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## In Memoriam: Honorable Ruth Thelma Cooper Breslauer Burg (1926-2023)

Judge Reba Page

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IN MEMORIAM: HONORABLE RUTH THELMA  
COOPER BRESLAUER BURG (1926–2023)

IN HONOR OF JUDGE RUTH C. BURG

*Judge Reba Page*

This tribute honors the late Honorable Ruth Thelma Cooper Breslauer Burg, a most remarkable woman. Those of us privileged to know her held Judge Burg in awe, and she remains a personal and professional inspiration. Judge Burg is celebrated for many reasons: her exceptional intellect; her professional accomplishments as a judge, lawyer, and mediator; her dedication to her Jewish faith; and her deep allegiance to her family and friends.

Judge Burg overcame significant personal loss, as well as repeated religious and gender bias. She was among the most esteemed judges, whose admirers extend beyond the field of government contracts to the entire legal profession. While at times Judge Burg was made to suffer in silence (which was particularly difficult for her), she turned those experiences into a passion for advancing the cause of women in the law. She served as confidante and inspiration to countless lawyers and judges. Among her many honors is George Washington University's "Honorable Ruth C. Burg Scholarship for Government Procurement Law," which marks her "extraordinary career, exemplary leadership, extensive efforts to mentor female attorneys and encourage her male counterparts to expand opportunities for women, and generosity to the law school." The prejudice she endured as a woman who entered the legal field at a time when it was almost fully dominated by men, and as a Jew of European descent whose family was adversely affected by political persecution, spurred her efforts as a champion of diversity and inclusion in the legal profession.

This incredible woman had an exceptional background and celebrated many "firsts" among her successes. Ruth Thelma Cooper was born on March 29, 1926, in Philadelphia, Pennsylvania to Jewish immigrants from Eastern Europe. Her father, Pesach Kobchefski, was born in Vilnius, Lithuania, which was then part of Poland. He anglicized his name to Philip Cooper upon coming to the United States. Mr. Cooper became an electrical engineer for Bell Laboratories and later for the federal government. Her mother, Rose Applebaum Cooper, was from Bessarabia, which is in present-day Moldova. She also worked at Bell, where she met her husband. The family moved to Washington in 1938, when Judge Burg's father accepted a job with the United States Navy.

Judge Burg came from quite an accomplished family. She spoke with pride about her younger sister, Dr. Vera Cooper Rubin, an eminent American astronomer who pioneered work on galaxy rotation rates and dark matter. Dr. Rubin spent her life advocating for women in science and—similar to her

sister Ruth—was known for her mentorship of aspiring women astronomers. Dr. Rubin was awarded many high honors and was often—again like her sister—the first woman to receive such distinctions. It has been said by her peers that the academy’s failure to award Vera Rubin the Nobel Prize in science was, at best, an “oversight.”

Judge Burg married her first husband, Certified Public Accountant Max Breslauer, in 1946. His family were German Jews who sent him to the United States in 1937, fearing the threat of Hitler’s growing regime. Ruth and Max Breslauer had two children before his unexpected death in 1964. Judge Burg married again in 1967 to Dr. Maurice Burg, a highly regarded nephrologist who was also a widower with two children around the ages of her own. Together they forged a blended family, and Ruth and Moe were known for their great devotion to one another.

Here are but a few of Judge Ruth Burg’s many accomplishments and “firsts”:

