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IN MEMORIAM: MARC FELDMAN†

PETER E. QUINT*

As a friend and colleague, Marc Feldman was charming, witty, and often easy going. But at the same time—as his work as a teacher and writer showed with remarkable consistency—he was a forcible and independent social critic and an audacious intellectual explorer.

Even in his first approaches to the law, Marc's views on the relation of education and society led him onto an unusual and certainly courageous path. Believing that legal education was imbued with a formalism that cut it off from the problems of society, Marc sought to join the bar by "reading" in a law office, with selected law school courses as a supplement. In so doing, Marc returned to a method that predated the American law schools and had become rare in this century, although it was represented by occasional notable and independent figures, such as Justice Robert Jackson.

Thereafter Marc worked on the staff of the U.S. Civil Rights Commission and practiced law in Washington. At a later point the social problems of the poor—which had occupied his thoughts as a Vista volunteer even before his legal training—led him to three years as managing attorney of a California office of OEO Legal Services, the federal program designed to provide legal representation to the poor.

When Marc turned to his first teaching assignment at Rutgers-Camden, some of these themes—social criticism and the role of legal education—emerged in work with Jay Feinman, who has spoken to us today. Together they designed and taught an experimental course

† These comments are based on remarks made at the Memorial Tribute to Marc Feldman, held October 7, 1998, at the University of Maryland School of Law.

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that combined the areas of contracts and torts and sought to analyze the doctrine, local context, and rhetoric of the law in an intense and particularly rigorous manner.¹

But it was probably here, in his years at the University of Maryland School of Law, that Marc's thoughts about a combination of education and social and political criticism came closest to fruition. Marc was one of the principal theorists—probably *the* principal theorist—of the Legal Theory and Practice Program (LTP). This program seeks to examine traditional areas of the law, such as the law of torts, in a manner that subjects legal doctrine to systematic analysis in its social context—so that the real meaning of law for society, and particularly for its poor and disadvantaged members, can be more deeply understood.²

In Marc's view, this way of looking at law and legal work cast the traditional provision of legal services for the poor in a somewhat unfavorable light, and this perception led to the major work of Marc's scholarly career.³ Drawing on his years of experience in the Legal Services program, Marc sought to analyze, across a broad spectrum, the failings of Legal Services as he saw them: particularly the growth of a legal culture that avoided confrontation and, in his view, was content to manage problems on an isolated basis—rather than attacking and seeking to ameliorate broad social inequities through continued effective litigation and examination of the structure of the legal work itself. But this analysis and these perceptions were only the beginning of this remarkable essay. Marc then sought to deepen our understanding of these issues through an inquiry into the history of the federal Legal Services program as well as an analysis of the social psychology of Legal Services as an institution. In this way, the problems of the law and social structure led to explorations in other intellectual disciplines, and these explorations in turn were invoked to illuminate the underlying problems of the law and legal work.

This article was written at a time when the Legal Services program was under attack—but when has Legal Services not been under attack? Yet Marc deeply believed that it was better to cast a cold eye on the problems he discerned: his view was that Legal Services would ultimately be strengthened, rather than weakened, by criticisms from

1. See Jay M. Feinman & Marc Feldman, *Achieving Excellence: Mastery Learning in Legal Education*, 35 J. LEGAL EDUC. 528 (1985).

2. See Richard Boldt & Marc Feldman, *The Faces of Law in Theory and Practice: Doctrine, Rhetoric, and Social Context*, 43 HASTINGS L.J. 1111 (1992).

3. See Marc Feldman, *Political Lessons: Legal Services for the Poor*, 83 GEO. L.J. 1529 (1995).

within that could lead to widespread improvement. The article was important enough to attract a vigorous and thoughtful response—partially in agreement, partially in disagreement—from Gary Bellow and Jeanne Charn, two of the pioneering figures in the Legal Services movement.⁴

In the last fully active year of his life, Marc was on sabbatical leave, teaching at a high school in New York City. At the time, this decision might have seemed like a breath-taking departure—certainly, at least, in comparison with more standard law school sabbatical projects—but now, in a retrospective view, we can see how this decision fit logically with the other major themes of his life and work. For Marc, as for others concerned about the American political tradition, education was at the root of democracy and social justice; and it was in the schools, rather than primarily in the universities, that the life chances of most students are directed for good or for ill. But, as was characteristic of Marc, he was not content to pursue these explorations in the books or in the abstract only; for him, the exploration of these problems—as with the exploration of other legal and social problems—was through *both* sustained reading *and* practical working, in an intense personal dialogue. The beginnings of this audacious exploration were undertaken in the sabbatical year, and it is particularly sad that we will not see the conclusion.

I would like to read some brief lines of English poetry, from T.S. Eliot, on explorations in life—including intellectual explorations—that I think resonate for us in looking back over Marc's life and may exhort us, in our own lives and in our own ways, to draw from Marc's example.

