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## Tributes to Prof. Morris G. Shanker

Case Western Reserve University School of Law

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# MORRIS GERALD SHANKER

AUGUST 23, 1926–AUGUST 18, 2020

Professor Emeritus of Law

Case Western Reserve University

# Sharona Hoffman

*Edgar A. Hahn Professor of Law*

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Although Morrie was my colleague here at CWRU, I feel that my connection with him was more personal than professional. I don't know anything about his areas of expertise. I'm hoping never to know anything about bankruptcy.

I got to know Morrie well because of my father, may he rest in peace. When I moved to Cleveland from Houston in 1999, the *Cleveland Jewish News* did a nice story about me. I guess back then it was newsworthy if someone actually moved to Cleveland. The article talked about my job, my background, and my father's Cleveland roots, etc.

A few days after the story was published, Morrie came to my office and stood in the doorway and stared at me. I was terrified. I was newly on tenure track, and here is a very senior faculty member standing and staring at me. What had I managed already to do wrong? Finally, Morrie said, "Yes, I can see it now. You really are Morty Hoffman's daughter." It turned out that Morrie and my father went to Glenville High School together here in Cleveland. That created a bond between us that lasted throughout the rest of Morrie's life.

When I told my father that I was working with Morrie Shanker, he was so excited! He exclaimed: "Oh wow, Morrie was my boyfriend!" I had to explain that nowadays, that word had certain implications that I didn't think applied, but clearly they were close friends.

A particularly memorable day was the day Morrie told me that we were going to leave the law school in the afternoon and go on an excursion. He said we were going to see the house in which my father grew up, which he remembered well. I couldn't believe it. Morrie and my father grew up during the depression in the 105<sup>th</sup> Street area, very close to the law school. In an effort to make his daughters appreciate all that they had, my father talked nonstop about how impoverished his family was and what deprivations he suffered growing up. I was certain that his house had crumbled to dust long ago. Morrie easily found the house and showed me that that was not the case – it was pretty decent. My father lost a bit of credibility....

Thanks to Morrie, I was able to take my father to see his old house when my parents next travelled from Michigan to Cleveland for a visit. He even knocked on the door and spoke briefly with the woman who lived there, who remembered her father buying the house from my grandfather!

Morrie and I spoke often while he continued to work at the law school and saw each other in synagogue while he was still able to attend. We both belonged to Beth El The Heights Synagogue in Cleveland Heights. He used to arrive even later than I did, as close as possible to the post-services luncheon. I spent many happy hours in the Shankers' home, at Yom Kippur break the fasts, New Year parties, cat birthday parties, and more. Brondy's food was always plentiful and delicious.

After Morrie moved to Stone Garden, I visited him there, though not often enough, as he always pointed out. Morrie told me many, many stories about his childhood and the life he lived when he was growing up in the neighborhood he shared with my father. And after telling me I needed to visit more frequently, he would always give me a hug and say that he loved me.

I really miss him.

# Dr. Jaymie Shanker

## *Daughter*

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Good afternoon.

First, I would like to thank the Law School—and specifically Professor Sharona Hoffman—for arranging this lovely event in memory of my father. I know he would be so honored and grateful.

I would like to say a few words about my father's early life, which may not be so well known to those in attendance today. His parents were Ukrainian or Polish (apparently depending on where the border was on any given day); they emigrated to the United States early in their marriage, and my dad—their youngest child—was born in Cleveland. When my father was just 2 years old, his father disappeared from the family (in what I now believe was one of several bipolar manic episodes), leaving my grandmother and her three small children. They lived in the Glenville area of Cleveland in a one-bedroom apartment. My dad and his brother slept on a board placed between two chairs in the living room; while his sister and mother shared the bed in the bedroom. They were very poor. His mother, who did not speak English, plucked the feathers from slaughtered chickens to support her family. Having no father, and a constantly working, low-paid, single mother, my father was effectively raised by his older sister.