- Because Judge Burg was valedictorian of her 1943 high school class in Arlington, Virginia, she was awarded a four-year scholarship to George Washington University.
- Initially, she planned to study medicine, and with her outstanding academic record entered the GW Medical School after two years of college. However, she faced gender and religious bias so severe that, despite being an exceptional student and a very strong person, she withdrew on what she intended to be a temporary basis.
- Judge Burg decided to change fields. Instead of returning to medical school, she attended GW Law School. Although Georgetown Law School was her preferred choice, it did not then accept women.
- Again, Judge Burg graduated first in her class from GW Law School in 1950 and received the John Bell Larson Medal. Yet, the law school did not allow her to serve as editor of the law review, as was traditional for those who were first in their class. Upon graduation, GW made no effort to help Judge Burg find a job, as it did for her male classmates with lesser scholastic standing.
- Judge Burg went to work for the U.S. Tax Court as an Attorney Advisor, and in 1953 entered the solo practice of law. After her first husband’s untimely death in 1964, she limited her work to attend to the needs of her young children.
- In 1965, Judge Burg became a Legal Assistant to the Chair of the United States Atomic Energy Commission’s Board of Contract Appeals. It was at the AEC BCA that she learned about and came to love government procurement law.

- In 1972, Judge Burg was appointed the first woman judge on the Armed Services Board of Contract Appeals, where she had a highly distinguished twenty-two-year career. Her admirers at the Board and in the government contracts community are legion, and she is remembered with gratitude and fondness.
- Judge Burg became the first woman to chair the American Bar Association's Section of Public Contract Law, where she made it her mission to facilitate diversity and a larger role for women in the profession.
- In 2008, Judge Burg received the American Bar Association's prestigious "Margaret Brent Women Lawyers of Achievement Award." This accolade, named in honor of the seventeenth century trailblazer who was the first woman lawyer in America, recognized Judge Burg's stature as her twentieth century counterpart.
- Judge Burg retired from the Armed Services Board of Contract Appeals (ASBCA) in 1995, after which she served as a much sought-after mediator, arbitrator, expert witness, and consultant on government contracts. She also spent joyful time with her family, and especially enjoyed fly-fishing at their Montana cabin with her husband Moe, wintering in Miami, and traveling around the world.
- Judge Burg fostered an atmosphere of collegiality and professionalism in ways large and small. One of the highlights of the holiday season was a special luncheon at her home for women judges from the Boards of Contract Appeals and the Court of Federal Claims. The conversation was sparkling; the gatherings were always purposeful and never lackluster.

Judge Burg passed away on October 21, 2023, in Los Altos, California, at the age of 97. She inspired and encouraged many, especially women judges and lawyers. For those wanting to know more about this singular woman, two books in particular offer insight into her life and accomplishments. The first is *My Book of Ruth: Memoirs of Ruth Thelma Cooper Breslauer Burg*, in which Judge Burg tells her story with the courage and forthrightness for which she was known. The second is the American Bar Association's 2023 publication *Her Honor: Stories of Challenge and Triumph from Women Judges*, which devotes a chapter to Judge Burg as notable among America's most-respected judges.

We salute Judge Ruth Burg for these and many reasons, and are grateful beneficiaries of her courage, intellect, strength, and kindness. It is not trite to say that she truly made the world a better place, and she left a legacy that continues to uplift.

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## A TRIBUTE TO RUTH BURG: AN EXTRAORDINARY TRAILBLAZER

*Judge Mary Ellen Coster Williams (Ret.)*

There have been over the last several decades a few luminaries in the ABA Section of Public Contract Law who epitomize the Section's attributes—commitment to excellence in the law, mutual respect in debate, and abiding friendship among our members. Ruth is one of the most memorable of those luminaries. Our Section is a family, and Ruth was its matriarch.

Being the first woman judge and leader in the technical and challenging field of procurement law, Ruth made her mark, both on the law and more importantly on all the women and men she mentored. It was not an easy road for Ruth, but she overcame obstacles with grace and humor. I remember her story of a trial at the Armed Services Board of Contract Appeals (ASBCA) where she was seated at a makeshift bench ready to begin when one lawyer said to his opposing counsel “who’s the dame?” Ruth smiled that magnificent smile of hers and said matter-of-factly, “The dame is your judge.” Many of the women who followed in Ruth’s footsteps understood what it was like to be the only woman in the courtroom and learned from Ruth to relax and just do the job that you are privileged to hold.

