



—Mayor Rudolph Giuliani

In January 24, 2002, Cardozo held a memorial service for two alumni who died in the tragic events of September 11. Barbara Bracher Olson graduated from Cardozo in 1989 and Andrew Zucker was in the class of 1999. Both were active and involved law students, and both loved Cardozo. As former dean Paul Verkuil noted in his opening remarks at a service that featured friends, family, and faculty who spoke for each of these special graduates, Barbara and Andrew “reflect our civilization at its best.”

Reprinted here are somewhat edited remarks of three people who gave eulogies at the memorial service: One friend, one professor, and one family member.

PHOTO: RICHARD FALCO

DEAR ANDREW

Suzanne Pronesti Sherman '99

Associate, Norris, McLaughlin & Marcus

I want to thank you for everything you have taught me since I first met you on May 13, 1996. In those five and a half years, you taught me your intense power of persuasion; you taught me that being aggressive was a necessary part of our profession; and in the final moments of your life, you taught me that an attorney must have the utmost in dedication to his client, even if that meant staying awake for days on end in order to make a difference in just one client's life. You taught me that a good trial lawyer must work harder than any other attorney you could be pitted against, and most importantly, a trial attorney must be prepared. My friend, today is one appearance for which none of us could ever be prepared.

I remember the very first thing that you said to me. It was just before our first law school class, Contracts, was to begin. I was sitting in the front row, you were several rows behind with a triple extra-large coffee. (You were still drinking regular coffee back then.) I eagerly introduced myself, you told me your name (without smiling), and so sweetly asked, "Do you think you could be sitting

any closer to the professor?" With that quick question, I met for the first time your to-the-point personality.

That summer—most of the time—you were the driven first-year student, preparing all of your outlines and case briefs before class, doing all of the readings. You spent your free time going to see John Grisham movies over and over so you could get motivated. And then there were those days when you did not show up for class because you claimed that you wanted to "stay at home and study."

But you always surprised me, like the time you appeared in Torts after one of these self-imposed two-week study breaks. Of course, you were called on immediately. You cleverly stated the case to the professor. "No, Professor Silver, even in the 19th century, a chair should not come flying out of the window of San Francisco's Saint Francis Hotel." You told him that a chair being thrown from the window of a hotel was a wrongful act, and the person throwing the chair out of the window must be liable for injury to those below. "The act spoke for itself," you said. You surprised us all that day and taught me one of your very intense lawyering techniques: You did not always have to shine, but when the moment counts, you have to be prepared. And at that moment, you were

better prepared than any other student. Years later, I called you from San Francisco's Union Square. I was on the sidewalk below one of the windows of the Saint Francis Hotel. We laughed and laughed at the thought of that first-year moment.

You also taught me that to be prepared for class meant you didn't have to have one study guide, you had to have every study guide. You spent as much time at Barnes & Noble as you did in the library. You even went so far as to call at home the editor of one of the review books that you had to have, asking if you could go to his house on Long Island to pick up the galleys of his book that hadn't even been published yet. Now it's too late for me to ask you if you were ever able to get that book.

Another time you called a Barnes & Noble in some midwestern state, where you found the teachers edition of our Tax textbook. You wanted to have the answers to all of the questions, so you would be prepared if asked any one of them.

The employees of the Dunkin' Donuts on the corner of 15th Street and 6th Avenue were also familiar with all of your study guides. There, over many other triple extra-large regular coffees, you taught me Civil Procedure. You explained to me a case about a plane that crashed into a million pieces, with the passengers and the pieces scattered everywhere.

You told me that the important issue was determining in which jurisdiction the families of the victims could sue the airlines. I have thought about sitting in that Dunkin' Donuts with you teaching me that plane crash case many times over the last month.

You also taught me about friendship. I remember talking to you on the phone one night while riding the Third Avenue bus from 23rd to 96th Street. You were crying. Borrowing from the many lessons that you had taught me on the power of persuasion, I convinced you that after the two-day New York Bar exam, you had to show up and take the New Jersey Bar. I learned then that there

are times when those on whom you depend for physical and emotional strength have times of weakness.

