

**CONRAD B. DUBERSTEIN**  
**1915 – 2005**

The Editors and Staff of the *American Bankruptcy Institute Law Review* dedicate this issue to our mentor, our inspiration, our friend. We submit the following tribute by Prof. Robert M. Zinman, based in part on his eulogy at Judge Duberstein's funeral. We also reprint the tribute to Judge Duberstein delivered at Judge Duberstein's 90<sup>th</sup> birthday celebration on October 21, 2005, by Hon. Melanie L. Cyganowski, Judge Duberstein's successor as Chief Judge of the Bankruptcy Court of the Eastern District of New York, and a Professor in our LL.M. in Bankruptcy program.

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A VINCENTIAN JEW

All those who knew Judge Duberstein recall the story he liked to tell about a conversation he had with Father Donald Harrington, C.M., President of St. John's University. At a meeting of the St. John's University Council, Judge Duberstein asked Father Harrington, "What kind of Jew am I? Am I a Dominican Jew? A Jesuit Jew?" Fr. Harrington replied, "No, Connie, you are a Vincentian Jew." When Judge Duberstein told the story in his inimitable style, it was very funny. In reality it had a very significant meaning.

St. John's was founded by the Vincentian Community of the Catholic Church, followers of St. Vincent De Paul, who devoted his life to helping the poor, the needy, the downtrodden. Conrad Duberstein was the quintessential example of the great Jewish tradition of *Tikun Olam*, the duty of every person to help in the repair of the world, which includes helping the poor, the needy, the downtrodden. Two different traditions—but one great ecumenical principle. And that is what I believe Father Harrington had in mind when he told Judge Duberstein, "you are a Vincentian Jew."

And Judge Duberstein was just that. In the last issue of this *Law Review*<sup>1</sup> we printed the transcript of the ceremony dedicating the courtrooms and chambers of the new<sup>2</sup> Eastern District of New York court house in his honor. In those

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<sup>1</sup> 13 AM. BANKR. INST. L. REV. 1, 1–23 (2005).

<sup>2</sup> The Eastern District of New York Bankruptcy Court has been reestablished at the magnificent U. S. Post Office Building in Brooklyn. When Judge Duberstein was a young boy and the sole support of his family, his uncle, Samuel B. Duberstein, Referee in Bankruptcy, first bankruptcy professor at St. John's, one of the founders of St. John's University School of Law, and young Conrad Duberstein's employer and mentor, had his office in that building. Judge Duberstein's Chambers and Courtroom were established on the same spot his Uncle's office had been on the second floor of the Courthouse. Judge Duberstein worked for his uncle as an office boy under the Bankruptcy Act of 1898 starting in 1931 (before the passage of the Chandler Act amendments, Chandler Act of 1938, Pub. L. No. 75-696, 52 Stat. 840 (1938), and prior to attending law school at St. John's), and had the experience of working with the 1898 Act, the Chandler Act, the

proceedings, Judge I. Leo Glasser saw Judge Duberstein in John Marshall's statement: "Once in a while a man mounts the bench with the salt of life, the spice of wisdom and the sweetness of humor blended in him so subtly and yet so successfully that those who are quite unlearned in the law glimpse some of its beauties." Throughout the ceremony transcript, the words "wisdom," "fairness," "beloved mentor," "humor," and "humanity" appear and reappear in describing Judge Duberstein. Perhaps all these words are summed up in the beautiful expression of love from all Eastern District bankruptcy support personnel, read by the Judge's friend, Joseph Hurley, the Clerk of the Court:

From the confines of his chambers to the public forum of his courtroom and even to the neighborhood surrounding our court buildings, so many have been blessed by his wisdom, leadership, sense of fairness and perpetual desire for nothing but justice for all who access our court. He is a judge who has lived by the basic principle that the reason for living is to enlarge the lives of others and that, in so doing, one's own life will be enlarged as well.