Ruth was a caring role model who always had time for our questions and truly enjoyed being among the growing number of women in public contract law. I remember standing in a long line in the ladies’ room at a judges’ conference, and some of the women were complaining. Ruth piped up and said how grateful she was that there was a line because she remembered when there was no line: she was the only one!

It was important to Ruth to get to know and mentor both men and women in the Section. Ruth often said how grateful she was to the men who mentored her—there weren’t any women to do it—and she made a strong effort to give back to all. She did that as the first woman chair of the Section and in her continuing devotion to the Section over the years.

Ruth loved the Section of Public Contract Law, and the Section loved her.

Recognizing how much the Section meant to Ruth, her husband Moe (perhaps with a little nudging from Ruth) had her Section pin encircled with diamonds. Ruth proudly wore that pin and explained what it was to all who admired it. Ruth’s joy at being at Section events was contagious. She viewed the Section as her extended family and sought out new people to welcome them into the fold.

There is too much evidence of how much the Section loved Ruth to relate. But here are a few tidbits. Upon her retirement from the ASBCA, some of the Section elders presented Ruth with a bound volume of her decisions fondly dubbed “The Book of Ruth.” Needless to say, it was large and filled with brilliance! The Section Fellows presented Ruth with their first Spirit

of Excellence award, a beautiful glass sculpture that Ruth proudly displayed in her home—where she often convened gatherings of women judges and Section friends—and explained how much that award meant to her. She had received many awards from many associations over the years, but this one was special.

The Section was determined that Ruth's contributions and mentoring should be recognized beyond our Section. So, in 2007–08, a few of us authored an application nominating Ruth for the ABA's Margaret Brent Women Lawyers of Achievement Award. Although the competition is extremely stiff and many recipients are widely recognized on the national stage, Ruth won this prestigious award. One evaluation committee member later told me how impressed the members all were with Ruth and how lucky our Section was to have such a "terrific dynamo."

We were indeed lucky to have you, Ruth! We will miss you and try to perpetuate your legacy.

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## A PIONEER, MENTOR, AND FRIEND

*John S. Pachter*

Ruth received many well-deserved accolades, but she is best remembered for mentoring and making us better lawyers and Section members. I'd like to tell you how Ruth charted my career in the Section. She did this in two carefully planned stages. In the early 1980s, I chaired the Federal Contract Claims and Remedies Committee of the ABA Section of Public Contract Law. I prepared written reports and congressional testimony and made presentations to the Section Council, its governing body. Ruth was a Council member and took note.

In the spring of 1984, Ruth called me and said, "let's have lunch." She was making appointments for her year as chair, to begin in August. She said: "I like your writing. I want you to serve on the Council while I'm chair." Ruth was not intimidating, but she spoke with such authority and conviction you just couldn't say "no." She then said, "That's not all. You'll need to do more. I want you to serve also as chair of the Regulatory Coordinating Committee."

The role of that committee was critical. The Federal Acquisition Regulation (FAR), although incomplete, had become effective April 1, 1984, following a years-long gestation period. The Regulatory Coordinating Committee would supervise some twenty standing committees in preparing comments on a massive outpouring of amendments to the FAR and agency supplements. I would ensure those comments were acceptable for Ruth's signature. She said, "This will also give you broader exposure to all of the Section's activities." She didn't let on that she had more ambitious plans for me down the road.

It is difficult now to appreciate the courage it took for Ruth to accept the position of Section chair while a sitting Armed Services Board of Contract

Appeals (ASBCA) judge. Many in high levels of the Department of Defense (DOD) regarded the Section—not completely without cause—as a mouthpiece of industry. Ruth navigated this controversy without fear and fostered change so that we now have significant government attorney participation and wide government appreciation for the Section’s role. Once again, Ruth was a trailblazer.

Ruth faced an immediate challenge in August 1984. The Office of Federal Procurement Policy (OFPP) made clear that it would not honor its statutory duty to supervise and curtail inconsistent, duplicative, or unnecessary agency supplemental regulations. Lack of vigorous OFPP leadership threatened the core purpose of the FAR: to achieve a single, simplified government-wide acquisition regulation. Ruth tasked me to draft a letter for her signature, taking OFPP to task. I assumed—mistakenly—that she would want a detached “above the fray” style, consistent with her role as a judge.