Sadly, I am realizing, whether in moments of strength or weakness, you will never call my cell phone again with news of a great offer, an exciting deposition, or how you are going to nail the cross-examination of a psychiatric expert.

I will never forget the call you made to me in the middle of the night on April 1, 2001. You had lost your baby, Abbe. You called me again. You had an emergent motion to argue the next day and couldn't let your favorite client down. So you asked me to make the court appearance for you.

Another favorite client prompted many more recent phone calls. It was a seemingly no-win case. You were representing a student who was wrongfully expelled from medical school. After your summer of sorrow, you were back. You were the hired gun. You waged a war on your adversaries, the administration of the school. You galvanized your troops—other students nationwide who believed in your cause to get this student back into school to realize his professional dreams. You orchestrated a letter-writing campaign from professors, e-mails from your client's life-long friends—thousands of character witnesses who made all the difference.

On September 6, I called to tell you to make sure your client knew how lucky he was to have you as his attorney. In this fight, you were at your best. You were freeing an innocent man.

On September 7, you called to tell me you had won. We celebrated your victory and sang your final praises.

On September 10, I called you during lunch. You were busy, you said, eating boxes of devil dogs and drinking tons of coffee. Now decaf. I shared a moment of professional weakness with you, and you took the time to teach me your final lesson.

"If you want to make things happen," you told me, "you have to work hard at making a change for yourself



each and every day. Do what I do.” Even on your very last day, you inspired me

When we first met, your tiny apartment was covered with printed quotes from inspirational men and legal masterminds. There was Benjamin Cardozo, and our favorite, Learned Hand. How lucky for you that you are now in heaven, where you can argue with all of these men, and try to convince them that you are right, and they are wrong. I know you will win.

In fact, I do have an enduring image of you in heaven: You are standing in the courtroom, prepared for trial. God is the Judge. You are making Him think. You are making Him laugh.

BARBARA OLSON: AN INTERN, AUTHOR, AND LEGEND

John O. McGinnis
Professor of Law

I knew Barbara Olson in three separate contexts. I first met her many years ago when she came to the Office of Legal Counsel (OLC) at the Department of Justice to work as an intern. Although I am now a professor at Cardozo, I had never heard of Cardozo or known anyone who had been a graduate, and thus she was my first contact with the School.

She was an excellent ambassador for Cardozo because she was a superb intern. She was eager to learn and took well, as not all interns do, to the intense editorial suggestions that she received on her drafts. She was eager for work—always pleased to undertake the last-minute research requests one got from the White House Counsel on lovely Friday afternoons. She even was able to indulge her taste for adventure, volunteering to deliver the order to close the PLO mission in New York that followed an OLC opinion that such an action was legal if authorized by the President.

But most of all she contributed her spirit to the office. One of the best things an intern can do is to renew the collective sense of wonder at the majesty of work for the public good—in this case of effectuating the rule of law throughout the often unruly executive branch. This is what made Barbara a truly great intern.

I next knew Barbara as a student legend, for when I came to Cardozo many of my colleagues wanted to talk to me about her. No doubt one connection that impelled colleagues here to describe her in my presence was that we were both conservatives. To some of my colleagues, I daresay, we were two of the handful of conservatives

they knew. But they also wanted to convey to me how a student like Barbara improved their lives. They spoke of how her relentless class challenges kept them thinking and entertained. Even her activities off campus were still fondly remembered. My colleague David Carlson, once a visiting professor at Michigan, spoke of a weekend when Barbara attended a Federalist Society convention at that school and ended up in a late night poker game with such outstanding jurisprudential scholars as Robert Bork and Douglas Ginsburg.

The explicit message from my colleagues was always the same: here was a truly amazing student, intent, engaged—always with some initiative, and never, never dull. Perhaps the implicit message was that if more conservatives were like her, people would take conservatives more seriously.

