

THE RUBY KLESS SONDOCK JURIST-IN-RESIDENCE LECTURESHIP

INTRODUCTION

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On August 15, 2014, I was honored to assume the role of Dean and Professor of Law at the University of Houston Law Center. The Law Center is an excellent school¹ that has long had a commitment to the community. In 2013, the faculty adopted a Strategic Vision: “We recognize that scholars are effective in multiple arenas apart from scholarly publications. We will lend our support as a leader in the community to improve justice, to improve access to justice and to inform policymakers.” In 2017, the Law Center issued the Implementation of the Strategic Vision, which specifies the Law Center’s goals, one of which is to “increase Law Center community involvement and impact.”

The Judge Ruby Kless Sondock Jurist-in-Residence Program is the perfect vehicle to “increase Law Center community involvement and impact.” The Program is named after Justice Ruby Sondock, who was the first woman to serve on the Texas Supreme Court in a regular session. In 1962, although Justice Sondock was one of a handful of women in her graduating class, she was valedictorian. Her initial goals for a law school education were much humbler and modest: she aimed to be the “best legal secretary” possible. Despite

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1. The Law Center is a top law school with several programs that are ranked by U.S. News & World Report in the top ten: Health Law (#3), Part-Time (#6), Intellectual Property and Information Law (#8), and more recently the Environmental Law program has been ranked 28th in the nation. See *Best Law Schools*, U.S. NEWS & WORLD REP. (2017), <https://www.usnews.com/best-graduate-schools/top-law-schools/law-rankings>.

these modest ambitions, Justice Sondock distinguished herself in many ways. She passed the bar exam on the first try even though she did not take a commercial bar exam course and took the exam before actually graduating from the Law Center, which was permitted by the bar rules at that time. Taking and passing the bar exam before she graduated from law school gave her options in case something went awry in her family life that might have deterred her from graduating on time.

After only one year in practice, Justice Sondock argued a case before the Texas Supreme Court. After twelve years of practice, in 1973, she was appointed as a judge to the Harris County Domestic Relations Court, becoming the first woman to serve in that capacity. After four years, she was appointed to the 234th District Court, becoming the first woman on that court too.

After the death of Associate Justice James G. Denton, Governor William P. Clements appointed Justice Sondock to the Texas Supreme Court in 1982. This appointment made her the first woman to serve on the Texas Supreme Court in a regular session of the Court. Justice Sondock did not seek election for a full term, and she also did not accept a later nomination to serve the unexpired term of then-retiring Texas Supreme Court Chief Justice Joe Greenhill. Instead, she returned to the District Court, and ran unopposed. Given her prominence, legal skill and dearth of women in the legal profession at that time, Justice Sondock was also considered for a number of other high profile positions such as a seat on the U.S. Fifth Circuit Court of Appeals and as a faculty member at her alma mater provided she obtained an LL.M. degree. Given her family commitments, Justice Sondock declined all of these opportunities and instead continued to serve on the District Court. After stepping down as a district court judge, Justice Sondock worked as a successful private mediator in Houston.

On November 11, 2015, the Litigation Section of the Texas State Bar recognized Justice Sondock as a Texas Legal Legend.² Like so many trailblazers, legal education changed the trajectory of Justice Sondock's life. "As a woman in a male-dominated profession, Justice Sondock did not let societal convention and backward thinking stop her. Like so many other women trailblazers, Justice Sondock succeeded with grace, dignity, self-assurance and courage, not letting any obstacles or barriers stand in her way"³

2. *Texas Legal Legends*, LITIG. SEC. ST. B. TEX., <http://www.litigationsection.com/DrawLegalLegendVideos.aspx?PageID=170#.WOz5NX9Kbpv> [https://perma.cc/Q27S-G6SZ].

3. *The Year of Justice Ruby Kless Sondock '62*, U. HOUS. L. CTR. (2015), <http://www.law.uh.edu/Sondock/>.

The Justice Ruby Kless Sondock Jurist-in-Residence Program honors Justice Sondock's legacy and her contributions to the community. It also increases the Law Center's involvement and impact in the community by hosting judges of national prominence at the Law Center.