World War II broke out when my father was a teenager. A few years later, he was fortunate enough to pass the US military's cognitive test and physical exam given to graduating seniors at Glenville High School. This important success admitted him into a Naval officer training program, and opened a door for him into a much larger world. Without the Navy, it is possible that my father would never have gone to college. The Navy enrolled him into an electrical engineering program at Purdue University. However, the war ended before he completed his bachelor's degree. The GI Bill allowed him to finish his bachelor's degree in electrical engineering, but pretty quickly, my dad realized that engineering was not a good fit for him. So, again with the GI Bill, he decided to try Business School at the University of Michigan. One year into that degree, he recognized that Business did not fit him well either. Thus, using the GI bill for the third time, he enrolled at the University of Michigan School of Law. Finally, a good fit! My dad found the study of law to be enjoyable, intellectually stimulating, and rewarding; he blossomed.

After law school, moving back to Cleveland, my father was excited to join a law firm. But it was another disappointment. He remained at that law firm for nine mainly unhappy years. The practice of law simply did not suit him. He often told me that perhaps the most consequential day of his life was the day in 1961, when Western Reserve University invited him to be a professor at the School of Law. At long last, he found his ideal career. He loved legal teaching, writing, and thinking; he thrived in academia. It was the ultimate good fit for him, and he excelled at it for 49 years.

Because the John Homer Kapp chair supported my father's felicitous career, it was always his wish to pay that good luck forward, and provide the same opportunity to another Case Western Reserve University law professor.

My father would be delighted by this new beginning.

Thank you.

# Erik Jensen

*Coleman P. Burke Professor Emeritus of Law*

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This is in some ways a sad occasion, of course, but it's also wonderful to have a gathering—even a virtual one—of Morrie's friends, colleagues, and students from over the many, many years. And it's wonderful to have the announcement of the new chair—an extraordinary gift from an extraordinary man.

My family's connection with the Shankers goes back to our arrival in Cleveland in 1983. We lived about a block away from the Shankers; we saw them regularly for the Bar and Bat Mitzvahs of Brondy's cats; Brondy tutored our daughter, Addie, before Addie made the move from a Montessori school to Shaker Heights High School; and both Brondy and Morrie were supportive in so many ways. The psychological benefits were particularly pleasing: when we were in our sixties, Morrie still referred to us as "kids," even though we weren't (and aren't).

The Shanker bloodline continues in our household: by way of Dr. Jaymie, we inherited Brondy's cat Gwen (short for Guinevere), one of several Shanker felines over the years with a Camelot connection. (Others included Arthur and Lancelot.)

In the rest of my remarks, I'm going to crib from a piece I wrote eleven years ago for our *Law Review* on Morrie's retirement after 49 years on the faculty. (I'm sorry for repeating myself. I just have no imagination, and, besides, Morrie seemed to like what I wrote back then.)

Morrie began teaching at the Western Reserve Law School shortly after the creation of the Western Reserve. Had Moses Cleaveland not elbowed his way to the front of the boat in 1796, Morrie might have been the first surveyor to step onto the banks of the Cuyahoga. If that had happened, the house band at Severance Hall would be known today as the Shanker Orchestra.

I'm just kidding, of course, but it does seem as though Morrie, a native Cleveland, was a central part of this school forever. (I've been here for nearly thirty-eight years, and Morrie was a grizzled veteran when I arrived.) Generations of students and faculty benefited from his knowledge, erudition, and warmth.

Morrie was one of the foremost authorities on bankruptcy and commercial law in the nation and the world. He was a visiting professor at some of America's greatest universities, like Michigan and Berkeley, and he crossed the pond too (to the University of London). He published widely and well, in top journals. In 1964, one of Morrie's pieces appeared in the same issue of the *Yale Law Journal* as an article, "The New Property," written by flower-child wannabe Charles Reich. Reich was best known as author of Kermit the Frog's favorite book, *The Greening of America*. Unlike Reich (and Kermit), however, Morrie generally resisted being greened (except when he was wearing one of his more memorable iridescent suits).

Morrie's courses were always among the school's most significant and most popular. Morrie knew more than anyone else about so many subjects—you didn't want to get him started on the Statute of Frauds if you had something else to do!—and he conveyed that knowledge with conviction and enthusiasm.

