

## **The Late Prof. Harvey R. Miller, A Man for All Seasons: A Student's Tribute**

Jay D. Rao<sup>1</sup>

While watching sports, fans occasionally have the opportunity to observe players widely considered among the very best of their generation. More rarely, fans witness a player who transcends and changes the sport entirely. Such was the case with the late Prof. Harvey R. Miller and the legal and business communities.<sup>2</sup> Prof. Miller, an exceedingly rare individual, had an extraordinary impact on the field of restructurings and bankruptcies, the large law firm community, the business landscape, academic institutions, and, perhaps most important, the younger generation, including his classroom students. After his passing in 2015 from amyotrophic lateral sclerosis, commonly called Lou Gehrig's disease, his substantial contributions and legacy have been discussed at length. A subject that has received less attention is the reason this particular individual was so unique and compelling to the young men and women he encountered.

Naturally, it's easy to fixate on his numerous accomplishments. His role in transforming the now leading international law firm Weil, Gotshal & Manges LLP ("Weil") stands as a testament to his leadership abilities and vision.<sup>3</sup> Prof. Miller was recruited by Ira Millstein, a

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<sup>1</sup> Visiting Scholars Program, University of California, Berkeley School of Law, sponsored by Prof. Kenneth Ayotte. The author previously served as an Adjunct Professor at the University of North Texas at Dallas College of Law, a public institution formed in 2014 to broaden access to legal education, where he taught a litigation drafting workshop under the supervision of Prof. Christine M. Tamer, Assistant Professor and Assistant Director of Legal Writing. The author also previously taught at Baylor Law School, the Richardson Adult Literacy Center, the Aberg Center for Literacy, Columbia University's Leadership in Law Program, Columbia Law School's High School Law Institute, and Columbia Law School under the supervision of Prof. Robert E. Scott, the Alfred McCormack Professor of Law and Director of the Center on Contract and Economic Organization. The author received his B.B.A. from The University of Texas at Austin, McCombs School of Business and, after completing his foundational coursework at The University of Texas at Austin School of Law, his J.D. from Columbia Law School. The author was born in Athens, Georgia and, after a stint in Louisville, Kentucky, was raised in Plano, Texas. The views expressed herein are solely those of the author. The author thanks Joanne Pflaum, former Executive Assistant to Prof. Harvey R. Miller, and Roman Starsky, associate at Fortress Investment Group, for their helpful comments and assistance. The author also acknowledges the encouragement and support provided by Paul Michalski, Founder of Integrous LLC, and Prof. Prasad Krishnamurthy and Prof. Kenneth Ayotte of the University of California, Berkeley School of Law faculty.

<sup>2</sup> The author was Prof. Miller's student at Columbia Law School, where Prof. Miller taught corporate reorganizations and bankruptcy. As was the case when Prof. Miller was alive and subsequent to the author's graduation from law school, the author elects to refer to him as "Prof. Miller" throughout this article.

<sup>3</sup> See *Bankruptcy Legend Harvey R. Miller Dies at 82, Weil News and Announcements*, Apr. 27, 2015, <https://www.weil.com/articles/bankruptcy-legend-harvey-r-miller-dies-at-82> (hereinafter, "Weil Tribute") ("Miller joined Weil in 1969 as the Firm's 14th partner. He was a leading force in the evolution of Weil into one of the world's preeminent law firms and is responsible for making the bankruptcy, restructuring and reorganization practice an integral practice group of most major law firms.").

prominent corporate attorney, to join Weil in 1969.<sup>4</sup> Eventually, along with three other partners, Prof. Miller managed the firm until it elected its first executive partner in 1989.<sup>5</sup> Weil's current leader Barry M. Wolf recently acknowledged "[h]is leadership and vision had a significant impact on Weil's transformation from a small, two-office law firm to one of the world's major full service corporate law firms . . ."<sup>6</sup> Today, Weil has fifteen offices, spread across the United States and spanning five countries. Unlike when Prof. Miller first joined the firm, it's an undisputed legal powerhouse, which consistently ranks as among the most profitable and prestigious law firms in the United States. Weil's restructuring and bankruptcy practice, which Prof. Miller himself founded and developed, is unequivocally considered among the very best in the nation.<sup>7</sup>