. . . As we grow older
 The world becomes stranger, the pattern more complicated
 . . . Not the intense moment
 Isolated, with no before and after,
 But a lifetime burning in every moment . . .

. . . .

We shall not cease from exploration
 And the end of all our exploring
 Will be to arrive where we started
 And know the place for the first time.⁵

4. See Gary Bellow & Jeanne Charn, *Paths Not Yet Taken: Some Comments on Feldman's Critique of Legal Services Practice*, 83 GEO. L.J. 1633 (1995).

5. T.S. ELIOT, *FOUR QUARTETS* 31, 59 (Harcourt Brace & Co. 1988) (1943).

Today we mourn the untimely passing of Marc Feldman—valued friend, colleague, lawyer, teacher, scholar, explorer.

RABBI JOHN MOSCOWITZ*

I encountered (and I believe that's the right word) Marc Feldman for the first time in May of 1970. I was eighteen, and having just completed high school, had some time that spring before heading off to Israel that summer and university in California that fall.

So I wandered into the Legal Aid Society in downtown St. Louis one day, to ask if I might be of help. A few minutes later I found myself grilled by the obvious wunderkind of the place. His feet up on the desk, his arms across his chest, this man (both young and old at the same time) asked more—and more probing—questions than an eighteen year old warranted. His face kept changing during our discussion: worried then bemused; critical then open; disappointed then forbearing. I remember feeling all too suburban and superficial in his presence that day. If I was fairly easy to place in 1970, Marc Feldman was not.

Yes, he was an urban dweller, already deeply committed to the life of the city—but did I not detect the familiar smell of the suburbs? And that already poly-regional accent—what was that about exactly? Where had he been, and why was he already so different from everyone else?

And what about the way Marc dressed as a twenty-one year old in 1970? When all other people announced themselves by their dress—Marc refused to accommodate. He fit no category. Not that of urban radical, not that of hippie, nor that of the establishment. At best you could say Marc was a combination of worn L.L. Bean, summer camp, with a little prep look still showing through. Whatever, it was all Feldman.

Toward the end of our discussion that day, still unable to fit the pieces together, but seeing that Marc knew and appeared to practice law (and I suppose, wanting to show someone I had begun to admire that I was, if not quite his equal, then at least no dummy), I said, "So—you're a lawyer."

I no longer recall Marc's words but I remember his look: His best version of "Silly boy—how could you be so dumb?" Marc did not like

* Rabbi of Holy Blossom Temple, Toronto, Canada.

to be categorized—least of all as a lawyer. Nonetheless, forbearing and cautiously hopeful as always, feeling a duty to teach and a desire to mold, Marc took me under his wing. I became, briefly, somewhere near the first of the many many students he taught and tutored, challenged and changed over the years.

But, like Marc, I too could have an uneasy relationship with authority, and I didn't wish to be his student. I believe that's why the initial gaps between us quickly gave way, and we became friends.

If Marc had his reasons for wanting friendship, I had mine: He was just so different. There was so much to admire about him. He was carving out a life with clear intention, a life of intelligence, of high purpose—and with lots of quirky style.

In that spring of 1970, Marc was doing the groundbreaking investigatory work into housing conditions in St. Louis that would attract the notice of the U.S. Civil Rights Commission in D.C. (Of course, little did the Commission know what they were in for when they hired him.)

By 1970, Marc had already served a year with VISTA in Milwaukee. He had written a fascinating and offbeat guidebook to an alternative St. Louis. He had long renounced undergraduate work as wasted effort (for him—not necessarily for others), and had begun his longstanding love/hate affair with the law. Marc was about as American as they come, self-inventive to the core he was, but he never hid the fact that he was Jewish.

Marc was funny, and self-deprecating. He almost always thought he was right, and was unusually open to listening. He could do quite spectacular things, yet had no interest in calling attention to himself (refusing, for instance to put his name on his St. Louis guidebook). He was full of contradictions—all of which seemed to make sense. More than anyone else I have known, Marc seemed fully formed early on.

So began and continued, it seemed, a lifetime of friendship. I was one of a number of lifetime friends Marc made and kept, even if remoteness crept in here and there.

Our friendship endured despite the fact that after 1970 we never again lived in the same city, and despite the fact that politics—important to me as to Marc—often had us at some odds. This conflict was softened by our mutual appreciation of this irony: that while years ago I was way left to Marc's classic (and I thought soft, stodgy) liberalism, I was highly critical of him (I would occasionally call him "Hubert"—as in Hubert Humphrey); nonetheless, over the years, as Marc moved well left and we crossed as I swung back toward the political

centre, he refused to criticize me. He knew and I knew that while I was somewhat respondent to the tenor of the times, he remained unbent by the winds of current culture. And he was gracious enough never to mention it. Not once.

That was Marc: Once he drew you into his circle of friendship, you were in for life. He respected your terms and ways—but you had to respect his terms. Marc was demanding and made you be your best—or explain to him why you weren't. How many times did Marc say to me: "When are you going to publish?! Where is that book? At least give me a serious article." He would laugh off my excuses. Yes, he was sometimes difficult—but always rewarding, always interesting, always generous, always loyal.

