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Tribute to Barbara Salken

Bennett L. Gershman*

Barbara, elegant Barbara.

Barbara loved life. And she lived it awfully well.

Barbara was blessed with great gifts. And she responded, lovingly, by sharing them with us.

"Billy's Mom" was emblazoned on her shirt as she ran twenty-six miles through the streets of New York City three years ago in the marathon. What a proud mom she was! How charmingly frenetic she was as she prepared for weeks to teach a Constitutional Law class to Billy's Boy Scouts.

Barbara's friendship and loyalty.

Who can forget the lavish parties she gave for our outgoing deans, or visiting dignitaries from London?

How many children of Pace faculty are wearing sweaters Barbara knitted?

Barbara's parents and sister say that Barbara was always a perfectionist. And judging by her knitting, or her cheesecake, or everything else she did, we know how true that is.

She did so much for our school, and did it so well. The many months she worked, fastidiously, day and night, drafting our Honor Code. The way she agonized every year over those fractions of a percentage point that would make the difference between a student's staying or leaving.

Barbara was our surrogate dean, because she was trusted by everybody to do the right thing, whether it was preparing teaching schedules, trouble-shooting on the nominating committee, bringing disputing faculty together with her honesty and sense of fair play.

Barbara, elegant Barbara.

She was our general, our anchor, our soul.

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What a dynamo! The boxes of transcripts piled up in her office—tens of thousands of pages of legislative hearings, proposals, reports, on whether New York State should codify evidence rules, culminating in Barbara's masterful article aptly titled, "To Codify or Not to Codify—That is the Question." What an adventure that was! Her absorption in this Shakespearean quandary, her incredible kinetic energy that drew us into the drama, was astonishing. Barbara made us feel that the future of law—no, the future of the planet—depended on how she answered that question.

Barbara revered the law of criminal procedure. It galvanized her teaching and her scholarship. Police have to play by the rules, she said. And so she wrote in a widely quoted article on police conduct in emergency situations:

Apprehension and conviction of criminals ought not to be so difficult that citizens lose faith in the ability of government to provide protection. Yet every rule that seeks to control police behavior inevitably makes the conviction of some criminals more difficult. Nonetheless, those rules are absolutely necessary to prevent arbitrary governmental intrusions of privacy.

And in another frequently cited article on pretextual arrests by police of motorists for minor traffic infractions, Barbara wrote:

Government's interest in custodial arrest for most traffic offenses is trifling. Enforcement of the traffic laws simply does not require the unique and humiliating experience of arrest. Custodial arrest for a minor traffic offense is an infringement on individual freedom that is prohibited by the Fourth Amendment.

But it was her teaching that set Barbara apart. She had a gift. It was a passion. Barbara loved to teach more than anybody I ever knew. And she loved her students. And they loved her.

We use the word "great" casually. A great catch. A great sandwich.

Barbara was a great teacher, in the classical sense, as when we speak of the great books, the great composers. There was an intensity in Barbara to achieve excellence. Perfection. Barbara knew the subject better than anybody in America. But her preparation for class was something to behold. She'd be in

her office early in the morning, and even though her class was in the late afternoon, she would prepare for hours and hours, reading new cases, formulating ever more challenging questions, constantly devising new strategies to draw her students into her magical theater.

Barbara taught until virtually the end of her life. The last weeks, as everyone knows, were very difficult. When Barbara finally acknowledged that she could not teach anymore, she was telling us that the end was near.

I have something of Barbara's. I've shared it with Barbara's family, and I think it's appropriate to share it with you.

Barbara learned six years ago that she had cancer. She had surgery in December of that year, and underwent treatment in the spring. She taught miraculously, courageously, magnificently, that semester. And on the last day of class, the finale, as she put it, she said the following to her students:

I have been thinking about how mushy I want to be today and I decided pretty mushy.

Teaching is a partnership. It takes a teacher that wants to teach, that wants you to learn. I hope I am that for you. But it doesn't matter how good a teacher is if the students don't want to learn. I have never met a group of students who more wanted to learn. You are remarkable. I mean what I say. Teaching you has been the greatest professional joy of my life.

This has been both a grueling semester and a wonderful one for me. I know you can imagine how debilitating cancer treatment can be. I won't bore you with the details. But even with that said I have gotten through the first six months of it with surprising ease. I've told everyone who has commented on it that my doctor says it's because I am as strong as a horse. My husband says it is because I am as stubborn as a mule. I know the truth. Although both of their assessments are probably true, what they don't know is the role you have played in it all. There have been days when I thought I just couldn't stand up here. When I thought an hour and fifteen minutes was simply out of my reach. And then I would come in this room and you would be here. The collective you and the individual yous. We would begin and it would all go away, the tiredness, the sickness, whatever it was that day. I couldn't let you down because

you hadn't let me down. I have felt your affection for me all semester long. I want you to know how much it has helped.

I won't know whether I have licked this thing for a long time. My doctors tell me that if I live five years I will probably have beaten it. You should know that the odds are strongly in favor of my doing so. What I want you all to do is call me in five years to check if I'm still around. I'm sure I will be and it won't be in any small part because of you. I will love to hear from each of you and learn about the wonderful lives I am sure you will all be leading.