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Gerald F. Uelmen

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Gerald F. Uelmen\*

GIDEON KANNER: THE PERSISTENT ADVOCATE

I first met Gideon Kanner in 1974, when he contemplated leaving a very successful full-time law practice to become a law professor. As Associate Dean at Loyola Law School, I was charged with checking out his references. He came highly recommended. I vividly recall the precise words of alumnus Justice Otto Kaus, then of the Second District Court of Appeal: "Gideon will be a jewel in our crown." Otto reported that several justices of the supreme court regarded Gideon Kanner as the finest appellate advocate to argue a case before them. Then-Dean Fred Lower was particularly interested in enhancing the teaching of appellate advocacy at Loyola, so Gideon seemed a perfect fit.

Gideon brought a unique perspective into the classrooms of Loyola. He was not a dispassionate academic, and never pretended to be one. He had strong views on nearly every subject he taught, and he loudly proclaimed them. At the same time, he encouraged students to proclaim opposing views just as loudly and forthrightly. For Gideon, the classroom was a microcosm of the courtroom, where truth was exposed by two adversaries challenging each other's arguments.

Undoubtedly, some of his colleagues on the faculty were bewildered by Gideon. They had come to academia to *escape* the harangue of advocates, and may have resented his disturbance of their reflective solitude. A professor who refused to lay down the tools of the advocate seemed to them out of place, and occasionally out of line. But Loyola has always been blessed with a hefty majority of professors who *liked* being lawyers, and didn't see any inconsistency between being a good lawyer and being a good professor. In that constellation, Gideon simply shone.

I found very few issues on which Gideon and I were in complete agreement. For that very reason, I found him to be a valuable colleague who constantly challenged me to rethink my assumptions and validate my conclusions. During the debate over the retention of California Supreme Court justices, Gideon and I slugged it out over many a podium. On one occasion, he became so angry at my presentation of an "Impeach Earl Warren" button to him, he flung it across the room. But when the shouting was over, we could always leave the room arm in arm, as true friends.

Even in pressing the issues he believes in most fervently, Gideon

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\* The author is the Dean and a Professor of Law at Santa Clara University School of Law. B.A., Loyola Marymount University, 1962; J.D., 1965, LL.M., 1966, Georgetown University.

never takes himself so seriously that he can't laugh at himself. His humor is never pointless, though. One of his favorite nostrums, for example, is the advice that everyone taste his own fugu before serving it to others. This refers to the custom of Japanese sushi chefs, who must sample blowfish before presenting it to the paying customers. The highly toxic fish is instantly fatal if improperly prepared. Potential legal analogies are limitless. I learned as much from Gideon's wit as I did from his wisdom.

Throughout his sixteen years in academia, Gideon never lost his touch as an advocate. He regularly briefed and argued cases, and shaped much of the law he taught in the classroom. His course in the law of eminent domain included many of his own cases. The syllabus was not an ego trip, but a reflection of his eminence as an advocate. When the landmark cases came along, Gideon was frequently implored to return to the courtroom.

His mark as a scholar was equally impressive. Gideon writes the same way he talks, with lots of wit and passion. Who but Gideon Kanner could label a professorial coterie the "Gang of Five?"<sup>1</sup> His point of view is always clearly exposed and fiercely defended. On the occasions when Gideon and I collaborated on articles,<sup>2</sup> we found ourselves slugging it out over prepositions and conjunctives as though the fate of the universe turned on the outcome. Invariably, the product was improved by the riposte.

Two years ago, I had occasion to ask a friend who had just completed his first year as a judge of the United States Court of Appeals for the Ninth Circuit whether he had heard any good oral arguments. "Well," he began, "the best argument we heard was from a lawyer in Los Angeles named Gideon Kanner." It was reassuring to hear that the jewel has not lost its luster. As the great Justice Louis Brandeis (no mean advocate himself) put it: "Persistency is the jewel."<sup>3</sup>

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1. See Berger & Kanner, *Thoughts on the White River Junction Manifesto: A Reply to the "Gang of Five's" Views on Just Compensation for Regulatory Taking of Property*, 19 *LOY. L.A.L. REV.* 685 (1986).

2. Kanner & Uelmen, *Random Assignment, Random Justice*, *L.A. LAW.*, Feb. 1984, at 10; Kanner & Uelmen, *Judging the Supreme Court Judges*, *L.A. LAW.*, May 1986, at 18. Gideon also got credit as a tsister for Uelmen, *Plain Yiddish for Lawyers*, *A.B.A.J.*, June 1985, at 78.

3. A. MASON, *BRANDEIS, A FREE MAN'S LIFE* 588 (1946).