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A simple story and a simple statement that epitomized who David is. David just knew how to make all of us feel special and make us live our lives as better persons. I miss him and being able to talk to him about the life, law and Loyola, but he will live on in all of us.

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Professor Anita Bernstein[13]

"A Little Happier": David Leonard as Co-Author

Around the time of David's death, the acclaimed film critic Roger Ebert wrote an entry in his journal. Ebert, left unable to speak or eat or drink from complications of thyroid cancer, had been contemplating human existence. His wife appeared with him on the Oprah Winfrey show and read his words aloud:

> I believe at the end of it all, if we have done something to make others a little happier and ourselves a little happier that is about the best we can do. To make others less happy is a crime, to make ourselves unhappy is where all crime starts.
>
> We should try to contribute joy to our world. That is true. No matter what our health circumstances are we should try. I didn't always know this, but I'm happy I lived long enough to find out.[14]

David Leonard, who did not live nearly long enough, nevertheless did have time to find out what Roger Ebert had suffered to learn. He lived the ideal of "mak[ing] others a little happier" more than anyone else I have known. I write recalling a six-year work relationship: David and I co-authored two editions of a study aid called *Torts: Questions and Answers*. My time with David was a

13. Anita and Stuart Subotnick Professor of Law, Brooklyn Law School.

14. Emily Friedman, *Film Critic Roger Ebert Discusses His Cancer and His 'Happy Life,'* ABC NEWS, Mar. 2, 2010, http://abcnews.go.com/Entertainment/roger-ebert-cheerfully-talks-oprah-winfrey/story?id=9987483.

study in happiness-making that I watched from the sidelines—sometimes agape, always humbled.

A tribute page on the Loyola Web site chronicles David's career of making others a little happier. Posters there, including me, do not have enough room to expound on a lifetime of kindnesses. I know that my five pages here stand in for many other stories and memories that built up over David's handful of decades on earth. When making friends, teaching students, explaining doctrine, fostering governance at Loyola and Indiana, and just going through his day, David improved what he found. Conversations or e-mail exchanges with him left people feeling more at peace, better understood, and more competent to go on with their work.

Like many others (especially students) who encountered David at a critical juncture, I met David in the form of a rescuing angel. It was the fall of 2003. I had signed a contract with Lexis-Nexis to compose at least 175 multiple choice questions, along with a couple dozen short-answer questions, on torts. Writing short-answer questions? Piece of cake. Multiple choice? Well, it seemed to me a modest little challenge, back at what Contracts scholars ominously call the time of execution. I'd taught the subject for thirteen years, and had used multiple choice as a testing instrument when teaching professional responsibility, but I had never tried to write a multiple choice question on torts.

I soon learned that the format eluded me. All I could think to do was look for obscure—yet pertinent too, I hoped—fact patterns from barely reported state cases, focus on a point of doctrine, and squeeze one question from each decision. An hour's work might yield two questions. Okay, 173 to go. When I hit 10, I felt depleted and in despair. How could I push out even ten more, let alone ten dozen? Also, why would anyone ever agree to write a *Q&A* text? I reached the editor: *Sorry, I can't do it. I am in breach.* What the remedy could be I had no idea, but squarely I faced my obligation to pay.

My editor, the high-smarts Heather Dean (who unfortunately for David and me left the company a couple of years later), stepped up to kick the problem. Her idea was to present me with a co-author. Heather had worked with David when he published one of the earliest *Q&A* texts, on the law of evidence. Of course the two of them were on affectionate terms: any relationship that had David in it

was a harmonious relationship. Heather told me that David possessed an archive of old multiple questions on torts—more than a hundred, she thought. He had told her they weren't all of uniform quality, but they might help, and he was willing to release them from his hard drive. Maybe, said Heather, once I worked through the Leonard stash, culling and revising, I would feel able to go on? Lexis-Nexis would be a little happier if it ended up with a publishable manuscript.

Because of what David brought to it, Heather Dean's editorial plan worked like the proverbial charm. Having started our co-authoring relationship by contributing much more than fifty percent of the work, David immediately applied himself to more nurturing. Did I need anything else? How could he help? Heather's prediction about my learning how to do it proved correct: after extracting and hammering about 75 questions from David's base, I found myself writing questions on topics he hadn't covered—mostly defamation, commercial torts, damages, and apportionment, plus a few in the areas that his questions did include—fast and fluently. We met our deadline and the book went on to sell well.

