

REMARKS ON THE PASSING OF PROFESSOR ALAN N. RESNICK

*Brad Eric Scheler**

I. EULOGY AT RIVERSIDE MEMORIAL CHAPEL ON JULY 31, 2016

I know that none of us thought that we would be here today mourning Alan. Alan, most especially. Always full of life, always optimistic, always confident that he could and would overcome every obstacle and challenge, when Alan called to relate the advice he had received from his doctors, for the briefest of moments, it was clear that for Alan, as it is and has been for all of us, a first thought was how could this be? But then, in an instant, while sharing with me the most difficult and heart wrenching of circumstances, he was the Alan we all know and love; the very best teacher and professor, explaining to me, his student, with precision and detail the why and how of all that was upon him. It was Alan, wanting to be sure that I was okay and doing all to ensure that I was going to be okay. Wanting me to hear and understand his perspectives and feelings. Wanting me to know all; but also wanting to be sure that I would find a way to be at ease about all with him.

During that discussion Alan also related that because we were in every sense family, he wanted me to share with you my thoughts and feelings about him and his life. Because my professor, colleague, friend and, yes, in every sense my brother, asked, I have tried, but please do know that as related to our loss of Alan, there are no words.

For me, there are so many wonderful things that I can say and tell about Alan and so many precious memories. I have struggled to put my thoughts and feelings about Alan on paper; there is no way for me to

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capture and relate just how special he was and how much he meant to all of us.

As for me, it was simple, I loved him.

To think or speak about Alan and his most extraordinary life ever so well led, all begins and ends with Jill (the love of his life), with Brian and Craig, his sons who he loved so, and with Ani and Hannah, his daughters, and they are Alan's daughters in every sense, two of the very best of the ever so many gifts that Brian and Craig gave to Alan and Jill.

All also begins and ends with Max, Aidan, Amelia, Lila, and Nora, Alan's five grandchildren and the pride and joy of his life.

Brian and Ani, Craig and Hannah, as you four know, Alan had so much pride in your many accomplishments and in the extraordinary goodness that is yours but, as with so much, he was never one to brag to others and was always so reserved about same. I mention this not because you do not know that so well, but because, as related to Max, Aidan, Amelia, Lila, and Nora, there never was a moment of Alan's usual modesty or reserve. When it came to his precious grandchildren, his face lit up, he beamed with pride and he could not love more sharing in and sharing about the five. Then and only then, did Alan toss modesty and reserve to the side and he openly *kvelled* and, yes, he bragged.

Cherished and most loving husband, father, grandfather, son, brother, and uncle; in his academic and professional accomplishments Alan was without peer but, above all else, what mattered most was family and the home and life he made and shared with Jill. Alan loved his work, loved the law, loved the Bankruptcy Code and Rules,¹ loved *Collier*,² loved the classroom, loved his students, loved teaching, loved scholarship, loved Hofstra Law and loved his work with Fried Frank, but all paled in comparison to his love for, and his life with, Jill. During that difficult discussion, to spare and protect me, Alan wanted to be and he was, so strong. It was only when speaking of Jill and not being with her for all of the future events in the lives of Brian and Ani, Craig and Hannah, and his five grandchildren did his voice crack. When it came to the love of his cherished bride, for each and for all of us, Alan was and will always be a very best role model, exemplar and constant source of inspiration.

So many have been in touch; all saying the same: Alan was such a good guy, the kindest of men, the very best teacher, the best colleague, a

1. COLLIER PAMPHLET EDITION: PART 1: BANKRUPTCY CODE (Alan N. Resnick & Henry J. Sommer eds., 2016); COLLIER PAMPHLET EDITION: PART 2: BANKRUPTCY RULES (Alan N. Resnick & Henry J. Sommer eds., 2016).

2. Professor Resnick's tenure as an Editor-in-Chief for *Collier* began in 2002. Alan N. Resnick, *Curriculum Vitae*, HOFSTRA L. 2, http://law.hofstra.edu/pdf/ftfac_resnick_vitae.pdf.

great friend; always a smile on his face; always a bounce in his step, never an unkind word or thought. He was to all, an utmost gentleman, scholar, *mentsch* and so much more. When people talk about Alan, their faces light up and they smile. Everyone thought the world of Alan. He was adored by and had the love, admiration and respect of his family but likewise all in his Hofstra Law, Bankruptcy and Restructuring, and Fried Frank communities.