Ruth was not pleased with my draft. She said, “I may be a judge, but I agreed to serve as Section Chair and that’s what I intend to do. Now give me another draft and make it forceful.” I did, and she signed the letter on August 17, 1984. Now I knew without doubt the spine that she possessed.

In the spring of 1987, toward the end of my three-year Council term, Ruth revealed part two of her plan for me. There came another lunch invitation. She said, “You’ve now had broad exposure to all the Section’s activities. This positions you to go ‘on the ladder.’” This involved a six-year commitment, the fourth year being Section chair. However, less than six months earlier, I had co-founded a boutique law firm. I was forty-five. I would be fifty at the beginning of my year as chair. I knew if I said “no” the opportunity would not likely come again. My partners enthusiastically supported me, and I showed up at my first Council meeting as Section secretary with my new curiosity, a Toshiba T1000 laptop. You might find it in a museum today.

I’ve shared with you what Ruth did for me, as one example among many. We will all cherish her memory.

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## A FORCE OF NATURE, A MODEL WORTH EMULATING: REMEMBERING RUTH BURG

*Steven L. Schooner\**

Ruth Burg found me early, still a law school student, and never let go. Looking back, much of my professional life reflects that relationship, and I’ve never let go of her example. In my own way, I’ve attempted to cement her legacy by teaching and creating opportunities for the next generation of government contracts students and alumni at the George Washington University Law School and others that walk in her footsteps.



I'll leave to others the Herculean task of summarizing Ruth's extraordinary accomplishments,<sup>1</sup> the glass ceilings she shattered, and the honors bestowed upon her.<sup>2</sup> (Let it be known however, that even though she is one of the University's *Monumental Alumni*,<sup>3</sup> here at GW Law School, we claim Ruth as our own, because she graduated number one in the class of 1950 and distinguished herself as a jurist and bar leader.) But there's little doubt that her never-ending commitment to opening doors for others remains the foundation of her legacy.

If you knew Ruth, you heard some version of the story in which, at an ABA Section of Public Contract Law Section event, someone complained about the long, slow line outside the women's restroom. Ruth was quick to explain that the line gave her immense joy. She much preferred waiting to the cold and quiet loneliness of the same restrooms that she frequented early in her career.<sup>4</sup>

Ruth was the first woman to chair the Section of Public Contract Law, and many followed in her footsteps. And look no further than this journal's current and prior ABA editors-in-chief: currently Tara L. Ward, and before her, Pat Wittie and Karen Manos. Concurrently, over the last two decades, women students have consistently served as the student editors-in-chief of the *Public Contract Law Journal* (including one ten-year consecutive streak).

A favorite anecdote derives from Ruth's reputation, while serving as an administrative judge on the Armed Services Board of Contract Appeals (ASBCA), of never shying away from the big or difficult cases. While many remember Ruth for her work on, for example, the massive shipbuilding cases,<sup>5</sup> she also penned the decision in the highly controversial cost principle and Cost Accounting Standards (CAS) mash-up that played out in the Federal Circuit's *Rice v. Martin Marietta*.<sup>6</sup> After a partial 3–2 split among the board

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1. In addition to Ruth's *Washington Post* obituary, <https://www.legacy.com/us/obituaries/washingtonpost/name/ruth-burg-obituary?id=53457530>, see the ABA's efficient but impressive tribute, *Message*, American Bar Association, Public Contract Law, <https://maestro.abanet.org/list/inxsxxpc/231025AT/aw33cgxttytn.vib>. See also the preceding tributes authored by Judge Reba Page, Judge Mary Ellen Coster Williams, and John S. Pachter.