Morrie had a forceful personality, as I learned from personal experience. I argued with him about statutory interpretation, the flat tax, the Equal Protection Clause, whether outfielders should bounce their throws into home plate or not, the merits of twentieth-century composer Alban Berg—Morrie had been concertmaster of the University of Michigan Orchestra, and he had strong feelings about the merits (and demerits) of various composers—and almost everything else

imaginable. When he disagreed with me, Morrie was wrong, of course, but his wrongheadedness made the arguments stimulating and great fun.

I don't mean to suggest that Morrie was always a contrarian. Indeed, Morrie was a unifying voice on the faculty in at least one important respect. It was traditional for him to make the motion to adjourn faculty meetings, and adjournment is one issue on which all faculty—well, *almost* all faculty—can agree. Without Morrie, faculty meetings could have routinely become Strom Thurmond-like filibusters. (Some came close anyway.)

I can hear Morrie now; it's time for *me* to adjourn. Suffice it to say that I'm proud to have been Morrie's colleague and friend, and I miss him dearly.

# Marvin Sicherman

*Bankruptcy Attorney, Adjunct Professor of Law at Case Western Reserve University*

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During the last half of my junior year of law school, fall of 1958, we had midyear classes in those years, I law clerked for the late Joe Coy, a graduate of our law school. One day Joe sent me to deliver a deposition notice to Morris Shanker at Grossman, Schlesinger & Carter. When I arrived and told the receptionist I had papers for Mr. Shanker, she had me wait and he came to the front office to get the documents. Rather than just take the papers, he engaged me in a conversation, inquiring as to if I was a law student and at what school, what year was I in, etc. Little did I know that day was the beginning of a long professional friendship.

From that day on it seemed that Morrie and I continuously crossed paths. A year after I started practicing, Morrie became part of our school's faculty, a full-time professor teaching bankruptcy and commercial law. He took over the bankruptcy course that had been taught by the late Bankruptcy Judge Carl D. Friebolin, the dean of the bankruptcy bench in the late 1950s to early 1970s. Our interaction as opposing counsel was somewhat short lived. But it was long enough for me to recognize Morrie was a scholar and a great source of help with technical legal problems that I would encounter as a practitioner. For example: "Morrie I have a problem with whether a guarantor is released," and proceeded to give him the facts. Needless to say, I had done my research but came up empty handed, perhaps by reason of it not being a common fact pattern. His immediate answer was "depending but not necessarily." He continued "There's an example in either the Restatement of Restitution or Suretyship, I'll find it and call you." His call and the answer arrived within less than a half hour.

Or, Morrie there is some discussion about trying to restart Friebolin College for practicing lawyers who'd like to learn the fundamentals of bankruptcy law. Friebolin College was a class in bankruptcy law taught by the late Bankruptcy Referee, Judge Carl D. Friebolin that met Thursday evenings from early fall to early December at the then office of the National Association of Credit Management. It predated any concept of CLE credits and was taken by those who wanted to learn from the "master." The "college" ended with the demise of Judge Friebolin. I knew Morrie held Judge Friebolin in high esteem and would be willing to help. I had been asked to consider teaching it and was not certain where to start, or even if I was capable of doing it. My hope was that Morrie would undertake teaching the course. Perhaps I wasn't very subtle, as his response was he would not be comfortable doing it while on the law school's full-time faculty, but would send me a copy his syllabus and then we can talk and he'd help me get it started.

But I don't think I was asked to talk about my relationship with Morrie, but rather to tell you what I know about him that may not be common knowledge. Morrie had an undergraduate degree in engineering from Purdue and an MBA and law degree from the University of Michigan, where he studied bankruptcy law under the tutelage of Professor Frank Kennedy, a leading bankruptcy scholar. In 1960 Earl Warren, the then Chief Justice of the Supreme Court, appointed an Advisory Committee on Bankruptcy Rules with Kennedy as the reporter. Morrie was appointed assistant reporter. From the work of that committee came the first set of bankruptcy rules, followed by the 1967 and 1970 amendments to the

Bankruptcy Act, and then the 1978 Bankruptcy Code and Rules. Those were exciting times. Morrie, true to his basic nature, sought practical input from Cleveland practitioners he respected. He was concerned with their reactions to the workability and feasibility of ideas being proposed by the Advisory Committee.

