Dedications to the Memory of Eric J. Schmertz, Distinguished Professor of Law and Dean Emeritus, Hofstra University School Of Law (1982-1989) - in Rememberence of Eric J. Schmertz

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Dedications to the Memory of Eric J. Schmertz, Distinguished Professor of Law and Dean Emeritus, Hofstra University School Of Law (1982-1989) - in Rememberence of Eric J. Schmertz

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DEDICATIONS TO THE MEMORY OF
ERIC J. SCHMERTZ, DISTINGUISHED
PROFESSOR OF LAW AND DEAN
EMERITUS, HOFSTRA UNIVERSITY

IN REMEMBRANCE OF ERIC J. SCHMERTZ

Stuart Rabinowitz*

The passing of Eric J. Schmertz was a great loss to Hofstra Law School, Hofstra University, and to the legal profession. Professor Schmertz was a renowned labor-management arbitrator, a beloved law professor and former Dean of the Law School, and a great friend to me and to other faculty, students, and alumni of the Law School and Hofstra University.

I first met Eric Schmertz when I arrived at Hofstra Law School in 1972 as a brand new law professor. Eric was a founding faculty member of the Law School and already a legend in the field of labor-management arbitration. He was distinguished, debonair, charming, and welcoming. As I grew to know him better, I was particularly struck by his quick wit, his shrewd political assessments, his keen intellect, and most importantly, his warmth and genuine concern for others. When Eric agreed to serve as Dean of the Law School from 1982 to 1989, I served as his Vice Dean, and we worked closely together during those years. Eric served the Law School well; he never, ever lost sight of the “big picture.” He also gave me the opportunity to participate in every facet of law school leadership. His mentorship was invaluable and we became close friends, working together and solving problems together. Eric was a superb problem solver; he was practical and instinctively understood

* President, Hofstra University.
what was possible. He skillfully implemented solutions. He was also a great friend, fiercely loyal and supportive, and very giving of his time and advice. I will forever cherish his friendship.

Eric’s professional accomplishments are simply extraordinary. Professor Schmertz is recognized as one of the nation’s leading labor-management arbitrators. In a distinguished career in public service that has spanned nearly fifty years, he has heard and decided thousands of labor-management disputes. Among them are New York City’s only firefighter strike in 1974, the nursing home strike of 1978, and the private sanitation strike of 1991. Professor Schmertz has served as executive director and member of the New York State Board of Mediation; a member of the New York City Office of Collective Bargaining; commissioner of labor relations of the City of New York; and a member of the New York State Public Employment Relations Board.

By appointment of President George H.W. Bush, Professor Schmertz was a member of three presidential boards of inquiry in labor-management disputes involving three of the nation’s largest railroads. And, in 1974, 1976, and 1978, he was commissioned by the governments of the Philippines and Thailand to set up arbitration systems for those countries.

Professor Schmertz was the first recipient and occupant of the American Arbitration Association’s J. Noble Braden Chair of Arbitration and is a past member of the association’s board of directors. He was awarded the Whitney North Seymour, Sr. Arbitration Medal and the Alexander Hamilton Law Citation.

Professor Schmertz has also directed some of the most high profile events presented by the Hofstra University Cultural Center, including the very successful Presidential Conferences on the administrations of Eisenhower, Reagan, and Clinton, as well as retrospectives on the lives and legacies of Babe Ruth and Frank Sinatra.

Dean Schmertz was a phenomenal teacher and life-long mentor to his students. He illustrated legal principles by using his experiences in real life labor disputes, while he pushed his students to understand the intricacies of labor law. He taught our students how to effectively arbitrate, mediate, and negotiate; he taught them how to work with both sides in order to find a settlement that made both parties winners. His students loved him, and he inspired countless students to follow in his footsteps in the practice of labor law. This is Eric’s most lasting legacy—the alumni who owe their very successful careers to his leadership and inspiration.
On a personal note, I will miss our long conversations about everything from labor law to politics to our families. I will miss his sense of humor and insightful comments, his sage advice, and his friendship. Eric is irreplaceable.
I did not have the opportunity to get to know Eric Schmertz in the way so many others did who have been closely affiliated with Hofstra Law since its inception. I only met Eric a few times, though I fondly recall a breakfast we shared at his club. He was truly a gentleman of the old school with a quick wit, lots of charm, and a sharp mind. Even though he retired many years ago from our faculty, he could not have been more devoted to it, giving me tips for fundraising opportunities and exploring the labor law curriculum with me. Admittedly, Eric will always be Dean Schmertz to me.