In his quiet, gentle, graceful way, he was patriarch, leader, scholar, and master. He was a source of strength, comfort, wisdom, and security. He was always calm and collected. Save when in the classroom or at the lectern (where he was unique and a ball of energy . . . his tales of Jimmy the Human Fly still resonate), he was a man of reserve and grace. He was neither an idle conversationalist nor a gossip (but, from time to time, a smile would crease his face when confronted with an especially juicy tidbit). He was the very best listener, he was not judgmental. He had an uncanny ability to make what was otherwise complex and obscure, crystal clear.

Outside of the classroom, Alan did not lecture; nor did he ever berate. He did not have a set of expectations of others. Instead, he lived his life by best example. He was kind, fair, and honorable. Alan did not have airs or pretense. He was always himself. He had and he deserved the unconditional respect and appreciation of the countless who knew, admired, and learned from him.

We learned from Alan that equally important to all that is written is the all that is not. He taught us that our best opportunities, strategies and ideas come from reading anew each time what is written while focusing on what is not expressed. He told us that we should never lose sight of the unstated and that we should stay close to the seams of stated and unstated. Every day and in connection with every issue, problem and project, from Alan we learned that innovation and creativity emerge from our efforts and energy, and our willingness to not only ask why but to ask why not.

Alan transformed lives. Professor, teacher, educator, he made all of us better. With tireless effort, warmth, compassion, dedication, and commitment, Alan has touched and impacted so many. Alan transformed the lives of his students and armed each with best tools and resources for the path of career and accomplishment. With dedication to and passion for his work, Alan made pursuit of a career in the bankruptcy and restructuring field vibrant and compelling.

As the Benjamin Weintraub Distinguished Professor of Bankruptcy Law,³ Alan brought renown to both Hofstra Law, and to the field and practice of bankruptcy and restructuring generally. As Editor-in-Chief of *Collier on Bankruptcy*,⁴ as the co-author of Weintraub and Resnick's *Bankruptcy Law Manual*,⁵ in myriad articles in law journals and professional publications,⁶ by reason of his law reform contributions both as reporter to and member of the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States,⁷ and as a member of the National Bankruptcy Conference, as a Fellow of the American College of Bankruptcy,⁸ and as a speaker at countless conferences and workshops,⁹ Alan elevated and made better our field and each and every practitioner. With expertise, mentorship and the unique ability to explain and bring clarity and understanding to the most complex concepts, Alan ranks among the greatest of educators.

Alan embraced and championed each and every one of his students but of all, two from my law school class stand out. Bankruptcy Judge Louis Scarcella; at both the private and then public swearing in ceremonies for Louis, Alan was bursting with pride and joy. He was beaming. Louis served as Alan's substitute teacher; while Alan is irreplaceable, Alan so loved that his student had become the teacher and a member of the judiciary.

Also with us at the swearing in ceremony was Mark Cluster. Alan was so proud of Mark in his role as the leader of Carl Marks & Co., and as Chair of the Board of Northwell Health Systems.¹⁰ Alan so appreciated Mark's commitment to and support of the Law School.

Just as with his students, Alan so treasured each and all of his Hofstra faculty colleagues. Malachy Mahon, Monroe Freedman, Aaron Twerski, Burt Agata, Leon Friedman, John DeWitt Gregory, David Diamond, and so many more. He especially cherished his bond with [then] Dean Eric Lane and President Stuart Rabinowitz. Friends from inception and friends always, their bond was extraordinary. A trio like no other, they had differing views and perspectives, but were a team and

3. *Id.* at 1.

4. *Id.* at 2.

5. *Id.* at 1.

6. *Id.* at 2-4 (listing a number of Professor Resnick's publications).

7. COLLIER PAMPHLET EDITION: PART 2: BANKRUPTCY RULES, *supra* note 1, at iii; Resnick, *supra* note 2, at 1.

8. Resnick, *supra* note 2, at 2.

9. *Id.* at 5-8 (listing a number of Professor Resnick's various professional speaking activities).

10. Mark L. Cluster Elected Chair of North Shore-LIJ Health System, CARL MARKS (June 3, 2014), <http://carlmarks.com/mark-l-cluster-elected-chair-of-north-shore-lij-health-system-2>.

Alan was always there for the two of them. For Eric and Stuart especially and for all at Hofstra, there is a void that will never be filled.

Alan cherished his National Bankruptcy Conference fellow conferees. When first invited to join the Conference,¹¹ for Alan it was as if he had gone to Cooperstown and all of the enshrined players on the plaques had come to life. He loved the intellectual exchange and rigor, he loved the engagement, but most of all he loved having first older and then younger friends and comrades. If there were a Cooperstown for each of the National Bankruptcy Conference, for the American College of Bankruptcy, for the Rules Committee, for *Collier*, and for so much more, Alan would be selected in his first year of eligibility and the vote for Alan would be unanimous. He was revered.