2. Like many of this journal's readers, I was ecstatic to be in New York City when Ruth received the ABA's Margaret Brent Women Lawyers of Achievement Award. See 2008 Margaret Brent Award Honoree Hon. Ruth Cooper Burg (Ret.), <https://www.youtube.com/watch?v=1LTrYkU8Bj8>, and Ruth's acceptance speech, <https://www.youtube.com/watch?v=968H7kmeE6c>.

3. In addition to her three degrees from GW (AA '45, BS '45, and JD '50), Ruth received both the George Washington University Law Alumni Association Fulbright Award for public service and the Distinguished Alumni Award from George Washington University. See GW Alumni Association, Monumental Alumni Profile, <https://www.alumni.gwu.edu/ruth-cooper-burg#>.

4. See, e.g., Williams, *supra*.

5. See, e.g., *Ingalls Shipbuilding Division, Litton Sys., Inc.*, 78-1 BCA ¶ 13,038 (1978) (and, yes, go ahead, count the pages); 78-1 BCA ¶ 13,216 (motion for reconsideration).

6. *Rice v. Martin Marietta Corp.*, 13 F.3d 1563 (Fed. Cir. 1993).

judges<sup>7</sup> (a rather unusual occurrence at the time), I was assigned,<sup>8</sup> briefed, and later argued the appeal while serving at the Department of Justice. The standing-room only crowd at the Federal Circuit argument evidenced the significance of the case. But more to the point here, Maryanne Lavan was on the opposing brief, representing Martin Marietta. That Maryanne would go on to serve as the long-standing general counsel of Lockheed Martin, the world's largest defense contractor,<sup>9</sup> no doubt made Ruth smile. We came a long way during Ruth's remarkable life.

As for her well-known and formative efforts as a mentor, so many of us tell a similar story.<sup>10</sup> In an article about mentorship and role modeling that I published a number of years ago, I explained:

During my second summer in law school, while clerking at the Armed Services Board of Contract Appeals (ASBCA), I was caught off guard when Judge Ruth Burg came to my office with rather direct advice. First, she directed, it was imperative that I become a student member for the American Bar Association's Public Contract Law Section. Second, I must write an article to compete in the Section's writing competition. I did what I was told. And, along with a generation of government contracts practitioners, I benefited from Ruth's mentorship. I won the staggering sum of \$300 in the writing competition. . . . More important, I began meeting the community of government contracts practitioners—experts, mentors, colleagues, and friends—with whom I would interact for the duration of my career.<sup>11</sup>

Many decades later, I can't count the number of these stories I've heard. Ruth saw the best in us, and she encouraged (nay, demanded) that we could do more. And, under her watchful eye, we did.

When Ruth passed, I reread her autobiography, *My Book of Ruth*,<sup>12</sup> which chronicles a remarkable life journey. Other than an impressive list buried at the end of the text, her curated history doesn't dwell on the day-to-day professional (or legal) work that gave her the platform that she ultimately enjoyed. Fortunately, innumerable resources are available for those unfamiliar with Ruth's career trajectory and achievements.<sup>13</sup> Rather, what jumped off the

7. Appeal of Martin Marietta Corp., 92-3 BCA ¶ 25,094 (1992); motion for reconsideration dismissed (as untimely), 93-1 BCA ¶ 25,299 (1992).

8. Memories fade, and thus evidence is lacking as to whether, as some recall it, despite the fact that I was fully immersed in the then-unprecedented, but still evolving, chaos of the A-12 litigation (later dubbed the "American version of Jarndyce and Jarndyce"), *McDonnell Douglas v. United States*, 567 F.3d 1340 (Fed. Cir. 2009), I was hand-picked for the perceived as devilishly complicated matter, or it was "dumped" on me because no one else wanted it.

9. As an academic, it's hard to overstate the significance, particularly to a young law student, of meeting someone like Maryanne. See, e.g., *GW Law Government Procurement Students Experience "A Day in the Life" at Lockheed Martin*, available at <https://www.law.gwu.edu/gw-law-government-procurement-students-experience-day-life-lockheed-martin>.