Because I knew Dean Schmertz differently than so many others, I find myself with a unique vantage point in the celebration of Eric’s life and legacy. We all know the standard phrase that great men—or more accurately people—live on in people’s memories forever. By that measure alone, Eric is a great man. Eric stories—or perhaps more accurately termed “Eric legends”—must have regaled generations of faculty, colleagues, students, and friends. Most importantly, they have kept Eric alive in the halls of Hofstra Law long after he formally became an emeritus faculty member.

The Eric legends form pieces of the mosaic that was Eric’s life: A devoted father and husband; a true friend to so many; a war veteran who infected his students with his love for his country and the military; a distinguished arbitrator who could apparently sit through any arbitration and would not mind getting in the trenches himself, all to reach a fair result; a beloved faculty member and teacher who mentored many students, including many women; a mentor who celebrated his former students’ successes and welcomed them as colleagues; and a much admired dean who focused on fundraising and displayed his pride in the institution and his position with his “LAWDEAN” license plate on a red sports car.

* Dean and Professor of Law, Hofstra University School of Law.
Dean Schmertz was an impressive lawyer and arbitrator as well as an admired teacher. His work has shaped labor law, especially in New York, and it continues to hold much wisdom that informs current labor law.¹

Dean Schmertz’s deanship allowed him to move beyond his already impressive impact on individual students and the legal profession and shape an institution. He has left a lasting imprint on the Law School, a legacy that remains well and alive, and I suspect will outlive all of us. That is the ultimate sign of Eric’s greatness.

During his deanship, Eric, together with Sam Kaynard, another renowned labor lawyer who joined our faculty, turned Hofstra Law into an institution whose name became synonymous with labor law. The Labor and Employment Law Journal was born in 1980, championed by its first editor-in-chief, David Feldman, one of then Professor Schmertz’s students and great admirers. Throughout the 1980s ever more of our alumni began to practice labor and employment law—obviously due to Eric’s influence, later combined with that of Sam Kaynard.

During the time of Eric’s deanship the law school got many of its first distinguished professorships, thanks to Eric’s amazing ability to persuade many donors—alumni, personal friends, members of the legal community, parties in arbitrations—to direct their generosity toward Hofstra Law. He had a strong vision for Hofstra Law and made it a reality during his lifetime. More importantly, it will continue well beyond it.

I salute Eric Schmertz as a great teacher and lawyer; an influential dean; and a wonderful person. One cannot ask for more in a colleague and leader.

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¹ The Law School is deeply grateful to the Schmertz family and Eric Rosenfeld for donating Eric’s professional papers and arbitral decisions to the Barbara and Maurice A. Deane Law Library. They will be a treasure trove for legal historians, especially those working in the labor field with a focus on New York law.
ERIC J. SCHMERTZ

Malachy T. Mahon*

I first met Eric Schmertz forty-three years ago, not long after I was appointed Dean of what was to become Hofstra University School of Law. He was a tenured member of the Business School faculty with an already very distinguished career in labor relations. President Clifford Lord, obviously delighted by Eric’s many works for the University, mentioned Eric’s interest in the new school. My Fordham colleague Joseph Crowley told me that he too had heard from Eric about his interest in my faculty plans, but that he felt obliged to note that another fellow, one Samuel Kaynard at the NLRB, was also interested.

We all know what happened. Suitably impressed by Eric’s great professional credentials and ebullient personality, I invited him to come over to the School of Law faculty. Later Sam Kaynard, who would have also been invited if at the time I had a second line available for Labor Law, left the NLRB and accepted Eric’s own invitation to join our full-time faculty, forming the core of what was to be Hofstra’s successful and prominent labor law program.

Eric had no class responsibilities during our first year due to the nature of his course load, but from the very first meeting of the small Charter Faculty on January 30, 1970, he enthusiastically shared in the business of planning the curriculum, programs, and policies of the new school with our colleagues Burton Agata, Judith Younger, David Kadane, Josephine King, Robert Hanlon, and Eugene Wypyski. And, of course, he would later take the helm as Dean himself, and with the lovely Harriette, would lavish their hospitality upon faculty and prospective donors.