He was truly a scholar, a friend, and a source of encouragement to many who had an interest in bankruptcy and commercial law. It was in great part because of his encouragement that for the past eleven years I taught bankruptcy law at Case, even though I'm no match for him as either a scholar or teacher.

Perhaps late, but I'm grateful to have an opportunity to publicly say "Thanks Morrie" you were a model for me and for many others in the bankruptcy and commercial law community.



# Bill Leatherby

*Professor Emeritus of Law, Case Western Reserve University*

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I'm honored and pleased to be part of this celebration of the life and achievements of Professor Shanker. The photo behind me is the old law school building—the main section. It now houses the University Health Service. The other part of the building which housed the Moot Court Room and the library was demolished many years ago.

Professor Shanker joined the faculty in 1961, the year before the Uniform Commercial Code—the UCC—was enacted in Ohio. He quickly became known as the state's pre-eminent authority on the Code. I arrived in 1965 and first enrolled in a Shanker class, Sales, in 1966—the fall of my second year. Because of my interest and because he was an excellent teacher, I took three more of his courses—one each term until graduation.

As a teacher, he was able to apply his years of experience as a practitioner to analysis of the new Code. He had seen what a thicket the prior commercial law was and welcomed the new approach. He enlisted us, his students, in the study of how the Code changed the prior law. Because there was then little case law interpreting the new Code, he had us read pre-Code cases and consider how the new statute would apply to those fact patterns.

He insisted on class attendance and preparation. He called on students who returned after missing some classes. When a student was unprepared, he used the student as a blank slate as he said he sometimes did with his family around the dinner table. I vividly recall being selected one day for a discussion of a particular code section—one I had not read. He worked his way through the section (which had several subsections) asking me a series of hypos. I guessed right a couple of times but with respect to several subsections he said I would have been right under the common law or the prior statute. Unfortunately, he said, I had not read the particular subsection that would change the outcome. He was demanding in class but never unkind.

During the time I practiced at Legal Aid, I did consumer cases and some bankruptcy practice. My law school experience with Professor Shanker prepared me well for that.

Because he embraced the change brought by the Code, he opposed the development of strict liability in tort. The Code was drafted by eminent scholars like Llewelyn, Gilmore, and others. It was designed to be flexible and to be adapted to change by judicial development. He published an article in our law review in 1965 arguing that the goals of strict tort could be achieved by interpretation and amendment of Article 2 of the Code without what he deemed to be unintended and undesirable consequences. He lost that battle to Traynor, Wade, and Prosser. In a later article, he said that the debate had provided opportunities for scholars but “seems only to have brought about an enervating, costly, and confusing word game which hardly was worth the effort.”

When I returned to the law school to join the faculty, I discovered that our colleagues called Professor Shanker “Morrie.” It took a while for me to do that but he welcomed me and was eager to assist me when I began, after a few years, to teach some of the courses he had taught me. Although he had enthusiastically embraced the change brought about by the UCC, he did oppose change for the sake of change. When the Uniform Law Commissioners promulgated a major revision of Article 2, he opposed it—along with both consumers and business interests. That revision failed. It was never adopted anywhere. Morrie was not

alone in believing that the drafters of Article 2 had created a flexible statute that could be adapted and modernized by judicial interpretation and a few minor amendments.

The first few times I taught Sales, I had to deal with both the existing Article 2 and the proposed revision. I saw that Morrie was right about the revision as he was on many issues. As students we used to say that on controversial issues there was a majority view, a minority view, and a Shanker view. The Shanker view was always well-reasoned and often the best.

When I began to teach the course on Article 9—personal property security— Morrie again offered assistance. I discovered that he was right about another revision of the Code. The new version of Article 9 which was adopted as I began to teach the course was a wholesale revision of the original version. It included necessary modernization but went far beyond that. It made Article 9 much longer, more complex, and more detailed. It created lots of the dreaded unintended consequences.

As a faculty member, Morrie argued against unnecessary proliferation of courses. He advanced his conviction that our principal job was to prepare students for the real world of law practice. In faculty meetings, business often expanded to fill the time allotted. Those unproductive discussions tested Morrie's patience. When the meeting began to run down, the Dean could always count on Morrie to offer a motion to adjourn.