For us at St. John's those words have special meaning. Judge Duberstein loved St. John's and St. John's so loved him, and his dear wife, Anne, who graciously shared her husband with us. Some 16 or 17 years ago, when the students wanted to establish a Bankruptcy Law Society, they asked Judge Duberstein to speak at the first meeting. Of course, he agreed. And when he spoke, his enthusiasm, his humanity, his firm belief in what the bankruptcy process can do to help people, was palpable. He so inspired the students that there was no stopping them. The *American Bankruptcy Institute Law Review* and the National Bankruptcy Moot Court Competition (co-sponsored by the American Bankruptcy Institute where Judge Duberstein had served as a Director, and named in his honor) were organized, always with the support and mentoring of Judge Duberstein. The nation's only LL.M. in Bankruptcy program followed with Judge Duberstein serving on the Advisory Board. He counseled students, he helped them obtain jobs, he hired them as his clerks. He was always there and ready to help.

Judge Duberstein always thought of others before himself. On a personal note, a week or so before Judge Duberstein died, I received a condolence card on the death of my mother from "Connie and Anne". Think of that. Unable to come into court, virtually unable to speak, fighting his last battle, he thought to reach out to me, to ease my grief. In microcosm, this incident describes the greatness of this human being we now mourn.

The poet has said that "birth is a beginning, death is a destination, and life is a journey." There are literally thousands and thousands of people whose lives have

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Bankruptcy Code and various reform amendments. At his death, he was intimately involved in making certain that the honest but unfortunate debtor in the Eastern District would be protected under the BAPCPA Amendments of 2005.

been better than they would have been had Conrad B. Duberstein not made that journey.

Conrad Duberstein is dead. But we will not simply say “farewell” to our beloved judge. Rather we will devote ourselves to carrying out his mission, to fulfilling his Vincentian Jewish concept of life. If we do this, then Judge Duberstein will continue to live and dispense justice—through us.

***Ken y’hi ratzon.***  
**May it be God’s will.**

*Prof. Robert M. Zinman*  
*St. John’s University School of Law*

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A TRIBUTE TO MY CHIEF: CELEBRATING JUDGE CONNIE DUBERSTEIN’S 90<sup>TH</sup>  
BIRTHDAY

*The following is an excerpt from the remarks given at a special ceremony of the Bankruptcy Court for the Eastern District of New York, marking the 90<sup>th</sup> Birthday of Chief Judge Conrad B. Duberstein, held on October 21, 2005.*

I know that I speak on behalf of Connie in welcoming each and everyone of you to this, his 90<sup>th</sup> birthday ceremony, which is taking place in this lovely and historic courtroom in our newly renovated Bankruptcy Court in the General Post Office Building in Brooklyn. We have, as an aside, been waiting for the renovation of this Courthouse to be completed for almost all of the 90 years that we have been waiting to celebrate Connie’s birthday . . . but that is a story for another day.

When Connie called and asked me to speak at this celebration, I was thrilled. To be asked by the Grand Master of Ceremonies to speak on such a special occasion as this was an overwhelming honor. I was truly humbled. And, then, the reality set in: what could I possibly say on Connie’s 90<sup>th</sup> birthday that had not already been said by others far more articulate than me?

Connie is so loved by so many that we have taken every possible occasion to celebrate his life and honor his accomplishments. We have learned much about his life and, were it not the life of Conrad B. Duberstein, one might fear that all had been said. Thankfully, however, that is not the case and I need not have feared. Connie’s life is so full and rich with life experiences and folk lore that there is much to share, and I hope to do some of that today. Let me begin by wishing my colleague and Chief, a very happy birthday! Ninety years is a long time and, for

Connie, it began on October 22, 1915 in the Bronx—although some say he was really born in a manger on Schermerhorn Street in Brooklyn.

According to legend, his father, Alex, was then working for a luggage company owned by a German named Konrad—with a “K”—who promised Mrs. Duberstein that he would give her husband a five-dollar raise if she named her son after him. The spirit of compromise and shrewdness that is imbued within Connie obviously came from his mother because she enthusiastically agreed to name her son as requested—only with a “C” instead of a “K”. Connie’s father received the raise, and Connie received a distinctive moniker more in keeping with their Jewish faith.

It has been said that the way we mature as adults is a reflection of our youth experiences. Connie is no exception. More than once, he looked at the many who appeared before him in bankruptcy court and told them that he knew what it means to be poor. Indeed, he does.

Connie’s early years unfortunately found sadness as his father’s business which, while once successful, suffered the plight of many due to the Great Depression. This sadness was later followed by the death of his father while Connie was but 17 years old. At this young age, Connie demonstrated the resolve and determination we know so well.