Throughout his years as my colleague and leader, Eric displayed patience, equanimity, concern for the growth of the institution and the welfare of its faculty and students, and a great sense of humor. Who can forget how he especially enjoyed the faculty roasts of himself that he invited at dinners organized purportedly to honor one occasion or another? But he never did get to appoint the Assistant Dean for Haute

* Founding Dean Emeritus, Hofstra University School of Law.
Cuisine that at one such event I asserted he secretly coveted.

Eric J. Schmertz was a loyal and faithful steward of the School of Law he helped found.
REMEMBERING ERIC J. SCHMERTZ

Eric Lane* & Alan N. Resnick**

Eric J. Schmertz was our friend and colleague for more than three decades, including our dean for seven years. His many talents and professional accomplishments have been well publicized and documented. He was a gifted teacher who enriched the lives of his many students. As one of the most prominent and successful labor mediators and arbitrators of his generation, he played key roles in resolving numerous labor disputes—including the New York City nursing home strike, the New York and Chicago Firefighters’ strikes, the New York taxicab drivers strike, the strike of the Radio City Music Hall Rockettes and, most recently, the New York City police officer’s salary dispute. He also served in many high-profile public positions—such as Commissioner of Labor Relations for New York City, director of the New York State Board of Mediation, and member of President George H.W. Bush’s Board of Inquiry on the nation’s largest railroads. Eric’s remarkable achievements need no elaboration to the readers of this journal.

While the nation will miss Eric Schmertz’s enormous commitment to public service, we will miss him even more as a man of great warmth, impeccable style, striking grace, and unmistakable dignity. He lived life zealously and he embraced all of its ceremony. Dean Schmertz and his lovely wife Harriette, as the Law School’s gracious First Lady, were constant hosts of faculty parties, annual softball games, teas, and faculty retreats. Nobody loved a good party more than Eric.

The formality of his style was also contagious. He was the only person who could ever make us love to wear a tuxedo, and dream of owning a red Jaguar with “Law Dean” plates. And for those of us for whom he provided distinguished professorships, he demanded that we wear large bronze Olympic-style medals draped in a ribbon to wear over

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* Eric J. Schmertz Distinguished Professor of Public Law and Public Service, Hofstra University School of Law.
** Benjamin Weintraub Distinguished Professor of Bankruptcy Law, Hofstra University School of Law.
our academic gowns. And we liked this as well. Eric also added a special sense to every graduation during his deanship by having each graduating class led down the aisle by the New York City Firefighters' famous bagpipes and drums. But we did draw the line at his annual last day of class tradition of wearing a bright red blazer. Nor did we join him as teammates when, at 60, Eric, after attending the New York Mets fantasy baseball camp in Florida, proudly returned to work as dean wearing his full-dress official Mets uniform.

Eric also had a limitless capacity for humor. He was very funny, a skilled story teller, and, even better, a great comic audience, with the most genuine and hearty laugh. And it got better when he was the target of that humor. We will never forget the elaborate dinner for faculty and their significant others that Dean Eric J. Schmertz hosted at the University Club featuring a Friars Club celebrity-style roast of himself. We both had the pleasure of lovingly attacking Eric's vulnerabilities while he sat in front of the podium hysterically laughing as uncontrollably and contagiously as any audience can laugh. But not to be outdone Eric then responded by showing a film he had made for the event in which, dressed as General George Patton, he delivered a most passionate and memorable speech commanding his Hofstra troops to overcome whatever obstacles may stand in their way. That was Eric's way of laughing at life and at himself.

Eric also was a man of dreams. Despite all of his extraordinary professional accomplishments as a living legend in his field, Eric still dreamed of more things to do. He dreamed of being a professional baseball player, having come close in his teenage years when the Pittsburgh Pirates offered him a contract. Later he dreamed of becoming the New York City Fire Commissioner. And finally he dreamed of being an ambassador. This ambassadorial dream was not an unanchored fantasy. Eric's wisdom, skills, experience, and connections made such an appointment eminently achievable, but as moderateness slipped from American politics so did his chances for this job. About this there was nothing he could do; his warmth and sense of inclusiveness prohibited him from adopting the extreme views which were becoming those of his political party. Nobody understood that better than Eric, who would accept that fate, shake his head, and move on, always in a positive direction.