On that note, I will end my comments and yield the floor to the next speaker. Thank you.

# Judge Marilyn Shea-Stonum

*Retired Bankruptcy Judge and Former Student*

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Professor Shanker's overarching talent was his ability to critique the deficits in existing statutory systems. He first displayed that talent as a member of the American Law Institute in its work assembling a quilt of uniformly enacted state laws, some dating back to the 1890s, into the Uniform Commercial Code. His focus was of course on Article Nine.

As we know, no good deed goes unpunished. So, what's the acid test for secured transactions? Bankruptcy, of course. Thus, starting in 1964 he accepted the additional gig, first, as assistant reporter to, and then a member of, the Advisory Committee on Bankruptcy Rules of the United States Judicial Conference. The significance of this work comes into sharpest focus when one notes that from 1964 until the effective date of the Bankruptcy Code in late 1979, Congress took the unprecedented step of providing that, in conflicts between the Bankruptcy Rules promulgated by this Committee and the 1898 Bankruptcy Act, the Bankruptcy Rules would trump the 1898 Bankruptcy Act. The Rules Committee was identifying the most needed updates to the U.S. bankruptcy laws and enacting those changes through rules until Congress could get around to agreeing on what form new bankruptcy laws should take. This was an extraordinary short-term bandage and, thus, from 1965 through 1976, Prof. Shanker was a stealth legislator.

The court-centered bankruptcy processes had numerous critics, some of the loudest calling for moving to a bureaucratic approach outside of the judicial branch. Given that this Committee had been appointed by the U.S. Judicial Conference, its momentum was focused on courts, arguably tilting toward the 1978 Bankruptcy Code's continuation of courts overseeing the U.S. bankruptcy process. This perhaps explains why one of the rules adopted by the Committee was to change the moniker for those presiding over bankruptcy cases from referee to judge. A bit of local color: reportedly the U.S. District Court for the Northern District of Ohio was the first district court in the country to enact a local rule implementing this appellation.

In the course of all of this *pro bono* activity, Professor Shanker became a member of the National Bankruptcy Conference. Being invited into the NBC is the highest honor that can be bestowed upon a member of the bankruptcy community, though the invitation imposes considerable responsibilities. The NBC limits its membership to approximately 75 academics, judges and practicing lawyers. The NBC analyzes any proposed changes to federal bankruptcy law and offers its considered opinion to Congress. At least in the first decade after the new Bankruptcy Code became effective in 1979, any suggestion of amending the Code would get no traction in Congress without the NBC's *nihil obstat*.

In 1973 as a second-year law student, I enrolled in Professor Shanker's Secured Transactions course. Then I had no inkling of his rock star status in the world of commercial law. Rock star, you ask—isn't that a bit of hyperbole? Well, no! Let's look at the facts: most rock stars have their own stylists; Professor Shanker had Mrs. Shanker tailoring his smart sport coats. Remember his unmistakable teal jacket--worthy of any peacock. Beyond that he had the commanding presence of a performer who had internalized every note of his material. As Professor Leatherberry has noted, he presented the majority and minority interpretations of each provision and then, with a flourish, the Shanker view.

So much more could be said. Let me simply note that the memory of the knowledge that he imparted was a blessing to me and so many other students whose careers ultimately centered on commercial law.

# Judy Kaul

*Retired Law Librarian, Case Western Reserve University*

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When I first started working at the Case Western Reserve Law Library, I had the good fortune to be assigned as the reference & research librarian for Professor Shanker. In addition to providing reference and research, I also supervised the A/V recording of classes, lectures, and special events that occurred in the Moot Court Room. Professor Shanker had all of his classes taped at that time. Eventually the law library hired Jaymie Shanker to take over the videotaping supervision between her undergraduate and graduate studies.

Professor Shanker was one of the faculty members on the cutting edge of the use of video recording in the classroom. In 2019-2020 Stan Wanicki converted over 100 of Morrie's video recordings to digital format. Andy Dorchak recalls once checking for Morrie's publications available via HeinOnline. He found that he had publications throughout five, maybe six decades, many in great journals.