And for someone who was so serious, who was hard driven, hard-working, hard edged—no one was better company for a good meal, an excellent bottle of wine (or better: champagne)—either at the best place in town or at a new, interesting place no one else had heard of. Followed, naturally, by theatre, or dance or a film because the night was still young.

Marc knew how to relax and how to laugh. But, of course, the next morning he was up earlier than anyone else. Back to work, back to things he believed in deeply.

More about Marc because he was unique: He knew for instance, that money was to make life more pleasurable—not to be hoarded, but to be used for gifts and good times. He had absolutely no time for gossip, sloppy thinking, for the vapidness which passes for American culture (pop or otherwise); he didn't suffer fools, but he did honour social graces in a big way; he had a remarkable eye for aesthetics, for colour, for architecture; he was well-read, well-spoken, well-mannered—and could put all of us to shame at these things (and sometimes did!).

I recognized Marc to be my better in most areas I value, even as he didn't feel that way. And although early on I refused to be his student, he was always my teacher. He taught by example; by dint of his probing intellect; by his questions; by his refusal to accommodate an unreflective answer; and by his raised eyebrow (which, for me always meant "Silly boy . . .").

That, along with his penchant for bestowing gifts is how Marc gave love to friends, as I supposed he did to students. That's what I meant earlier by the word "encounter." As Buber had it, to encounter someone is to be changed by them, to have found a teacher, and thereby to have gained knowledge. One encountered Marc Feldman.

Chaim Nachman Bialik, poet laureate of the Jewish people, composed his own eulogy which began with these words:

After I am dead, say this at my funeral:
 There was a man who exists no more.
 That man died before his time,
 And his life's song was broken off halfway . . .¹

Marc has died before his time. His life's song was broken off halfway. So we who knew him and loved him, we who were taught and changed by him, gather today to hear Marc's song. To hear it and to sing it, in honour and in memory—now and always.

JAY M. FEINMAN*

Life is mostly routine. You get up in the morning, have breakfast, read the newspaper, go to work, talk to your friends, go home, have dinner with your spouse, read or watch television, and go to bed. The routine can be very rich, full of satisfaction, joy, and love, but it still is routine.

Life also has peak experiences—moments or events that so transcend the ordinary that they give new meaning to life, redefine the routine, and reshape one's path. For me, teaching Contorts with Marc Feldman in the fall of 1982 was the peak experience of my teaching career, an experience that totally transformed my way of being as a teacher.

To understand Contorts requires a little context of the times. In the early 1980s, legal education and legal scholarship were awakening from a generation-long somnolence, awakened by the activism of the critical legal studies movement, the challenge of clinical legal education, and the increasing diversity of law students and teachers. It was a time of great controversy, a time when respected leaders of legal education could state in print in respectable journals that people like Marc and me should not be teaching in law schools.

It was in that atmosphere that we decided to teach Contorts. Contorts was a unique, combined Contracts, Torts, and Legal Research and Writing Course. It was a wonderful experience for me, because we had great students, we dealt with exciting ideas, and,

1. CHAIM NACHMAN BIALIK, *Acharei Moti*, in VOICES WITHIN THE ARK: THE MARTIN JEWISH POETS 53 (Howard Schwartz & Anthony Rudolf eds., 1980).

* Distinguished Professor of Law, Rutgers School of Law, Camden.

mostly, because I taught with Marc. A fuller account of the course is in several of our articles, especially the notorious *Pedagogy and Politics*.¹ Here I want to mention three reasons why teaching with Marc was a peak experience for me.

First, Marc was intense. It all begin with what he called “shopping lists,” page after page listing every idea we might want to cover, every technique we might want to try, every issue we might want to address, all written in that loopy, half-printed, half-drawn script of Marc’s. We had to think of everything, plan everything, script everything.

Eventually, the shopping lists would be reduced to class plans. We developed a form that we filled out for each class: who was going to take the lead, what were we going to do, how were we going to do it, what did we hope to accomplish. We laid out a plan in detail in advance of the class, then replayed the class for ourselves afterward to evaluate how we had done.

Even with all of this preparation, we apparently were not ready to teach the course. We obtained a grant to hire two experts, a law professor and a practicing psychologist, to consult on aspects of the course.

We even debated about food: When we met with our teaching assistants, would it be set a better tone if we served doughnuts or bagels? With Marc, everything—everything—had to be just so.

Second, Marc questioned assumptions. Everything was up for grabs. Every assumption we made, every belief we had, everything we thought we knew was open to question. If we were going to do this right, we had to start from the very beginning.

We questioned what we knew about law. Is contract law different than tort law? Why do we make the legal arguments we do? What does it mean to “think like a lawyer”? What does legal theory have to say to lawyers’ practice, and practice to theory?