Alan took such pride and joy when called to duty or to be of help by the judges of the Bankruptcy Court for the Southern District of New York. But more so, he appreciated the warmth, grace, talent and hard work of these extraordinary jurists, and he treasured his relationships with Cecelia Morris, Stu Bernstein, Shelley Chapman, Bob Gerber and earlier Burt Lifland, Neil Blackshear, Pru Beatty, Tina Brozman, Jim Peck, Allan Gropper, Arthur Gonzalez, and more. His bond with each of Bob Gerber and Arthur Gonzalez was especially meaningful to Alan and was returned in kind by them.

Alan was so pleased for and about Arthur when Arthur joined him as a member of the academy; having served as Arthur's mentor and coach in that process.

To remember and appreciate the so very much Alan did for all of us in the Bankruptcy and Restructuring community, view or read Alan's oral history for the National Bankruptcy Archives as Alan was interviewed by Bob [Gerber].¹² The bond shared by Alan and Bob jumps off the pages. I read it three times this week along with wandering into Alan's office several times, just to be close.

Long before Mitch Albom wrote about his *Tuesdays with Morrie*, we at Fried Frank had twenty-seven plus years of Thursdays with Alan (and he was a part of us and available seven days a week 365 days a year). Alan and I sat next door to each other every Thursday for more than twenty-seven years. We spoke pretty much daily.

At the Firm, he was our scholar in residence. Every Thursday, our first-year associates went to class. He so enjoyed his sessions with

11. Professor Resnick was a member of the National Bankruptcy Conference dating back to 1984. Resnick, *supra* note 2, at 1.

12. To view or read the transcript of Professor Resnick's interview with Judge Gerber, see *American College of Bankruptcy Oral History Collection*, U. PA. L. SCH., <https://www.law.upenn.edu/library/archives/bankruptcy/oral-histories-american-college.php#resnick>.

our young lawyers and each emerged with a lasting imprimatur of excellence.

Alan was our expert on legal issues and legal opinions. He ensured that our documents were Bankruptcy Code and Rule compliant and perfect. He taught us to find and remove scar tissue that is dressed up as boilerplate. He consulted with all in the Firm, be it on the most cutting edge of deals or the most complex of litigation. He taught and inspired generations of our clients, our partners and our associates. We were unique because of Alan and we know we will never be the same without him.

Our Bankruptcy and Restructuring partner breakfasts were always on Thursdays of course. At first it was Alan, Herb Minkel, Terry Corrigan and me; later Alan, Bob Gerber, Dan Schechter, Larry First, and me (that was the only starting five team I ever played on where I was the center); later still Alan, George South, Viv Melwani, Brian Pfeiffer, Shannon Nagle, Jean Hanson, Bonnie Steingart, and me. Now and always, for Gary Kaplan, Jen Rodburg, Ashley Katz, Matt Roose, Peter Siroka, and me, one chair will always be empty for us. And, Alan so valued his work on projects and articles with Kalman Ochs. Alan was revered by all of the assistants in the office, the warmth and bond he shared with his assistant Maria Paloscio was singular and meant the world to the two of them.

In September of 1974, as a freshly minted graduate of Georgetown University School of Law (J.D.) and Harvard Law School (LL.M.), Alan taught his inaugural class, as an assistant professor at the then fledgling Hofstra University School of Law.¹³ He arrived at Hofstra Law then, as always, skinny (then especially scrawny) and very youthful. He had dark and longish hair, a dark mustache (no doubt to make him look older . . . he was twenty-six going on twenty-seven) and he was always impeccably dressed in jacket and tie . . . all so that no one would mistake him for a student. On that first day of the academic year, Alan embarked on his most extraordinary career by teaching the law of contracts to a section of first-year law students in their first law school class. At the age of twenty, also with long hair but not at all in jacket and tie, I was seated in the back row of that first class taught by Alan; it was my first class as a law student. It was for me the start of forty-two years of learning, collaboration and the very best of friendship. From that moment and every moment since, Alan has been a gift, a treasure and a blessing in my life.

13. See Resnick, *supra* note 2, at 1.

I will save for another day how much he meant to my wife Amy, and my daughters Ali, Maddie, and Zoey. It does speak volumes that when each of Ali and Zoey were pursuing graduate studies in education at Hofstra, they regularly visited with their friend Alan at the Law School. As for Maddie, one of her cherished mementos is a report card from Alan. We will miss him so.