Morrie was a great supporter of the Law Library and we encouraged him to stop by whenever the library was having potluck lunches or snack breaks. That is how many library staff members got to know him and we made sure to always include him if we had a food opportunity. He seemed to like getting to know all of us over the years. He was always kind and appreciative.

We all recognized that he was an important and brilliant scholar and obviously an expert in his field. Therefore, we were especially touched that he took the time to get to know us. He was kind in so many ways. We picked up on his love of music because he had two season tickets to the Cleveland Orchestra Friday morning concerts and if he could not use both tickets, he would often share one or both of them with us (and others in the law school). I have particularly fond memories of discussing the orchestra with him throughout the years.

He would ask about my family and share how proud he was of his family. He told me about the reading program that Brondy designed in the Cleveland Heights school system when I mentioned that my son started attending elementary school in the district. He also shared that Brondy had done the rubbing from a British judge's monument in London that she donated to the law library. I think it still resides on the third floor of the law library.

When my father passed away, Morrie asked about him. When told that my father served in the Navy in World War II, he shared with me his experiences in the Navy during the war. I remember that he showed me a picture of his group of officer candidates marching in white uniforms.

Renowned for his skillful teaching, several times I overheard students discussing his classes and they said that he was a great teacher who made a difficult, complex subject more understandable.

One of my last interactions with Morrie was when he was retiring and requested my assistance organizing material from his office. One day during this process he was excited because he had learned that one of his articles had just been cited by the Ohio Supreme Court. It made him extremely happy during that bittersweet time of his life.

I appreciate this opportunity to honor a great professor and a kind person. It was an honor to have known him and assisted him in his great work for this institution.

# Tom Heffernan

*Former Student, Heffernan & Associates*

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I have something special in common with Professor Shanker. We both started at the Law School in 1961, he as a Professor and I as a student. Although he stayed a good deal longer than I did. In fact, his stay may have set a record.

He prepared us for what was to be Ohio law when the Ohio General Assembly passed the legislation adopting the Uniform Commercial Code into Ohio law in 1962. This was newly codified law which gave him the opportunity to make constant comparisons with the common law and accumulated case law and gave us a better understanding of the UCC.

Back then, and, perhaps today, CWRU Law School gave us a broad “classical” legal education rather than a legal toolbox of what to do. While Professor Morrie honored the school's philosophy, he also wanted to prepare us for the real world of the practice of law in this area. We knew then that what he was teaching was the real thing. Contrast that with that of our property professor, whose name will go unmentioned, who delighted in teaching about property law in the middle ages as well as how to correctly measure property tracts and parcels on the moon even though no human was to land there until 1969. Such legal information did not lead to billable hours.

It is a dirty little secret at all the good law schools that there is a systemic and purposeful overburdening of assignment material to be covered each night in preparation for the next day's classes. So, due to the limitations of a 24-hour day, it was often near impossible to be fully prepared for each class. (All faculty members, of course, deny this). But you were always certain to be prepared for Professor Morrie's class. Not only because he was demanding when it came to his students being prepared, but because you wanted to learn his stuff. What he taught was well taught and his students respected him for that.

I spent 25 years as a plaintiff's personal injury trial lawyer never having to consciously use the Uniform Commercial Code. But as a second career, as a trial lawyer with the firm of Thompson Hine, I defended cases far afield from injury.

One of those cases, which ultimately went to trial, was a business case that involved some fairly complex UCC issues. While I led the trial team, we did have one team member who was well conversant with the UCC in general. But as we reviewed the case-issues I was amazed at how much of the UCC I had retained from Professor Morrie's course. Admittedly, it required a little dusting off. But it was still there. Believe me this is not a paeon to my retentive powers but as a tribute to the force of his teaching skills.

One final story about that case. When we went to a pre-trial in chambers hearing to resolve some of the legal issues to be confronted, we went before a judge who we knew would not be the trial judge. I was impressed with her understanding and grasp of the UCC issues we put before her. Today, as I think back on that hearing and her astute facility with the UCC, I can only conclude that she too was a student of Professor Morrie Shanker.