We questioned what we knew about teaching. Why do we wait until the end of the semester to give an exam? What if teachers were less of authority figures? How can we convey information more efficiently? What are students capable of learning? How do we evaluate them on what we learned?

The product of this questioning was a distinctive approach to law and a unique approach to law teaching, which we used in the course and described in a series of articles, together and separately. Ever since, I have thought about law and taught law in the ways I first

1. Jay Feinman & Marc Feldman, *Pedagogy and Politics*, 73 GEO. L.J. 875 (1985).

learned in Contorts, and our experience influenced Marc's work with the wonderful Legal Theory and Practice program at Maryland.

Third, Marc believed. Most of us think things, but Marc really believed things. He had deep and important beliefs about students, teaching, and law.

Marc believed that students could learn—really learn, intensely and in a way that would alter their lives. He believed that students could excel, not just a few students, but many students, most students. He believed that we had the capacity to teach them or, better, to help them learn. I came to believe this, too, not just because the education literature said so, but because I saw him over and over make a crucial difference in students' lives.

Marc believed in law, too. At the time, in some circles it was unfashionable to believe in law, but that only caused Marc to search his beliefs and believe more deeply. His was not the belief of bar presidents in Law Day speeches. He believed that law could be oppressive to people, stultifying for lawyers, and puzzling for scholars. But he believed that law could be an agent for change, for relieving human suffering, for doing good. He believed that doing law was worthwhile, that we all could make a positive difference in the world through our legal careers.

In his book *How We Die*,² the surgeon and academic physician Sherwin Nuland writes about the ravages of disease and the death of the human body. He points out that, unlike its portrayal in the movies, death is not glorious, heroic, or ennobling. A death acquires meaning only because it comes at the end of a life well lived. Marc Feldman's life had meaning. His intensity, questioning, and beliefs ennobled all of us who are called to law teaching.

ROBERT F. WILLIAMS*

I would like to speak to you today on behalf of my wife Alaine, my daughter Sarah, and my son Tyler. Today's memorial service is held at the Law School, Marc's professional home. Many of you have or will discuss Marc's influence on your professional lives. The same is, of course, true for me. He had a deep influence on my teaching, writing, law practice, and public service. But, that's not what I want to talk about today. I want to talk about the meaning of friendship.

2. SHERWIN NULAND, *HOW WE DIE* (1994).

* Distinguished Professor of Law, Rutgers Law School, Camden.

If you are lucky you will derive satisfaction and fulfillment from your professional work. With a little bit more luck you will be able to work with colleagues who add to your professional accomplishment and satisfaction. It is only the truly blessed, however, who build a deep and lasting friendship from what begins as a professional association. After all, it is family and friends that sustain us in the long run. Work and professional satisfaction come in second every time.

Yes, Marc's professional accomplishments were impressive. He was a unique American law professor, at least in the second half of the twentieth century. Yes, he took the alternate route to achieving these accomplishments, leaving the comfortable Washington University for VISTA in the inner city of Milwaukee. He helped create an after-school program there where they still know his name twenty-five years later. Marc came to the bar through the alternative route of reading law in Virginia, an enterprise that must have been much more difficult than our law school route. He studied in the graduate program at Harvard Law School, receiving probably the only LL.M. awarded to a person without a J.D. Members of Marc's family hear these routes referred to as "alternate" here, but they probably remember them more like "stubborn" and "cantankerous."

There were consequences to these choices Marc made, such as the detour to the United States Supreme Court to get into the bar. Marc always accepted these consequences.

Marc brought his intense intellectual power to the law unencumbered by the dominating law school method that many of us experienced and which shaped our view of the law. He just simply thought differently about law from the way we did.

As a teacher of law Marc was deeply committed to his students. He was fascinated by the potential of applying established legal doctrines for the benefit of poor and powerless people. At the same time, though, he was aware that these same doctrines were indeterminate and were often manipulated for the benefit of dominate elites. Still, on balance, Marc believed that high quality lawyering, often by students, could make a real difference. He and his students proved this.

In 1982 Marc came to Rutgers Law School in Camden, where I had taught for two years. At first, to me, he was just "that law professor who had not gone to law school." But soon my wife Alaine and I became close and lasting friends with Marc. Over the last sixteen years there has been no significant event in our family in which Marc did not participate. When each of our children was born he accepted the responsibility of being their godfather. He took this responsibility very seriously. He was there for us in the good times and the bad

times—the birthdays, holidays, and anniversaries—but also at the funerals of Alaine's parents in Milwaukee. He took care of our children so we could go to Barcelona together for a week.

Marc became, for us, our best friend. There are others in the room, I know, who can say this as well. He made us feel like he really loved us and our children. We loved him and we still do.