While America did not benefit from what would been the result of a Schmertz ambassadorship, Hofstra Law School did. As our ambassador to the outer world we basked in the glory of his great reputation,
benefitted from his trust and encouragement, and learned from his go-for-it attitude. We enjoyed his sense of civility and fun, and joined together in his plots to improve the school.

We both personally are deeply indebted to Eric for helping us in the development of our own careers. Eric strongly supported us in our quests to make an impact in our respective fields. He took a personal interest in helping both of us reach our professional goals. As dean, he made it possible for us to step out of the law school environment to engage in outside professional activities, including law-reforming government positions. He was truly an "impact dean" and wanted his faculty to become important players in our profession and our communities, thereby advancing the reputation of its individual faculty members and bringing prominence to the Law School. He worried about his faculty becoming too isolated, trapped inside the academic halls with no contact with the greater legal community.

For us, Eric's self-produced film about himself as General Patton was the most creative, nuttiest, and funniest effort of his career, but it was only in that sense that it captured Eric's spirit. No Patton was he. Despite his great successes, he never fell on the sword of arrogance or infallibility, but until his end remained the same wonderful man we had known for more than thirty years. We salute you our general and miss you our brother.
IN MEMORY OF ERIC J. SCHMERTZ

John DeWitt Gregory*

I am delighted, flattered, honored, and grateful at having been accorded the privilege to write a few words in dedication to Eric J. Schmertz. He was my Dean, and he was my friend.

Because the space I have is limited, I cannot regale readers with the many stories that I could tell about Eric, some touching, some hilarious, and most beyond simple characterization. Instead, let me catalogue some of Eric’s qualities that came to mind as I began to think about this essay. Out of many, I have selected just four, and they are integrity, generosity, style, and friendship.

Eric Schmertz’s integrity was beyond measure. When important matters arose, he would think about them carefully, consult with his colleagues on our faculty, reflect, and then decide in a way that evidenced a superbly well-calibrated moral compass. Most importantly, his decisions invariably reflected, as far as I could tell, not what would be good for Eric, but what would be best for the institution, his colleagues here, the students, and the community.

Generosity was invariably on display as Eric administered this institution, and as far as I can tell from what I have heard, he was generous in other aspects of his life and his career, which had an impact far beyond Hofstra Law School.

Did the man have style? Many of us had rarely if ever appeared in black tie, let alone purchased our own tuxedos, until the era of Eric. But we remember fondly the many events—some official and others just for fun—at which we gladly wore our dinner suits and black bow ties. Someone recently asked me if Eric really drove a red Jaguar with a license plate that read “LAWDEAN.” He did. Indeed, he did.

Friendship—I began these reflections with the statement that Eric Schmertz was my friend. I know that many people, whether they read these words or not, would attest to what a wonderful friend he was. To the members of his family, and to his beloved wife Harriette especially, I

* Sidney and Walter Siben Distinguished Professor of Family Law, Hofstra University School of Law; Vice Dean, Hofstra University School of Law (Jan. 1986 to June 1989).
have no doubt that he was the best friend in the world. These qualities, taken together, clearly made Eric J. Schmertz that truly rare being—a good man.

Permit me to make one personal reference. I hope you will not think me maudlin when I confess that I love Hofstra Law School. This place has given me more than anyone could ever have had any right to expect, particularly a working-class kid from Glen Cove. My fondest memory by far, during all of some forty years here, was being asked by Eric Schmertz to serve as his Vice Dean. For me, those were the days. Yes, in those dear days we knew how to laugh and laugh we did. But I hasten to add that influenced by Eric’s splendid example, we took our work seriously without taking ourselves too seriously. Often Eric would refer, as he put it, to “my faculty”—not in a proprietary way, but always in a caring (dare I say loving) way?