## Ken Davis

*Professor and Dean Emeritus, University of Wisconsin-Madison Law School*

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While I cannot claim to have known Morrie as well as other speakers at this memorial, I may have the distinction of knowing him in more capacities: First, as a student—he not only taught me Secured Transactions but also was, along with Leon Gabinet, my first Dean, in the year they faced the mind-boggling task of moving an entire law school across Euclid Avenue over a single weekend, one month into the semester. He later hired me as his research assistant for a commercial arbitration; later still, I was briefly his faculty colleague; and, finally, there's the capacity on which I want to focus my remarks—his Editor.

Our law review board received a submission on breach-of-contract damages and what is known as the lost-volume seller problem. We ran it past Professor Shanker, who recommended we publish it and also said he'd like to write a rebuttal. When we got his manuscript, we attacked it with the zeal not uncommon to student editors, which earned me a summons to Morrie's office when he saw the result. He recounted a conversation he'd recently had with a colleague at another law school over their mutual frustration with the editorial process and then laid down the law: If we wanted the piece, we needed to publish it as is, which we did, with two consequences. First, the piece is far better. Rereading it today, all those years removed from his classroom, I'm still struck by how Morrie's scholarly voice so mirrors his teaching voice—no purple prose or elaborate theorizing; instead, lots of concrete examples and illustrations, a reverence for what the statute says, occasional bits of Socratic questioning, and liberal use of humor that borders on what we today call a “dad joke.”

As for the second consequence, I cannot remember the details of that conversation Morrie had with his colleague. What I do recall is how Morrie used it to turn a tension-prone encounter into a teachable moment, and I came away with a fresh appreciation for the author's perspective and what our role as student editors should be—one I've occasionally tried to impart to those editing my own work, but never as skillfully or as successfully as Morrie did with me.

There's more to the story, however. This was the very beginning of law and economics, and part of Morrie's thesis was an economic one. With all the expertise conferred by an undergrad course or two in microeconomics, I proposed that his analysis should be taken a step or two farther. When Morrie disagreed, I did what now strikes me as cringeworthy and published my ideas as a separate postscript. I say cringeworthy not because I did it—I still think the ideas were pretty good, but how I did it, in complete ignorance of such basic scholarly courtesies as alerting him to what I was doing or giving him a draft for comment. I think I just sent it off to the printer.

Was Morrie irritated? He never mentioned it, so I'll never know. But after fourteen years as a law school dean, I have certainly known faculty to take offense at far less. Though I'd like to think that by that point in his accomplished career, Morrie was willing to shake his head and write it off to a variation of “boys will be boys,” what some have described as “Editor-in-Chief Syndrome.” What I can say is that if it did irk him at the time, Morrie was incapable of harboring a grudge for twenty years—which again separates him from many in our profession. When I returned to the law school in the mid-nineties for a one-semester visit, no one was more welcoming and gracious than Morrie and Brondy, rescuing me from the lonely confines of the Alcazar Hotel to host me at their home and the Symphony.



That's why, whenever I'm sitting at my desk, steam coming out of my ears over what some third-year law student has done to my prose, on my better days, I try to think of Morrie and cut the kid some slack.

## Dr. Irv Kushner

*Professor Emeritus of Medicine at Case Western Reserve University*

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This is a law school event, and I'm sure you understand that I don't know much about his academic activities. I do know that he was an international authority on bankruptcy and commercial law.

But I'm an academic and my approach when I'm scheduled to give a talk is to go to my reliable friend—Google—and see what I can learn about my subject. So, I did that with Morrie Shanker. The first thing I learned was that he was, in his realm, a very original thinker.

I learned that in 1968 he had published an article in the *Georgia Law Journal* in which he suggested that law students be required to take graduate courses in other departments of the university and to relate that learning to the law—that it be a requirement the law student would have to fulfill in order to get his law degree. Without this broadening of horizons, he felt that our legal system may lose contact with the society it exists to serve.

I learned that he had published an article in the *National Law Journal* in 2006 arguing that our Social Security laws be changed to encourage our older workers to continue to work—that we ought to repeal the requirement that the benefits received by Social Security recipients be taxed—a great idea!

