Acceptance Remarks

David R. Jones
ACCEPTANCE REMARKS FOR THE 2023 DISTINGUISHED SERVICE AWARD FOR LIFETIME ACHIEVEMENT

DELIVERED AT THE EMMORY BANKRUPTCY DEVELOPMENTS JOURNAL’S TWENTY-THIRD ANNUAL BANQUET

David R. Jones

“Good evening to everyone and thank you for coming. I am still a bit shocked that I’m standing here tonight. I vividly remember the conversation that I had with Keith Shapiro when he called to tell me that I had been selected as this year’s recipient. It went something like, ‘Are you sure you have the right David Jones? There are several of us, you know. Are you sure?’ It took him a couple of minutes persuasive argument on his part to convince me and once he did, I’ve been really excited ever since.

“I sure you’ve heard the expression that ‘it takes a village.’ In my case, it is more accurate to say it took a large metropolis—with everyone working overtime—to get me where I am today. And it all started with Judge Isgur and Tom Kirkendall who are both here this evening. Tom and Judge Isgur gave me my first job as a lawyer. They took me in, taught me how to think, how to write and how to be a lawyer. If you think it was easy, I’d like to give you one short example of what they were up against.

“I was in my second or third year. I think I was doing okay. One of the firm’s partners was leaving for vacation and offered to give me his parking card for two weeks. Now, this was no ordinary parking card. It was in the building where the firm was located. These spaces are few in number and more valuable than gold. My parking spot at the time was several blocks away. So, I got the card and I liked it, I mean, I really liked it. When the partner returned, he asked for his card. I politely declined to return it. Tom got involved and asked me why I wouldn’t return the card. He noted for my benefit that, after all, I was just an associate in the firm. I responded that if a partner couldn’t get a parking card from an associate, perhaps the firm should reconsider who their partners should be. Like he has done so many times, Tom protected me, guided me and taught me. For the record, however, I note that shortly thereafter I got my own parking card. I still have it. Tom and Marvin, thank you for being here and thank you for the past thirty-plus years. It’s just been a blast. I am forever grateful.
“In 2004, Judge Isgur took the bench and I moved to Porter Hedges at the convincing of my good friend, John Higgins. I’ve never asked him—and I’m not about to tempt fate tonight—if with the benefit of hindsight, he would rethink his decision. The firm let me test my limits as a lawyer and I really thought I would never leave. John is here tonight with his wife Whitney. I think you both for being here.

“Perhaps having forgotten just what it was like, Judge Isgur started all over again in 2012 when I joined him on the bench. His patience and guidance never wavered. He listened to all of my crazy ideas, he protected me and, like he had done as a lawyer, he taught me how to be a judge. We talk every day, multiple times, whether he wants to or not. I can’t imagine him not being right down the hall. Marvin, thank you twice.

“I also want to introduce you tonight to Chris Lopez who is present tonight with his wife Rachel. I’ve known Chris since he was a baby lawyer and I’m watched him become a fabulous young judge. Chris, having watched you, I would be privileged to stand before you as a practitioner and argue my case. I would know that you would be over-prepared and that you would spend whatever time it took to get to the right answer Judge Lopez has recently joined me on the complex case docket in the Southern District of Texas. Judge Lopez is the future of the Southern District of Texas and what we do. That future could not be in better hands. Chris and Rachel, thank you for coming.

“There are several young lawyers that are present tonight that I first met in a weekly class that I teach in my courtroom on most Wednesdays. That class started in 2013 with the intention that it have a set curriculum that would repeat every year, tackling subjects such as best courtroom practices, evidence and the like. Turns out, that first year never ended. We continue today to explore topics relevant to modern bankruptcy practice. Many of the lawyers that attend today first attended in year one. It also turned out that the class was as much of a learning session for me as it was a teaching session. Not only did we become better professionals together, we became friends. We formed a cooking team and I proud to say that we have won several barbecue and chili cook-offs. I have mastered the art of doing nothing. We also mastered the art of making beer flavored ice cream using liquid nitrogen. If it sounds a little scary, it is. To all of you, it has truly been my privilege to watch you grow as professionals and become the next generation of Texas insolvency lawyers. I thank you for what you have taught me.

“I have also had the pleasure of working with a host of quality professionals over the years, many of whom have become personal friends. I’ve said it before
and I’ll repeat it tonight: You are the best in the world. It’s my honor every day
to watch you practice your craft and I want to thank each of you for being here
tonight. It is also a collegial group. To give you but one example, I want to
recognize Mike Warner. Mike is a partner in the Pachulski firm based in Los
Angeles. I’ve known Mike for over twenty years, worked with him in too many
cases to count and never once on the same side. Even when we disagreed—and
we disagreed a lot—we could always talk. When Mike found out about this
event, he helped organized a Texas contingency to attend, created an activity
schedule, and invited several of his partners, including Rich Pachulski, to attend.
Mike, I’m proud to call you a friend and I really appreciate you being here.

“There is one person here tonight to whom I owe so much and who really
needs no introduction. That is my case manager, Albert Alonzo. When I hired
Albert in 2011, I shared my vision of what I wanted the Court to be and he
listened. He told me: ‘Judge, if it’s your vision, then it’s mine.’ I then told him
that he would have to carry a government-issued cellphone 24/7 and actually
answer it. The vision that was so clear suddenly got a bit blurry. In all
seriousness, over the past twelve years, he has become my brother. I eat holiday
meals with his family every year. I’ve learned how to make tamales in his
mother’s kitchen. Albert, I’ve said it a million times: I’m just an average judge,
but I’m good at people. Thank you for what you have done for the Court, thank
you for being my friend and for being here tonight.