Not a day will go by for any of us when we will not ask what would Alan think, say or do? In my head I will continue to seek out his advice and listen to his wisdom. He was and will continue to be for me and for countless others a very best template. When we grapple with issues we will find him. Alan is alive and well in all of us.

In days, weeks and years ahead, when you are with a friend, student, colleague, mentor, mentee, loved one and you are sharing the best of moments . . . perhaps a celebration over a glass of wine, white only, just one . . . maybe just maybe, a second but only a half; or during the best of conversation over coffee, tea or the rare hot chocolate and, maybe just maybe, a pastry or muffin; in those intimate moments, Alan will be with us.

For Alan, all of these paths, successes, relationships, contributions, service and more all led back to home and family. In his far too short lifetime, he did so much, much to fill several lifetimes but all did pale in comparison to Jill and the family. The love and the bond Alan and Jill shared was more than magic; it was perfect.

Jill, Brian, Craig, Ani, and Hannah, Alan is and he will be with the five of you always; look and you will see him in the eyes and smiles and you will hear him in the joy and laughter of Max, Aidan, Amelia, Lila and Nora.

Alan's memory is and will always be a blessing to all of us.

May he rest in peace.

II. HOFSTRA LAW SCHOOL MEMORIAL SERVICE FOR PROFESSOR ALAN N. RESNICK NOVEMBER 17, 2016

Good evening. I am Brad Scheler. For almost forty-two years Alan was my teacher and my friend; he was in every sense family to me.

Not a day goes by when Alan is not with and a part of all of us. Now and always, in heart, in mind and in spirit, Alan will remain our teacher, our mentor and our friend.

Alan's life and his legacy are extraordinary. His love of Jill, the four children, the five grandchildren and all in the family was ever apparent and incomparable.

Alan warmed the hearts of each and every one of his friends and colleagues. As professor, teacher, mentor, he left his mark and made better the lives of each and all of his students . . . each and all of us.

To and for each of us, by example, by action and by deed, Alan made clear that there was nothing more important and nothing more noble than to teach, to impart wisdom and insights, and to do all to ensure the best and brightest futures for all. Alan taught us that life itself is a classroom; that we are duty bound to be of utmost help and benefit to others. Alan was tireless in his efforts to enrich the lives of all.

Professor, teacher, educator, he made all of us better. With tireless effort, warmth, compassion, dedication and commitment, Alan touched and impacted so many. Alan embraced and championed each and every one of his students. Alan transformed our lives and armed each of us with best tools and resources for the path of career and accomplishment. With dedication to and passion for his work, Alan made pursuit of career in the bankruptcy and restructuring field vibrant and compelling.

It could not be more right and fitting that this celebration of Alan's life is taking place in this, his beloved law school. Alan was Hofstra Law. If we close our eyes and listen, we can hear the cadence of his lessons, we can see the energy of his pacing back and forth across the classroom engaging with each and every student. Alan captivated and held our attention. He made subject matter vital, vibrant, and exciting. He made us feel and believe that each of us was the student he was speaking to and that our capacity to learn, absorb, grow, and achieve was unlimited. Time in Alan's classroom was the stuff of magic.

We learned from Alan that equally important to all that is written, is all that is not. He taught us that our best opportunities, strategies and ideas come from reading anew each time what is written while focusing on what is not expressed. He told us that we should never lose sight of the unstated and that we should stay close to the seams of stated and unstated. Every day and in connection with every issue, problem and project, from Alan we learned that innovation and creativity emerge from our efforts and energy, and our willingness to not only ask why but to ask why not.

Just as with his students, Alan so treasured each and all of his Hofstra faculty colleagues. Eric Lane, Stuart Rabinowitz, Malachy Mahon, Monroe Freedman, Aaron Twerski, Burt Agata, Leon Friedman, John DeWitt Gregory, David Diamond . . . and so many more. For Eric and Stuart and for all at Hofstra, there is a void that will never be filled.

In this building and in this room especially, thoughts return to late August of 1974 when, as a freshly minted Assistant Professor of Law by way of first Georgetown University School of Law (J.D.) and then

Harvard Law School (LL.M.),¹⁴ Alan taught his inaugural Hofstra Law School class. Then, as always, wiry and youthful, Alan stood in the front of the classroom with dark and longish hair, a mustache, impeccably dressed in jacket and tie . . . all so that no one would mistake him for a student (he was twenty-six going on twenty-seven). On that first day of the academic year, Alan embarked on his most extraordinary career by teaching the law of contracts to a section of first-year law students in their first law school class. At the age of twenty, also with long hair but not in jacket and tie, I was seated in the back row of that first class taught by Alan; it was my first class as a law student. It was for me the start of forty-two years of learning, collaboration and the very best of friendship. From that moment and every moment since, Alan has been a gift, a treasure and a blessing in my life.