Finally, I knew Barbara as a best-selling author and ubiquitous talk-show pundit. When impeachment rolled around, I myself went on one or two TV shows with Barbara, and she offered me sage advice to improve my presentations. Now I was the student and she was a fine teacher, both through instruction and by example. But she was hard to imitate because her television style was so rooted in a character that combined friendliness and, indeed, joyousness with firm conviction and resolve.

“...here was a truly amazing student,
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with some initiative,

Although I knew three avatars of Barbara, as intern, student legend, and pundit, one of Barbara’s great virtues was that she was always the same—her own self-directed character and not a person molded and distorted by situation and circumstance. In particular, success never changed her way of dealing with people. This trait is especially rare in Washington because it is a town where human relations are often defined by status and where contacts are made in direct proportion to their usefulness. Moreover, after success in such a hierarchical place, a certain dull ponderousness can set in. But Barbara was not changed by Washington. She was the same kind, effervescent human being as an intern and as a best-selling author and TV commentator. And she still approached everyone with the openness of an engaged student. Now, of course, one cannot say that Barbara changed Washington—no one can do that—but

she created her own little oasis where individuals were, to use the Kantian phrase, treated as ends in themselves rather than means.

To remember Barbara in this way is to underscore the outrage that was perpetrated on her and thousands of others on September 11. The way terrorists treated Americans that day was the antithesis of the Kantian ideal. They used the lives of human beings simply as instruments to advance an ideology. And that ideology flows from a joyless anger that is the antithesis of Barbara's spirit. No act could be more in counterpoint with Barbara's life and being. Disagreement for her was an opportunity for human engagement rather than destruction, and those with whom one disagreed could be, and often were, friends rather than enemies.

The juxtaposition of the spirit of her life and the circumstances of her death should always remind us of what we are fighting to defend—ideals of liberty and tolerance that made Barbara's life possible. And she exemplified these ideals in so many respects—through her enthusiastic debates with intellectual sparring partners in the classroom and on TV, through her kindness to those she knew regardless of status, and perhaps above all through her determination to not be dull, to shape her own life through challenges that she chose and that enriched those around her.

INNATELY AMERICAN

Theodore B. Olson

Solicitor General of the United States

Four and one-half seemingly endless months ago, on September 11, our nation was savagely attacked, thousands of our citizens were murdered and tens of thousands more lost spouses, children, parents, family members, neighbors, co-workers and friends.

This was a brutal assault on America, Americans, and American ideals. The victims of September 11 were persons of all races, backgrounds, religions, ages, and qualities. They were walking, talking, living symbols of America to the impoverished, enslaved, and persecuted people of the world who long to come to America or to live lives of freedom, democracy, and equality, and to enjoy the right to pursue happiness and prosperity.

Sadly, two of the persons so cruelly taken from us on September 11, Barbara Bracher Olson and Andrew Steven Zucker, were alumni of this wonderful law school. I did not know Mr. Zucker, but I was blessed to know, love, and be married to Barbara Olson. Let me say

just a few words about her.

Many people loved and admired Barbara. But whether you loved and admired her values, her spunk, her energy, her passion, her courage, her unconquerable spirit, or her incredible warmth, whether you knew it or not, underneath it all, you admired and were captivated by Barbara, in part because she was pretty darn close to being a quintessential American.

Barbara was a Texan, from a family whose ancestors came to this country from Germany, so she was a descendant of immigrants, like virtually all of us.

Barbara went to the University of Texas and a Catholic university, St. Thomas, in Houston. She became a professional ballet dancer in San Francisco and New York because of the beauty of dance and the rigor of its discipline, and because you have to be extraordinarily tough and ambitious to do it. And Barbara was extraordinarily tough and ambitious.

She could be charming,
tough,
indefatigable, ferocious, and
lovable.

But Barbara always wanted to be a lawyer and to be involved in government. In order to afford law school, she invented a career out of whole cloth in Hollywood because, she calculated, that was the fastest way to earn the money she needed. It did not trouble Barbara that she knew absolutely nothing about the motion picture and television industry. And, in fact, it really didn't matter because, as she later explained to the unwitting producer who gave her a first job, she was a "fast-learner."