There are two words that young people often and inaccurately overuse—amazing and awesome. But these words are absolutely accurate when applied to Eric J. Schmertz. He was amazing! He was awesome!
PRESENTATION OF THE SAMUEL M. KAYNARD AWARD FOR EXCELLENCE AT THE HOFSTRA LABOR & EMPLOYMENT LAW JOURNAL BANQUET, MARCH 24, 2011

David B. Feldman*

I am here to present the Samuel M. Kaynard Award for Excellence to honor the life and legacy of Eric J. Schmertz, former Professor and Dean of the Hofstra University School of Law, who passed away this past December, six days before his 85th birthday. To understand the impact that Dean Schmertz had in the field of labor-management relations, one need only look to *Who's Who in American Law* to name but one of many prestigious legal publications in the country enumerating his extensive accomplishments. Also, to mark the passing of Eric Schmertz, articles were published in quite a number of newspapers and periodicals, reflecting his service to one mayor, three governors, and a president; his intellectual prowess and ability in resolving intractable strikes and contract disputes in both the public and private sector; and his desire and determination to inject himself into the workplace of a labor-management dispute (whether in a hospital emergency ward, a cockpit, or a firetruck) to better understand, firsthand, the rights and grievances of the parties involved. Yet I was left with a certain emptiness after having read the articles and encyclopedic narratives, for I miss Eric Schmertz not because he was a big "macher" (which he was), but because he was a "mench" in every sense of the word. To translate, I miss the man more than the manifestations of his accomplishments. I miss the intangibles that made Eric Schmertz—Eric Schmertz.

Oftentimes, I referred to Dean Schmertz as our own Mr. Chips, a Hiltonian professor in the truest sense of that term. A mentor; a teacher with an open door and an open heart; sensitive to the sensitivities of

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* J.D., Hofstra University School of Law (1982); Founding Editor in Chief, *Hofstra Labor & Employment Law Journal*; President, New York City Chapter of the Labor and Employment Relations Association; Partner, Moses & Singer LLP.
others; who was receptive to, and fought for, lost causes time and time again—for the underdog, the vulnerable, those most likely to fall through the cracks—without any concern for loss of personal or professional reputation or prestige. One need only look to Dean Schmertz’s fair share of “fortunate falls” throughout his professional career to recognize his steadfast faith, trust, and devotion to doing what was right rather than what was expedient. Certain lost causes were embodied in the lives and longings of civil servants (teachers, firefighters, hospital workers, police officers, sanitation workers to name but a few) who appeared before Dean Schmertz when he served as an arbitrator in labor-management disputes. But my firsthand familiarity with Dean Schmertz’s fight for lost causes was more pedagogical and personal in nature, for I too was a lost cause, as was my dream—the founding of a labor law review at the Hofstra University School of Law; a dream emanating from the teachings of an inspired and inspiring professor; a dream ultimately embraced by other students also instilled with the love of learning and of this field of law in particular; a dream considered by many at the time to be impracticable, improbable, and infeasible. Yet thirty years ago, with the support and encouragement of this professor who one day would be dean, a young, altruistic student (a fledgling) submitted a heartfelt memorandum to the Law School requesting and justifying the establishment of such a publication. Less than nine months later, on October 22, 1981, this dream came to fruition and became a reality; for on this date the Hofstra Labor Law Forum, precursor to the Hofstra Labor & Employment Law Journal, received official recognition by and from the Curriculum Committee, which was chaired at the time by Professor Stuart Rabinowitz, now President of Hofstra University.

I now fondly remember those nine agonizing but wonderful months prior to recognition and my meetings, at times around-the-clock, with Dean Schmertz; and of his unwavering support. I remember attending that Curriculum Committee meeting and that feeling of pride and elation upon recognition of this Journal; and of heading to Dean Schmertz’s office to be greeted with a handshake and a smile. And for twenty-nine years, a significant number of which were under Eric Schmertz’s deanship, this Journal has flourished and has successfully published articles, notes, and comments for the student and practitioner alike, as had been originally intended thirty years ago; cited with approval by state and federal courts, including the United States Supreme Court.

All births, whether human or otherwise, involve varying degrees of pain; so too with growth and attendant growing pains. And the Journal
was no exception to these time-honored realities. And there was one other reality; a reality that oftentimes I have noted throughout the years; that no blood test need be administered nor paternity suit commenced to determine the identity of the founding father of this publication; a publication nurtured, funded, housed, and mentored by and under the auspices of Eric J. Schmertz, with the ready support, assistance, and approval of the Law School.

