
A TRIBUTE TO BERNIE SORKIN

by AARON SORKIN*

My father's favorite piece of art hung on his office wall — first at 666 5th Avenue, then 75 Rockefeller Plaza and finally the Time-Warner Building. It wasn't a painting or a photograph, it was a framed letter that had been sent to Jack and Harry Warner from Groucho Marx. The studio was claiming that the Marx Brothers' new picture, *A Night in Casablanca*, was infringing on its copyright. Groucho said he doubted anyone was going to confuse Harpo with Ingrid Bergman, and besides, he wrote, "we've been brothers longer than you have." That cracked my father up. He enjoyed IP humor.

He also loved language. When a flight attendant would announce that a flight was "very full," my father would — politely — point out that something can't be very full, it can only be full or less than full. He also liked to explain to flight crews that "momentarily" means *for* a moment, not *in* moment, and that if we're landing momentarily there won't be enough time for all the passengers to get off. It's a miracle he was never put in plastic handcuffs.

But after his family, what my father loved most was the law. It was something ancient and meaningful. Sometimes it was a riddle to be solved and always it was our greatest mechanism for equality. It was to be revered. And so when my father was being sworn into the New York State Bar and was asked if he had any outstanding debts, he told the judge that he owed \$1.35 to the Brooklyn Public Library in late fees. The judge thought he was being a smartass and so held up my father's entrance to the bar for six weeks and ordered him to present evidence that he'd either paid the fine or returned the books.

My father passed his love of the law down to all three of his children — the oldest two became lawyers and the youngest — me — became a writer who writes about lawyers a lot. From *A Few Good Men* to *The West Wing* to *The Social Network*, I write a lot of stories that are populated with lawyers. But more than that, I like to write romantically and idealistically and that's a direct reflection of my dad. (People have asked if I based Jed Bartlet on anyone — Clinton, Carter, Kennedy? — and the answer is he's based on my father.)

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I'm a father now too. I try to use my dad's playbook in raising my daughter and I love telling her stories about her grandfather. And I'm working on my IP jokes.

RECALLING BERNIE SORKIN

by SANDRA AISTARS* & MICHAEL KLIPPER†

Everyone who has known Bernie has learned from him. We learned lessons, both big and small, about the law — of course — but also about how to live a productive life, and that love and family come first.

Sandra

I met Bernie when I began working at Time Warner. He was retiring from a full-time role there, and remaining on as a consultant. I was hired as a result — the department had “open head count” and clearly no one could replace Bernie, who at that point I only knew by reputation as one of the deans of the Copyright Bar. Thus, I was hired in a completely new role — to work on issues where technology and copyright intersected. For some reason, my first day in the office happened to be a Friday. After initial meetings with human resources and other administrative matters were taken care of, I was introduced around the office. We came to Bernie’s office shortly before lunchtime and Bernie and I began to discuss some recent copyright case. As we were debating the impact of the decision, Bernie abruptly, but politely, halted the conversation and apologizing, excused himself for a “very important appointment.” He paused and explained that he had a standing lunch date every Friday with his wife Claire. That was my first lesson from Bernie — that love comes first, and that it is possible to lead a successful career while still making time for a life outside the law.

Bernie was masterful at teaching by example. He was a passionate advocate and tough negotiator and defender of the interests of the company, but always a gentleman. I recall watching other lawyers who might elsewhere have been brash or overly aggressive in their style, perhaps subconsciously recalibrate and assume a more polished demeanor when interacting with Bernie.

Bernie was also an invaluable source of copyright history. His decades of experience advising the company on copyright policy and legal strategy brought to life nuances of the law I had never before considered, and illuminated interesting historical details that made practicing law with him a true pleasure. He was always generous with his time and willing to

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advise younger colleagues, but he was equally curious about new developments, and confident that we might have knowledge to share with him. His belief in our promise made us strive to be worthy of his esteem.

Mike

Sandra has done a wonderful job of capturing so much about Bernie — particularly his love for family and the law, as well as his status as a true mensch from my perspective.

I knew Bernie for well over thirty years. I met him in the early 1980's when he was a copyright titan at Warner Bros. and I was a newly minted in-house counsel at MPAA, fresh from the staff of the Senate Judiciary Committee. Upon meeting Bernie, I realized, here was someone to respect and from whom I could learn much, both as a person and as a lawyer. I learned quickly to take his comments on my work product with great seriousness and humility. He never failed to add insightful comments that always improved my effort and to correct me — gently — where he disagreed.

Over the last decade of his life, I spoke with Bernie frequently. It was on those calls that I got to know Bernie in a more personal way. When he picked up the phone, his first questions were not about copyright matters, but about my family. How was my wife? What were the boys up to? Hope everyone is doing well. Only after I inquired about his well-being and that of his family, did he ask me a series of questions about the latest copyright project in which I was engaged. Because Bernie did not rely much on the computer, he was one of the few people who I communicated with by snail mail. I always offered to attach a document to an email, only to have Bernie instruct me to send it through the U.S. mail. Those mail drops occurred with some frequency as Bernie never lost his thirst for digesting copyright-related news. At times when Bernie was not up for a call, I chatted with Claire. It was during one of those calls I learned that in the early 1950's while I was a student at P.S. 40, my NYC elementary school, Claire taught there! Bernie and I had a laugh about that.

