

"Perhaps the best way you can emulate David is to work hard and love what you do. He was the only person I ever met who worked every day of his life and relished it!"

-Rosemarie D. Siegel

TRIBUTE TO DAVID D. SIEGEL*

Thomas F. Gleason**

I first would like to thank Rose, Sheela, Rachel, and the entire Siegel family for honoring me with the opportunity to speak today. Words cannot express how much I appreciate this kindness.

I have known and admired David since I was a law student. I agree with Dean Andrews that he could be scary, but only until you got to know him, as I did as his student and research assistant in 1978.

In New York Practice David was a taskmaster, and yet the most popular teacher in the school. He expected us to work hard, and we did. I remember the bar review course in which students from elite schools were desperately cramming New York procedural rules. We at Albany Law School were so well trained by David that during the bar review I never even looked at New York Practice.

David not only demanded hard work, for himself he set a work-ethic example that few practicing lawyers could approach, much less equal. David's writings are vast, and I confidently predict that his legal writing will never be equaled for its combination of quality, lucidity, and humor.

So to honor David today, let me quote briefly from some of his

* The following are the remarks I had the privilege to deliver at Professor Siegel's Memorial Service on October 19, 2014. He was and remains an inspiration to me on many levels.

** Thomas F. Gleason, Esq. practices law at Gleason, Dunn, Walsh & O'Shea in Albany New York. He teaches Insurance Law as an adjunct professor at Albany Law School, and he served with Professor Siegel as a member of the Chief Administrative Judge's Advisory Committee on Civil Practice. Thanks to Professor Siegel, he became a commentator for *McKinney's Consolidated Laws of New York* and the *New York Law Journal*. He served as Professor Siegel's research assistant in 1978, and was a friend of Professor Siegel for over 35 years.

work, because David's own words illustrate his masterful communicative skills far better than any eulogy.

You all doubtless know that David was something of a genius in the turn of a phrase, but perhaps some may not know of his periodic forays into poetic commentary. The following was published some years ago in the *American Bar Association Journal*.

David was reporting on a Texas case in which a plaintiff rancher sued for damages when the defendant's bull broke through a fence and as David described it "amorously engaged" the plaintiff's heifer. Writing from the point of view of the interloper, David observed:

With nature could a beast commune
That very lovely afternoon.
The sun was bright. My head was clear.
I was a most complacent steer.

For purposes of decorum, I leave out the middle of the poem in which David describes the fateful encounter. His next lines are these:

For doing as I had to do
Her master's mad and mine is too.
In fact, each barnyard face I spy
Regards me with a jaundiced eye.

My life, in view of all this rage
Has turned a rather tragic page
But one thing does relieve the pain,
You sure don't hear the cow complain.

Well, David certainly did have a bawdy side to him. You can well imagine the ensuing controversy, but it was not from that. Instead, David's knowledge, or rather lack of knowledge of animal husbandry provoked a flurry of objections from the bar.

Here is a sample:

Vast knowledge of all subjects legal
Is doubtless held by David Siegel
And to him I shall homage render
Whenever Law's on the agenda.

2014/2015]

Tribute to David D. Siegel

303

But re bovine lore, learned David
I value not your affidavit.
For it is certain your head's not clear,
Concerning heifer, bull, cow and steer.

Apparently a steer is a neutered bull, which is a pretty big error for a legal commentator to make on the facts of a case. Perhaps he should have known this because David lived the latter half of his life in the Berkshires, but throughout the time I knew him he was the unabashed kid from Brooklyn. Many times after our advisory committee meetings he and I walked the streets of New York City, often in Brooklyn, where my family also used to live. So this critique of David as a city boy actually touched a point of pride. Here is David's response in the next bar journal:

I grieve to think that urban me
Could so elicit rustic glee
By writing of the sire's call
In steers, which lack the wherewithal.

This is vintage David in several ways. First, of course, the guy was really, really funny. He was a great joke teller, knew thousands of them for any occasion, and was a great wit in person or in print. It was impossible not to laugh in his company, as he laughed at his own jokes, often to the point of tears!

But David's responsive poem also shows his disarming sense of humor. This often was on display in a good natured way around the table of the Chief Administrative Judge's Advisory Committee on Civil Practice. David made more proposals than anyone on the committee, by far, so it was inevitable that some of his ideas would be challenged.

Our chair, George Carpinello, is a pretty funny and irreverent guy in his own right, and many were the times that he played straight man for David. The resulting atmosphere of productive good humor was infectious. It still persists, in large part due to David. I can see in my mind now David's subtle but mischievous grin developing as he prepared to deliver a responsive zinger.

But this was David—so accomplished in his vast knowledge and careful scholarship that he knew any mistake he might make would

in context be minor or point to a new and interesting area of inquiry. He took the rare criticism of his proposals in stride.

This contributed, I think, to his success as a commentator. He so welcomed questions and observations at his bar lectures that he became the rare scholar with the perspective of the long-time practitioner. This was David's lesson: "Do your work thoroughly and well, don't be afraid to engage comment, and above all don't take yourself too seriously."

David was indefatigable into his eighth decade, largely I think because he loved his work. I know he worked unusual hours, because he sometimes called if he wanted another's perspective. Nothing charged him up like an interesting new Court of Appeals case on a procedural rule, especially if it determined the outcome of a case. The esteem went both ways. As Judge Graffeo certainly can confirm, David was on a first name basis with nearly every Court of Appeals Judge for the last thirty years.

Dean Penny Andrews was kind to note in her remarks a critical aspect of David's output. In public and in private, David was unstinting in his praise of Rose, for setting up such a pleasant and productive home environment in which he could work so happily. Many years ago David told me of his "inviolable" rule for work at home: he was not to be disturbed at work in his home office! I remember his delight in telling how as toddlers, Sheela and Rachel freely violated the injunction!

And here of course we come to the true measure of David and the thing about which I admire him most. How can it be that such professional accomplishments, over such a long career, did not detract from his responsibilities as a husband, father, and grandfather?

We have with us here today in David's loving family proof positive that in this way too, he had extraordinary success. He knew this deeply in his final days, and I know his family was by far his proudest accomplishment. I believe this gave him courage to face the end, and certainly it gave him peace.

So we should do our best not to be sad today, though some of that is an inevitable result of our loss. Instead, I propose that we take on these final lessons from our great friend and teacher and carry them forth. Thank you David, I will miss you.