In addition to his part in advancing and stewarding Weil, his contributions to the reorganization bar are virtually unparalleled within his era. He played a major role in many of the most significant bankruptcy cases in United States history, including household names such as Enron, R.H. Macy, and American Airlines.<sup>8</sup> When Prof. Miller entered the legal profession, the practice of restructuring and bankruptcy law had devolved, as a general matter, into a small,

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<sup>4</sup> Michel J. de la Merced, Harvey R. Miller, *Renowned Bankruptcy Lawyer, Dies at 82*, *The New York Times*, Apr. 27, 2015, available at <https://www.nytimes.com/2015/04/28/business/harvey-r-miller-renowned-bankruptcy-lawyer-dies-at-82.html>; see also Jonathan D. Glater, *The Man Who is Unwinding Lehman*, *The New York Times*, Dec. 13, 2008, available at <https://www.nytimes.com/2008/12/14/business/14miller.html> ("He was born in 1933, and after graduating from Columbia Law School in 1959, joined a small law firm. In 1963, he joined Seligson & Morris, an eight-lawyer firm that also employed Martin Lipton, Leonard Rosen and George Katz, who went on to be co-founders of Wachtell, Lipton, Rosen & Katz.").

<sup>5</sup> *Weil Tribute*.

<sup>6</sup> *Id.*

<sup>7</sup> See Ellen Rosen, *A Lawyer Finds He Can Go Home Again*, *The New York Times*, Mar. 9, 2007, available at <https://www.nytimes.com/2007/03/09/business/09law.html> ("Over three decades, Mr. Miller made Weil, Gotshal a powerhouse in bankruptcy law. Recall the most notable bankruptcies of the 1980s and 1990s — Texaco, Drexel Burnham Lambert, Continental Airlines, R. H. Macy — and Weil, Gotshal was involved. That role continued in the post-Enron wave of bankruptcies, including those of WorldCom, Global Crossing and Enron itself."); Merced, *supra* note 4 ("Mr. Miller was recruited to join Weil by the prominent corporate lawyer Ira M. Millstein in 1969. The firm became one of the most sought-after advisers for companies in trouble. So powerful was its reputation that it was enlisted in representing companies in three of the biggest collapses after the burst of the dot-com boom: Enron, WorldCom and Global Crossing."); *Weil, Gotshal & Manges LLP Profile*, *Vault*, last visited Jan. 17, 2020, <https://www.vault.com/company-profiles/law/weil-gotshal-manges-llp> ("Weil fields one of the most respected restructuring departments in the world and has played an integral role in nearly every high-profile bankruptcy in history, including WorldCom, Enron, General Motors, Washington Mutual, AIG, and Lehman Brothers, and more recently Sears, PG&E, and Takata.").

<sup>8</sup> See *Weil Tribute* ("Mr. Miller created Weil's bankruptcy practice and developed it into a restructuring powerhouse. He played a pivotal role in nearly every landmark bankruptcy case, including Lehman Brothers, General Motors, American Airlines, Texaco, WorldCom, Enron, Eastern Airlines, Continental Airlines and R. H. Macy. *His impact on the reorganization practice and restoring distressed companies to economic health and preserving employment is unequalled.*") (emphasis added).

undesired area.<sup>9</sup> The method by which he built the restructuring and bankruptcy practice into a force within Weil served as a model that many other major law firms throughout the country followed during the course of his long and distinguished career.<sup>10</sup> As succinctly described by his former colleague and current fellow of the American College of Bankruptcy, “‘Harvey was responsible for the evolution of the restructuring practice to what it is today—a mainstream practice group in most major law firms,’ Stephen Karotkin, a partner in Weil Gotshal’s business finance and restructuring department, said . . . ‘He demonstrated that the practice, which had been shunned by the major national firms, not only was respectable and very profitable, but was an appropriate means to restore major distressed companies.’”<sup>11</sup> Unlike many practitioners, he was comfortable representing both creditors and debtors.<sup>12</sup> His legal innovations included creating the doctrine of necessity, which allows debtors to pay pre-petition vendors that provide supplies crucial to organizations’ continued operations.<sup>13</sup> He served as a member of the National Bankruptcy Conference, a fellow of the American Bar Foundation, and a trustee of the Committee on Economic Development.<sup>14</sup> Along the way, he encountered and mentored many current leading practitioners in the field.<sup>15</sup> Within his own lifetime, he was described as a “lion

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<sup>9</sup> See Harvey R. Miller, *Chapter 11 In Transition - From Boom to Bust and Into the Future*, 81 Am. Bankr. L.J. 375, 376 (2007) (“When I entered the legal world in the 1960s, bankruptcy was a small, arcane, undesired practice area . . . Major law firms and accounting firms shunned the area of bankruptcy. The stigma of bankruptcy was very much to be avoided.”).