I learned that an article he had published in 2003, entitled *Will Mortgage Law Survive?* was cited in the *Florida Bar Journal* in 2020. I can only guess what that was about.

But Google failed me in one regard. I couldn't find the column by George Will, who knows how many years ago, in which he referred to an article by Morrie.

But now on to Morrie's personal qualities—the man himself. Of course, I knew Morrie best as a human being, as I'm sure you all did. It was rewarding for Enid and me to be included for many years in the warm, welcoming social circle revolving around Brondy and Morrie's home. As we all know, he was gentle and unassuming, with a kind and generous heart. My personal experience: he perceived that I was in need of guidance when I was seeking an appropriate Jewish congregation in which to say Kadesh after my parents died, and he steered me to Congregation Beth El.

I'll end up with the most interesting item I found on Google. Some of you may think it belonged in the portion of my talk related to academic issues, but I prefer to think it belongs here: This is from the February 21, 1964 issue of *The Detroit Jewish News*. I'll quote:

Bnai Brith Hillel Foundation at the University of Michigan will hold its annual Purim Debate 8 p.m. Thursday at the conclusion of the reading of the Megillah. Presented in the spirit of a panel of faculty members, half advocating the merits of the latke (potato pancakes), the other half of the hamantasch (a triangular filled-pocket cookie). The subject is 'The Latke, the Hamantasch and Civil Disobedience in an Ecumenical Age.'

The debaters include, as latke proponents, Myron Simon of Detroit, lecturer in English at the Dearborn campus of the university; Dr. Morris Shanker, visiting associate professor of law; and Dr. Caesar R. Blake, assistant professor of English.

I was particularly pleased to see this, because I participated in a similar debate in Cleveland about 15 or 20 years ago, and I also spoke on behalf of Latkes.

Thank you for the opportunity to speak today.

Postscript

I am indebted to Erik Jensen, who contacted me immediately after Morrie's Celebration of Life event to inform me that I had the wrong conservative columnist. It was William F. Buckley, not George Will.

Now Google did its job. Buckley's column on May 15, 1978 began with the words: "Professor Morris Shanker of the Law School of Case Western Reserve University makes a point that is at once shrewd, frustrating, and hilarious."

# Enid Kushner

*Former Student, Attorney*

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Perhaps I, of all the speakers today, have known Morrie the longest. I first met him when he returned to Cleveland shortly after his graduation from law school at the University of Michigan in 1952.

I have a picture of the two of us in early 1950s when we were about to go out on a date, when I was an undergraduate in Flora Stone Mather College. Unfortunately, I am now in Sarasota and the picture is back in Cleveland, or I would share it with you. I really don't remember the occasion, but I am sure we had a pleasant time.

Once he and Brondy were married, we were privileged to be part of their salon—an assemblage of interesting people that they attracted and entertained. We shared many enjoyable meals and interesting conversations around their dining room table.

Morrie and Brondy were always interested in our children. My son Philip graduated from the University of Chicago Law School in 1985. Toward the end of his final year, Irv's father died. Philip went to New York for the funeral, just at the time of final exams. After he returned to Cleveland, Morrie volunteered to proctor his law school exams that semester. Philip thinks that Morrie always took credit for his graduating law school, and, indeed, he deserved the credit.

Of greater significance is his impact on my legal career. I did not decide to go to law school until I was in my 50s. The CWRU School of Law accepted me. As graduation in 1986 drew near, I was trying to decide what limited area of law I should specialize in, since I would not have a long enough career to learn what was needed to have a general practice. A newly appointed federal bankruptcy judge, Judge Randolph Baxter, approached Morrie for his help in finding a law clerk. Morrie suggested me. The bankruptcy laws were changing in 1986, so I took a quick, intense course in bankruptcy given by Morrie Shanker, and remained Judge Baxter's law clerk for three years. Those were the best three years of my law career. Following that stint I was able to get a job with a firm specializing in bankruptcy. So, I owe my whole law career to him.

In sum, both socially and professionally, I go back a long way with Morrie Shanker. When we would visit him at Stone Gardens, we still saw the warm and interested person he had always been. It was a pleasure to know him.