

Faculty Publications

2010

Professor Morris Shanker

Erik M. Jensen

Follow this and additional works at: https://scholarlycommons.law.case.edu/faculty_publications



Part of the [Legal Profession Commons](#)

Repository Citation

Jensen, Erik M., "Professor Morris Shanker" (2010). *Faculty Publications*. 67.
https://scholarlycommons.law.case.edu/faculty_publications/67

This Article is brought to you for free and open access by Scholarly Commons. It has been accepted for inclusion in Faculty Publications by an authorized administrator of Scholarly Commons.

PROFESSOR MORRIS SHANKER

Erik M. Jensen[†]

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

Just kidding, of course, but it does seem as though Morry, a native Clevelander, has been a central part of this school forever.¹ (I have been here for twenty-seven years, Morry was a grizzled veteran when I arrived, and he is still grizzling.) Generations of students and faculty have benefited from his knowledge, erudition, and warmth. I certainly have. His retirement is a sad event for me personally, and for the law school too (although, as I will discuss later, we hope this is only a transition).

One loss to the school from Morry's retirement is scholarship. Morry is one of the foremost authorities on bankruptcy and commercial law in the nation—and the world. He has been a visiting professor at some of America's greatest universities, like Michigan and Berkeley, and he has crossed the ocean too (to the University of London). He has published widely and well, in top journals.² Wherever a Shanker article is published, it is a *tour de force*.

[†] David L. Brennan Professor of Law, Case Western Reserve University.

¹ And he did come close to giving his name to a city: "Sha(n)ker Heights."

² In a juxtaposition for the ages, one of Morry's pieces followed an article by flower-child wannabe Charles Reich. Compare Charles A. Reich, *The New Property*, 73 YALE L.J. 733 (1964), with Morris G. Shanker, *An Integrated Financing System for Purchase Money Collateral: A Proposed Solution to the Fixture Problem Under Section 9-313 of the Uniform Commercial Code*, 73 YALE L.J. 788 (1964). Reich was best known as author of Kermit the Frog's favorite book. CHARLES A. REICH, *THE GREENING OF AMERICA: HOW THE YOUTH REVOLUTION IS TRYING TO MAKE AMERICA LIVABLE* (1970). Unlike Reich (and Kermit), Morry has generally avoided being greened (although a couple of his suits might impress the most fervent green revolutionary).

Students will definitely lose with Morry's retirement. His classes have always been among the school's most significant and most popular. Morry knows more than anyone else about so many subjects—don't get him started on the Statute of Frauds if you have a plane to catch! And he conveys that knowledge with conviction and enthusiasm. I have heard it said that, after taking a Shanker class, students have learned the right way, the wrong way, and the Shanker way to interpret the Uniform Commercial Code.

All of us in Gund Hall will lose the pleasure of Morry's forceful personality on a daily basis. I know about Morry's forcefulness from experience. I have argued with him about statutory interpretation, the flat tax, the Equal Protection Clause, outfielders' throwing arms (should they bounce their throws into home plate or not?), the merits of twentieth-century composer Alban Berg,³ and almost everything else imaginable (and some that isn't). When he disagrees with me, Morry is wrong, of course, but his wrongheadedness makes the arguments stimulating, and, notwithstanding the occasional psychic bruise, great fun. Neither of us ever convinces the other, but so what? Discussions of that sort are what the academy is about.

Not accepting conventional wisdom as a given is one of the reasons Morry has been such an important scholar. For example, almost everyone professes to know Lord Mansfield's contract opinions (I do), but hardly anyone actually reads the things (I do not). Rather than relying on the *CliffsNotes* versions, Morry has tried to understand the opinions on their own terms, and he found that Mansfield's *oeuvre* had sometimes been misunderstood. That sort of thing—call it unconventional wisdom or going back to first principles—is also critical to the academy.

I do not mean to suggest that Morry is always a contrarian. (Often yes, but not always, and, in any event, some of my best friends are contrarians.) Indeed, Morry has been a unifying voice on the faculty in at least one important respect. It is traditional for him to make the motion to adjourn a faculty meeting, and adjournment is one issue on which all faculty members can agree. Without Morry, seemingly endless meetings might become really endless, like a Strom Thurmond filibuster.

It is impossible to imagine the Case Western Reserve University School of Law without Morry Shanker, but happily, we might not

³ Morry came to this school with strings attached. He was a great violinist in high school, and then at Purdue and Michigan, and he was for years a member of the Suburban Symphony Orchestra. With the University of Michigan orchestra, he played Bartok's *Concerto for Orchestra* when the piece was brand new. I can't imagine anything more exciting (other than seeing the Indians clinch the World Series).

have to worry about that for a while. Although Morry formally retired in mid-2010, and the rest of us now have to figure out on our own how to end faculty meetings, we hope he will continue to teach an occasional course. More important, we hope he will show his face in Gund Hall on a regular basis, and, most important, bring Brondy (his better three-quarters and the real brains in the family) with him.

Viewed in that way, this retirement is the equivalent of an adjournment: adjourning one meeting does not mean that more will not follow. With faculty meetings, that might not be a good thing—in fact, it is *not* a good thing—but, sad as this retirement is in many respects, it could be the beginning of a beautiful relationship. Morry and Brondy, don't be scarce. We love you both!