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Christine Hogan

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RANDY LEE—THE LEGACY OF A MAGNANIMOUS LIFE

CHRISTINE HOGAN*

It is hard to try to memorialize Randy Lee for this issue of our Law Review. How does one begin? It is hard to describe a great man, a good and well-lived life, in a few paragraphs. Any effort would barely skim across the surface, not doing justice. It is especially hard to find the right word to capture the essence of the man. I have thought about it for a long time, and the best I have come up with is “magnanimous.” (From Latin *magnus*, “great” + *animus*, “mind/spirit”) To me, this word conveys a certain largeness of the brain and a generosity of the spirit, borne of nobility and intelligence. It speaks of confidence and courage—true greatness in a human being, both in mind and heart. While thinking about Randy and writing this article, I have come to appreciate and love this word. Randy Lee was magnanimous in so many ways—as a husband, as a teacher, as a legal scholar, as a major force in his university and in our state’s legal community. But, for me, I will remember him as a magnanimous friend.

We all know Randy Lee, in his public life, was, first and foremost, a teacher. By all accounts, he was a prodigiously gifted law professor. But this article is not merely a tribute to his talent in the classroom. Others who were lucky enough actually to sit at the feet of the master in Professor Lee’s legendary Professional Responsibility, Conflicts, and Corporations classes will no doubt contribute essays acclaiming his well-known brilliance in the academy. I was just a tad too early to have him as my actual teacher. I first met Randy and became friends with him in 1975, when he arrived at UND Law School fresh from private practice in Baltimore. I was a senior, and, as I recall, had already taken the courses he taught that year. It was my loss. I learned straightaway that he was undoubtedly one of the finest law professors in the business. Later, over the years, I ended up learning so much from Randy just by being around him and by watching him mesmerize audiences at continuing legal education lectures and Inns of Court meetings that I sometimes forgot I never had him as a professor.

*J.D., University of North Dakota School of Law, 1975. Ms. Hogan served as a clerk for the North Dakota Supreme Court (1975-76); Assistant Supreme Court Administrator (1977-1978); and Counsel to Governor Arthur A. Link (1978-79). She entered private practice in Bismarck in 1979 and became a partner at the firm of Pearce and Durick (1979-1995) and a partner at Zuger, Kirmis and Smith (1995-2000). Most recently, she has served as the Executive Director of the State Bar Association (2000-2005).

We all also know Randy Lee was a life-long student and scholar of the law. His colleagues on the law school faculty knew that part of him best and they will likely submit glowing accounts of Randy's voluminous academic research and scholarly writings. But Randy was more than just a highly valued member of the law school faculty, respected by students and his peers for his rigorous scholarship. He was more like a force of nature at the school, like gravity or magnetism. For some of us, Randy *was* the law school—its magnetic north—as critical to its existence as the bricks and mortar and the women's lounge. He belonged there. We assumed, irrationally, he would always be there. We still can't quite picture the place without him.

For his co-workers, the loss has been visceral, like a punch in the gut. The faculty and staff did not just admire Randy for his vast knowledge and his body of work; they also trusted him, loved him, and depended upon him. For them, Randy's big heart was more important than his big brain. Even those of us who come back to the law school only occasionally could see all that. For thirty years, we have known Randy was the pillar everyone at the law school leaned on. His was the office they ran to when they wanted to share a joke or needed to sort out a problem. His was the big, comfy shoulder they found when they needed one to cry on. Randy was generous that way, always finding time for his co-workers. To us visitors, it seemed at times he carried the weight of the law school on his shoulders. It was a burden he accepted magnanimously, without question, and seemed destined to bear. It seemed his heart was roomy enough to shelter it all. For those who labored at his side through all those years, Randy's loss caused their world to tilt—its field of gravity suddenly upheaved. Their pillar of support and comfort was gone, a gaping hole in its place.

But it was not just folks at the law school who trusted and depended on Randy. In time, it seemed the entire university came to rely on him—and on his magnanimity. You see, Randy possessed many intellectual gifts. One of them—a gift unique to him in the world, for all I know—was for making sense of rules. Any rules, but especially rules of governance and of parliamentary law and procedure. Oh, and also rules of evidence and civil procedure. And don't forget rules of professional conduct and ethics. Bylaws. Constitutions. You name it. Most of us would sooner endure a root canal without Novocain rather than deal with such mind-numbing stuff. Not Randy. Rules were Randy's red meat. He could cut through the densest, most convoluted, light-resistant language and tease out its meaning, or lack thereof. His penetrating, orderly brain had an uncanny knack for finding the kernel of sense in the most arcane, mind-boggling legalese. Randy would just smile and serenely explain it to everyone else.

His reasoning was so cogent and his conclusions so obviously correct that people just accepted them without even bothering to question them.