<sup>10</sup> *In Memoriam: Harvey R. Miller '59, Bankruptcy Law Pioneer, Devoted Alumnus, Respected Teacher*, last visited Jan. 13, 2020, [https://www.law.columbia.edu/pt-br/media\\_inquiries/news\\_events/2015/may2015/miller-in-memoriam-2015](https://www.law.columbia.edu/pt-br/media_inquiries/news_events/2015/may2015/miller-in-memoriam-2015) (hereinafter, “*Columbia Law School Tribute*”) (“Miller was a partner at Weil, Gotshal & Manges, which he joined in 1969. He established the bankruptcy practice there, turning it into a model for other firms. Early on, and through the proceeding decades, Miller would be involved in many of the most notable and historic bankruptcy cases in U.S. history. In addition to representing New York City when it neared bankruptcy in 1975, Miller also oversaw Chapter 11 filings for Enron, WorldCom, and Global Crossing during the era of the dot-com collapse.”).

<sup>11</sup> *Top Corporate Bankruptcy Attorney Harvey Miller Dies at 82*, *Bloomberg News*, Apr. 28, 2015, <https://www.crainsnewyork.com/article/20150428/FINANCE/150429863/top-corporate-bankruptcy-attorney-harvey-miller-dies-at-82>.

<sup>12</sup> James Verini, *The Sunbeam Boys: In Big Bankruptcy Battle its Chaim Fortgang Vs. Harvey Miller*, *Observer*, Feb. 26, 2001, available at <https://observer.com/2001/02/the-sunbeam-boys-in-big-bankruptcy-battle-its-chaim-fortgang-vs-harvey-miller> (“Mr. Miller, who until about 1990 divided his practice between creditor and debtor work, said that he ‘identif[ies] with my clients’ irrespective of the side: ‘I identify with the needs of my clients.’”).

<sup>13</sup> See *Turnaround, Restructuring, and Distressed Investing Industry Hall of Fame*, Turnaround Management Association, last visited February 11, 2020, <https://turnaround.org/about/turnaround-restructuring-and-distressed-investing-industry-hall-fame> (“This was a major shift from the strict application of the code that delayed payment until the debtor emerged from bankruptcy.”)

<sup>14</sup> *Weil Tribute*.

<sup>15</sup> *Columbia Law School Tribute* (“Through his efforts in the classroom and by example, he influenced many of the leading attorneys in the field of bankruptcy law. Ira M. Millstein ’49, an adjunct professor at Columbia Law School and senior partner at Weil who was a close friend, described Miller in *The Wall Street Journal* as ‘the paragon of bankruptcy lawyers.’”).

of the bankruptcy bar” and “the most prominent bankruptcy lawyer in the nation” by *The New York Times*,<sup>16</sup> “the best of the best when it comes to bankruptcy” by *Lawcrossing*,<sup>17</sup> and a “god of the bankruptcy bar” by *Above The Law*.<sup>18</sup> After receiving numerous accolades and at sixty-nine years old, he left Weil to join the prestigious investment bank Greenhill & Co. (“Greenhill”), where he served as vice chairman and managing director for approximately five years. In advance of the Great Recession, which plunged America into its worst financial crisis in recent memory, like an old Western film hero turning around his horse to save the town, Prof. Miller returned home to Weil, even with an accompanying reduction in compensation, to manage the historic Lehman Brothers bankruptcy cases.<sup>19</sup> He might very well be the country’s greatest restructuring and bankruptcy practitioner after World War II.<sup>20</sup>

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<sup>16</sup> Glater, *supra* note 4 (“A 75-year-old lion of the bankruptcy bar, Mr. Miller has been consumed by the largest corporate liquidation in American history: Lehman Brothers, the storied investment bank that set off one of the most harrowing episodes in the financial crisis when it collapsed in mid-September.”) (emphasis added); Rosen, *supra* note 7 (“Mr. Miller, 74, the most prominent bankruptcy lawyer in the nation, has left the investment bank Greenhill & Company to return to Weil, Gotshal & Manges, the Manhattan law firm where he practiced for 32 years.”) (emphasis added).