For years after my graduation in 1982, I would meet with Dean Schmertz for lunch in the City, at his office or at professional or educational conferences and programs. His door always remained open, figuratively and literally, to me and other students. Dean Schmertz always took an interest and played an active role in my life and career. He always provided helpful advice and assistance whenever and wherever needed. My first job with a small (nowadays referred to as “boutique”) civil rights law firm was at his recommendation; a job that I will always cherish. At times, I would kid Dean Schmertz about his de facto standard of proof when deciding many of his arbitration cases—that standard of proof being “to my satisfaction.” Oftentimes, I would ask him whether “to my satisfaction” was greater than “a preponderance of the evidence” but less than “clear and convincing,” or greater than “clear and convincing” but less than “beyond a reasonable doubt.” His response always was a self-effacing smile.

Shortly after my graduation, Dean Schmertz asked if he had properly maintained a neutral position in class when presenting labor-management disputes and cases. And I remember telling him, quite rightly, that he always had. It wasn’t until years after my graduation and participation in the arbitration process that I was able to perceive and understand a certain philosophy or ethos that permeated his arbitration awards—that all decisions have consequences affecting the lives and well-being of those participating; and as such, all decisions must be fair and well-reasoned; based on reflection rather than reaction; encompassing the totality of the facts and circumstances presented rather than myopically considering those facts in a vacuum. At times, Dean Schmertz’s decision reflected a compromise; and I would learn through Dean Schmertz that “compromise” was not a dirty word; that we compromise not because we lack values but because we have values; that we compromise because no one person or party has a monopoly on the truth; and that to compromise from a position of strength reflects wisdom and maturity and not weakness. As I think back now, the birth and naming of this Journal did involve a certain degree of compromise, albeit at times begrudging, without which we would not be sitting here
tonight.

Whatever topics Dean Schmertz and I discussed, our conversations would always return to the Journal, its founding, struggles, growth, and success. Notwithstanding Dean Schmertz's entreaties, I was never quite comfortable referring to him as "Eric," by his first name. To me, there is no greater title than one earned in the field of academia, and I know that Dean Schmertz understood that my reference to title was based on deferential respect.

As the years passed, the frequency of our meetings diminished. Family; children; work; commitments. But this bond that we shared (the love of the law; the love of learning; the Journal) was never tarnished or broken. That is why upon learning of his passing, I needed some time to myself. For this was my mentor; a man who thirty years ago put faith over common sense in nurturing and supporting a dream and a dreamer; a dream later to be embraced and cherished by others.

I now recognize a simple but not simplistic truth about Eric J. Schmertz as I think back on my days in law school and the subsequent years thereafter: that there lived a very generous man; generous in what he gave to others—his time, his support, his insight, his friendship, and his unwavering faith. I, along with countless other students, was mentored by this professor, dean, arbitrator, who valued cooperation and civility over confrontation; who sought and attained peace rather than appeasement in thousands of workplaces; and who held tight to those "sweet intangibles of life" (family; friendship; integrity; compassion) by word and deed.

When commemorating the passing of his dear friend and colleague, Samuel M. Kaynard, a man who in his own right epitomizes excellence, Dean Schmertz remarked:

He loved his students, and knowing of the sincerity of his interest in them, they reciprocated. I was always envious of this easy and remarkable relationship between Sam and his students, not only because of its warmth but because it enhanced his ability to teach and their ability to learn.

As noted earlier, to many of us who graduated the Hofstra University School of Law, Dean Schmertz was our own Mr. Chips (the embodiment of what a professor was and should be); who loved and was beloved by his students then and now. I remember having read years ago in a newspaper that Eric Schmertz had the finesse of a diplomat and the agility of a second baseman. It brought back memories of his love of baseball. And, if there is a heaven, and I believe there is, Eric Schmertz
is up there in uniform; not in military garb, but in pinstripes and a ball cap, sliding safely and effortlessly into second base. In life, Eric Schmertz went from lawyer to arbitrator. In heaven, maybe Eric Schmertz will go from player to umpire, one of G-d’s arbitrators.

As an arbitrator, Eric Schmertz always gave out awards. Tonight, this award, the Samuel M. Kaynard Award for Excellence, is given to Eric J. Schmertz, who will forever live in our hearts and in our minds.