Marc was a great teacher. He was also a great professor, but that's not what I mean. He taught me how to paddle a canoe properly. He taught our children how to take care of a dog. He taught Alaine how to hang pictures so they were straight. Marc had an unusually broad range of interests and competencies. Once, at the Association of American Law Schools annual meeting in New Orleans we were walking with a number of law professors, probably discussing law, our most recent article, or the tenure process. Marc said, "Look up! Look at the design of the second floor." This was one of many times he helped us to look up from our work.

Marc was an accomplished woodsman and outdoorsman. He had the best canoe stroke I ever saw. Through his examples and his cajoling, he made us all better than we otherwise would have been. It is very good when your best friend is a great teacher.

Marc had great taste. He always knew the best new restaurant (in any city), the best new band, the best new book, the best (yet affordable) wine. It is very good when your best friend has great taste.

Marc was a tremendously caring, thoughtful and generous person. He would always call (if not show up) on birthdays, anniversaries, and special occasions. He brought wonderful, often extravagant, perfect presents. His gifts were always carefully chosen with thoughtfulness and love. He reveled in our enjoyment of his generosity. He never arrived at our house without flowers, or a bottle of wine, or, my favorite, a bag of peanuts.

But it was not just his special friends who were targets of his generosity. Marc had deep respect for working people. Marc was a loyal customer of shopkeepers. The waitresses, bellhops, skycaps, and taxi drivers of this country will miss him deeply. He was a great tipper. It is very good when your best friend is thoughtful and generous.

We grew quickly to love Marc and his special brand of friendship. Our children loved him. He taught us how to be better at being friends. He is irreplaceable to us and we miss him terribly. There is an empty place in our hearts. We are grateful, though, that in his typically caring manner, he gave us a new friend, his loving, and loved, Anne MacDonald.

Alaine, Sarah, Tyler, and I will always cherish the time that Marc Feldman was our best friend.

ALAN D. HORNSTEIN*

Marc and Barbara Bezdek and I taught together during Marc's first year on this faculty. He came here to help invent a new kind of legal education. He was a pain in the posterior. My Uncle Zoltan used to remark about the difficulties of planning to drain the swamp when you're up to your withers in alligators. While I was worrying about alligators, Marc would not let us forget about draining the swamp.

There has been much talk, in the MacCrate Report and elsewhere, about the importance of adding so-called "skills and values" to the standard curriculum. What we were about—before it became fashionable—was building into the heart of the required curriculum, the first year, an appreciation of the lawyer's roles and responsibilities, especially as they affected the under-represented and disenfranchised. We did so by adding live client representation to required first year courses, integrating theory and practice so that students would better understand both.

We were extravagantly ambitious in our expectations of our students and ourselves, and we were constantly reconsidering how to teach what we wished to teach. More often than I like to think about, we would be up in the clinic conference room at 7, 8, 9 o'clock at night discussing, arguing about what we would be doing in the next morning's class. I confess that there were times when I grew impatient, when I wished simply to deal with the alligators of the moment.

Marc would not allow it. His eye was on the swamp, on the best way to drain it. Listening to Jay describe his teaching experience with Marc was so reminiscent of my own experience that we might all have been co-teaching the same course. Always Marc was committed to working out how a particular class or unit furthered the larger goals we were seeking to accomplish. You have no idea how irritating that can be, when you're tired and want to go home.

It was among the most vital and exciting teaching experiences I have ever had.

* Professor of Law, University of Maryland School of Law.

Later when I became Acting Dean of the law school, Marc was a frequent visitor to my office. And again, he was a pain in the posterior. Deans are almost always up their withers in alligators—or at least I was that year. Marc would have none of it. His eye was on the long range—on draining the swamp. Decisions that were expedient for the moment elicited concerns about their effects on the educational program, their effects on students.

For you see, Marc knew what we sometimes neglect—always at some peril: That we in the law schools (especially the state law schools) bear a substantial responsibility for the quality of justice ten, twenty, thirty years from now. And so, I think it fair to say that Marc will be missed by many who never knew him—those for whom the quality of justice over the next several decades might have been a bit better if he were still with us.

For those of us who did know him—as a colleague, as a friend, we will miss him even more. And I think what we owe him is that in the hurly-burly of alligator avoidance, we keep a sharp eye, as well, on the level of the swamp.

Marc loved poetry. He found comfort and challenge in it. And these things, comfort and challenge, were never very far apart for Marc. And so, I thought it fitting to close this remembrance with a poem, one I think Marc would have liked:

have patience with everything unresolved in your heart
and try to love *the questions themselves* . . .

Don't seek for the answers
which could not be given to you now,
because you would not be able to live them.
And the point is, to live everything.

Live the questions now.

Perhaps then, someday far in the future,
you will gradually, without even noticing it,
live your way
into the answer.¹

Few among us are able “to love the questions themselves” as passionately as Marc. His memory commands us to try.