Some judges have raised concerns that there is a gap between Law Schools and the judiciary. These concerns were best advanced by U.S. Supreme Court Chief Justice John Roberts in a response to a question at the Fourth Circuit Conference in 2011. Chief Justice Roberts remarked that law faculty scholarship may not always provide the judiciary with the resources on complex legal issues, but instead focuses on philosophy.⁴ Chief Justice Roberts agreed with the views of D.C. Circuit Court of Appeals Judge Harry Edwards, who argued that modern legal scholarship is irrelevant to judges.⁵ In response to a question, Roberts joked that law review articles often focus on "the effect of Kant on the evidentiary rules of Bulgaria."⁶

Given that some judges believe there is a gulf between what law professors do and what judges do, the Sondock Jurist-in-Residence Program bridges this divide by bringing to the Law Center a diverse selection of judges from whom the Law Center community can learn. In addition, Judge Gray Miller noted that the Sondock Jurist-in-Residence Program ensures law students know that a good lawyer is one who "breaches" the wall between academia and the profession, and "show[s] law students how the best lawyers make it a priority to give back to others."⁷

In the two years since the Program began, jurists have included: Chief Judge Robert A. Katzmann of the U.S. Second Circuit Court of Appeals, Chief Judge Lee H. Rosenthal, Judge

4. *A Conversation with Chief Justice Roberts*, C-SPAN (June 25, 2011), <https://www.c-span.org/video/?300203-1/conversation-chief-justice-roberts> [<https://perma.cc/MUG5-85HY>] ("If the academy wants to deal with the legal issues at a particularly abstract, philosophical level, that's great and that's their business, but they shouldn't expect that it would be of any particular help or even interest to the members of the practice of the bar or judges"); *see also* Hon. Jon O. Newman, Reflections on the Conference: A Judge's Perspective, 54 Hous. L. Rev. 249, 249 ("As a Judge listening to five thoughtful presentations . . . I was once again reminded of the differing perspectives of the academy and the judiciary. Professors live in the realm of doctrines; for judges, it's mostly about results."). *But see* Jonathan H. Adler, *Chief Justice Roberts Reads Law Reviews, After All*, WASH. POST: VOLOKH CONSPIRACY (Mar. 21, 2015), https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/03/21/chief-justice-roberts-reads-law-reviews-after-all/?utm_term=.51366b917d9f.

5. *See generally* Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34 (1992) (questioning "impractical," "Critical Legal Studies," and "Law and Economics" scholarship).

6. *See A Conversation with Chief Justice Roberts*, *supra* note 4.

7. Hon. Gray H. Miller, *A Profile in Professionalism: The Life of Gibson Gayle, Jr.*, 54 Hous. L. Rev. 1299, 1300 (2017).

George C. Hanks, Jr., and Judge Gray Miller of the U.S. District Court for the Southern District of Texas, and Justice Jeffrey Brown of the Texas Supreme Court.⁸ Judge Hanks, Judge Miller, and Justice Brown have memorialized their Lectures for the *Houston Law Review*. I will provide brief summaries of the presentations of Chief Judge Katzmman and Chief Judge Rosenthal.

During the inaugural Jurist-in-Residence Lecture in January of 2016, Judge Katzmman engaged in a colloquy with his former law clerk, Professor D. Theodore Rave. They discussed Judge Katzmman's book, *Judging Statutes*.⁹ Judge Katzmman argued that "the fundamental task for the judge is to determine what Congress was trying to do in passing the law."¹⁰ Judge Katzmman advised judges to focus on how legislative process works and to consult legislative history.¹¹

In Chief Judge Rosenthal's lecture on February 15, 2016 entitled, *Speeding Towards This Century: Can the Federal Trial Courts Keep Up?*,¹² she shared that there were "396,000 filings in federal courts in 2010 compared to 374,600 filings in 2015,"¹³ jury trials declined from 162 in 2010 compared to 134 in 2015.¹⁴ She observed that "the greatest decline is in criminal felony filings."¹⁵ Drawing from these sobering statistics, Judge Rosenthal warned that "trials matter" and "without full trials and the results that they produce, we don't get the cases that shape our law. We don't get the important, well-thought out precedents that shape our common law, our statutory law, and our constitutional law."¹⁶

Judge George C. Hanks, Jr. visited the Law Center from the Galveston Courthouse on March 21, 2016 to deliver a lecture entitled, *Professionalism and the Law*.¹⁷ In his speech, Judge

8. *Past Jurists-in-Residence*, U. HOUS. L. CTR., <http://www.law.uh.edu/jurist/past.asp> (last visited Apr. 11, 2017).