Sir Winston Churchill said that “sometimes it is not enough to do our best; we must do what is required.” Without hesitating a moment, Connie lived this maxim and dropped out of high school in order to become the sole support of his mother and two sisters, Barbara & Katherine. With the help of his Uncle Jack Duberstein, a prominent auctioneer, and his Uncle Sam Duberstein, one of the founders of St. John’s University School of Law and a professor of bankruptcy law, Connie began working first as an auctioneer’s helper and later as an office boy in the law firm of Schwartz & Duberstein. He did not shy from hard work or long hours and never considered either of these jobs as somehow “beneath” him.

Our life’s paths sometimes return us to our roots and, in Connie’s case, we are reminded of that because it is through the hallways of this building that he ran the errands for his Uncle Jack and his Uncle Sam. It is within the walls of this Courtroom that he met the leaders of the bankruptcy field and the judges before whom he would someday argue cases and with whom he would someday sit as a fellow judge. It is also within this building that he raised his right hand to take the oath for admission to practice before the United States District Courts for the Eastern District in October of 1945.

But that is jumping a little bit ahead: I would be remiss in not sharing that he returned to night school, while working for his Uncles, and received his diploma from The Morris Evening High School in the Bronx in 1934—the same alma mater as Secretary of State Colin Powell. Connie then continued his evening studies, graduating from Brooklyn College in 1938 and thereafter receiving his law degree from St. John’s University School of Law in Brooklyn in 1942.

Whether by coincidence or not, Connie now lives in the same building that once housed St. John’s University School of Law. Perhaps for this reason, Governor

Mario Cuomo, a long-time friend of Connie's, once remarked that "Connie now sleeps in the same room that he slept in during Law School."

Connie did not have much time, however, to savor the well-earned victory of admission to the bar. Nine months after being admitted to the bar, he was drafted. After having listened to Connie recall those times, I believe that they hold for him the most vivid and meaningful experiences in his life.

By 1944, the war was at its height and Connie was with the 5<sup>th</sup> Army, 91<sup>st</sup> Infantry Division, fighting from Rome to Pisa. Wounded in Florence, he returned to his outfit and fought in northern Italy until the Germans surrendered not long after his division had taken Bologna.

For his service to his country, Connie was awarded the Purple Heart, the Bronze Star Medal and the Combat Infantry Badge. To this day, these awards are so meaningful to Connie that he continues to be a member of the Military Order of the Purple Heart and to serve as the Judge Advocate General of that Order for the State of New York.

But for me, what I remember most when I think about Connie's war-time experiences is the time that, while in a small town in Italy, he wandered into a small catholic church and, in typical Connie Duberstein style, struck up a conversation with the priest. It was then but a few days before Palm Sunday, a significant event in the Church marked by Catholics waving palms in remembrance of the time that Jesus entered Jerusalem before his crucifixion.

Connie, as we know, is of the Jewish faith. Being different from his fellow man has never stopped Connie. He asked the priest why he looked so sad and expected to be told that some war-event had caused some harm. Instead, the priest told him that Palm Sunday was coming but he had no palms for his parishioners to wave—that no one was allowed to go down into the valley to cut the tree limbs used each year for the observance.

Connie was well aware that the valley of the palms was indeed off-limits, to both civilians and military personnel, because it was in the middle of an active war zone. That, however, did not stop Connie. He somehow—should we be surprised ??—got permission from his Sergeant to use a jeep and he, together with a friend, went down into the valley and used their machetes to cut down the palms. Without ever having been asked, he delivered them to the priest on Saturday before Palm Sunday. The priest wept.

Connie returned to the church on that Sunday and the priest stopped in the middle of the mass to point out the American Jewish soldier who had freely and without hesitation placed himself in danger to obtain the treasured palms. Much as we are doing today, the parishioners all stood and applauded him.

When Connie returned many, many years later with his wife and daughter to that small village, he stood before the church. A man of the village came to speak with him—I frankly think that everyone, whether on Clinton Street, Montague Street or the streets of France or Italy, speak with Connie when they see him—and

Connie mentioned what he had done. Although more than 40 years had passed, that man remembered Connie, wept and thanked him once again.

George Washington Carver once said that “when you do the common things in life in an uncommon way, you will command the attention of the world.” That is certainly how our Connie has conducted himself throughout his life.