Sandra & Mike

From these small glimpses of our interactions with Bernie, and those of others you will read in these pages devoted to him, one thing stands out. That Bernie had an outsized impact on the people who were fortunate enough to know him, and that his reach into our lives transcends the time and circumstances in which we had the pleasure to meet him.

BERNIE SORKIN TRIBUTE

by JON BAUMGARTEN*

For those of us with ample time in the Copyright Community going back to the pre-digital world (but flowing into it as well), mere reference to the first name “Bernie” drew immediate recognition long before the recent political campaigns.

In “our” Bernie’s case, that recognition was invariably accompanied by immediate attention, careful consideration, deep respect, and great affection.

Bernie Sorkin was a true Copyright Expert, deeply practiced in not only the law, but equally in the customs, practices, and needs of the copyright industries he represented. He was respectful of the interests of copyright users and adversaries alike, skillful at finding solutions to vexing issues, persuasive in negotiation and policy deliberation, and notably gracious and instructive to young aspiring copyright lawyers of the time. Having encountered Bernie repeatedly in the long course of both my private practice and government copyright service, I readily attest to his kindness, expertise, wisdom, repute among peers, and influence in the development of copyright law and regulations.

Overlaying all in my recall, Bernie was a gentle man — no less, for that, an effective and powerful advocate — as well as a gentleman. I valued our contacts over the years both professionally and personally, and prize his memory.

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TRIBUTE TO BERNIE SORKIN

by DEAN MARKS AND SHIRA PERLMUTTER

We were both fortunate to have worked closely with Bernie during his long and distinguished career at Time Warner. In speaking to one another and other lawyers that Bernie mentored over the years, we all share the same perspective:

“How was it that Bernie taught us so much, gave so generously of his keen intellect, wisdom, analysis, and insights, and yet always made us feel like we were the smart and talented ones?”

To say that Bernie was a giving man is a huge understatement. Not only was he generous in sharing his exceptional knowledge, but he always did so with great patience and kindness. Moreover, Bernie was the quintessence of a gentleman — he treated everyone with genuine respect and dignity and was beloved by all of his colleagues.

Bernie was that rare attorney whom business executives regularly sought out for counsel. They valued not only his expertise and wisdom, but also his pragmatism and willingness to think “outside of the box.” Far from being viewed as a typical lawyer posing obstacles to new business models (such as the launch of the DVD), Bernie was regarded as an insightful partner and facilitator.

Bernie was a passionate believer in the importance of intellectual property, along with the need to find solutions to make it work practically. In policy debates, whether in New York, L.A., D.C., or internationally, his was a valued and respected voice. From the shaping of the 1976 Copyright Act and its updates, to the Library of Congress’s Advisory Committee on Copyright Registration and Deposit, to the National Research Council’s Committee on Intellectual Property Rights in the Emerging Information Infrastructure, Bernie’s thoughtful and incisive views played a major role in promoting the public interest.

As a friend, Bernie was unfailingly warm and caring. He supported our dreams and took pleasure in our accomplishments. He always wanted to know about the well-being of our parents, partners, kids, and siblings, and followed press coverage of the work of Shira’s brother with delight.

Those of us who were close with Bernie in the workplace also knew of his great love of and pride in his family. Both of us remember many occasions when we would be in Bernie’s office discussing an issue and his wife Claire would walk into his office for their regular Friday lunch. Bernie’s face would light up like a Times Square billboard, his smile would broaden and he would greet Claire with a warm, “Hello, Bun!”

All who knew Bernie will miss him. Indeed, to know Bernie was to love him. We are both so thankful for Bernie's role in our lives as a great mentor, supporter, and friend.

TRIBUTE TO BERNIE SORKIN

by MICHAEL POLLACK*

In the late 1960s and early 1970s, as a young attorney in the motion picture industry, I participated with Bernie Sorkin at MPAA Legal Committee meetings. Listening to Bernie speak was like being back in a law school classroom and hearing a distinguished professor expound on legal matters. Bernie was friendly, approachable, and always a good source for legal advice. After I went to the record industry in 1974, my main interactions with Bernie were at Copyright Society luncheons in New York. Occasionally Bernie joined us at RIAA Legal Committee meetings when important copyright issues were on the agenda. My fondest memory of Bernie occurred in 1995 shortly after I joined the Warner family as Senior Vice President, General Counsel of the Elektra Entertainment Group. I went to Bernie's office to pay a courtesy call. Spontaneously, we hugged and tears flowed from both of us. We were now on the same team. I expressed my gratitude for all the advice he had given me over the years and for the legal icon and role model he was for me. To my great surprise he told me he had followed my career and was somewhat envious of my accomplishments. As great a lawyer as Bernie was, I also remember him as a truly wonderful and caring person whose favorite time of the week was his standing Friday lunch date with his wife, Claire.

*Former President of the Copyright Society of the USA.