“I’m also joined tonight by several former law clerks. To be fair, clerking for
Jones is not easy. But to be fair to Jones, most of my choices are strong, smart,
dominating personalities. I’m so proud of what you have become and the skill
that you exhibit. I tell everyone that it’s all due to me. To be completely candid,
I’m just happy that you still answer the phone when I call and have a question.
Thank you for coming.

“While I’m on the law clerk topic, one of Emory’s own, Christina Morrison,¹
will join chambers in September. Which reminds me, I have to compliment the
law school. I don’t know what special class you teach or what you put in the
water, but the drive to excel exhibited by your students is just exemplary.
Christina arrived in Houston to be a summer clerk at a Texas firm and she
impressed everyone so much they promptly offered her a job. For most, that
would be enough. Not Christina. She interviewed to be my clerk . . . and she
bombed the interview. Undeterred, she started coming to my Wednesday class.

¹ Executive Notes & Comments Editor, Emory Bankruptcy Developments Journal; J.D., Highest Honors
and Order of the Coif, Emory University School of Law (2023); B.A., Political Science, with Highest Honors,
She examined witnesses, offered evidence and engaged. When I critiqued her, she argued with me. When she asked me if I had filled my 2023 clerkship vacancy, I told her that I hadn’t. She again disagreed and told me that she would see me in September and to make sure her office was clean. Christina, we in chambers look forward to seeing you in September.

“To all the young lawyers and lawyers to-be in the audience (and perhaps a few that aren’t so young), I want to pose the following question tonight: What does it mean to be a lawyer? Seems simple. So, I started where all good lawyers do, and went to Wikipedia. ‘A lawyer is a person who practices law.’ Not particularly insightful, so I read on. ‘Working as a lawyer generally involves the practical application of abstract legal theories and knowledge to solve specific problems.’ That certainly redefined what I thought I had been doing for the past thirty-two years or so. After thinking about it for a couple of days, I landed on the following: Being a lawyer isn’t measured by how much money you make. It isn’t measured by the number of wins you have in court or the number of deals that you successfully close. To me, being a lawyer means that you have a voice that can be heard. You have the ability and the training to speak for those that can’t speak for themselves. It means that you have the knowledge to not only recognize that change needs to occur, but to bring that change about. I would like to talk for just a moment about one example.

“The commercial production of asbestos insulation in the United States started in 1879. In 1899, the first case of asbestos related disease was diagnosed. The Library of Congress has included books on the topic of the harmful effects of asbestos and its link to cancer since 1939. The federal government issued a moratorium on the continued production of most asbestos containing products in the early 1970s, but their use continued well into the 1990s. There can be no denial that the effects of asbestos from prolonged exposure can be significant. Much debate has occurred, however, regarding how to address asbestos injury claims.

“On October 4, 1994, Representative Jack Brooks from the State of Texas and a graduate of the University of Texas School of Law stood before the United States House of Representatives as chairman of the chamber’s Judiciary Committee to urge his fellow members, Democrats and Republicans alike, to approve the Bankruptcy Reform Act of 1994. In his opening remarks, he referred to the legislation as ‘one of the most significant pieces of economic legislation to be considered by the House in this Congress.’ One of the proposed changes was the creation of subsection (g) to Section 524 of the Bankruptcy Code. Section 524(g) created a way of dealing with both current and future claims for
injuries caused by exposure to asbestos. The process struck a balance that allowed for a company’s future revenues to be efficiently channeled into a trust for prompt payment to all affected parties. Mr. Brooks closed his remarks with the statement that ‘[h]ow the new statutory mechanism works in the asbestos area may help the Committee judge whether the concept should be extended to other areas.’ The legislation became law later that month, on October 22, 1994.

“Spring forward almost thirty years. Think how much the world has changed. Commerce occurs in the cloud instead of over fax machines. Geographically isolated economies are now intertwined into a single global economy. Litigation is now conducted in scale. In the bankruptcy world, you can’t go a single day without reading about mass tort driven bankruptcy cases involving household names such as Johnson & Johnson, Purdue Pharma and 3M. The Texas two-step, a country western dance that I can’t seem to master despite fancy new boots, now has an entirely new meaning among corporate and insolvency professionals. You can’t help but ask: why the litany of approaches?

“The answer is simple. Section 524(g) was so successful in addressing the problem that it was created to address that lawyers have tried to emulate its effects in other areas. What is needed today is a voice to echo the statements by Congressman Brooks and to advocate a change to section 524(g). All that it takes is one voice, your voice. A bipartisan voice that speaks for the injured who cannot individually speak for themselves. A bipartisan voice that protects the second chance inherent in our culture for citizens, individual and corporate alike. Think what could happen if the asbestos limitation in section 524(g)(2)(B)(i)(II) were deleted and the equitable process of bankruptcy could be used to achieve equity for all parties in tort-based bankruptcy cases. I suggest there is no better solution to enable payment of legitimate claims sooner, ensure that everyone is treated equally, preserve jobs, and foster commercial activity. There is your challenge.

“I want to thank you all for listening to me. Again, I am so honored to be here. This will be a memory that I will never forget. Please enjoy the remainder of the evening. Good night, everyone.”