

What I Learned from Justice Cynthia D. Kinser About Being a Lawyer

by John P. O'Herron



For more than 50 years, the VBA has commissioned portraits of each new justice of the Supreme Court of Virginia and donated it to the commonwealth. When justices leave the bench, the portraits are hung in the courtroom. Left: Chief Justice Kinser, her husband, and grandchildren at the Supreme Court of Virginia. Photo by Marilyn Shaw/The Virginia Bar Association. Center: Portrait of Cynthia D. Kinser, retired chief justice of the Supreme Court of Virginia. Right: John O'Herron spoke at the ceremony that marked the hanging of her portrait in the court. Photo by Marilyn Shaw/The Virginia Bar Association.

It's not every day you are asked to give remarks at a ceremony honoring a former chief justice of the Supreme Court of Virginia. This past June, I was blessed with this incredible opportunity on the occasion of the portrait hanging ceremony for Justice Cynthia D. Kinser. After clerking for Justice Kinser for five years, four of which coincided with her tenure as chief justice, I was honored even to be invited to the ceremony. But the ability to share some of what I learned from Justice Kinser as her law clerk was a true once-in-a-lifetime honor.

Justice Kinser has influenced so many people throughout her career, and her list of admirers stretches from 9th and Franklin in Richmond, all the way to Lee County in the great Southwest of Virginia. Participating in the ceremony allowed me to both share a side of Justice Kinser that many were not familiar with, and to reflect on how working for her has shaped my legal career.

There are so many things I could say about Justice Kinser and my time clerking for her, but I want to highlight the three things I learned from working for her that have shaped my approach to the practice of law.

Be Humble

Anyone who has met Justice Kinser knows of her striking humility. Most people know, and I knew prior to working for her, that Justice Kinser is a cattle farmer. As someone

with farmers in my family, that fact alone was important: being rooted to a patch of earth, working with animals and the land, relying on the weather — these all have a way of eliminating even the semblance of arrogance. But as a law clerk, you never *really* know your boss until, for the first time, you have to drive her somewhere. . . . in your 1997, stick-shift Honda Civic, with several doors that do not work and the ceiling fabric drooping down. As I shamefully apologized for the state of my vehicle, she truly could not have cared less. This was a microcosm of who she was: Justice Kinser never put on airs, did not feel like she deserved royal treatment, and was as down to earth as you can be at the pinnacle of your profession.

In a profession not generally known for its humility, Justice Kinser's down-to-earth humanity was a constant example to her law clerks. Both personally and intellectually, she approached everything with humility and with that rare gift of listening. She always solicited and valued the ideas and input of her clerks, and not simply to confirm what she already believed about an issue. She never acted as if she had all the answers, and she approached every complex question with an earnest desire to get it right. This, I believe, is the distinct hallmark of a good judge. These simple lessons have served and will continue to serve me well in the practice of law. Whether it is working with a client, interacting with colleagues or opposing counsel, or trying to persuade a judge, approaching these responsibilities with humility is a must — by listening and learning from others, we can truly excel in the practice of law. Justice Kinser never told me to approach the practice of law with humility; she just lived it and taught all of us in the process.

Prepare

In case you were wondering: being a justice on the Supreme Court of Virginia is a *lot* of work. Preparing for merits cases and writing opinions would be plenty to keep a justice busy, but when you add the approximately 30 cases every seven weeks that appear on the writ panels, the “to-read-and-research pile” stacks up. Factoring in the enormous responsibilities of also being the chief justice, Justice Kinser's workload was intense to say the least. (And yes, at the risk of piling on, she also regularly commuted approximately six hours from her home in Pennington Gap to Richmond).

No matter how heavy the workload, though, Justice Kinser always put in the time to be prepared. From when those briefs arrived at the office, to the final edits of an opinion, no stone was left unturned. This took on many forms: making sure the research was thorough; ensuring the clearest analysis to decide a case and inform the bar; knowing what questions should be asked; poking possible holes in the arguments, and more. I learned immediately that whether it was the weightiest case drawing public scrutiny, or a petition for appeal seemingly destined for refusal, every case warranted the same quality of work.

This is something that my fellow clerks and I carried from our clerkships into our legal practices. From our most significant cases and clients to the least, every matter deserves our best preparation. Providing the best service to clients, and more importantly being the best attorneys that we can be, is the surest way to both success and fulfillment in our careers.

Prioritize Family and Community

Finally, and I believe most importantly, Justice Kinser showed me how prioritizing family and community make one a better attorney. As the eighth of nine children, family has always been of primary importance to me, and it was a true joy to clerk for someone who shared that belief. To Justice Kinser, time with family was not fleeting, or simply an add-on: it was part of her everyday life. Whether it was interrupting her day to care for her parents or play with her grandkids, playing the organ on her weekends, or speaking to a local organization, Justice Kinser always took the time to be with those she loves. And she expected me to do the same. Nearly every conversation began

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with “How is the family?” and she was always interested to hear what my wife and children were up to. Justice Kinser also made sure that I structured my work schedule around any family needs that arose, and she was always willing to make sacrifices herself to accommodate them.

Although Justice Kinser was devoted to her family and those of her clerks, to me there was also a larger lesson: Not only did success and excellence as an attorney not have to come at the price of family, but life outside the law enriched a legal career. By spending time with family, putting aside our interests to serve others, and being present to loved ones, we can live a life of purpose. In doing so, our work takes on added significance and we can bring additional focus and efficiency to our jobs. A refreshed spirit and healthy relationships make us better lawyers. I hope to continue following Justice Kinser's example throughout my career.

I could go on. In so many ways that I already see, and countless more I'm sure to realize down the road, clerking for Justice Kinser has shaped my career and approach to being a lawyer. I am immeasurably blessed for having had the opportunity to work at the Supreme Court of Virginia, and

to clerk for Justice Kinser. And it will be a continuing honor to practice in the courtroom that displays her portrait and reminds me of those lessons.



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traditional law office. Rotate shifts with other lawyers. Keep asking yourself what clients want.

Set aside quiet time to figure out how you can distinguish yourself from your colleagues and how to make your skills known. Speak, write, network with other lawyers, etc. And yes, networking is still key — so cultivate those personal relationships.

Make a plan for the future and follow up on the plan. If you practice law the way it was practiced 20 years ago, you are going to get run over by technology and alternative legal providers. Instead of being afraid that you will lose your job to artificial intelligence, figure out what new opportunities exist. As an example, we have certainly seen a marked increase in the number of lawyers handling data breaches and privacy law matters. “Sniffing the air” for emerging opportunities is a great way to make sure there is viable legal work for you to do.

Finally, remember that many current lawyer functions — drafting wills, contract review, e-discovery review, business formation, legal research, etc. — are automated already or will be shortly. Some of this work is automated through expert systems and some through artificial intelligence — it really doesn't matter which. Just as we were writing this article, a news story was published saying that the number of patents filed within the category “legal services and handling legal documents” has risen 484 percent in the last five years according to an analysis by Thomson Reuters of data from the World Intellectual Property Organization. There is little

point in bemoaning the work that will be lost to lawyers — but there is plenty of work out there for those who are energized enough to strategize for the future.



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