

October 14, 2020

American College of Bankruptcy Distinguished Service Award
Comments by William J. Perlstein

I want to thank the College for this honor and thank Mike for his kind comments.

I first want to thank my wife Terri for her unwavering love and support throughout my career. She literally helped proofread pages of the Yale Law Journal at our kitchen table almost 50 years ago and at each and every step in my career, she has supported and guided me. There is no way I would be here today without all she has done with and for me. I want to thank our sons David and Jonathan, each of whom has earned an honorary degree in bankruptcy from countless dinner table conversations. And I want to thank my former colleagues at WilmerHale for their support in helping build a practice that I thoroughly enjoyed during my 40 years at that firm.

My initial exposure to bankruptcy was in J. Willie Moore's Debtor/Creditor class at Yale in 1973. My classmate was Rich Levin, so I was in good company right from the beginning. The fall of 1973 was the time that Frank Kennedy's Commission on the Bankruptcy Laws was reporting on the first efforts to produce the Bankruptcy Code. J. Willie announced that since the Chandler Act was going to be repealed imminently, teaching that would be useless. So instead he said he would teach us something equally useless, equity receiverships. I recall almost nothing from the class. What I do remember is that J. Willie was counsel to the Trustees of the New Haven Railroad -- which had been in bankruptcy off and on since 1948 -- so even then, bankruptcy was a source of long-term employment for professionals.

It is fitting that this award is usually given in conjunction with the induction of our newest class of Fellows, the 31st class. I was a Director of the ABI in the late 1980's when Harry Dixon, Ed Creel, Ray Shapiro, Dick Gitlin, and others started talking about the idea of a College to honor those who made substantial contributions to the profession in addition to being excellent practitioners. I count myself enormously fortunate for having had the honor to observe, learn from and occasionally fight with the Titans of this profession, many of whom preceded me in receiving this award. The past winners are true legends: Larry King; Harvey Miller; Gerry Smith, Leon Forman, Len Rosen, Ray Shapiro, Jan Baker, Burt Lifland, Rich Levin and Ken Klee, and most recently Tom Ambro and Elizabeth Perris, among many others. As a young practitioner, I benefited mightily from the generosity of many of them and other practitioners like Phil Stansbury, Mickey Sheinfeld, George Treister, Mike Cook, Rich Toder. My Thanks to each of them. And thanks to all of you for your support for the important educational and pro bono efforts that the College and now the Foundation have been sponsoring and that are more important than ever.

What stands out about so many people like Rich and Mike and Mickey and the others is that, no matter how much we fought, there was a sense of a common undertaking, something that the insolvency practice has always shared. So many of these leaders were willing to take the time to share their wisdom and learning with younger, upcoming lawyers. It was often over

dinner or drinks, pointing out why something worked or didn't work, or some advice on the side from a worthy opponent.

I vividly recall Jerry Patchen pulling me aside in the EPIC bankruptcy in the mid 1980s. I was representing Fannie Mae and Salomon Brothers – classic 2000 pound guerillas in the mortgage world – and they wanted to cram down a plan before Judge Bostetter. Jerry represented some of the smaller Ohio banks. He quietly said to me, you have to give my clients an escape hatch; otherwise they will fight you forever. I was 35 years old. Convincing David Maxwell, the Chairman of Fannie Mae, and the legendary Lew Ranieri of Salomon Brothers, not to try to run over some small Ohio banks was not my easiest assignment. But Jerry was right, my clients took the advice, and we got the case confirmed. And I have never forgotten Jerry's advice.

As a law firm managing partner at WilmerHale, then an in-house lawyer at BNY Mellon, and now with FTI Consulting, I have had the chance to see a lot of different practice areas and many other professions. There is something that is unique about the bankruptcy field. Perhaps it is because it combines a specialized set of rules and courts while, as Rich Levin has long said, requiring us to be generalists as well since we have to deal with the full range of legal and business issues. Maybe it is because we have all been allies and opponents of each other – sometimes at the same time – and we know we will engage each other again.

I think it I also because we see people at what may be the lowest professional – and in the case of consumer cases – personal times in their lives. We get to see the real-world effects of Schumpeter's creative destruction. We see so-called geniuses when their ideas have failed. More than one client has said that he wanted to wring my neck, but since he needed me, he would exercise a modicum of self control. There is some historical basis for this. In ancient Greek civilization, the idea of bankruptcy did not exist. When a man owed another man money that he couldn't pay, the indebted man and his family were put into "debt slavery" until the issue of money had been entirely worked off through physical labor. Many times, such debt slavery lasted for a lifetime; however, debt slaves were protected by the law: their masters could not kill them or remove any of their limbs. We have all had occasions where we have hoped that our clients would afford us that same luxury.

I want to take this opportunity to congratulate the 31st Class of Fellows and our Distinguished Law Students. Their presence reminds me of one of the greatest challenges that Covid presents besides the obvious health impacts. As I mentioned earlier, I benefited immensely from formal and informal mentoring. Much of this occurred in informal settings: in conference rooms, over drinks, sitting in court. Those settings have largely disappeared from our lives, at least for the present. All of us in the College have established ties with colleagues and know how to work the system: if we didn't, we wouldn't be sitting here today. We need to find opportunities to impart that wisdom to the upcoming generations, even without the informal settings where we learned. Reach out to include younger colleagues in pitches and meetings, follow up conference calls with a call to critique it with those colleagues, check in with them to just chat. If we don't, we and they will lose something critical that has helped us

get to the top of our professions. Mentoring has never been more important than now when so many people feel isolated or lost. Thank you all for your time and support.