1. RAINER MARIA RILKE, *LETTERS TO A YOUNG POET* 34 (Stephen Mitchell trans., Vintage Books 1984) (1934).

BARBARA BEZDEK*

I first met Marc in the mid-1980s when I was a faculty member at CUNY, trying to recruit Marc to join our then-radical efforts to reconceive legal education. Marc's work at Rutgers to emphasize "mastery learning" rather than mass-teaching, and his independently plotted path as an antipoverty lawyer and law teacher, indicated he would have been a superb partner in that institution's journey.

I wish I could report the energetic discourse we had of the particulars of a politically aware pedagogy, on our first meeting. But in truth, that first in-person encounter was at the AALS Extravaganza, in the cavernous Pension Building in Washington, D.C. It was crowded and loud. Instead I remember thinking, "This is the most nattily-dressed legal services lawyer I have ever met."

A few years passed before I had the opportunity to work closely with Marc, when he and I both enjoyed the great good fortune to come to Maryland in 1988—Marc, newly arrived from testing his ideas for effective systemic-minded legal relief for the poor in the Fresno Legal Services office, and I, from the CUNY curricular efforts to democratize law. Marc and I joined up to incubate what came to be the Legal Theory and Practice course concept, begun by Alan Hornstein and Mike Millemann and others here yet, I think it is fair to say, made considerably spicier by adding Marc in the mix.

Marc was a splendid colleague. With Marc, it was possible, essential, and fun, to think big—that is, to diagnose the problematic gap between the education of young people for a life in the law, and the persistent disutility of law and lawyers in the lives of so many poor people; to seek to address this dilemma in our work; and to look long-term, out over the future careers of students, through the lens of the great gulf of law-related needs of so many poor and disadvantaged people. With Marc on your team, it made sense to practice audacious realism.

Teaching with Marc was exhilarating, humbling, and exhausting. I am sure he scarcely slept in the first year—except for those naps in faculty council meetings. (Marc always knew how to make the best use of his time.) The planning for every class hour, every reading, every one of innumerable exercises, was meticulously vetted, coordinated, and implemented. At first I thought, "Oh of course, this is how one plans any new, complex venture." And that's true. But over the years I learned that this was always Marc's way, striving to make the effort

* Associate Professor of Law, University of Maryland School of Law.

“efficacious” (to use one of his signature words) and accountable to its purpose. Every document we ever co-produced, big or small, bore some imprint of Marc’s precise mind and wide vision—as well as his strangely beautiful hieroglyphs, and his idiosyncratic use of commas.

I think these habits of his heart and mind, so evident in his professional work, were in some sense the persistence of his artist-self. He had a keen eye for beauty, and for a sort of aesthetic order that was just a bit unexpected. One of his many talents was to find just the right shop for the exactly right item. One of these that he found in our first autumn in Baltimore was the best plant nursery in town to be trusted to deliver suitably special flowers for two very important co-workers in his life here, Eunice Richardson and Denise Wyatt.

When Marc and I began to work together, Marc had already published significant works articulating some of his re-vision of law school learning in *Pedagogy as Politics*.¹ And we here know, that as a person of deep commitment and firmly planted principle, Marc could be a formidable foe, and a well-nigh immovable friend in discussion. Still, I don’t remember that first inventive year as one of struggle. Rather, Marc was a splendid collaborator—in hindsight it seems a bit surprising, just how very open and inviting he was, a patient investigator of others’ experience and points of view. More golden retriever than the reputed pit bull. It often seemed that compromise was not in Marc’s lexicon. But giving—of his time, his professional skill, his prodigious talent as teacher and mentor—giving was in his every fibre.

Speaking for myself, and in no way for the University of Maryland, I want to say tonight that, I thank my God—that Mystery which teaches us to love mercy and to do justice—for the chance to walk along with Marc some of his journey. Marc has left us with a long ellipsis. . . . Yet he was a great John Henry of a man, swinging with vigor his hammer of justice, and helping to make the road for us all, to walk onward.

LIZ HARRIS*

I feel incredibly lucky to have had the opportunity to work with Marc during my time at law school. I was a student in his first year

1. Jay Feinman & Marc Feldman, *Pedagogy and Politics*, 73 GEO. L.J. 875, 895-900 (1985).

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Legal Theory and Practice class, the last LTP class that he was able to fully teach. I was his Teaching Assistant for LTP last semester, and while he only came back to teach for a short while, he was always there for me when I needed him.

I came to Marc as a second semester first year student, after having spent my first semester sitting in classrooms and reading case after case. I knew at some level that there were people involved in these cases, but the whole exercise was one-dimensional.

You never forget a person who brings something alive for you. And Marc was that person for me with respect to the law. The people became real, and they were people with horrible problems. He was the first person who gave me a true sense of what it meant to be a lawyer, to give of yourself and stand up for people. Suddenly we were sitting in people's homes listening to their problems and playing with their children.

This experience that he gave to us was so vastly different from other law school experiences, it was initially hard to see how this work could be related to these cases we had been reading. What he was doing, the way he saw people. But he spent the semester exploring with us exactly how they were related.