Goodbye Mr. Chips.
PRESENTATION IN FOND REMEMBRANCE OF MY MENTOR, ERIC J. SCHMERTZ
MAY 11, 2011

Jeffrey P. Englander*

[Speaking directly after the musical interlude performed by the Bronx Opera Company...]

Unless you would like to hear my Bar Mitzvah portion, we are done with melody for a while...

The order of presentation this afternoon is actually fortuitous, as one of my highest honors was being asked by Eric to represent the Bronx Opera Company—on a pro bono basis—in connection with some pending issues the Company had before the State Labor Relations Board. As a result of that experience, I now sit on the Board of the New York Pops where, among other things, I represent the Pops—on a pro bono basis—in labor matters.

*Mentor: a wise and trusted counselor, guide, or teacher; an influential senior sponsor or supporter. Eric Schmertz was the quintessential, picture dictionary definition mentor, certainly to me and to countless others who were his loyal and eager students. Put aside that his labor law and dispute resolution courses were as intriguing and engaging as any course taken in law school, for those of us who, for many years, were lucky enough to have Eric act as our mentor, our young and aspirant professional lives were so much the better. He was so personally involved in our lives and made such a difference.

As youthful, energetic, and anxious law grads, we normally remember vividly, as do I, particular events which made lasting impressions on us. So for me, as one who took up law studies immediately after college and one who is now past 60 years of age, I still remember vividly and with great fondness the fact that in the faculty recessional of our class’s graduation, in May of 1975, Eric took the time to walk with us...
to detour out of strict formation in order to shake my hand after I had been honored as that class’s Outstanding Law Graduate. “Well done, lad,” he proclaimed; the cherry on top of the sundae of that memorable day.

As a practitioner in labor and employment law, I had plenty of occasions to interact with my mentor. I remember well the first arbitration at which I represented, on my own, a party to a grievance which Eric had been designated to hear. Of course, at the inception of that case, and for many which followed, Eric had to disclose to my adversary that I had been his student. Because of his rock solid reputation as a fair (and in fact gifted) impartial, no one ever made a peep regarding this issue. I do remember with great pride that after that hearing was over, Eric waited just long enough for us to be alone, and then told me he was proud of the way I presented the case. Sweeter words there never were. But why do I mention this here today? It’s quite simple: In Eric’s view, our success was his.

One of Eric’s greatest gifts to his students was allowing them to learn in his shadow without ever hinting to us that we had not taken the right tack or might have more effectively approached things a bit differently. But by including us in the process and essentially letting the case develop for both sides to see, we were able to learn best practices simply by being in his presence and practicing in front of him.

But as very busy as he was in those hay days, he always had time to explain; always had time to make a useful suggestion on a case, or perhaps even more importantly, in the path of one’s career. He did that for me on more than one occasion.

As perhaps the best method of showing our gratitude for his tutelage and caring, we regularly—I know I did and I believe many others did as well—did whatever we reasonably could to ensure he was the designated impartial in the labor agreements which we were charged with administering for our clients. But the most satisfying thing about this particular strategy was that both sides were always happy to work with Eric. He was the consummate professional.

He was a phenomenally quick study and understood all of the nuances and undercurrents of the issue even before they were outlined for him. I won’t be giving any great secrets away if I admit, before this august body of his admirers, that I never had a single contract on behalf of any labor client in which Eric was not named as the principal arbitrator. In fact, as a young lawyer, I was able to suggest that Eric replace Theodore Kheel as the contract impartial for New York Bus Service after we had successfully waged a campaign in court to get Mr.
Kheel to remove himself as arbitrator under that labor agreement. I think Eric very much enjoyed that gig.

And, believe me, he was just as quick on the uptake in my last case with him in 2010 as he was in 1976. What a wonderful way for us to practice. And how his passing makes what we do next so difficult; so empty; so unfulfilling.

I thank Eric for allowing me to learn and to mature in my practice at his side. I know I speak for many, many of my colleagues when I say that there will never be another who I enjoyed working with more, from whom I learned as much, or who allowed us to grow into the credits to him and his work that I sincerely hope we are. You will be missed more than you can ever imagine.

Godspeed, my good friend.

