

RBG's Gentle Touch

By Justice Michael B. Hyman

Rare is a justice of the United States Supreme Court who becomes a full-fledged superstar. But then, Justice Ruth Bader Ginsburg's career has been a prolonged rebellion against the status quo, a hallmark of today's superstars.

In the documentary *RBG*, we get a glimpse into the life, adventures, and spirit of the 85-year old jurist, Jewish grandmother, feminist icon, two-time cancer survivor, opera buff, and exercise fanatic (she regularly does 20 push-ups!).

Before I saw the movie, I admit that I had only a general knowledge of Justice Ginsburg's life until she joined the Supreme Court and adorned her black robe with a decorative collar.

Ginsburg was born Joan Ruth Bader in the Flatbush neighborhood of Brooklyn, to Russian Jewish immigrants. Ginsburg's older sister died of meningitis when she was two, and her mother died of cancer the day before Ginsburg's high school graduation. Ginsburg attended Cornell University, where, on a blind date, she met her husband, Martin. She graduated first in her class. They both decided to enroll at Harvard Law School, Ginsburg a year after Martin. She was one of nine female 1 Ls among about 500 students. Ginsburg went on to be the first woman on the Harvard Law Review, but left Harvard after Martin got a job in New York City. She transferred to Columbia Law School for her senior year, and, again, graduated first.

Despite her stellar law school career, finding an associate position or clerkship proved next to impossible. Ginsburg says that she joined the Bar when "women were not wanted by the legal profession." Even the renowned Judge Learned Hand refused to hire her, allegedly because he refused to edit his swearing. Justice Felix Frankfurter also turned her down. Ultimately, after much travail, U .S. District Court Judge Edmund Palmieri hired her as his law clerk.

Ironically, Ginsburg often shared a ride to the courthouse with Judges Hand and Palmieri. According to author Linda Hirshman, Judge Hand continued to "talk in [his] usual expressive style." Once Ginsburg asked Hand how he could go on swearing with her in the car, but yet refuse to curb his swearing to hire her. "Young lady, I'm not looking at you," he replied, staring at the windshield.

Ginsburg went on to be a law professor, co-founder of the ACLU's Women's Rights Project, one of the major architects of legal equality for women, and, as of August 2018, an associate justice of the U.S. Supreme Court for 25 years.

One of the many things that impressed me watching RBG was the Justice's soft-spoken manner and seemingly reserved personality. Whatever the circumstances, Ginsburg rarely shows any hint of anger, indignation, or frustration. Rather, she exudes a self-assured presence, authenticity, and confidence.

Justice Ginsburg, also known as "Notorious RBG," avoids harsh or hurtful words. As she has said, "Reacting in anger or annoyance will not advance one's ability to persuade." She also believes that to move others to your position, don't say, "how could you make that argument?" It will be welcomed much more if you have a gentle touch than if you are aggressive."

As a lawyer, Ginsburg's "gentle touch" brought her gratifying successes against considerable odds. She used a combination of well-conceived arguments and scrutiny of the evidence to win her cases. At no time would she descend into vitriol and bombast. She knew better.

That she could connect even with someone whose ideology differed so deeply from hers, indeed was substantially the opposite—Justice Antonin Scalia—attests to her gentle touch. Too often, lawyers display antagonism toward opponents when mutual respect and dialogue would be far more helpful.

We all can learn from RBG's "notorious" example.

Rehearing

"Fight for the things that you care about but do it in a way that will lead others to join you." – Justice Ruth Bader Ginsburg

The Honorable Michael B. Hyman is a past president of Decalogue Society and is currently an appellate court justice in the First District, 2nd Division of Illinois. This article ran previously in the September, 2018 issue of the CBA Record.