There are certain things that stand out for me when I think about him. I remember that he offered up his Monday lunch hour for his students to have lunch with him in small groups. Our group went to Donna's. And I remember the conversation we had. He asked us what we wanted to do that summer and after that. He genuinely cared about his students as people. As accomplished and brilliant as he was, there was never a hint of ego or superiority with him. Never.

I would ask him question after question, lists of questions that I had accumulated. Time and time again he would turn the question around to me and bring an answer out that I didn't know was there. And when you told him the answer, he would often say nothing, but he would just look at you with intense eyes, his lips together in the slightest smile, and maybe give you a slight nod of the head. His eyes would widen a little bit, and you knew that you had come around to where he wanted you to go. I remember that expression so well.

I remember all the times he would start class by drawing a line across that black board representing a spectrum of some sort. And we would spend the class filling in the spectrum. And he taught us how to view law in gradations. He would start with the simple, the basics, and build on that foundation until we grew to appreciate the complexity of a concept, that lack of clear boundaries.

There are so many themes that I associate with his course. He would continuously ask us to think about our vision of practice. And all our answers were about things external to ourselves. Which clients should we represent, in what area, should we represent individual clients at all, how will we best use our resources. But what I have come to realize is that the questions he asked were more than about the external make-up or our practice. They were about us, about our role both as lawyers and as people, about how we wanted to use our training once we had it. About the opportunity we were being given to use our new found talents.

And it is those lessons of self-reflection that never leave his students. It's that part of him that stays with us, he's right here with us making us ask those hard questions about ourselves, the decisions about how to use one's time and one's talents for others.

He was a friend as much as he was a teacher. Even this last semester, when he could not participate in the course to the extent that we had all hoped, he stayed with me. If he knew that I had been in court, I would come home to a message just encouraging me. To make him proud, as brilliant and as experienced and as selfless as he was, was the best feeling in the world.

I'd like to read a short poem from a collection of Jewish poetry.

What can I do? I can talk out when others are silent. I can say man when others say money. I can stay up when others are asleep. I can keep on working when others have stopped to play. I can give life big meanings when others give life little meanings. I can say love when others say hate. I can say every man when others say one man. I can try events by a hard test when others try it by an easy test.

What can I do? I can give myself to life when other men refuse themselves to life.¹

He gave himself to life and so many lives are better for it. I know I am not alone when I say that he will always be with me, in my heart, that voice in my ear reminding me to choose my own course in life as he chose his own course.

1. Horace Traubel, *What Can I Do?*, in *A TREASURY OF JEWISH POETRY* 367, 367 (Nathan & Maryann Ausubel eds., 1957)

DENISE WYATT*

I have worked for Marc Feldman for three years and you know how when you first accept a job you hear stories about your new boss, well Marc had a lot of stories and I do mean a lot of stories.

Marc was the only boss that I have ever had that had a computer in his office and never turned it on. He was the first to introduce me to dictation over the shoulder—I've heard of using a transcribing machine with tapes but never over the shoulder. He was a real pleasure to work for.

Now I am going to try and get through this poem

Friendship is a golden chain
The links are friends so dear,
And like a rare and precious jewel
It's treasured more each year

It's clasped together firmly
With a love that's deep and true,
And it's rich with happy memories
And fond recollections, too

Time can't destroy its beauty
For as long as memory lives,
Years can't erase the pleasure
That the joy of friendship gives

For friendship is a priceless gift
That can't be bought or sold,
But to have an understanding friend
Is worth far more than gold

And the golden chain of friendship
Is a strong and blessed tie
Binding kindred hearts together
As the years go passing by.¹

Marc Feldman will never be forgotten by me.

* Administrative Assistant, University of Maryland School of Law. Denise Wyatt was Marc Feldman's devoted secretary.

1. HELEN STEINER RICE, *The Golden Chain of Friendship*, in *SOMEONE CARES: THE COLLECTED POEMS OF HELEN STEINER RICE* 48 (1972).

SHERRILYN IFILL*

I knew Marc best as a lawyer and as a mentor. As a lawyer Marc was brilliant. Insightful, tenacious, creative, unafraid. During my first or second year of teaching, Richard, Marc and I began a project representing mothers of lead poisoned children who attended a Head Start Center in Druid Hill. The three of us went out to the Head Start Center to meet with the director and with parents for several meetings.

In subsequent weeks when Richard and I would talk with the head start director on the phone or in meetings, she would always tell us that one of the mothers had a problem and she'd tried to get in touch with "the lawyer" but he wasn't in his office. Or she'd say that she needed to talk to "the lawyer" about something. Richard and I were chagrined to discover that "the lawyer" was Marc. I later heard her call Richard "the teacher." I don't know what she called me.

But the Head Start director recognized in Marc a fierce advocate. Marc would fight for you.