And, of course, she succeeded. She turned down the last job tendered to her because they were offering too much money and she did not want to be tempted to forego her dream to be a lawyer.

She came here to Benjamin N. Cardozo School of Law at Yeshiva University, not necessarily the obvious choice for a blond Catholic girl from Texas. But she thrived at Cardozo as she had thrived at St. Thomas and in the ballet and in Hollywood. She loved Cardozo, the students, the classes, the professors, the dean.

Barbara created a Federalist Society chapter here in this hotbed of conservative legal thought. She loved to tell me how she talked the dean into allowing her to use his conference room for the first meeting, how she convinced 9th Circuit Judge Alex Kolinsky to be her first

speaker, and how she schemed to find the right kosher food to entice a respectable audience to her subversive gathering.

In her third year of law school, Barbara somehow managed to finesse herself into an internship in the Department of Justice in Washington. And, as a very brassy and gutsy intern, she managed to be the only employee of the government of the United States willing, feisty, and fearless enough to personally serve the papers on the PLO mission to the United Nations in New York announcing that it was being expelled from this country—because they were terrorists. How proud Barbara was to tell that story to her friends at Cardozo!

After law school, she turned down jobs with the finest law firms in New York to go to Washington where, it seems, she was always destined to be. In rapid succession, she succeeded as a lawyer at Wilmer, Cutler & Pickering in private practice, as a hot and very successful federal prosecutor, as deputy general counsel and solicitor to the house of representatives, and as a top congressional investigator, television personality, and lobbyist.

It was typical of Barbara that when her publisher suggested that she write a book about Hillary Rodham Clinton, she literally jumped at the chance. She told me at the time that she wasn't sure that she was a writer, but a friend of ours told her that she didn't have to be a writer to be an author. So, with her legendary energy and limitless self-confidence, she poured herself into the book, finished it in nine months and, against seemingly insurmountable odds, without any previous experience with serious writing, climbed onto The New York Times best-seller list during the most competitive time of the year, and stayed there for nine weeks.

Her second book, written in about six months last year and finished just days before her death, has been in the top seven on The New York Times best-seller list for 13 successive weeks.

Barbara was everywhere in Washington. A witness for

Clarence Thomas at his confirmation, a cofounder of the Independent Women's Forum, hosting Federalist Society members from all over the country in her home, at the epicenter of the Travel Office and Filegate investigations, the second-most invited guest ever on Larry King Live, appearing on MSNBC, Fox, Meet the Press, Cross-Fire, Politically Incorrect, you name it. Ready to talk about any subject, ready to face down any adversary. She always had an opinion. And she always had that disarming, captivating, endearing smile.

In short, Barbara par-took of everything life gave her. She saw no limits in the people around her, and she accepted no limits on what she could accomplish. She could be charming, tough, indefatigable, ferocious, and lovable. And all those things at once.

Barbara was Barbara because America, unlike anyplace in the world, gave her the space, freedom, oxygen, encouragement, and inspiration to be whatever she wanted to be.

So, sadly and ironically, Barbara may have been the perfect victim for those twisted, hateful terrorists: because she was so thoroughly and innately an American. And such a symbol of America's values, ideals, and robust ambition. And she died as she lived. Calling for help repeatedly from her hijacked flight, fighting, believing in herself, and determined to succeed. So, if she was the perfect victim, she is also a perfect symbol of what we are fighting for now and for America's strengths, ingenuity, passion, and determination, the qualities that assure ultimate success against hatred, evil, and brutality.

I know, and Barbara knows, that her government and the people of America will win this war, however long it takes, whatever we have to do. We will prevail for Barbara Bracher Olson and Andrew Steven Zucker and all the other Americans we lost on September 11. And for the American spirit for which they stood and which their lives embodied. And, most of all, we will defeat these terrorists because Barbara and Andrew and those other American casualties of September 11, and our forebears, and our children, would never forgive us if we did not. ■



Jonathan Konoavitch, Andrew Zucker's father-in-law with Theodore Olson.