

What Makes a Good Teacher?

By David L. Going*

I do not believe you can pick someone out of his or her office or from the bench and say here, teach, even if that individual has volunteered with enthusiasm to do so. Not everyone can be an effective teacher. It takes a good deal more than merely standing in front of a group and talking.¹

I was fortunate to be in the right place at the right time. For the first several years after graduating from Washington University School of Law in 1983, I spent most of my time representing clients in commercial disputes and litigation. Although the cases and issues were interesting for the most part, and provided a core foundation for future practice, I jumped when presented with the opportunity to become a bankruptcy attorney. Congress had recently enacted the Bankruptcy Code,² meaning that a plethora of unsettled legal issues, such as motions for relief from the stay, extensions of the exclusive periods and artificial impairment, were routinely contested. And with the change in the law, the field was not dominated by those who had already-established careers. From my perspective as a young associate, the field was wide open and presented a unique opportunity to get deeply involved in a case from start to finish, to appear frequently in court and to become recognized as a bankruptcy lawyer.

By the time I migrated to the bankruptcy world, Judge Schermer had established himself as a preeminent practitioner under the Bankruptcy Code. I first became aware of the Judge through my partner, Steve Cousins, who at the time was representing a debtor in a case in which the Judge, then a practicing attorney, represented the unsecured creditors committee. However, it was only after he ascended to the bench in 1986

* David L. Going is a partner in the St. Louis office of Armstrong Teasdale, LLP, where his practice focuses on financial restructuring, workouts, bankruptcy and commercial litigation. Mr. Going is also an adjunct professor at the Washington University School of Law. A fellow of the American College of Bankruptcy, he earned his J.D. from Washington University School of Law and his B.A. from Duke University.

1. Lawrence P. King, Remarks to the American College of Bankruptcy (Mar. 2001) (transcript available), <https://www.americancollegeofbankruptcy.com/file.cfm/68/docs/King%20Larry%20Keynote%20Speech%202001.pdf>.

2. Bankruptcy Reform Act of 1978, Pub. L. No. 95-598, 92 Stat. 2549 (codified as amended at 11 U.S.C. §§ 101 - 1532 (2012)).

that I first met the Judge. In those earlier years, single asset limited partnership cases were common and aggressively litigated as a loss of the core real estate asset led to negative tax recapture consequences for the partners. The courtrooms routinely filled with Chapter 11 debtors and counsel, a scene not unlike Judge Schermer's Chapter 13 rocket docket³ of today. Counsel sat on the benches awaiting the call of the case and dutifully putting the final touches on his or her presentation or argument, with the full knowledge that Judge Schermer had read every pleading and was at least as prepared to hear the case as counsel was in presenting it. However, there always seemed to be an unexpected "twist" in Judge Schermer's courtroom. Reminding me of the days of law school and the dreaded Socratic method, Judge Schermer would not infrequently pose a question from the bench to an unsuspecting attorney in the gallery regarding a legal issue or case precedent. After stumbling through a response to the Judge's inquiry on more than one occasion, I eventually learned a lesson — even if not involved in the case being presented, pay attention as you probably will learn something previously unknown about the Bankruptcy Code or about the judge before whom you are appearing.

While I have had the opportunity and challenge of appearing before Judge Schermer in many cases, both small and mega since 1986, in 2003 I was presented with an opportunity to experience Judge Schermer's passion for teaching in a different setting — the classroom. I accepted Professor Dan Keating's invitation to "pinch hit" as one of the three teachers in the Chapter 11 Reorganization seminar whenever either Judge Schermer or Lloyd Palans was unavailable.

Judge Schermer has taught at Washington University School of Law for over twenty-five years.⁴ But what makes Judge Schermer that "effective teacher" about which the late Professor Larry King⁵ spoke?

3. A nickname, originally applied to the United States District Court for the Eastern District of Virginia, used by practicing lawyers for a court that is noted for its speedy and efficient disposition of pending matters and cases.

4. One cannot adequately describe or define Judge Schermer's teaching "career" by his formal teaching positions at Washington University. As just one example of a less formal teaching platform, the Judge developed and presided over the "Trivia Challenge," an annual educational and social event hugely popular among the St. Louis bankruptcy bar.

5. Professor King taught Bankruptcy and Secured Transactions at the New York School of Law for more than forty years. He played a significant role in the development of the Bankruptcy Code under which we now practice.

2017]

What Makes a Good Teacher?

123

Certainly his mastery of the subject matter is beyond compare. His preparation, both as a judge presiding over a case and as a teacher, is renowned. And clearly Judge Schermer expects that same preparation and effort from his students. Like the attorneys who appear before him, his students are aware of his high expectations. These traits are just the starting point and one must dig deeper to see why he has an enormous impact on his students. At the risk of inadvertent exclusion or omission, I suggest the following.