It was a rare gift and a useful one for any lawyer, and Randy had the good sense to cultivate it. Soon, when word began to spread of this clever young law professor and his remarkable ability to get to the root of such previously excruciatingly-difficult-but-still-impossible-to-do-without good-ies like rules, bylaws, and policies, university leaders began to court him. They invited Randy to their academic affairs council meetings. They recruited him when they wanted a parliamentarian to settle their nasty little fights in the University Senate. When they needed some poor schmuck to write their faculty handbook, and to amend their bylaws and personnel policies, they drafted Randy. And when they learned he could be trusted always to be fair and impartial, they rewarded him with even more committees. Always the magnanimous one, he accepted these appointments, believing he had a duty to serve his university. In all these assignments Randy proved himself so competent and so popular, they eventually prevailed upon him to preside as Chair over the University Senate. All of UND, not just the law school, now mourns a friend. All honor the memory of the law professor who worked faithfully for years to improve all aspects of the university, but especially its governance.

Okay, so most people reading this issue already know about Randy Lee's exceptional reputation as a teacher, as a scholar, and even as a trusted leader in the university community. But what about his involvement with the practicing bar? What about his work on OUR rules, OUR policies, and OUR governance procedures? Randy's contribution to our profession was, quite simply, unprecedented. Such dedication by a law professor to the practicing bar, over such a long period of time, may never again be duplicated. And it may possibly be Randy Lee's most lasting legacy.

Since I had the good fortune to serve with Randy on several bar committees and major rules projects over the course of many years, I feel a duty as well as the desire to memorialize as best I can Randy's huge contribution to his fellow lawyers. The words "devoted service," while trite, don't begin to tell you about the constant grind of work Randy actually churned out on behalf of the organized bar and its committees as well as for individual attorneys, year in and year out for the last three decades.

Perhaps most remarkable in terms of the sheer volume of volunteer time and energy, as well as research and writing, was Randy's perpetual service on the Attorney Standards Committee (the entity that later morphed into the Joint Committee on Attorney Standards). Under both names, and over the course of twenty-five years, Randy Lee was the spiritual leader,

workhorse, and primary intellectual force behind the committee's considerable production of rules, rules and more rules. For poor Randy, it was slave labor. Truly, he was not allowed to resign from the committee when his terms were up. The various successive committee chairs and staffers had all, over the years, flatly refused to consider the possibility of trying to conduct a committee meeting without Randy's guiding presence (and, quite frankly, without his legendary encyclopedic memory of rulemaking history.) It was amazing. Randy never forgot anything. He could recall verbatim committee discussions and decisions from decades ago. When, for example, a question would come up regarding some ancient interpretation the committee had made of some obscure point in a rule, Randy would lean back in his chair, close his eyes for a moment, and let his well-organized brain sort through the mental stacks containing years of accumulated committee materials. Then he would smile as it all came back, apparently quite intact. "Ah, yes," he would say, "Now I remember." Then he would expound on the point as though he were reading from tiny meeting minutes on the backs of his eyelids. It was an awesome thing to see.

Chief Justice Jerry VandeWalle understood the situation on the Joint Committee on Attorney Standards quite well. In an unusual move for him, the Chief created a tacit exception to the Court's own rule limiting members' tenure on the JCAS to two three-year terms. Randy's extraordinary expertise on lawyer conduct rules was deemed so indispensable to the proper functioning of the Committee that the Chief quietly approved a lifetime appointment for him. Thank goodness, once again, Randy magnanimously accepted this punishment, uh, I mean, this great honor. Once again, it seemed a cross he alone was fated to carry.

As far as I know, Randy served on Attorney Standards from its creation in 1979 until the time of his death. In that time span, he helped write and edit, among other things: the North Dakota Rules of Professional Conduct (twice), the North Dakota Rules for Lawyer Discipline, the Admission to Practice Rules, the Rules for Limited Practice of Law by Law Students, and the Standards for Imposing Lawyer Sanctions. (This list does not even include the non-JCAS rules Randy worked on in his spare time—such as the Multi-Jurisdictional Practice Committee's groundbreaking package of rules.) Merely enumerating these many sets of rules Randy helped to author does not convey the time and effort that each individual rule required. Randy did the homework—it was he, more so than anyone else on the committee, who did most of the serious research. And it was he who drafted way more than his fair share of the words, both the black letter and the commentary, for all these sets of rules.