IN APPRECIATION

by ERIC J. SCHWARTZ*

My entry into the world of copyright came in 1987 in a telephone call from Bernie Sorkin. In those pre-Internet days, Bernie was calling to tip me off about a recently-posted job opening at the U.S. Copyright Office, which he believed, encouragingly, I would be “just right for.” Although I was not hired for that position, what struck me then was Bernie’s kindness to have remembered our conversation years earlier, and to have reached out to me.

I had first met Bernie in 1985 at his offices in Rockefeller Center in New York where he was then the copyright expert in residence at Warner Bros. (and later at Time-Warner). A colleague, Tim Boggs, who ran the Washington, D.C. Warner offices, had suggested that if I was truly interested in the field, I should talk to Bernie Sorkin, “the best copyright lawyer in the world.” So, I called Bernie, expecting a perfunctory conversation at best. Instead, he invited me to his offices in New York City to “sit down and talk” for what turned out to be the first hour in a decades-long friendship. He was full of sincere confidence and enthusiasm for my future, offering thoughtful suggestions about opportunities and job possibilities.

Although others referred to him with awe, Bernie was genuinely modest about his skills as “just another” copyright counsel. Yet, during his long career, he was eagerly pursued by colleagues and peers within the companies where he worked, as well as from those in government agencies, law firms and organizations worldwide. Requests for his counsel ranged from complex copyright matters to simply serving as a sounding board for ideas, as he was always a ready ear willing to listen with patience. The counsel he offered came in a soft-spoken manner and was as pragmatic as it was legally (and grammatically) precise. And always polite.

Bernie was also a terrific writer and a gifted editor. If you sought his input, as I often did, you were fortunate to be on the receiving end of detailed comments, well-organized in thought and citation. (He was his son Aaron’s model for President Bartlet on the TV series *The West Wing* whose attention to historical and grammatical precision, and use of a thesaurus, mirrored Bernie’s).

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His policy inclinations were consistent. He advocated for strong protection for creators and producers because he earnestly believed copyright encouraged creative output and the broadest dissemination of works. His conversations, like his career, were interlaced with his personal and professional interests: law, classical music and classic movies, books, the English language, and history.

His office was full of framed family portraits and contracts from his myriad business deals at Seven Arts and Warner. Although our first meeting in 1985 was filled with conversation about law and jobs, we also talked films, books, and family (his and mine), as we would continue to do throughout our friendship. Years after that first meeting, Bernie asked to have lunch with me and my father, also a lawyer, and his contemporary in age. A few weeks later, Bernie invited my dad to watch me give a CLE program for the Warner attorneys that Bernie had arranged, because Bernie thought it would be a “proud moment” for my father (it was). For Bernie, family was integrated into everything he did or spoke about; he had his regular office lunches with his wife Claire, and proudly spoke often about her and about their children.

In fact, at that first meeting in 1985, I vividly remember Bernie referring to his son who was “about my age” and was, as he characterized it, “also trying to get into the entertainment field.” Years later I realized he had been talking about Aaron, whose first play *A Few Good Men* was a critical and box office success on Broadway (and later, a terrific film). Ever the proud father, Bernie often re-routed his daily city commute to walk past the Music Box Theater on Broadway during the run of the show, just so he could see Aaron’s name on the marquee. He would later introduce me to his daughter Deborah, a government attorney whose particular experience involving the Guantanamo Bay Naval Base, would serve as a storyline in her brother’s play *A Few Good Men*. These family connections were a source of pride for Bernie.

Bernie worked on many key legislative acts and proposals, most notably, of course, the Copyright Act of 1976. He was a sought-after witness to testify on the Hill, at the Copyright Office, and at other government proceedings. His testimony was usually quiet but very forceful. No matter how heated the debate, his persuasive strength was his equanimity, proving how effective one could be with reason and firm low-key advocacy. Bernie’s style and his substantive grasp of the law commanded respect and great deference.

His work and expertise spanned a wide array of topics including domestic copyright law and policy, and international treaties and trade agreements, as well as other important policy matters. He was a witness at the first Copyright Office hearing on copyright term extension, long before there was any legislation. In 1992 and 1993, he was a key player on

the Library of Congress' Advisory Committee on Copyright Registration and Deposit (ACCORD), including drafting proposals for the final report on the future of the Copyright Office and offering key registration and database recommendations, many of which are still viable today. Barbara Ringer, who directed and authored the report, adored Bernie and valued his opinions and input. He was also instrumental in critical international copyright matters, including the U.S.' entry into the Berne Convention and similar deliberations during the WTO TRIPs negotiations and congressional implementation of that agreement. He worked on too many issues to list; suffice to say, he had a broad range of knowledge, and an influence that remains to this day on the law, Copyright Office practice, and policy matters.

I was fortunate to have had such a long and close relationship with Bernie. Generous with his time, he mentored and influenced me and many others in our field, in innumerable ways. In all of his interactions and his work, he added his own dose of humor, and carried on with his gentlemanly demeanor and wardrobe (he loved his bow ties!). Alas, although he jokingly promised to do so, he never did teach me how to knot a bow tie . . . unlikely as it is that I would ever wear one, that is a single small regret of a long and valued friendship.