<sup>17</sup> Stony Olsen, *The Life and Career of Harvey Miller: Bankruptcy Dean*, *Lawcrossing*, last visited Jan. 31, 2020, <https://www.lawcrossing.com/article/4486/Lehman-Brother-s-Bankruptcy-Dean-Harvey-Miller> (“So Harvey Miller is the best of the best when it comes to bankruptcy. He has been a managing partner of Weil Gotshal for over 25 years. In 2003, Miller left Weil Gotshal for merchant banking firm Greenhill & Co. LLP, where he was a managing director and also vice-chairman. In 2007, he returned to Weil Gotshal — just in time to help Weil Gotshal get the biggest bankruptcy ever.”) (emphasis added).

<sup>18</sup> David Lat, *Musical Chairs: Chicago Poaches Prominent Professor from Columbia*, *Above The Law*, Mar. 13, 2012, <https://abovethelaw.com/2012/03/musical-chairs-chicago-poaches-prominent-professor-from-columbia> (“Harvey Miller, of course, is the Columbia Law grad and Weil Gotshal partner who is a god of the bankruptcy bar.”) (emphasis added).

<sup>19</sup> See Rosen, *supra* note 7 (“Miller acknowledged that his compensation would drop significantly with his leaving a booming boutique investment bank. Still, he said: ‘At my age, it’s not a consideration. It’s more a question of happiness.’”); Merced, *supra* note 4 (“In 2002 he took a career detour, leaving Weil to set up shop at Greenhill & Company, a boutique investment bank. He eventually found himself missing the practice of law enough to return to Weil in 2007, taking a pay cut in the process. His return came just a year before one of the biggest Chapter 11 cases of his career: overseeing the unwinding of Lehman in the wake of its collapse during the financial crisis. Not only was Lehman’s filing on Sept. 15, 2008, complex — with \$639 billion in assets and operations spanning the world in multiple jurisdictions, to this day the biggest bankruptcy in history — but it also involved a hotly contested sale of the firm’s North American banking operations to Barclays of Britain. During an eight-hour hearing four days later, Mr. Miller argued that selling the Lehman operations to Barclays was of vital importance. The North American business, he implored the presiding judge, was a ‘melting ice cube’ that would evaporate without a deal, causing ‘a major shock’ to the global financial system. By 12:41 a.m. the next day, Mr. Miller and his team had prevailed. The sale was approved, drawing applause from the crowd of more than 100 in the courtroom.”).

<sup>20</sup> See Tom Moore, *One of the Giants – Bankruptcy Legend Harvey Miller Dies at 82 after Defining US Workouts for Decades*, *Legal Business*, Apr. 28, 2015, <https://www.legalbusiness.co.uk/blogs/one-of-the-giants-bankruptcy-legend-harvey-miller-dies-at-82-after-defining-us-workouts-for-decades> (“Bankruptcy pioneer Harvey Miller, one of America’s leading commercial lawyers of the post-War period, has died at the age of 82, it was announced this week. The Weil Gotshal & Manges partner was America’s most prominent bankruptcy practitioner, playing a pivotal role in a string of landmark cases, including the wind-up of Lehman Brothers, the largest corporate bankruptcy in US history . . . The Brooklyn-born lawyer rapidly established a reputation as among the true heavyweights of US commercial law alongside Wachtell, Lipton, Rosen & Katz’s Marty Lipton, Rodgin Cohen of

If the foregoing was not enough to cement his legacy, he taught courses at a range of academic institutions, including New York University School of Law, Yale Law School, and his *alma mater* Columbia Law School.<sup>21</sup> He was almost universally praised by his young students at Columbia Law School, who returned his affection and enthusiasm by crowning him with an almost exalted status. In the classroom, he blended the casebook methodology and exposure to statutory law with broader context and practical insights to great effect. Even with his

