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## Tribute

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## TRIBUTE

*Charles Shanor\**

My last encounter with my colleague, David Bederman, was typical. As he slowly made his way to his office only a week before cancer bore him away from us, I departed my office heading belatedly for class. David said, “Have a good class, Charlie,” and I was speechless. All the things I might have said were cut off by my thoughts of his obviously deteriorating condition. It was a simple sentence, one we say to each other many times. But from David at that moment, it was a touching one, words of encouragement from a man in great pain who was shortly to teach his last class. “You too, David,” was all I could muster, though I learned later that his students gave him a standing ovation that day, when arriving to class was an act of heroism.

I remember when we hired David, twenty years ago. He was one of three candidates for one position in international law. And he was the least experienced of the three, one of whom had held a high-level position in the State Department and represented multinational companies in international law matters before he interviewed with Emory. Our senior international law scholar, Hal Berman, listened to much discussion about the plusses and minuses of the three candidates, then stood to speak. Hal said simply and prophetically: “David Bederman has the most promise of any junior international law scholar in the country, perhaps the world. He has the breadth of interests, the depth of inquiry, the eloquence of expression, and the commitment to scholarship to make a major mark in the field.” So we hired David, and it was our lucky day.

Articles tumbled out of David, ranging from explorations of Article II military courts to the law of piracy and the role of custom in international law, not to mention a host of other topics. He taught a legion of courses in the international and admiralty sphere but ventured farther afield to anchor a notoriously difficult first-year enterprise called “Legal Methods.” All the while, David litigated cases and advised companies, most famously Odyssey Marine Exploration, where he rose to become chairman of the board.

David’s office was as much a mess as his mind and writings were orderly. Stacks of “research files” looked to me and other visitors like the clutter of a

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compulsive collector unable to dispose of anything. Amid the clutter was David with his computer terminal and his inflatable penguin, a memento of his Supreme Court Antarctica *terra nullius* case. He was always busy, but always smiling, and always had time for any visitor.

Permit me three stories. The first involved advice David gave me on a cert petition I drafted in a Railway Labor Act case where I was attempting to convince the Court to reverse an earlier statutory interpretation that created an area of judicial unreviewability that I and others thought unsound and out of touch with other areas of the law. David gave me his thoughts, all sound and all of which improved the brief, then counseled, "Of course, Charlie, there is no chance the Court will grant the writ." And it didn't.

The second occurred after David was diagnosed with cancer. He took cancer as a challenge, fought it fiercely, and gave it no quarter. But he respected it, he studied it, and he sought out the doctors most likely to help him resist its grip for the longest period. When I told him about a company having a new tool for locating and treating cancerous cells more precisely, David knew much about the company and its diagnostic tool. Then he patiently explained why that particular tool worked with some cancers but would not work with his. He was a scholar, even when the subject was as personal as his own confrontation with the disease that eventually took his life. Come to think of it, David always knew more about every topic we ever discussed, so why should this topic differ?

Finally, David was a scholar with a deep understanding of both the petty and the important in academic policy decisions. Perplexed with a tough issue that had strong arguments on both sides, I went to David, predictably, for a sane read on the issue. David listened patiently, then dived to the heart of the matter. Recognizing there were problems with the status quo, David argued that change would not necessarily improve matters and that people of good will might be hurt by the proposed change. It was a discussion that led me to try another tack on the topic, one that proved far more fruitful than the head-on approach I had been considering. Wisdom, so rare anywhere, including in academia, was the essence of David Bederman.

We miss your brilliance, your wisdom, and your good cheer, David. Godspeed.