Being rescued by David reminded me of why I, so ignorant of the fabrication of multiple choice questions, had said yes to the *Q&A* contract in the first place. None of my close friends had written study aids and the form was new to me when Lexis-Nexis reached out. I didn't know whether it made sense to accept the assignment. Seeking advice in this pre-David era, I consulted the wise Paul Marcus, a senior colleague I'd met a few years back, whose book on criminal law was one year ahead of mine on the *Q&A* titles list. Paul, knowing both that I felt passionate about teaching and that I'd confined my publications mainly to law reviews, encouraged me to create the book and to think of the project as both teaching and writing. "It's a way to connect with your students," he said. Paul explained that for law professors, commercial outlines are the only kind of academic publication that their students seek out. Students appreciate it, inevitable flaws and all, because they can hold in their hands a text covering the same material that had come out of the instructor's mouth but better edited, amenable to rereading, and with tidy answers to questions in the back. *You can make them a little happier*, Paul was saying.

Working with David underscored Paul's description of study-aid writing as an instance of generosity. Before our collaboration, I had assumed that law professors write commercial books for the cash. Maybe they do, but David did not get paid for revisions to his already clear prose, his famed searches for funny pop-culture references that could keep a point of doctrine memorable, and all the other labors toward user-friendliness that he, by example, taught me to undertake. When we moved on to our second edition and David was getting sicker, I tried to assume some of his burden-easing work by making the book more compatible with students' needs.

I would have had this focus even without him—I've always been interested in marketing as a business matter, and responsiveness as a personal and social characteristic—but David always reminded me, through both conduct and suggestions, to keep what other people needed in mind. This priority of his never wavered. Whenever I had an idea about changing our book, his response was usually "Yes, let me help by giving some potential additions that'll add clarity." On rarer occasions, his answer would be "I think it'll end up too confusing" or (based on his veteran status as an early *Q&A* author) "Probably too expensive [for the publisher]." Never, even when he was quite ill, did he say (in effect) "Nah, too much work." At the end, whenever he would be too debilitated to complete a task, he would apologize for not getting it done and, trying not to worry me, declare that he was now feeling better and would take care of it right away. He gave to the second edition of *Q&A* time and strength that he didn't have to spare.

David and I spent time together in person only once, after the first edition of *Q&A* was underway and I had come to Los Angeles for a few days. Teaching at Emory at the time, I had whined about Atlanta being inland. David had a cure: the beautiful oceanfront restaurant at Shutters on the Beach, the Santa Monica hotel. Pacific view for me, David said gallantly, and as the waves pounded the shore behind him he told me a little more about the cancer—just enough for me to know that it was aggressive and that he felt sad and angry and frightened. And then David moved to where he was more at home: nurturing. I needed tourist advice to guide the rest of the afternoon. He told me what to look for at the amusement park. He mapped out a walk to Venice Beach.

We hugged at our parting: him into his valet-drawn car, me on foot to check out his beachfront pointers. Maybe he knew he was saying a real good-bye. Although over our six years I never thanked David enough for all the happiness he created, for me and so many others, I'm glad I told him that day I was grateful he'd joined me on the book.

In early 2008 I spent nine days in Los Angeles, speaking at two conferences on the weekends with the extended Martin Luther King holiday in between. David, hewing to the pattern of understating the effects and prognosis of his illness, told me he was all right but would be at home, not traveling or visiting. And because he was not using his office, he said, did I want it as a camping ground for the weekdays I wouldn't be at the conferences? Classic empathy from him: as far as I know, David had never flown to a distant city for a week of semi-work without portfolio, but he understood how useful and convenient a desk and telephone and a bit of workday privacy would be.[15]

On this visit, I enjoyed one last round of happier-making attentions. David asked Bill Araiza, the Loyola associate dean (who went on to become my colleague at Brooklyn), to give me his office key and a swipe card. He told me about the school's shuttle, set up to transport people to and from the Metro station at Figueroa Street, which I enjoyed riding. He activated his desktop computer so that I could work on Power Point slides for my conference presentation.[16] His assistant stood by to answer my questions.

How do you give back to David Leonard?, I thought then. Reaching him at home from his office phone, I asked whether he wanted me to come to Santa Monica to deliver anything: mail? books? papers? No thanks, David said. Was the office working out? Did I need anything? Could he help?

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15. David knew about, and was amused by, my harebrained resolution to spend a week getting around town by public transport. I was indulging a perverse desire to live a temporary and less boozy version of the carless L.A. lifestyle that Mickey Rourke led in the movie *Barfly*. Because I was staying at a low-amenities dive off Hollywood Boulevard (for the sake of saving money while being in walking distance of the Red Line), access to David's office downtown was most welcome.

16. The presentation eventually took form in these pages. Anita Bernstein, *Sanctioning the Ambulance Chaser*, 41 LOY. L.A. L. REV. 1545 (2008).