I doubt there exists a similar contribution by any other single person to the development of the body of rules governing lawyers in any state. As lawyers, we all stand in Randy Lee's debt. The other committee members (and I include myself here), over all those years, depended way more than we had a right to on Randy's input. We counted on him to be magnanimous, and he was. We relied on his big brain, his open mind, his fairness, his desire to get it right, and, obviously, on his good heart and generosity. Why, it is fair to ask, were so many fellow committee members over all those years content just to dip our paddles gingerly in the murky water of the rules while Randy remained forever chained to the laboring oar? Well, for starters, he was, most of us acknowledged, smarter than the rest of us. Like Ken Jennings on *Jeopardy*, he knew everything. And we all trusted him implicitly. We had complete confidence in the thoroughness of his research and in the accuracy of his draftsmanship. We respected his eye for detail. No one ever doubted either his judgment or his sense of justice. And, quite frankly, Randy was just willing to step up and do what needed to be done. It may have been a labor of love on his part, but it also took pure magnanimity of character for him to keep making those long trips to Bismarck when he could have stayed home and had a night off with Paula. I wonder now if he might have known then that the rules would be part of his legacy.

Randy brought so much to the meeting table! What a joy he was! Working on ethics rules sounds like drudgery, but it never was—not around Randy. To the committee, Randy was a rock star. The Mick Jagger of rulemaking. As an entertainer, he never missed a beat. His humor was quick and wicked but not at all nasty—just very sharp and very droll. He kept us chuckling most of the time, interrupted by giggles, guffaws, and great snorting chortles, and the occasional outburst of outright belly laughs. At the same time he was a straight arrow—he never had an agenda other than his compassion for the lawyers we served and his belief that our ultimate duty was to the public. Oh yes, he did regularly remind us for whom we were working.

Looking back on it now, it is hard to believe one person could have done all that Randy Lee did for us. Randy, I hope and pray you took some pleasure in all those meetings. It was so much fun to be around you! And now we understand as never before what a privilege it was. The committee will never be the same again. I'm sorry that we worked you so hard. We had no right to, but we thought you would always be there. And we didn't say thanks often enough. Please forgive us for that. I hope you take rightful pride in your handiwork. The rules and policies that will govern the legal profession in North Dakota for the next generation embody your

labor, your words, your wisdom and your love for lawyers and the legal profession. They have your fingerprints all over them. They are a wonderful legacy. Lawyers and law professors in other states and in the ABA look to our North Dakota rules for guidance because they respected you too. You earned a national reputation for excellence, erudition and the clarity of your thinking. Thank you, Randy. We certainly do owe you a lot.

Having so briefly (and inadequately) tried to touch on Randy's amazing professional career and his unmatched contribution to the betterment of the legal profession, I can finally turn to the qualities that meant the most to me. After all, it is not his work on rules that automatically springs to mind whenever I think of Randy. He was my friend and I loved him and I miss him. It turns out I'm not alone. And I'm probably not even in an exclusive club of Very Special Friends of Randy. Amongst Randy's wonderful family and his many friends at the wake and memorial service, I learned that Everybody Loved Randy. And everybody seemed to think he was their very own special friend, too.

Randy's friendship was the magnanimous kind—unconditional and boundless. He was a good and true friend—not the fair weather variety—a rare commodity these days. If you were his friend, you knew he was going to be there for you in times of trouble, through thick and thin. He liked to stay in touch with you, to get together for a meal when he was in town, to keep up on your kids, your spouse, your issues. He had time for you. He would take your calls. He liked to talk, and he was a good talker. He could talk about anything—from Big Bands to Sixties Girl Groups, from best Thai food to best Friday night fish fry. He had that gift of gab that flows from knowing everything and never forgetting anything—that big brain again. And he would write to you. In his hands the e-mail memo rose to an art form: intricate syntax coupled with apothegms. So famous was he for his letters and e-mails that his friends gave them a name: the “Randygram.” Randygrams could be political or personal (one time we corresponded back and forth for two days debating the relative merits of “White Shoulders” over “Wind Song” in the category of best teenage-girl cologne of 1962—he thought White Shoulders won, hands down; it was the note of gardenia he favored, if I remember rightly) or they could just be dumb jokes broadcast to a long list of friends, but they were always a treat—to be opened and savored slowly, like a buttery caramel roll. Randygrams made you feel special, kind of warm and fuzzy. Everything else now will always just be e-mail.

Randy, speaking for your many friends, we miss you. We can't accept that you are not here. We want to talk to you and ask you what you think about all the things that have happened in the world since you left. Boy,

would you have something to say! We still need your good advice and we still rely on you to be here for us.

Here's a good thought: If the physicists and their First Law of Thermodynamics are right, then energy is neither created nor destroyed. That means all the energy in the universe is still with us. Randy, you always were a force of nature—your goodness and positive energy are way too powerful just to disappear. You made a difference in this world. You really are still here, like a gentle touch on the shoulder or a refreshing mist in the air. It comforts us to remember that. Your generous spirit envelops us even now like the magnanimous friend you have always been. Now I realize your supporting presence will always remain at the law school like that solid pillar we could always lean upon.
