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Professor Frank R. Kennedy

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Recommended Citation

Jack F. Williams, Professor Frank R. Kennedy, 18 Bankr. Dev. J. 238 (2002).

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PROFESSOR FRANK R. KENNEDY

*Jack F. Williams**

INTRODUCTION

Where does one begin with a tribute to a luminary such as Professor Frank R. Kennedy? Others asked to pay tribute have known him longer than I and have chronicled his amazing accomplishments throughout a long and distinguished career. A simple review of his Curriculum Vitae shows an energetic scholar with catholic interests.

Rather than parrot the many accolades voiced by others, accolades in which I join, let me introduce you to a side of Professor Kennedy that I experienced intimately—student to mentor. This tale begins back in 1991 when I met Professor Kennedy for the first time. After having accepted a position as the Inaugural Southeastern Bankruptcy Law Institute (“SBLI”) Distinguished Visiting Professor at Georgia State University College of Law, he asked if he could sit in on a bankruptcy class I had been assigned to teach. What he did not know at the time was that the class he chose happened to be the very first class that I would teach—I was beginning my first year as a law teacher. Somehow I mumbled through a gracious response to his request, and we were set. I then went back to my office and nearly passed out.

After I pulled myself together, I quickly thumbed through my notes for the first class. Over the summer I had decided to spend the first class, a three-hour marathon, covering the recent history of bankruptcy law with an emphasis on the events leading to enactment of the Bankruptcy Reform Act of 1978. That is when I really became ill!

Having not slept for what one could fairly consider ages, the day of reckoning finally arrived. I walked into my classroom for the very first time and there to greet me were some seventy students and, of course, sitting in the front row, Professor Kennedy. I nearly passed out . . . again. I began my class, voice cracking, with a simple question: why a separate federal system to regulate debtor-creditor

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relations? From that point, the class went downhill. After the class, I met with Professor Kennedy. I was pretty hard on myself. He put an arm around me and said, "Listen, Jack, you are never as bad as you think you were. You are suited for this line of work." With those encouraging words, I recovered and began my new career as a law teacher. After that first class, we talked weekly about bankruptcy law and teaching. Professor Kennedy had several suggestions that I immediately took to heart.

It was not two months later when I called Professor Kennedy. I recounted a class I had just completed where everything I tried worked. I thought my performance outstanding. I still clearly recall what happened next. Professor Kennedy chuckled and asked that I repeat the story. I immediately obliged. He chuckled again and said, "You know, Jack, you are never as good as you think you were."

That advice—be demanding of yourself but not too demanding—has been my guiding light. The incident also provided me a profound glimpse of the gentleman who would quickly become my mentor, co-author, and friend. As he began his tenure as the SBLI Distinguished Visiting Professor, I visited with Professor Kennedy regularly. I was impressed with his thoughtfulness, carefulness, compassion, and patience with me, a struggling young scholar. He had only kind words for me, my work, and my teaching. Our weekly discussions led to a delightful and meaningful collaboration among Professor Kennedy, a new friend introduced to me by Professor Kennedy—Professor Vern Countryman, and myself, which led to a two-volume treatise published by Aspen entitled *Kennedy, Countryman & Williams on Partnerships, Limited Liability Entities and S Corporations in Bankruptcy*.

As a mentor, he introduced me to several important maxims on the study of bankruptcy law that have served me well. In a tribute to Professor Kennedy, I share them with you:

1. **Bankruptcy law and policy actually predate 1978.** As a new-age bankruptcy professor, I often thought that bankruptcy life began with the enactment of the Bankruptcy Reform Act of 1978. Professor Kennedy quickly introduced me to the error of my ways. When I would raise what I perceived a novel issue, he would invariably point to some pre-1978 Bankruptcy Code precedent or law review article that
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identified and developed the issue. The peculiar problems of single-asset real estate cases, the new value exception to the absolute priority rule, the perceived reduction of stigma associated with a bankruptcy filing, critical vendor order, etc., all had a pre-Code life. Additionally, he stressed the importance of studying the 19th Century railroad equity receivership cases to a proper understanding of chapter 11 reorganizations, a requirement I impose on my students to this day. There is a treasure trove ready for discovery in the history of bankruptcy.

2. **Read the Code.** So many of us think we remember what the Bankruptcy Code says. We usually give our memory too much credit. Thus, although we may argue over what a particular Code section means, we should not argue over what the Code section actually says. Read the Code.
3. **Teach Bankruptcy Law like you would a Constitutional Law class and unlike a Uniform Commercial Code class.** Although reading the Code is important, it is not all important. Policy and doctrinal development are also important. Expose your students to the delightful attributes of a robust bankruptcy law.
4. **Avoid bankruptcy fads.** Debtors are routinely abusing the system. Creditors are overreaching. The stigma associated with a bankruptcy filing is gone. The Code should be canned and bankruptcy law re-written. Reasoned thought demands that we avoid faddish thinking. One should approach a subject as demanding as bankruptcy law with a cool head and deliberate thought. Avoid hyperbole. It clouds vision.
5. **Measure twice, cut once.** Be meticulous in your research, thoughts, and speech.
6. **Respect.** Respect your students, your colleagues, and yourself. Students are expert in sensing disingenuousness.
7. **Like your job, but love your work.** No commentary necessary.

Obviously, words betray me in my feeble attempt at singing praises of this giant among giants. His contributions to the field of bankruptcy law are immeasurable. His impact on generations of scholars is beyond comprehension. Yet with all his great accomplishments, he is one of the humblest men I have ever met.

He is most proud of his roots in Southwest Missouri, his brothers, his wife Pat, children, and grandchildren. Professor Kennedy's thoughtfulness about bankruptcy law are rooted, in large part, in his experiences in Southwest Missouri, where he witnessed the financial and emotional toll taken by farming bankruptcies. It was this experience that helped him form his eighth maxim that he shared with me early on in our talks. Here I share it with you.

Bankruptcy cases are always about real people with real troubles. A West Bankruptcy Reporter is full of reported bankruptcy cases, addressing all sorts of issues. However, at bottom, each one of these cases is about real people experiencing pain. Be professional but never lose your compassion.