As a mentor, Marc would fight for you as well. Marc encouraged me through the publication of my law review article that was published last December. When the article was almost final and I was still holding on to it, Marc started to put the pressure on. He wanted to SEE it. He insisted. I resisted. He insisted. Finally I gave in. How glad I am that I did. Marc was a wonderful editor. He told you the unvarnished truth. He put big question marks next to paragraphs that made no sense. He edited in a big, thick blue magic marker in unmistakable handwriting. When Marc thought you were off base, he didn't hide it. But if Marc liked your idea, he believed in it more than you. He would fight to retain sentences or thoughts I was prepared to delete. Sometimes just to stop the interminable questions Marc asked, I'd say "Well I could just take that out." No. Marc made you fight for your sentences and words.

In his last message to me, left on the day before he passed on, Marc talked a great deal about another article he knew I was working on. He offered words of encouragement, and unbelievably, offered to help me once again. He wanted to help he told me, if I were willing to "put up with his blue marker on my paper again." Marc was so unbelievably generous when he believed in you. Generous with his time, his intellect, and his insight.

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In her latest book of essays on race, *Seeing a Color-Blind Future*,¹ Patricia Williams describes the “essence of integrity” as “never having to split into a well-maintained ‘front’ and a closely guarded ‘inside.’”² When I first read it several months ago, I started to list in my head, people in my life who I thought satisfied that definition of “integrity.” Marc, of course, was high on the list. Marc had integrity. He was what you saw and heard. It is this quality, I think—his integrity—that made Marc so intimidating. He believed strongly and passionately in things and he was unafraid to show it. He was uncompromising about the things that were important to him. And he was willing always to push the envelope. But he was also a great listener. Curious. Open to knowing new things.

Marc told me once that one of his greatest frustrations when he was diagnosed was that he was unable to act on the many things that he’d learned during his year in New York. Marc was never just bored. Always excited about life and always learning.

The sadness that sometimes overwhelms me these days is for that loss of energy. That focused spirit that was Marc. And for the loss of a friend, a mentor, and a true colleague.

GORDON G. YOUNG*

I can’t remember meeting Marc. He’s just there in my memory, a person and a force, with no very specific beginning. We were good friends, but nothing like the closest. We spent little time talking about work. Despite this, we sent some wonderful students to each other’s classes, and I got to see him teach one class. It was beautiful and demanding, but done in Marc’s style of almost psychiatric concern for student well-being and development. Many things make me describe him as a force, professionally. Central was his main aim, as I understood it, of making law and legal education potent tools for providing poor people with more control over their lives. From this perspective, several distinctive things about Marc worked as means to that end, although I know that they were natural and not cultivated for that purpose. They were just parts of a fully realized person that fit as well with his professional passions as with the rest of his life. First, was his desire and ability to make deep connections with many, many people.

1. PATRICIA WILLIAMS, *SEEING A COLOR-BLIND FUTURE* (1998).

2. *Id.* at 6.

* Professor of Law, University of Maryland School of Law.

Second, was his intensity, including something that looked like stubbornness, but was more, I think, the ability to act forcefully on strong convictions after the appropriate time for doubt and reflection was up. For his convictions, Marc was willing to give a huge amount of time and energy, as his teaching and legal work demonstrate. He was willing even to risk the goodwill of others for what he believed, as his writings demonstrate. Finally, there was his astonishingly wide, deep and idiosyncratic education, largely a hands-on self-education.

Because, as I said, ours was not a friendship built around work, what remains most in my memory are the things mentioned above by others as they defined Marc more broadly. When Marc would grab someone by the arm forcefully and say "how-you," it was clear that he really wanted to know. He made friends and others feel that they had his full attention by the trick of actually giving them his full attention. Thought counts, but often what hammers home a reflexive smile is a friend's distinctive way of being in the world. Marc loved nice things, good wine, food and music. I remember that my wife once described a suit that I bought as Feldmanesque. No better compliment. He had the mysterious "boyz," purveyors of records of all kinds that could be returned for a substantial refund, simply for not liking the music. So he listened to all sorts of stuff. He got me into Dave Matthews; I got him into Frank Bridge. We swapped books. We once tasted and dumped a number of bottles of '82 Bordeaux from my basement before we found a delicious one that had not been badly damaged by fire during early storage. "A keeper" he said, eyes lighting up.

Remembering these few particulars helps me, but of course they do not begin to offer a complete picture. Like everyone, but even more than most, Marc is impossible to sum up. People are there, miracles, edging out empty space with the line of their shoulders, their smiles, words. Then there's just space again. I've never been sure about an afterlife in any literal sense. But the thought that the dead live on in others is not just a cliché, although I know it easily can be that too. When I talk with Marc's close friends, Richard Boldt and Dan Friedman, I see mannerisms, ways of thinking, ironic stances, a variety of openness to others, that combine what Richard and Dan were before Marc with things that Marc brought to them. And so, I know, it must be with many of Marc's friends who I do not know as well or at all. From now on, when I spend time with Richard and Dan, I will, of course, be seeking the pleasure and stimulation of their wonderful and distinctive company and minds. I'll be visiting with Marc too.