

TRIBUTE

INTRODUCTION FOR RICHARD LEVIN: *EMORY BANKRUPTCY DEVELOPMENTS JOURNAL* DISTINGUISHED SERVICE AWARD FOR LIFETIME ACHIEVEMENT

*The Honorable Eugene R. Wedoff**

I'm honored to introduce Richard Levin on a special occasion. Tonight, the *Emory Bankruptcy Developments Journal* is conferring on Rich its Distinguished Service Award for Lifetime Achievement. This is the fifteenth time that the award has been given, each time to an individual who has had both large and positive effects on the ways in which debt is treated. Although the award was initially given to U.S. lawyers, judges, and law professors, the Journal's recent awards have recognized the increasingly international nature of commercial activity and the effectiveness of business acumen as well as legal skill in treating debt. And so it has conferred its Distinguished Service Award on leaders in accounting and management services, and, most recently, on a prominent Canadian jurist.

With Rich, though, the Journal has turned again to a U.S. lawyer. A cursory resume check is enough to see why. Rich graduated from the Yale Law School, was an editor of its law journal, and, after 37 years of practicing bankruptcy law, is the chair of the restructuring practice of Cravath, Swaine & Moore, one of the country's leading law firms in the field of corporate restructuring. He has been personally involved in many of the most important chapter 11 proceedings in the country.

But that's not what I'd like to tell you about Rich tonight. Instead, I'd like to start with Rich's undergraduate education. It's unusual. Although he ended as a major in political science, that's not where he started. His plan was to study chemistry at the Massachusetts Institute of Technology, a school renowned for its emphasis on scientific, engineering, and technological training and research, and that's where Rich got his bachelor of science degree. Something about that choice of school points to a particular, empirical mindset—seeking to know how things work and to use new knowledge to improve functionality, whether structures of chemical compounds or systems

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of human interaction. In short, Rich's choice of college said, "I want to make things work better."

Three aspects of Rich's career reflect that mindset. First, he's largely responsible for drafting the 1978 Bankruptcy Code. His first job after law school was Associate Counsel to the Subcommittee on Civil & Constitutional Rights of the Judiciary Committee of the House of Representatives, reporting to its chairman, Representative Don Edwards, a Democrat. Another Associate Counsel, Ken Klee, reported to Representative Caldwell Butler, a Republican. Despite their differences of party, Rich and Ken worked closely together on the biggest task of the Subcommittee—drafting a workable bill from several conflicting proposals for revising the Bankruptcy Act of 1898: draft legislation from the Commission on Bankruptcy Laws established by Congress; a competing legislation from the National Conference of Bankruptcy Judges; and a report of the Brookings Institution. Professor Frank Kennedy put it bluntly: "The draftsmen of this bill were Richard Levin and Kenneth Klee."¹ Rich and Ken concluded that bankruptcy judges should have full Article III status, and that decision, as well as other disputes led to more work, and, ultimately to the 1978 Code. Another Congressional staffer described the process: "Unusual cohesion on major issues," he wrote, "was gained in the subcommittee by the completeness of the hearings held . . . and briefings and analyses provided by the subcommittee staff, Richard Levin and Kenneth Klee. Many thousands of pages of research, analysis, and drafts were prepared and distributed by the staff and members, which were used to develop the subcommittee consensus on the major areas of bankruptcy law." So, the empirical Rich Levin learned that hard work in cooperation with a person of another party can make for a better bankruptcy law. That's aspect one of Rich's career.

The second aspect is education. Rich went into private practice after his work on the Code was finished, and almost immediately took on a major role in drafting Collier on Bankruptcy, one of the bibles of U.S. bankruptcy practice, and Rich has been a frequent speaker at bankruptcy seminars throughout his career, including several educational programs of the National Conference of Bankruptcy Judges. But, as a bankruptcy judge, I'd like to focus on Rich's particular efforts to educate us. For years, Rich has had a special relationship with the Federal Judicial Center, the main provider of legal education to federal judges. Every year, the FJC puts on one or two seminars open to every bankruptcy judge, and every year, Rich is a presenter, recently

¹ Frank R. Kennedy, *The Background of the Bankruptcy Reform Act of 1978*, 1979 ANN. SURV. BANKR. LAW 1 (1979).

with Judge Barbara Houser, giving us a detailed discussion of scores of new cases dealing with commercial bankruptcy issues, all based on his annual survey of every published decision dealing with those issues. It's a massive undertaking, but it has the effect of letting every bankruptcy judge have the latest thinking on all of the major issues in dispute. And from this second aspect of his career, our empiricist has learned two things: hard work can lead to better judging—and *free* hard work makes a good teacher welcome to lecture again and again.

The third aspect of Rich's career I want to mention is the National Bankruptcy Conference. Its website states that it is a voluntary organization composed of persons interested in the improvement of the bankruptcy laws of the United States and their administration. Historically, it's been the major professional organization advising Congress on issues involving bankruptcy and reorganization, Rich has been a member of the NBC since 1981, became its vice-chair in 2004, and, just last year, became its chair. In his work with the NBC, Rich has continued the work he began in 1975—melding a range of diverse opinions to aim for a better bankruptcy law, and willing to work with anyone, regardless of their affiliation, who shares that goal. Here's an example: another organization, the American Bankruptcy Institute, recently launched a large-scale effort to explore ways of improving chapter 11. It would have been easy for Rich to view the ABI's effort as usurping territory of the National Bankruptcy Conference. Instead, Rich joined the ABI's effort in a leadership role and encouraged other NBC members to offer similar support. And by the way, last year Rich joined once again with Ken Klee to draft an exceptional article, titled "Rethinking Chapter 11," that explores many of the areas in which chapter 11 bankruptcy could be improved. And if any of these efforts bear fruit, they'll provide more empirical evidence that working hard with people of different backgrounds and perspectives can produce better law.

So there are the three aspects of Rich's career that illustrate the kind of effect a chemistry major can have on bankruptcy. But I can't close without two brief additions. First, beyond the non-paying work I've outlined, Rich has in fact been very successful in representing paying clients. But that's also a way in which hard work can generate a better result—indeed, that's the notion behind bankruptcy in the first place. We earn a living, to a significant extent, by making bad financial situations at least a little bit better for everyone involved. And finally, in the midst of all his empirical achievements, paying and non-paying both, Rich managed to find and marry his wife Kathleen and with her raise three wonderful kids—one of whom is going to work this year as

a summer associate at Davis Polk, another of the most prominent bankruptcy firms. Somehow, I have the strong feeling that of all things he's done to make things better, this family, for Rich, may be the best of all.

And so, Mr. Levin, you deserve—richly—this award for a lifetime of genuine achievement.

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