do you publish? Why? Given that the opinion of a district judge has no precedential authority and is binding on no one. And that question opened up another conversation about the development of the law and the role of the district courts in that process.

This law clerk interview hypo reveals a huge amount about Judge Karlton. It reflects his belief that the federal courts are what he has always called the last bastion of hand-crafted law. It demonstrates the depth of his thoughtfulness about the very nature of judging and his commitment to intellectual rigor. And it demonstrates that getting the law right, in the LKK sense, means at least three different things: First, figuring out what the law requires by rigorous analysis. Second, doing what the law requires, even when you don't like the result, even when it amounts to what he used to call "throw-up law." That's when you figure out what the law requires, and you think it's awful, but you have to do it anyway. Like a mandatory minimum sentence for some 20-year-old kid. So do you it. You throw up. And then turn to the next case. And, third, it means forcefully articulating what you believe the law requires, even — especially — when that is a minority view, or the result you reach will be controversial or unpopular.

As a boss, Judge Karlton always emphasized the importance of working hard and holding yourself to the highest standard of excellence. And he also recognized the importance of family and life outside of work. Not that we had much time for any of that when we clerked. But after our clerkships, he performed marriages for many of us, he welcomed our children, and has followed our personal lives as closely and with as much concern as our professional life.

So now it is Judge Karlton's time to put those parts of his life first. Sue and Emily, you mean the world to him. Thank you for sharing him with us all these years. And please enjoy sharing his retirement with him. We all trust that the retirement of this great man will be a time of tranquil resting. "And if you believe that, I've got a bridge to sell you."

But seriously, Judge, we do wish you a well-deserved respite from the demands of this work, and we also wish you invigorating challenges for your next chapter. Because, like Judge Reinhardt, we can't wait to see what comes next. (Applause.)

HONORABLE MORRISON C. ENGLAND, JR., CHIEF JUDGE:

Thank you so much, Judge Claire. Outstanding. Well, we have come to the time now where the man that has caused us all to be here and to celebrate his time on this court will now give his remarks regarding his career in the legal profession. Judge Lawrence K. Karlton.

HONORABLE LAWRENCE K. KARLTON, SENIOR JUDGE: I've always said that my greatest talent as a district judge was selecting great law clerks, and Allison just proved it.

I'm, as you can tell, overwhelmed. I've spent 35 years in this court, and every year was deeply satisfactory. How many people can say that about their job? I've often said — and somebody mentioned it — that I've got the best job a lawyer can have. And it isn't deciding cases, however important that is, it was the interchange with the litigants, and the interchange with my colleagues.

And, you know, the most amazing thing, in 35 years I've never heard a cross word from one of my colleagues about anything. How many people can say that about their job?

## TRIBUTE

I thank you all for coming. I don't want to embarrass myself by crying. Thank you all.

(Applause. Standing ovation.)

HONORABLE MORRISON C. ENGLAND, JR., CHIEF JUDGE: Thank you Judge Karlton. I hope that the video was able to capture the last bit there. For those of you who have appeared in Judge Karlton's courtroom at some point in time, there is the Karlton wave-off that has been known to happen. And if it's a one-hand, eh, it's ok, but if you get the — (indicating) — just get out of there. He did the one-handed wave when everyone stood up. So we got it finally, and that's it.

Thank you, Judge Karlton. Again, on behalf of all of your colleagues and everyone in the Eastern District of California, we thank you so very much for all the service and hard work that you have given to us in this court, our district, our state, and our country. You will be missed but never forgotten. And we also look forward to the next chapter when we will see you again.

At this time, on behalf of Judge Karlton, I would like to invite all of you that are here today to join Judge Karlton and his family and friends in the rotunda on the first floor of the courthouse for a reception and celebration of Judge Karlton's fabulous career and service.

There being no further action to be taken at this special session of the United States District Court for the Eastern District of California, Madam Clerk, will you please call this session to a close.

MARIANNE MATHERLY, CLERK OF COURT: All rise. The ceremonial session for the United States District Court for the Eastern District of California now stands adjourned.

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