First, Judge Schermer is an animated teacher. His enthusiasm for conveying the message in the material is both apparent and infectious, even for students on Monday morning at 7:30 a.m. Of equal importance, he makes the subject of bankruptcy relevant. For example, by specifically highlighting and examining recent cases and issues and tying them back to the material, the subject matter of a Chapter 11 bankruptcy topic moves from “concept” to “tangible,” and is therefore more interesting to students who likely did not know how they personally may have had exposure to the topic. By creating a familiarity with or a connection to the topic, the Judge successfully draws students into dialogue.

Second, despite his lofty stature as a federal judge with a distinguished thirty-plus year tenure and having presided over and confirmed megacases such as *In re Apex Oil Co.*,⁶ *In re Trans World Airlines, Inc.*,⁷ *In re Thermadyne Holdings, Inc.*,⁸ *In re Union Financial Services Group, Inc.*,⁹ and *In re Peabody Energy Corp.*,¹⁰ Judge Schermer’s kind and approachable classroom demeanor, mixed with a clever sense of humor (frequently at the expense of proud Chicago Cub fans), puts students at ease. Although it is likely that attendance in his class may be the first time

6. See *In re Apex Oil Co.*, 118 B.R. 683 (Bankr. E.D. Mo. 1990) (Amended Opinion and Order of Confirmation); *In re Apex Oil Co.*, 92 B.R. 847 (Bankr. E.D. Mo. 1988) (Memorandum Opinion approving asset acquisition and note purchase motions).

7. *In re Trans World Airlines, Inc.*, 185 B.R. 302, 303, 322 (Bankr. E.D. Mo. 1995).

8. *In re Thermadyne Holdings, Inc.*, No. 01-52840-399, 2002 WL 32827396 at *1, (Bankr. E.D. Mo. Feb. 13, 2002), *aff’d sub nom.* Unsecured Creditors Comm. v. Pelofsky (*In re Thermadyne Holdings Corp.*), 283 B.R. 749 (B.A.P. 8th Cir. 2002).

9. *In re Union Fin. Servs. Grp., Inc.*, No. 03-45870-399, 2003 WL 25935943 at *1 (Bankr. E.D. Mo. Sept. 19, 2003).

10. *In re Peabody Energy Corp., et al.*, No 4:17-cv-01053, 2017 WL 1177911 (E.D. Mo. 3/30/17); *US Judge Signs Peabody Bankruptcy Exit After Environmental Deal*, CNBC (Mar. 20, 2017, 6:01 AM), <https://www.cnbc.com/2017/03/20/us-judge-signs-peabody-bankruptcy-exit-after-environmental-deal.html>.

that a student meets a sitting judge, Judge Schermer is unpretentious and approachable. The result is a more engaged classroom.

Third, Judge Schermer's commitment to the Washington University School of Law and his students is obvious. As described by Professor Dan Keating in his article in this volume, Judge Schermer has taught during each semester for over twenty-five years; in the fall semester, he typically teaches three times a week. For alumni who might serve as an adjunct professor or participate on a law school committee, those numbers provide a meaningful measurement of the Judge's devotion and dedication to this institution. For the student who briefly occupies a classroom and walks the hallway, those numbers, on first impression, are probably less significant or altogether irrelevant. Rather, for that student, Judge Schermer's commitment is evidenced through personal interaction, both in and outside the classroom, with that student.

Judge Schermer displays that same level of commitment and passion to his cases and the practitioners who appear before him. He is willing to conduct chambers conferences with all counsel, which, in my opinion, can be invaluable in moving cases forward. He has agreed to serve as mediator in cases pending in other courts, where cases were not progressing or were at risk of spinning out of control because of difficult issues, difficult parties, or both. And my then-young sons recall fondly the Saturday they spent with the Judge, at his suggestion, in his chambers playing computer games and basketball so that I could spend time negotiating with opposing counsel in a contentious case. In fact, my sons were so impressed after spending the day with Judge Schermer that they thought it "cool" their dad was a bankruptcy attorney.

While I have identified just some of Judge Schermer's characteristics that, to me, make him an "effective" teacher and jurist, I'm sure that his students and other practitioners who have appeared before him would have a different list. Maybe great teachers, like great books, great movies or the best music, have qualities of their own which escape easy or objective definition. Maybe it is the undefinable or subjective characteristics they possess which make them great. But at the end of the day, isn't the mark of a great teacher, like a great athlete, the ability to inspire and motivate

2017]

What Makes a Good Teacher?

125

others while making it appear effortless? I'm thinking Ozzie Smith.¹¹ I'm thinking Judge Schermer.

11. Ozzie Smith played shortstop for the San Diego Padres (1978-1982) and the St. Louis Cardinals (1982-1996). "The Wizard," a nickname earned for his defensive artistry and exceptional talent, was a fifteen-time All-Star and won thirteen consecutive Rawlings Gold Glove Awards. He was elected to the Baseball Hall of Fame on his first year of eligibility.