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Sullivan & Cromwell and Skadden Arps Slate Meagher & Flom’s Joseph Flom, who died in 2011 . . . Also a senior figure in Weil’s leadership, Miller was elected its first executive partner in 1989. He left the firm for five years in 2002 to join the investment bank Greenhill & Co, a period during which Weil was perceived by some peers to have lost some of its dominance in the bankruptcy space, but returned just ahead of a wave of high-stakes assignments as the banking crisis reshaped the global economy.”). It should be noted Prof. Miller practiced during a period in which other well-known practitioners and gifted teachers had a substantial impact on the field of restructurings and bankruptcies, as well as the legal and business communities generally. As merely one example, Lone Star State legend Prof. Jay L. Westbrook practiced for over a decade in Washington, D.C. at a law firm now merged into industry leader Jones Day, eventually achieving partnership status, before dutifully returning home to his *alma mater* The University of Texas at Austin School of Law as a faculty member in 1980 and turning it into a national powerhouse in the field. *See generally Bankruptcy’s Universal Pragmatist: A Celebration of the Work of Jay Lawrence Westbrook*, *International Insolvency Institute*, last visited Jan. 27, 2020, <https://www.iiiglobal.org/node/2111> (“The *Texas Law Review* will be hosting a Symposium honoring Professor Jay L. Westbrook, a once-in-a-lifetime event that will pay overdue homage to one of the most distinguished living bankruptcy scholars in the United States. In the subfield of cross-border insolvency, Professor Westbrook is probably the world’s leading expert.”). Currently, Prof. Westbrook is one of the nation’s ten most cited commercial law scholars. *See* Brian Leiter, *10 Most-Cited Commercial Law Scholars in U.S., 2013-2017 (UPDATED AND CORRECTED)*, last visited Jan. 27, 2020, <https://leiterlawschool.typepad.com/leiter/2018/08/10-most-cited-commercial-law-scholars-in-us-2013-2017.html>. In fact, the author had the pleasure of serving as an associate at Cravath, Swaine & Moore LLP under Richard B. Levin, another lauded and renowned scholar and practitioner of the age, who was one of the two primary authors of the 1978 United States Bankruptcy Code, which provides the current legal framework governing United States insolvencies. *See* Frank R. Kennedy, *The Background of the Bankruptcy Reform Act of 1978*, 1979 Ann. Surv. of Bankr. Law 1 (1979) (“The enactment on November 6, 1978, of comprehensive new bankruptcy legislation brings to fruition the results of efforts looking toward bankruptcy reform that have extended over more than 12 years . . . In January of 1977, a new bill, HR 6, was introduced by Congressmen Edwards and Butler of the Subcommittee on Civil and Constitutional Rights of the Judiciary Committee of the House of Representatives. The draftsmen of this bill were Richard Levin and Kenneth Klee of the subcommittee staff.”); Jay D. Rao, *Inequitable Subordination: Distressing Distressed Claims Purchasers by Propagating Subordination Benefit Elimination Theory*, Dec. 4, 2019, available at SSRN: <https://ssrn.com/abstract=3498106> (“ . . . Richard Levin authored the latest edition of the American Law Institute-American Bar Association’s recognized classic *Fundamentals of Bankruptcy Law*, lectured at Harvard Law School, served as the chair of the National Bankruptcy Conference, and, with no exaggeration intended, deserves primary credit for resurrecting and shaping the modern restructuring practice of Cravath, Swaine & Moore LLP . . . a development of particular significance given the substantial cultural influence of that law firm on the American legal community.”) (internal citations omitted); *id.* (“That achievement, including the involvement of Levin, Zumbro, Goldman, Barshay, Parker, and the numerous others who made it possible, justly deserves to take a place in the annals of Cravath lore. For Levin in particular, it constitutes a deft and fitting master stroke for a scholar whose fame in the community was already beyond contestation for his earlier drafting of the Bankruptcy Code, further cementing his legacy as a titan of the reorganization bar within his era and ensuring his influence on subsequent generations of practitioners. Parker’s tenure as deputy presiding partner and presiding partner of the firm, already hailed an incredible success by the legal and business communities, seems all the more brilliant in light of the restructuring practice’s triumphs.”) (internal citations omitted). This article should be treated as a tribute to one particular teacher; the author’s intention is not to diminish the significant contributions of others to the field.

