PRESENTATION IN FOND REMEMBRANCE OF
MY MENTOR, ERIC J. SCHMERTZ
MAY 11, 2011

Jeffrey P. Englander*

[Speaking directly after the musical interlude performed by the Bronx Opera Company . . .]

Unless you would like to hear my Bar Mitzvah portion, we are done
with melody for a while . . .

The order of presentation this afternoon is actually fortuitous, as
one of my highest honors was being asked by Eric to represent the
Bronx Opera Company—on a pro bono basis—in connection with some
pending issues the Company had before the State Labor Relations
Board. As a result of that experience, I now sit on the Board of the New
York Pops where, among other things, I represent the Pops—on a pro
bono basis—in labor matters.

Mentor: a wise and trusted counselor, guide, or teacher; an
influential senior sponsor or supporter. Eric Schmertz was the
quintessential, picture dictionary definition mentor, certainly to me and
to countless others who were his loyal and eager students. Put aside that
his labor law and dispute resolution courses were as intriguing and
engaging as any course taken in law school, for those of us who, for
many years, were lucky enough to have Eric act as our mentor, our
young and aspirant professional lives were so much the better. He was
so personally involved in our lives and made such a difference.

As youthful, energetic, and anxious law grads, we normally
remember vividly, as do I, particular events which made lasting
impressions on us. So for me, as one who took up law studies
immediately after college and one who is now past 60 years of age, I still
remember vividly and with great fondness the fact that in the faculty
recessional of our class’s graduation, in May of 1975, Eric took the time

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to detour out of strict formation in order to shake my hand after I had been honored as that class’s Outstanding Law Graduate. “Well done, lad,” he proclaimed; the cherry on top of the sundae of that memorable day.

As a practitioner in labor and employment law, I had plenty of occasions to interact with my mentor. I remember well the first arbitration at which I represented, on my own, a party to a grievance which Eric had been designated to hear. Of course, at the inception of that case, and for many which followed, Eric had to disclose to my adversary that I had been his student. Because of his rock solid reputation as a fair (and in fact gifted) impartial, no one ever made a peep regarding this issue. I do remember with great pride that after that hearing was over, Eric waited just long enough for us to be alone, and then told me he was proud of the way I presented the case. Sweeter words there never were. But why do I mention this here today? It’s quite simple: In Eric’s view, our success was his.

One of Eric’s greatest gifts to his students was allowing them to learn in his shadow without ever hinting to us that we had not taken the right tack or might have more effectively approached things a bit differently. But by including us in the process and essentially letting the case develop for both sides to see, we were able to learn best practices simply by being in his presence and practicing in front of him.

But as very busy as he was in those hay days, he always had time to explain; always had time to make a useful suggestion on a case, or perhaps even more importantly, in the path of one’s career. He did that for me on more than one occasion.

As perhaps the best method of showing our gratitude for his tutelage and caring, we regularly—I know I did and I believe many others did as well—did whatever we reasonably could to ensure he was the designated impartial in the labor agreements which we were charged with administering for our clients. But the most satisfying thing about this particular strategy was that both sides were always happy to work with Eric. He was the consummate professional.

He was a phenomenally quick study and understood all of the nuances and undercurrents of the issue even before they were outlined for him. I won’t be giving any great secrets away if I admit, before this august body of his admirers, that I never had a single contract on behalf of any labor client in which Eric was not named as the principal arbitrator. In fact, as a young lawyer, I was able to suggest that Eric replace Theodore Kheel as the contract impartial for New York Bus Service after we had successfully waged a campaign in court to get Mr.
Kheel to remove himself as arbitrator under that labor agreement. I think Eric very much enjoyed that gig.

And, believe me, he was just as quick on the uptake in my last case with him in 2010 as he was in 1976. What a wonderful way for us to practice. And how his passing makes what we do next so difficult; so empty; so unfulfilling.

I thank Eric for allowing me to learn and to mature in my practice at his side. I know I speak for many, many of my colleagues when I say that there will never be another who I enjoyed working with more, from whom I learned as much, or who allowed us to grow into the credits to him and his work that I sincerely hope we are. You will be missed more than you can ever imagine.

Godspeed, my good friend.

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[Additional anecdote not spoken due to time constraints]

As counsel for various teamster locals, I had occasion to represent the flight engineers of Seaboard World Airlines. Seaboard was in merger talks with the Flying Tiger Line in order to become the preeminent cargo carrier in the United States. As with all mergers, the combination of flight crew seniority lists was perhaps the trickiest aspect of those talks. As counsel for the Seaboard flight engineers, I was pitted against the two renowned deans of the ALPA seniority list integration world: Ron Natalie of Washington and Richard Watt of Chicago. I was out of law school five years and learning on the fly. Prior to the three-month arbitration of the matter, Watt and Natalie agreed to attempt mediation, doing so in NYC. Since New York was my home turf, they let me suggest an appropriate mediator.

Without a moment’s hesitation, I said “Eric Schmertz is your man.” Neither had experience with him but were willing to let him serve. I don’t think either counsel had any hope of success. I vividly remember each of them presenting the facts to Eric and doing so at break-neck speed, using terms of art known only to those proficient in seniority list integration parlance. Without so much as a question or a moment’s hesitation, Eric picked it up, ran with it, and offered his suggestions for how the matter could be successfully mediated. For political reasons, the parties chose not to agree, preferring to let an arbitrator render an award. After the session, however, both of these shrewd and experienced advocates came to me and said, “We have never met anyone
who could pick up the facts, political concerns, and legal issues as fast as your Mr. Schmertz. Kudos!” Yes, indeed. Kudos.