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# ALL IN THE COLLEGE FAMILY

a series

THE AMERICAN COLLEGE OF TRIAL LAWYERS IS A RELATIVELY SMALL GROUP, AND IT IS ALWAYS ENTERTAINING TO MEET FELLOWS WHO ARE RELATED BY BLOOD OR MARRIAGE TO OTHER FELLOWS. THE JOURNAL STARTED TO TALK TO THOSE FELLOWS AND FOUND SOME WHO ARE PARENT/CHILD, AND OTHERS WHO ARE MARRIED TO EACH OTHER. PERHAPS THERE ARE OTHERS OUT THERE? IF SO, THE JOURNAL WOULD LIKE TO KNOW OF ANY SPECIAL RELATIONSHIPS WITH OTHER FELLOWS, AS THIS IS A CONTINUING SERIES.

# KATHLEEN AND BUZZ TRAFFORD



Robert W. (Buzz) Trafford ('95) was born in Florida, but fate (and his family) took him to Columbus, Ohio before he started school. Kathleen M. Trafford ('04) was born in upstate New York, but fate (and graduate school) took her to Ohio in 1970. Their fates converged when they met in Columbus, married on February 25, 1989, and practiced together from 1988 until Kathleen's formal retirement at the end of 2022. Buzz continues an active practice.

Kathleen started her college career at a small college in Rochester, New York, studying math because she wanted to be a civil engineer. When the "good nuns" told her that civil engineering was not a good profession for a lady, she switched to sociology for her B.A. degree, then headed to Kent State for her master's degree in urban planning. She stayed in the Akron/Canton area working for a regional planning commission for seven years. Part of her job involved interactions with townships and village officials on the virtues of regional planning and fair housing, but she was often stymied by their lawyers' arguments that regional collaboration was a threat to local home rule. Not being able to convince these suburban communities otherwise in the face of what she believed was misinformed legal advice, she decided she would go to law school, so that local officials would find her more credible.

Kathleen enrolled in law school as a part-time night student, "almost as a hobby." She told herself that if she didn't want to be a lawyer, she could stop at any time in the process. After all, she loved her job with the planning commission. She ended up moving to Columbus, Ohio, but continued night law school at Capital University Law School, from which she graduated *cum laude* in 1979. While she was still in law school, she worked as a law clerk with the Ohio Attorney General's office, and soon discovered law was her true calling.

Buzz' legal journey started much earlier. He knew he wanted to be a lawyer from the time he was a fourth-grade elementary student, recalling that he and his fellow students were learning to write full paragraphs. Each was asked to write, and then read aloud, a paragraph about what he or she wanted to be when grown up. Buzz wrote (and read) "I want to be a lawyer." A fellow student raised his hand and asked: "Why do you want to be a liar?"

Buzz completed both undergraduate and law school at Ohio State, and started work upon his 1977 graduation at the firm where he has remained his entire career and where he served from 1997 to 2015 as managing partner. The firm had been formed in 1850, and the founding partners had wisely enacted a nepotism rule at that time. But it only prohibited the hiring of sons – no one worried about whether they should ban the hiring of wives or daughters as that was then beyond contemplation. This turned out to be a providential oversight for Buzz and Kathleen.



Kathleen had a varied practice at the Attorney General's office from 1979 to 1988, ending up as a deputy chief counsel, or "office floater," where she handled all sorts of cases, mostly those with a significant constitutional component. One of the more interesting cases involved a married, pregnant teacher at a Christian school, who was denied contract renewal and told she should stay home and raise her child as a mother's place is in the home. When she had the audacity to consult a lawyer as to whether the school could do that, she was terminated for ignoring the "biblical chain of command," which required her to resolve the dispute through private channels and avoid going to the law.

Enter Kathleen. She took on the jurisdictional issue of whether the federal courts had the authority to enjoin the State's on-going investigation of the teacher's termination under its civil rights law prohibiting sex discrimination and retaliation. The State prevailed at the district court level, but lost at the 6th Circuit, which declared the Ohio Civil Rights Law unconstitutional as applied to a religiously affiliated school. Just six years after finishing law school, Kathleen headed straight to the U.S. Supreme Court.