10. See, e.g., Pachter, *supra*.

11. Steven L. Schooner, *Look Up and Around: Musings on Mentors, Role Models, and Professionalism*, 60 CONT. MGMT. 35, 38 (revised & expanded 2020), available at <https://ssrn.com/abstract=3521478>.

12. RUTH THELMA COOPER BRESLAUER BURG, *MY BOOK OF RUTH: MEMOIRS* (2017), available at <https://www.amazon.com/My-Book-Ruth-C-Burg/dp/154637311X>.

13. *Oral History with Ruth Burg*, Jacob Burns Law Library (2016), <https://law.gwu.libguides.com/OralHistory/RuthBurg>; GW Law Government Procurement Law Program, available at

pages was not just how much more important family<sup>14</sup> was to Ruth than any of her professional accomplishments or how *different* everything was, particularly in the 1930s through the 1950s. Indeed, my sense was that Ruth wrote the book for her children and grandchildren to give them a window into how far she had to come for them to be where they find themselves today. And, yes, to make clear that they should celebrate the line outside the women's restroom at their next professional event.

The Section of Public Contract Law celebrates Ruth at an annual luncheon. Here at GW Law, since the 2019–2020 academic year, we've annually awarded a scholarship to, and bestowed the honorific of *Ruth Burg Scholar* upon, a GW Law student.<sup>15</sup> Notifying the student, and introducing the student to our alumni, gives us an opportunity to remember and commemorate Ruth's legacy while sustaining Ruth's lifelong effort to advance the professional development of young attorneys.

I'm grateful that Ruth considered me worthy of her time, interest, energy, enthusiasm, and care. She was *sui generis*, a force of nature, and an inspiration. May her memory be a blessing.

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<https://www.youtube.com/watch?v=jqxbwlwnTE>; *Oral History, The Evolution of Contract Disputes Act Litigation*, featuring Ruth C. Burg and Ralph C. Nash (April 2016), Jacob Burns Law Library, GW Law School, available at <https://youtu.be/yBcOjD7lBmg>; *Transcript of Interview with Ruth C. Burg*, ABA Women Trailblazers Project, Stanford Law School (Oct. 15, 2005; Nov. 5, 2005; Dec. 17, 2005), available through the Manuscript Division, Library of Congress, Washington, D.C., and at <https://abawtp.law.stanford.edu/exhibits/show/ruth-c-burg/oral-history>; see also Page, *supra*.

14. And what a family it was. Ruth's sister, Vera Rubin, "changed the way we think of the universe by showing that galaxies are mostly dark matter." Tim Childers, *Vera Rubin: The Astronomer Who Brought Dark Matter to Light*, SPACE.COM (June 11, 2019), available at <https://www.space.com/vera-rubin.html>; U.S. Nat'l Sci. Found., *National Medal of Science, Vera Rubin (1928–2016)*, available at <https://www.space.com/vera-rubin.html>. Her husband, Moe, arrived at the National Institute of Health (NIH) as a postdoctoral fellow in 1957 and, among other things, served as Laboratory Chief from 1975 to 2009, where he "revolutionized our understanding of kidney physiology through his invention and exploitation of a technique for microdissection and study of isolated nephron segments." Mark A. Knepp, *Maurice B. Burg (1931–2022), Discoverer of Kidney Transport Mechanisms*, PROCEEDINGS OF THE NATIONAL ACADEMIES OF SCIENCE (2022), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9335181>.

15. For information on the Ruth Burg Scholarship and information on recent awardees, see *Scholarships, BEYOND THE FAR, GW LAW GOVERNMENT PROCUREMENT LAW PROGRAM*, available at <https://blogs.gwu.edu/law-govpro/scholarships>. Also, if you visit the GW Law School, in the Dee Kelly Lounge, you'll find one of Ruth's favorite pieces of art, a limited edition print titled "The Protection of Law," which includes the excerpt from the 14th Amendment to the U.S. Constitution (1868): "nor deny to any person the equal protection of the laws."