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WALKER J. BLAKEY: IN MEMORIAM*

KENNETH S. BROUN**

Walker Blakey was a talented, compassionate person whose contributions to the University of North Carolina and its School of Law, the greater legal community, and society will be sorely missed.

Despite an occasionally gruff exterior, Walker cared deeply about people and about justice. He was fiercely loyal to causes in which he believed and passionate about upholding them. His love for and care of his adopted son, Michael, was wonderful to observe. Few of us would or could have given so unsparingly of our time, resources, and love in similar circumstances.

I had the great pleasure of working with Walker on many projects. We wrote Evidence outlines together for more than 20 years. A long time ago, he and I both worked on the North Carolina Pattern Jury Instructions project and the adaptation of the Federal Rules of Evidence into the North Carolina Rules of Evidence. Walker's creative mind and insightful understanding of the law made enormous contributions to both projects. Both the jury instructions given by North Carolina judges and the rules of evidence that they enforce are better and, even more importantly, fairer as a result of Walker Blakey's efforts.

We both taught Evidence for many years. We disagreed on many things. Walker would constantly challenge my views of such esoteric, but vastly important, topics as the definition of hearsay and the admission of prior bad acts. I have been content to talk about and teach the law as expressed in the Federal and North Carolina rules. Walker was more concerned about making the law conform to his strongly held feelings of fairness and justice. He would say, in essence: the law may be what Ken Broun says it is, but that just isn't fair. Walker spent much of his academic career arguing that the rules of evidence, as applied, too often permitted unreliable, uncross-examined evidence to be introduced, especially against defendants in criminal cases.

But Walker's sense of justice did not apply only to his writings

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and teaching of his Evidence course. In recent years, the legal academic community has taken it as a given that training in trial advocacy at the law school level improves the cause of justice in our society. If lawyers are better trained as advocates, they will better represent their clients in the courts and the results of those court decisions will likely be fairer. But the recognition of the need for effective advocacy training was not always the case. Effective trial advocacy courses in the law schools were rare until the 1970s. Although he seldom got credit for it, Walker Blakey's work as a fellow at the Harvard Law School helped create and promote the movement toward trial advocacy teaching. While a fellow at Harvard Law School, he helped create a set of materials, *Assignments in Trial Practice*, which were the first real trial advocacy teaching materials. The problems he helped to create were complex, imaginative, and effective teaching materials. The format they established has set the standard for advocacy materials for the next 40 years.

But Walker Blakey's talent and creativity were not limited to promoting good advocacy at trial. He recognized long before the concept was fully engrained in law school curricula that mediation and alternative dispute resolution were going to be critical if this nation's court system was going to function effectively. With the help and encouragement of his good friend Elliot Silverstein, Walker helped organize courses in mediation. The two of them also developed the very effective UNC School of Law First Year Negotiation Skills program.

Walker Blakey's passion for justice was not limited to his work as a lawyer and law teacher. He felt deeply about the issues of the day and was devoted to liberal causes. For many years, my office was immediately next to Walker's. Every once in awhile, I would hear banging on the wall and what seemed to be a serious crisis in the next office. I would run next door. If Walker's door was closed, I would knock and he would come to the door somewhat sheepishly. The cause of the eruption was never anything personal and it was rarely about something that had happened at the law school. It was almost always something that was going on in society, something Walker deemed to be a monumental unfairness perpetrated by the federal or state government or by the courts. I usually agreed with him, but, although I loved his passion, my indignation seldom rose to his level.

Walker and I, despite our disagreements on some aspects of the law of Evidence, remained good friends. There were some at the law school in the mid-1970s who doubted our friendship for a time. Their doubts arose from an incident occurring outside our offices. We had

been walking down the hall and accidentally bumped into each other. Both of us laughingly pretended to be angered by the physical contact. I decided that, although Walker outweighed me by a considerable amount, I was in better shape and could easily take him. We began to wrestle. Within just a few seconds, he had me down on the ground, pinned in classic fashion. Several people came out of their offices to see what was happening. They were appalled to see these two professors engaged in what appeared to be mortal combat. Actually, we were both laughing too hard to explain ourselves. In my judgment of my ability to outwrestle Walker, I had neglected to remember that he had been a high school athlete—including time on the wrestling team.

I, like all of us in our community, will miss Walker terribly. He gave us all a model of academic integrity and passion for good causes. His devotion to Ann and to his adopted son, Michael, sets an example of goodness that is difficult to match. I am proud to have been his colleague and friend.

