

This document is a transcript from remarks made by David F. Levi at an event honoring Mary Kay Kane. Please excuse typos due to inaudible passages or transcription errors.

For the past 25 years, Mary Kay Kane has been for me one of those very special people to turn to, so admirable was she in character, judgment, and intellect. I first met her sometime in the 1990s when I was a judge in the Eastern District of California. But I knew her by reputation for a much longer time. My uncle, Julian Levi, was a proud member of the 65 club at Hastings, and he absolutely adored the School and its Dean. He was of a different generation of law professor, the kind that want you to read their exam questions while they watch you, smiling to themselves at the clever little jokes that have sickened generations of law students. So I knew Mary Kay was something very special when I heard Julian rhapsodize about her as his dean. After I came to know her I realized how completely accurate the advanced billing had been.

Mary Kay and I first served together on the Standing Committee on Rules of Practice and Procedure of the United States Judicial Conference, where her deep and matchless insight into civil procedure was invaluable. Her skill at navigating difficult technical issues, persuading and bringing along persnickety proceduralists, and coming up with pragmatic compromises was on full display, particularly during the rules committees' restyling project, in which the rules were rewritten to promote clarity without, we hoped, altering substance. As Chair of the Committee, I often turned to Mary Kay for the winning solution, the balanced and thoughtful comment that could move a discussion to resolution. In her, EQ and IQ were intertwined together with her modesty and graciousness.

Later I drew on Mary Kay's deep understanding of law school administration and leadership. She had recently stepped down after her distinguished and transformative 13 years as dean at

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Hastings, when I became the dean at Duke Law School. I found her advice on all matters decanal to be just so spot on and always delivered with just the right tone.

And she and I have been long serving members together on the Council of the American Law Institute. Mary Kay was such a dedicated member of the Council and the Institute more generally. She gave countless hours to all of ALI's projects, and served as an Adviser on the Uniform Commercial Code; Restatement Fourth, Conflict of Laws; Restatement Third, Torts: Apportionment of Liability; and Principles of Transnational Civil Procedure. She also was the Co-Reporter for the Complex Litigation Project. As a Council member, she served on various Council committees, including the 100th Anniversary, Development, Membership, and Executive Committees, among others.

A few years ago I emailed Mary Kay to ask if she would serve on the membership committee. I noted that I had sat on this very same committee and that "candor requires me to say that it is a fair amount of work." She replied: "Thanks for the candor, but I am willing to share the burdens, as well as the pleasures, of being on the Council. So, sign me up." That response was just so typical of Mary Kay and in a way it says it all. She was more than willing to share the burdens and do the work because she took such real pleasure and pride in the mission, the work and the fellowship.

The pleasure and happiness she experienced in doing this work was evident for all to see and was one of the many reasons that she was such a superb colleague. She and Ed Cooper "wheedled"—Ed's word—their way on as advisers to the Restatement of Torts Third, "on the pretext"—also

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Ed's word—"that it would be good to have a couple of proceduralists in the crowd. As Ed explains, "Our real motive was expecting it to be pure fun." Perhaps not everyone would experience the Torts Restatement as "pure fun," but there is no doubt that Mary Kay and Ed did. In fact, my predecessor as President, Roberta Ramo, recalls discussing the Torts Restatement with Mary Kay in a very fancy shoe store in San Francisco where they happened to meet. Mary Kay had a brilliant idea for moving the Restatement forward: As Roberta recalls, Mary Kay said "the way to move the project forward is to leave the shoe store and go have a real chocolate torte at the Campton Place next door." And that is just what they did. Needless to say both the torts project and the real torte were finished in short order.

In all of these different settings, whenever Mary Kay spoke, the rest of us listened with unusually close attention, so balanced and thoughtful were her comments, so total was our confidence in her abiding good judgment. Whether Mary Kay ever realized how much we relied on her is not clear to me. I hope she did, but as Judge Mary Schroeder observes, Mary Kay "was a person of genuine humility who was devoted to service. I doubt she ever comprehended how deeply she was admired by her students and colleagues."

My last conversation with Mary Kay was on Zoom. Ricky Revesz our wonderful ALI director and I were discussing with her how she might like to participate in the 100th Anniversary Campaign for the ALI. She had already created a Director's discretionary fund named for her close friend and colleague, and our former revered director, Geoff Hazard. Of course, she wanted to know what more she could do that would be most helpful to the Institute. And then with little fanfare, she let us know that she had already arranged for a bequest that would become

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a historic gift to the ALI. We were astonished and delighted and set our minds to thinking how best we could celebrate her and thank her for her generosity. Sadly, we had no idea, nor did Mary Kay, that she was already so gravely ill.

It seems fit and proper to end with a quotation from one of our great Justices. Officiating at a wedding in 1931, Justice Cardozo spoke of the “three great mysteries in the lives of mortal beings: the mystery of birth at the beginning; the mystery of death at the end; and, greater than either, the mystery of love. Everything that is most precious in life is a form of love. Art is a form of love, if it be noble; labor is a form of love, if it be worthy; thought is a form of love, if it be inspired.”

We will miss our wonderful friend and colleague. We will treasure the love, dedication and example of cheerful service she brought to us over so many years.