

## IN MEMORIAM: ALBERT M. SACKS.

**NAME:** David B. Wilkins \*

**BIO:**

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**SUMMARY:**

... Al Sacks was first and foremost a family man. ... Al's family, however, was much larger than many people may have realized: in addition to his beloved Delle, his two daughters Jan and Margie, his son-in-law Richard, and Marty, whom he mischievously but affectionately referred to as his "son-outlaw," Al Sacks had many sons and daughters in the law. ... Instead, I was given a five-year lesson in what it means to be a teacher by someone who would become not only my mentor, but also one of my best friends. ... When I met Al, he had been teaching civil procedure for more than a quarter century. ... When I asked him why he was switching back after putting all of the time and effort into teaching the new book, he simply said that he wanted to honor his old colleague and dear friend Ben Kaplan by using Ben's book the last time through the course. ... Al never stopped believing in the place, and he never stopped trying to make it better. ... As important as this project is, however, it is not the principal way in which I intend to keep Al's memory alive. ...

**TEXT:**

[\*20] Al Sacks was first and foremost a family man. This is hardly surprising, because Al was blessed with such a wonderful family. Al's family, however, was much larger than many people may have realized: in addition to his beloved Delle, his two daughters Jan and Margie, his son-in-law Richard, and Marty, whom he mischievously but affectionately referred to as his "son-outlaw," Al Sacks had many sons and daughters in the law. Five years ago, I had the honor of being adopted into this very special family.

This was not something that I expected when I first knocked on Al's door one hot August afternoon shortly after arriving in Cambridge to begin my new career as a law professor. I hardly knew Al, or Dean Sacks as I then referred to him, when I was a student at Harvard Law School in the late seventies. In those days, my vision was sufficiently limited -- and my past sufficiently checkered -- that I considered staying *out* of the Dean's office to be something of a major priority. In fact, the only times I remember seeing Al during those years were when he welcomed my class on the first day of school and handed me my diploma on the last. Aside from my being considerably happier to see him on the latter occasion, nothing in these vague memories prepared me for the impact that Al Sacks was to have on my life. Indeed, as I walked through the door in response to his booming "COME IN!," the most I expected to receive was a copy of his syllabus and perhaps a brief explanation of such intricate procedural niceties as the difference between ancillary and pendant [\*21] jurisdiction. Instead, I was given a five-year lesson in what it means to be a teacher by someone who would become not only my mentor, but also one of my best friends.

When I think of Al, so many memories crowd my mind: the way he used to take off and put on his bow tie over and over again during the course of our many lengthy discussions in his office (there were, of course, no short discussions with Al Sacks); or the way his eyes sparkled during one of our many fancy dinners together when he told his good friend Phil Areeda, with whom he and Delle had recently traveled to France, that Tour D'Argent was nothing but a "tourist trap"; or the way the same expressive eyes would fill with pride and love whenever he spoke of Delle, the children, or the grandchildren. Of all the special memories and valuable lessons, however, three aspects of Al's character will always be closest to my heart.

First, like all great teachers, Al never stopped being a student. When I met Al, he had been teaching civil procedure for more than a quarter century. He had been personally involved -- first as a trusted adviser, then as the Reporter, and finally as a distinguished senior commentator -- in the drafting of every major revision of the Federal Rules of Civil Procedure since 1963. He thus had every right to think that he had nothing to learn from some freshly minted assistant professor about how to teach this most difficult -- and some might say most boring -- of first year courses. And he probably would have been right.

But that's not the way Al thought. From our first meeting, Al made it perfectly clear that he wanted to know how *I* thought we should teach civil procedure. As I quickly learned, this was no idle inquiry; Al was fully prepared to try out a new idea or approach, even when it might involve substantial time and effort. Al Sacks always acted as though I had something to say even when I didn't. In so doing, he gave me the courage to find my own voice.

Second, Al Sacks never forgot that law and legal education is ultimately about people and not about ideas or rules. Two years ago, Al decided to join Martha Minow and me in switching casebooks in civil procedure -- even though he knew he would be teaching the course only two more times. Midway through his last summer, Al decided to resume using Field and Kaplan. When I asked him why he was switching back after putting all of the time and effort into teaching the new book, he simply said that he wanted to honor his old colleague and dear friend Ben Kaplan by using Ben's book the last time through the course. For Al, behind every law or legal dispute -- even every civil procedure textbook -- was a real human being. And every human problem was worthy of careful consideration and respect.

Finally, Al never abandoned his ideals. He never stopped believing that the law could be a noble tool for social change or that great [\*22] institutions such as Harvard Law School could make important contributions to understanding how best to achieve society's goals. He was not naive; he did not believe that progress was inevitable or that institutions always behaved as they should. But he never let his realistic view of the present dim his tremendous sense of optimism about the future. The last time I saw Al Sacks, all he wanted to talk about was the future of the School. Al never stopped believing in the place, and he never stopped trying to make it better.

To make sure that these important lessons are not forgotten now that the force behind them has been removed from our eyes, a group of Al's sons and daughters in the law will write a series of essays honoring his life and work. These essays by such distinguished theorists as Frank Michelman, Martha Minow, Robert Mnookin, Morton Horwitz, Judith Resnik, and others will be published as a book so that succeeding generations can learn the lessons that I was so privileged to be taught first-hand, as Frank Michelman so aptly put it, underneath the ceiling fan. n1

As important as this project is, however, it is not the principal way in which I intend to keep Al's memory alive. For perhaps more than anything else, the life of Al Sacks stands for the simple proposition that great teaching is teaching by example. It is by always being open to new ideas, by seeking out and responding to the human face of every legal problem, and by never losing faith in our institutions or the commitment to make them better that I intend to remember, honor, and celebrate the life of Albert M. Sacks -- my father in the law.

#### FOOTNOTES:

n1 *See supra* p. 18.

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