9. ROBERT A. KATZMANN, *JUDGING STATUTES* (2014).

10. *Appeals Court Judge Calls for Broader Statutory Interpretation at Sondock Jurist-in-Residence Program*, U. HOUS. L. CTR. (Feb. 1, 2016), <http://www.law.uh.edu/news/spring2016/0201Katzmann.asp> [<https://perma.cc/37GZ-WZBG>].

11. *Id.*

12. *Federal Judge Rosenthal Sees Decline in Jury Trials as Harmful to the Law and Citizens*, U. HOUS. L. CTR. (Feb. 25, 2017), <http://www.law.uh.edu/news/spring2016/0225Rosenthal.asp> [<https://perma.cc/2WS4-CM3N>].

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Federal Judge Hanks Sees Trend of Unprofessionalism as Threat to Legal Profession*, U. HOUS. L. CTR. (Mar. 24, 2016), <http://www.law.uh.edu/news/spring2016/0324Hanks.asp> [<https://perma.cc/Z39Z-2RRW>].

Hanks noted that there are many anecdotes of lawyers and judges “behaving badly.”¹⁸ He cited examples such as the use of “threatening remarks,” “inappropriate language,” and “outward displays of anger.”¹⁹ He reminded his audience, “When you take the oath as a member of the bar . . . you make the decision to become part of something larger than yourself.”²⁰ Lawyers protect the “integrity of our legal justice system.”²¹ Judge Hanks remarked that the “morals and values we display in our practice as leaders and guardians of our justice system will be reflected in the morals and values of society around us.”²² He observed that professionalism is “not all about me. . . . [It is] about doing what is right for others”²³ and advocated for more traditional, values-based lawyering.

Texas Supreme Court Justice Jeffrey Brown came to the Law Center on October 24, 2016 to deliver his lecture, *Living Greatly in the Law: Traditional Ideals for the Electronic Age*.²⁴ Justice Brown discussed how technological change affects the working man or woman and observed that this has been a concern from the time of Aristotle.²⁵ He observed that “with the dawn of artificial intelligence, the Industrial Revolution has finally reached [the legal profession].”²⁶ He noted that innovation will have the most profound impact on discovery as predictive coding has been shown to recover relevant documents at a higher success rate than humans.²⁷ Software also has a strong rate of determining the outcome of Supreme Court cases,²⁸ and can provide an efficient means of legal contract drafting.²⁹ Justice Brown expressed concern that the increase in the use of legal technology will contribute to the decrease in the number of jury trials.³⁰ By providing better estimates of a case’s value, Justice Brown was of the opinion that legal analytics

18. Hon. George C. Hanks, Jr., *Professionalism and the Law*, 54 HOUS. L. REV. 1271, 1271 (2017).

19. *Id.*

20. *Id.* at 1272.

21. *Id.*

22. *Id.*

23. *Id.* at 1275.

24. *UHLC Jurist in Residence Texas Supreme Court Justice Brown Evaluates Pros/Cons of Technological Advancements in Law*, U. HOUS. L. CTR. (Oct. 27, 2016), <http://www.law.uh.edu/news/fall2016/1027JIR.asp> [https://perma.cc/D4P7-CPGE].

25. Hon. Jeff Brown, *Living Greatly in the Law: Traditional Ideals for the Electronic Age*, 54 HOUS. L. REV. 1283, 1285 (2017).

26. *Id.* at 1287.

27. *Id.* at 1288–89.

28. *Id.* at 1290.

29. *Id.* at 1290–91.

30. *Id.* at 1291; see also *supra* note 16 and accompanying text.

will increase cases settling earlier, further curtailing the lawyer's role and responsibility.³¹

Justice Brown advised, “[I]f the legal profession is going to survive these changes, we need to not just learn what we don’t yet know, but we must remember and put back into practice what we’ve neglected and forgotten.”³² Justice Brown shared that the most influential book he read was Anthony Kronman’s *the Lost Lawyer*, where the author recognizes there is a spiritual crisis in the legal profession from the decline of the “lawyer-statesman.”³³ A lawyer-statesman cares about the public good and is prepared to sacrifice [her or his own] well-being for it.³⁴ The lawyer-statesman has to have the temperament of “prudence or practical wisdom.”³⁵ Justice Brown suggested that law schools play a role in teaching law students “the value of deliberation and practical wisdom.”³⁶