Kathleen was terrified up until the minute she got to the podium. And then there was just something about the setting – “it's such an intimate conversation, maybe history overtakes you.” Buzz said Kathleen was scared to death, nearly petrified, because the issues were so important and here she was carrying the load on behalf of the State of Ohio. But an *American Lawyer* *Courtly Manners* article about the argument a month later described her as “poised and confident as she strode to the podium.” That apparent poise and confidence and her legal arguments carried the day, and she won the case, 9 to 0. See *Ohio Civil Rights Comm'n v. Dayton Christian Schools, Inc.*, 477 U.S. 619 (1986). She remembers the Ohio Attorney General sending her a bouquet of flowers after the argument, a “really nice” thing to do.

It was also during her stint at the Attorney General's office that Kathleen fortuitously was asked to represent the State of Ohio in a case involving the collapse of seventy savings and loan institutions in Ohio, which resulted from one of the institutions having been the victim of a huge government securities fraud. Destiny again came calling. Ohio's Superintendent of Savings and Loans was separately represented by Robert W. Trafford. It was Buzz and Kathleen's shared responsibility to sue those responsible and



get the institutions re-opened (Buzz) and to defend the State itself from numerous counterclaims (Kathleen), a process that took three to four years. The State eventually recovered hundreds of millions of dollars, and Kathleen and Buzz “got to know one another” in the course of the prolonged litigation.

After the litigation ended, Buzz finally asked Kathleen on a formal date, planning dinner and a movie one Friday night. She agreed and walked from her office at the Attorney General's to Buzz' office about six that evening. “Typical of our marriage,” he says, something happened in one of his cases that day, and he continued to work until 11 p.m. Kathleen waited for him in the library while he drafted emergency documents, and instead of a real dinner, they ended up at a White Castle, the only place downtown that was still open.

Why then was there a second date? Kathleen said she was “pretty smitten.” “He's quite a fellow. I grew to respect and admire him so much when we were working together on the savings and loan litigation.” Neither remembers what or when the second date happened, but they were engaged in October 1988, about the time Kathleen decided it was time to leave the Attorney General's office for private practice. She interviewed at three firms, but Buzz and Kathleen ultimately decided it would be easier to be at the same firm so they wouldn't have to worry about competition or the attorney client privilege.

Buzz says he was attracted to Kathleen because he had watched the way she worked and interacted with others. She was obviously very capable and they shared a lot of common interests, values and politics. Both loved what they were doing. They agree it has been remarkable to be able to work together. Kathleen adds it is “nice to work with your best friend, your spouse, and your partner, as you can bounce ideas off each other and also fully understand what the other is doing.” And at the end of the day, they could walk down the hall and ask: what are we doing for dinner, and who's going to cook? She says he is the better cook, but she is faster. It has always been an equal partnership, in every way.

As for Buzz' intense work habits, Kathleen says it continues today. She already knew his habits from having observed his work ethic in the savings and loan cases, and she knew that as long as there was something in his brain he was worried about, that was all he would think about. The two recently planned a month-long vacation in Florida, although Buzz warned Kathleen he might have to spend “some time” working while there. She was fine with that in principle, but nevertheless was disappointed when the first thing Buzz did upon arrival in Florida was to head to Walmart to buy a table so that he could rearrange one of the spare bedrooms into an office. He spent the month, from 8 to 5 daily, working in his Florida office, while Kathleen enjoyed the beach.

Buzz says his sweet spot is complex commercial litigation, but he has had all sorts of different cases, including one seeking the recovery of about \$100 million in gold from the shipwreck of the S.S. Central America. The wooden-hulled, side-wheel luxury steamship was sailing from Panama to New York, filled with passengers carrying gold that had been mined in California following the 1849 gold rush, when it encountered a hurricane and sank on September 12, 1857. The ship descended into water about a mile and a half deep, due East of Charleston, South Carolina, where the Gulf Stream meets the Sargasso Sea. But no one knew the exact location of the ship, and it took about 100 years to find it. Buzz' clients found it using sophisticated search theories to sort through data and currents, then focusing on a search area about the size of the State of Rhode Island, and finally utilizing side-scan sonar for two summers.