Alan loved his work, loved the law, loved the Bankruptcy Code and Rules,¹⁵ loved *Collier*,¹⁶ loved the classroom, loved his students, loved teaching, loved scholarship and loved Hofstra Law. As the Benjamin Weintraub Distinguished Professor of Bankruptcy Law,¹⁷ Alan brought renown to both Hofstra Law and to the field and practice of bankruptcy and restructuring generally. As Editor-in-Chief of *Collier on Bankruptcy*,¹⁸ as the co-author of Weintraub and Resnick's *Bankruptcy Law Manual*,¹⁹ in myriad articles in law journals and professional publications,²⁰ by reason of his law reform contributions both as reporter to and member of the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States,²¹ and as a member of the National Bankruptcy Conference,²² as a Fellow of the American College of Bankruptcy,²³ and as a speaker at countless conferences and workshops,²⁴ Alan elevated and made better our field and each and every practitioner. With expertise, mentorship, and the unique ability to explain and bring clarity and understanding to the most complex concepts, Alan ranks among the greatest of educators.

In his quiet, gentle, graceful way, he was patriarch, leader, scholar, and master. He was a person dedicated to his profession, deeply

14. *Id.*

15. COLLIER PAMPHLET EDITION: PART 1: BANKRUPTCY CODE, *supra* note 1; COLLIER PAMPHLET EDITION: PART 2: BANKRUPTCY RULES, *supra* note 1.

16. *See* Resnick, *supra* note 2, at 2.

17. *Id.* at 1.

18. *Id.* at 2.

19. *Id.*

20. *Id.* at 2-4 (listing a number of Professor Resnick's publications).

21. *Id.* at 1.

22. *Id.*

23. *Id.* at 2.

24. *Id.* at 5-8.

concerned for the welfare of all, loyal to his colleagues and institution, and above all he brought to his profession and field a profound sense of ethics and decency. He was a source of strength, comfort, wisdom, and security. He was always calm and collected. Save when in the classroom or at the lectern (where he was unique and a ball of energy . . . his tales of Jimmy the Human Fly still resonate), he was a man of reserve and grace. He was the very best listener, he was not judgmental. He had an uncanny ability to make what was otherwise complex and obscure, crystal clear.

Outside of the classroom, Alan did not lecture; nor did he ever berate. He did not have a set of expectations of others. Instead, he lived his life by best example. He was kind, fair and honorable. Alan did not have airs or pretense. He was always himself. He had and he deserved the unconditional respect and appreciation of the countless who knew, admired and learned from him. He was unpretentious when he had basis and qualifications to be otherwise. He was a *mentsch*. He was my buddy.

For more than twenty-seven years, I had the extraordinary honor and privilege to have Alan as my colleague at Fried Frank. Alan sat next door to me every Thursday and we spoke virtually every day during those twenty-seven years . . . his lessons in law, in life and more will resonate with me always.

For some time after Alan's passing, I would wander into Alan's office, I would sit, I would be alone with my thoughts of my friend and I would connect. I have also taken to reading anew the so much in the way of scholarship and writing that was Alan's. Rivalled first by Ben Weintraub and later by Alan's son, Brian, I always believed I was the most avid of the myriad readers of Alan's work. And we wrote a bit together, with me loving every moment of the repartee and collaboration. Alan's voice remains ever present in my thinking.

Recently, I came across some of Alan's remarks about the passing of his friend, Professor Larry King.²⁵ In writing about Larry, unintentionally and unknowingly at the time, Alan had written about himself. Here from Alan:

As a teacher, scholar, law reformer, and lawyer, he had an enormous impact on the bankruptcy world during the past half century. He dedicated his professional life to the continuing improvement of the bankruptcy system and, through both his teaching and writing, to the education of thousands of law students, judges, lawyers, legislators, and government officials. He was one of the true giants in the bankruptcy field and will be sorely missed by his friends

25. See Alan N. Resnick, *The Impact and Influence of Professor Lawrence P. King*, 75 AM. BANKR. L.J. 341 (2001).

and colleagues in the profession. Most important, millions of individuals, entrepreneurs, employers, and others who in the future will need relief from undue financial burdens lost a loyal friend and zealous advocate.²⁶

Not a day will go by for any of us when we will not ask what would Alan think, say or do? In my head I will continue to seek out his advice and listen to his wisdom. He was and will continue to be for me and for countless others a very best template. When we grapple with issues we will find him. Alan is alive and well in all of us.

26. *Id.*