On January 30, 2017, Judge Gray H. Miller delivered the Sondock Jurist-in-Residence Lecture entitled, *A Profile in Professionalism: The Life of Gibson Gayle, Jr.*³⁷ In his Lecture, Judge Miller discusses one of his legal role models, Gibson Gayle Jr., the former managing partner of Fulbright & Jaworski.³⁸ After graduating from the Law Center, Judge Miller was hired by this firm and ultimately became a partner, working under Mr. Gayle’s leadership. Judge Miller provides a rich legal history chronicling the civic engagement of Gibson Gayle in his Lecture. Mr. Gayle served in leadership roles in the American Bar Association and the Texas Bar Association. He taught law at night at the University of Houston Law Center and the University of Texas Law School. He also served as a member and President of the M.D. Anderson Board and on the Board of Directors of the Texas Medical Center. Judge Miller also notes that he learned from Mr. Gayle that you can be a “good person” and a “good lawyer” if you “put the proper administration of justice and the well-being of the public and your clients ahead of your own self-interest.”³⁹

31. Brown, *supra* note 25, at 1291.

32. *Id.*

33. *Id.* at 1292 (citing ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* (1993)).

34. *Id.* at 1293.

35. *Id.* at 1294.

36. *Id.* at 1296.

37. *Federal Judge Miller '78 Cites Mentor as Model of Professionalism in Sondock Ethics Lecture at UHLC*, U. HOUS. L. CTR. (Feb. 7, 2017), <http://www.law.uh.edu/news/spring2017/0207Miller.asp> [<https://perma.cc/6Y3B-92KU>].

38. *See generally* Miller, *supra* note 7.

39. *Id.* at 1306 (citing Blake Tartt, *Gibson Gayle, Jr. Receives the 2006 Outstanding Service Award from the Fellows of the American Bar Foundation* (Dec. 31, 2005) (on file with author)).

The speeches and the written works of the Sondock Jurists-in-Residents share some common themes. Each jurist was honored to be asked to give the presentation and was delighted that the Law Center was forging a closer relationship with the bench and bar. Each jurist examined where the legal profession is, expressed concern about where it is headed, and offered advice for the future. Chief Judge Katzmann provided instruction on how the law should be used to interpret statutes. One recurrent concern revolved around the decline in jury trials as noted by Chief Judge Rosenthal and Justice Jeff Brown.

Judge Miller and Judge Hanks pointed to important mentors who provide them with the moral underpinnings to be ethical lawyers and caring and empathetic judges. For Judge Hanks, the lessons were learned from close family members (who were not lawyers) while growing up. Judge Hanks salutes his grandmother Fabiola Reese who had profound faith that the U.S. legal system would protect her.⁴⁰ Judge Hanks also recognizes his father George Hanks, Sr., a “source of inspiration” who taught him, “Whenever in doubt about what the right thing to do, always treat people the way you would want to be treated, with dignity and respect and you will always make the right decision.”⁴¹ In contrast, Judge Miller recollects how he benefitted from the training and mentoring that he received in his professional environment, from the Fulbright & Jaworski lawyers as well as private talks from Mr. Gayle and Mr. Leon Jaworski.⁴² Judge Miller also discusses how he gives back by mentoring the interns that serve in his Chambers.⁴³

Lastly, Judge Hanks and Judge Miller discuss how legal training changed their lives and the trajectory of their careers. Judge Hanks relayed how his grandmother could not read and lacked formal education, and she was incredibly proud that her grandson had had the opportunity to become a lawyer.⁴⁴ Judge Miller notes his nontraditional background as a night student who worked during the day as a Houston Police Officer.⁴⁵ It was difficult for him to get experience with legal internships and he was not certain what lawyers actually did in practice.⁴⁶ The nontraditional backgrounds of Judges Hanks and Miller fit in very well with the background of Justice Sondock, who serves as a

40. Hanks, *supra* note 18, at 1274–75.

41. *Id.* at 1279.

42. Miller, *supra* note 7, at 1308.

43. *Id.* at 1311–12.

44. Hanks, *supra* note 18, at 1274–75.

45. Miller, *supra* note 7, at 1301.

46. *Id.* at 1306–07.

trailblazer for women and others who followed her and for whom the Jurist-in-Residence Program is named.

The Law Center is delighted to host the Sondock Jurist-in-Residence Program. It brings faculty, staff, students, and alumni together to learn from the visiting jurists. It helps our students understand what judges do and what a law clerks do for their judges. It brings the Law Center closer with the bench and bar and is a big step toward bringing down some of the barriers within our profession.