When a ship sinks to that depth, it doesn't deteriorate because there is little oxygen and very little sediment in the water. But once found, admiralty law dictates that the finder of the ocean treasure must notify any and all claim holders of the discovery, in order to "quiet title" to the discovery. In this case, about thirty insurance companies from Britain and the United States claimed that they had insured – and paid – for the lost cargo of gold. After two three-week trials, and concomitant appeals, the trial court finally awarded Buzz' client, Columbus America Discovery Group, 92% of the gold it had found as its salvage award. Nice work for a Fellow from Ohio where the lawyers have no cause to be steeped in maritime law. For more of the story, see *Columbus-America Discovery Group, Inc. v. Unidentified, Wrecked & Abandoned Sailing Vessel*, 742 Supp. 1327 (E.D. VA 1990).

Both Traffords have been involved in presidential political litigation. When John Anderson lost the Republican primary in Ohio in 1980, he tried to run as an Independent on the Ohio ballot. Ohio required that a candidate file 270 days (about nine months) before an election if the candidate wanted to run as an Independent. Anderson was of course well outside of that timeline,

and wanted to challenge the restriction on constitutional grounds, as an unnecessary infringement of his First Amendment rights. Enter Buzz Trafford to handle the trial portion of the argument. The case was ultimately decided by the U.S. Supreme Court, which ruled in favor of the Anderson campaign, but Kathleen points out that Buzz "only" won 5-4, whereas her Supreme Court victory was 9-0.

Kathleen was retained in 2004 to represent the John Kerry Campaign as its "boots-on-the-ground" counsel if election day issues arose. Around mid-day on Election Day, she got a call that there were extraordinarily long lines at certain precincts due to a shortage in electronic polling booths. She quickly drafted paperwork for injunctive relief and notified the national campaign office she was headed to federal court. A panicked call from national counsel stopped her progress, telling her she should go to state court because he believed Ohio law was stronger than federal law. She responded that the case had a shelf life of maybe 12 hours, that the odds were 16 out of 17 that she would draw a Republican judge in state court, and that federal court provided better odds. After an hour debating about the right forum, a senior campaign representative broke the stalemate and told her to proceed as she saw fit.

She knocked on the federal courthouse door at 5 p.m. in the pouring rain and smiled when the duty judge immediately convened an evidentiary hearing. By 7 p.m., before the polls closed, the judge ruled that "voting in America should not be so hard," and that the polls should remain open until all in line could cast their ballots. The State quickly appealed to the Sixth Circuit, but before she could file a response, the appeal was denied and the case was closed. It did not last even 12 hours.

Both Traffords have given generous amounts of time to the College since their respective inductions. Buzz has served multiple terms on the Ohio State Committee as well as serving as Chair of the Attorney-Client Relations Committee, and is now Vice Chair of the Legal Ethics and Professionalism Committee.

Kathleen also served on the Ohio State Committee, including a stint as Chair, then as Regent for Region IX from 2013 to 2017. She chaired the 2018 Task Force on Judicial Independence and continues to serve on the Judicial Independence Committee, after co-chairing its 2020-2021 public education pilot project with Ginny Nelson. She is a Trustee of the ACTL Foundation.

Both consider the College a wonderful organization, with the best part being the dear friends they met through the College. Buzz points out that at the end of the day, the College really is what its Fellows make it. "You can have all the mission statements and lofty ideals in the world, but it's really what people actually do." It is the professionalism that the College so values that has caused both to so highly regard the College. And it is Fellows like Buzz and Kathleen that make the rest of us similarly value the fellowship and the friendships we share.

*Carey E. Matovich*  
*Billings, MT*