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[Additional anecdote not spoken due to time constraints]

As counsel for various teamster locals, I had occasion to represent the flight engineers of Seaboard World Airlines. Seaboard was in merger talks with the Flying Tiger Line in order to become the preeminent cargo carrier in the United States. As with all mergers, the combination of flight crew seniority lists was perhaps the trickiest aspect of those talks. As counsel for the Seaboard flight engineers, I was pitted against the two renowned deans of the ALPA seniority list integration world: Ron Natalie of Washington and Richard Watt of Chicago. I was out of law school five years and learning on the fly. Prior to the three-month arbitration of the matter, Watt and Natalie agreed to attempt mediation, doing so in NYC. Since New York was my home turf, they let me suggest an appropriate mediator.

Without a moment’s hesitation, I said “Eric Schmertz is your man.” Neither had experience with him but were willing to let him serve. I don’t think either counsel had any hope of success. I vividly remember each of them presenting the facts to Eric and doing so at break-neck speed, using terms of art known only to those proficient in seniority list integration parlance. Without so much as a question or a moment’s hesitation, Eric picked it up, ran with it, and offered his suggestions for how the matter could be successfully mediated. For political reasons, the parties chose not to agree, preferring to let an arbitrator render an award. After the session, however, both of these shrewd and experienced advocates came to me and said, “We have never met anyone
who could pick up the facts, political concerns, and legal issues as fast as your Mr. Schmertz. Kudos!” Yes, indeed. Kudos.
REMEMBERING ERIC J. SCHMERTZ
(1925-2010)
A CELEBRATION OF HIS LIFE AND WORK
MAY, 11, 2011

Joanne F. Goldstein*

Speaking today gives me the opportunity to reflect on just how special and incredible Eric Schmertz was. I started my legal journey as a member of the second class at Hofstra Law School, with a passion for social justice and a strong interest in practicing labor law. Professor Schmertz became instantly and fully committed to helping me obtain a labor law position in Boston, where I intended to return. And he did it; I became the first woman to practice union-side labor law in Boston and at the then-premier labor firm.

This happened solely because of his relationship with the firm and his insistence that I was the only person for the job. I look back and marvel. My credentials, although strong, were not first in the class, the law school, although spectacular, was still in its infancy, and the Boston legal community considers New York an inferior, other country. Yet, I was the one who was hired.

One interesting aside: after my interview, I was waiting to hear if I had the position. But, as a poor law student, I couldn’t wait for my interview expense reimbursement check, so I asked that the check be sent when ready. When I got the check, I knew I had the job, because the memo line said “girl to be hired.” I was ready to decline, but Eric convinced me to overlook the gender bias and take the job. I was glad that I did. And it served me well during future such incidents, especially early in my career.

Eric and I saw each other regularly, as he was often an arbitrator on labor disputes. Mindful of ethic requirements, he always disclosed that he had been my professor. One stenographer identified the school as Harvard, not Hofstra, in the transcript. Eric immediately called me and

* Secretary, Executive Office of Labor and Workforce Development, Commonwealth of Massachusetts.
in his voice and with the inflection you all would recognize, he said, "Joanne," and then posed the dilemma: his pride in Hofstra suggested we should correct the record, but his zeal in having me accepted and respected in the labor community in Boston suggested that we keep the Harvard myth going.

Fast forward two decades, he again recommended me when I was being considered to become the general counsel of a national union, and was quick to tell all that he could pick winners and so they should take me. And again they listened to him, and my career advanced further. He did remind me that I would no longer be doing arbitrations, so I should be sure to pass along his name to all of the local practitioners I would encounter.

Several years later when I won an award for labor-management excellence, he surprised me and flew to Boston just for the dinner and then flew home. When I profusely thanked him, he told me he would not have missed it, and seeing his students get honored was like receiving the honor himself.

I still have on my cell phone the congratulatory voice mail he left a year ago January, when Governor Patrick appointed me to his cabinet as the Secretary of Labor. It was so meaningful that I cannot erase it and relish hearing it each time I replay my messages. His pride, excitement, and enthusiasm were palpable. We tried to arrange a time to celebrate together but were not able to do so. So, Dean Schmertz, I will consider this our celebration, with gratitude and appreciation for all that you did for me and the countless other students you launched into successful labor careers. You have left the labor-management community infinitely richer, deeper, and better for your service, and we are all grateful to you for doing so. So to you—Hofstra—from generation to generation, we will honor and carry forward with your legacy.