The Best Lesson:
A Tribute to Eleanor Swift

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Eleanor Swift was the best law professor I ever had—and there were many truly great ones in my time at Boalt. All of these great teachers taught me about law, theory, advocacy, and pragmatism, but no words have stuck more with me than a few simple ones that Professor Swift spoke halfway into our first-semester Civil Procedure class. We were digging deeply into a tough jurisdictional problem when a thoughtful student asked a hard and very specific question. Rather than fudge an answer—as I have now seen far too many lawyers and those in seats of power do—Professor Swift said, “I don’t know, that’s a great question, let me look it up.”

The next day Professor Swift presented us with a short memo on her findings. My jaw dropped as I marveled at her humility in not faking an answer, and at her work ethic, in taking the care and time to write us, her students, a detailed, nuanced analysis.

Professor Swift taught us a client- and practice-oriented view of the law. Yes, she wanted us to know the rules of Evidence and Civil Procedure and to explore the depths of theory and policy surrounding them. But more fundamentally, she wanted us to learn to serve clients. She spent countless hours creating real-world problems for us to solve, incorporating the rules and case law we were studying. And whether teaching a class, or in her role as a dean or an advisor, she treated us like her best clients, giving us candid, forthright, and helpful answers, rather than facile ones that would have made her look infallible or saved her hours of extra work. Professor Swift’s lesson has directly impacted my seventeen years of work as a lawyer—I cannot count the number of times I have told clients, colleagues, or even judges, “I don’t know the answer to that question, but will get back to you right away.” While it is always scary to admit ignorance, I have seen that nothing inspires confidence.

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like honest truth combined with a promise of diligence. For that lesson in the
law and in life, I will always be grateful to Eleanor Swift.

There are other fond remembrances to share as well. The most substantive
is the way in which Professor Swift had us frame every Evidence question,
starting by identifying all possible theories of relevance. This hard first step
helps frame and organize all of the objections that could be made to the
evidence being proffered, as well as all of the counterarguments to overcome
them. I have used this analytic approach thousands of times now in trials,
appeals, and other litigation work. I have also shared Professor Swift’s simple
lesson with many lawyers, often citing her well-worn Evidence textbook when
I do so.

But, as I sit to write this tribute, what I see first in my mind’s eye are two
competing images of Professor Swift. First, I think of her lecturing our small
section class and flashing a wide smile, with her smiling eyes sweeping across
the room to bring everyone in on a joke or an insight.

Second, I think of her very serious side. No one I knew in law school
shared a deeper conviction for social justice, and Professor Swift’s smile could
turn quickly to a concerned frown, with rapt attention on the problem at hand.
In this regard, my most powerful memories are of Professor Swift helping the
school and its students navigate through the passage of Proposition 209 and her
working to address a needless scandal that threatened to divide the school.

Professor Swift followed our careers closely. Indeed, she helped shape my
entire experience in law school and promote most of the successes that I
enjoyed there. In my first year, she spent countless—no doubt painful—hours
reading and helping me better organize my thinking in one draft practice exam
after another. As I approached my first summer and began looking for a job,
she connected me with Anthony Kline (no relation), a justice on the California
Court of Appeal, who served as a terrific mentor. In my second year—and as I
battled through family struggles and all but bombed a midterm in her large
section Evidence class—Professor Swift got me talking in class again,
refocused on school, and even excited about the year ahead. She did this by
taking the time to seek me out, knowing I could have done better and must have
been struggling. Around that same time, she helped me land a clerkship with
Judge Edward Becker of the Third Circuit, perhaps the one American judge
who cared most about the Federal Rules of Civil Procedure and Evidence. In
my third year, I took more Evidence classes with Professor Swift, and, more
importantly, she helped us on the California Law Review to update our working
agreement with the University of California. In these many months of
negotiations, she really let me spread my wings and grow—all the while giving
me constructive real-time feedback that stays with me today.

None of this is to say, though, that I was special in Professor Swift’s eyes.
She was deeply devoted to all of her students, especially those of us in her final
all-year, small-section Civil Procedure class. She mentored each of us in that
class, and did the same for students in her much revered large-section Evidence class and smaller seminars. We went to her home; we met her son; we spent time with her equally generous husband, Robert Cole. We marveled at (and sometimes worried about) the way she navigated the busy, slippery Berkeley streets on her motor scooter—and in an El Niño year no less. We cheered when she spoke truth to power and taught us to be effective advocates for social change. We were pained when we learned what a fight she had to wage (as did other women) to get tenure. But we drew inspiration and courage from her quiet competence, determination, and humility.

We loved her and still love her very much.