Besides the priest, there is the story of the Jewish woman whom he met while fighting in Florence who gave him a small ceramic star of David, which is yet hanging in his chambers. Then there is the story of how, after recuperating from his wounds, he was given an audience with Pope Pius XII at the invitation of then Archbishop Spellman. He, this young Jewish boy from the Bronx (or was it Brooklyn), was given a set of rosary beads blessed by the Pope. Knowing their significance, he later shared them with one of his wounded colleagues, together with a prayer for that man’s recovery.

The accomplishments of Connie Duberstein are without bounds and are matched only by his humility and lack of pompousness. Truly a man of the people, Connie has reached out to help persons of every faith, ethnicity and origin whenever called upon.

Upon his return from the war, Connie married his wife, Anne, and together they raised their daughter, Lissie. His love of God and country is matched only by his love for his family and I cannot imagine Connie loving anyone or anything more than they. Every time we speak, Connie shares a story or two about what his beloved Anne or Lissie or their family members were doing.

He revels in his grandchildren’s growing experiences—first of Nikki, whose marriage he recently attended, and now of Josie and little Demetri. Grandpa Connie may be a legend to them but they are the apples and wonders of his eye.

Connie’s experiences as a lawyer were outstanding and he quickly rose to be one of the preeminent members of the bankruptcy bar. By the end of 1969, the law firm of Schwartz, Rudin & Duberstein, with its offices in Brooklyn, merged with Otterbough, Steindler, Houston & Rosen and Connie became the partner in charge of insolvency and bankruptcy.

When the Bankruptcy Code came into effect in 1979, he wrote primers, lectured extensively and participated in numerous seminars and continuing legal education programs. It is apropos that Connie is now witnessing changes as significant as those in 1979 with the enactment of the 2005 Bankruptcy Amendments effective this past Monday.

At the age of 65, shortly after he had retired from the Otterbourg firm, Chief Judge Jack Weinstein had the wisdom and foresight to persuade Connie to join the bankruptcy bench on April 1, 1981. He was appointed to serve as Chief Judge of our Court by the Board of Judges of the Eastern District in October of 1984 and he has continued in that capacity ever since.

During his legendary tenure as Chief Judge of our court, he has presided over 20,000 cases, has authored over 170 published opinions and countless unpublished ones, and has even had a few of his decisions appealed by lawyers who should have

anticipated that reversing the Chief and premier bankruptcy authority was akin to winning the lotto. There have been 21 law clerks who have served in his chambers, and dozens of interns from local law schools.

Because of his extraordinary length of service as Chief, he has presided over each of our swearing-in ceremonies. At each one, he has reminded us that the hallmark of a successful judge is that you never forget that you were once a lawyer. He never has.

In his honor, St. John's University School of Law and the American Bankruptcy Institute host the only national moot court bankruptcy competition—aptly named after him. Now in its thirteenth year, it has become one of the premier dinner events attended by hundreds of bankruptcy professionals in the New York region.

Albert Einstein remarked that “there are only two ways to live your life. One is as though nothing is a miracle. The other is as though everything is a miracle.”

Today we honor a man who is near and dear to each of us. We all have our own special memory of a Connie Duberstein story and how he touched each one of us in a very special way. Connie never looked at any of us and saw our titles or our good fortune; our different faiths or our different skin colors or accents. Instead, he looked into each of our hearts and spoke with us as one human being to another, as one neighbor who looks after and loves the other.

When I became a judge, Connie told me that every time before he entered his courtroom, he would touch the mezzuzah on his doorway and say a prayer, asking that he be given the wisdom and understanding to do what was right. I took that message to heart and have tried my best to emulate him.

For more years than I can remember, Connie has called me his kid sister. I don't know if he ever knew how much I treasure our relationship. It's now my turn to wish my “big brother” a most happy birthday. In the words of a famous Polish toast, let me raise my hand and wish him “sto lat.”—May he live to be 100 years and many more!

Happy birthday, Connie.

*After the speech, one of the lawyers in the audience of over 300 came to me and said that he too had a “Connie Duberstein” story. He recalled how, in the midst of a packed courtroom, with tension overflowing, Judge Duberstein interrupted his argument and said, “I was at your bris.” Beet-red then and now, the lawyer could not help but smile at the memory. I agreed that his was truly a “Connie Duberstein” story.*

*Melanie L. Cyganowski  
Chief Judge, U.S. Bankruptcy Court (E.D.N.Y.)*