<sup>21</sup> *Weil Tribute* (“Described by colleagues as a gifted tutor and teacher, Mr. Miller spent a number of years teaching at several institutions, including Columbia Law School, Yale Law School, and New York University School of Law.”).

demanding schedule, he made himself available after class to field questions from his inquisitive students. It's no exaggeration to boast that his course was consistently described as one of the most popular at Columbia Law School during the author's time as a student. In 2001, he received the Columbia University School of Law Association Medal for Excellence. Shortly thereafter, he was provided the 2005 Distinguished Service Award from the American College of Bankruptcy. In 2013, he was named one of the Top 50 Biglaw Innovators of the Last 50 years by *The American Lawyer*.<sup>22</sup> An endowed faculty chair at Columbia Law School bears his name, currently held by no less than a former dean of Columbia Law School.<sup>23</sup> Towards the end of his life and after he had already received nearly every relevant honor conceivable, he served as a Commissioner of the American Bankruptcy Institute Commission to Study the Reform of Chapter 11, which aimed to modernize American bankruptcy law to benefit future generations.<sup>24</sup>

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<sup>22</sup> *The American Lawyer Honors Top Big Law Innovators of Last 50 Years*, Jul. 30, 2013, press release available at [https://www.alm.com/press\\_release/the-american-lawyer-honors-top-big-law-innovators-of-last-50-years](https://www.alm.com/press_release/the-american-lawyer-honors-top-big-law-innovators-of-last-50-years); see also *Weil Tribute* ("Lauded with countless awards over the course of his career, Mr. Miller was named one of the Top 50 Big Law Innovators of the Last 50 Years by *The American Lawyer* in 2013. In that special report, he was highlighted as one of 10 lawyers who created practice specialties and was recognized for transplanting bankruptcy from boutiques to the large firm environment.").

<sup>23</sup> *Columbia Law School Tribute* ("A loyal and devoted alumnus, Miller served on both the Board of Visitors and the Dean's Council. In 2008, he established the Harvey R. Miller Professorship, currently held by Dean Emeritus David M. Schizer.").

<sup>24</sup> The aforementioned Richard B. Levin also served as a Commissioner during his time practicing at Cravath, Swaine & Moore LLP. Additionally, the aforementioned Prof. Westbrook served on an Advisory Committee for the Study and participated in the Study's April 2014 symposium. In disclosure, the author served as a Research Fellow for the Study under the Chair of the Distribution Issues Advisory Committee, Peter V. Pantaleo, at the time the Head of the Restructuring and Bankruptcy Practice at Simpson Thacher & Bartlett LLP. See also Jay D. Rao, *My Fortune is the Work of Others: A Response to Prof. John C. Coffee, Jr. Regarding Lockstep Law Firm Partnerships and Tournament Theory*, Feb. 6, 2020, available at SSRN: <https://ssrn.com/abstract=3533503> ("... [T]he author was introduced to Peter V. Pantaleo through the Columbia University Club of New York, an organization founded in 1901 with a mission to foster comradery among alumni of Columbia University. At the time of the introduction, the author was volunteering at the club, including providing assistance to further the club's young alumni committee projects. The author also served, in a diplomatic capacity, on the Board of Governors of the historic Princeton Club of New York, which was founded in 1866 and allowed the Columbia University Club of New York, which did not possess an appropriate establishment of its own, to operate within its clubhouse. Such introduction to Pantaleo, a well-known Columbia University alumnus and law firm leader, ultimately led to the author's employment as an associate at Simpson Thacher & Bartlett LLP, where the author served under, among others, Pantaleo himself, Pantaleo's fellow Columbia University alumnus, Mark J. Thompson, Pantaleo's fellow New York University School of Law alumnus, Steven M. Fuhrman, and Pantaleo's mentee and successor, Sandeep (Sandy) Qusba."); *Simpson Thacher & Bartlett LLP Profile, Who's Who Legal*, May 1, 2009, <https://whoswholegal.com/analysis/simpson-thacher--bartlett-llp> ("According to rivals, the firm has a 'fantastic insolvency team', with two partners appearing in this chapter. Peter Pantaleo, who heads Simpson Thacher's bankruptcy practice, is described as 'a giant' in the field and Mark Thompson is highly thought of. Both practitioners are based in New York."); *Sandy Qusba to be Inducted Into American College of Bankruptcy*, Nov. 10, 2016, <https://www.stblaw.com/about-us/news/details?id=1125e10e-743d-6a02-aaf8-ff0000765f2c> ("The American College of Bankruptcy has selected Bankruptcy Partner Sandy Qusba as a Fellow of the American College of Bankruptcy. An induction ceremony will be held at the Smithsonian Donald W. Reynolds Center for American Art and Portraiture on March 10, 2017. Nominees for membership are by invitation only. Sandy is one of 30 nominees from the United States and abroad being inducted in the 28th Class of College Fellows. The nominees are being honored and recognized for their professional excellence and exceptional contributions to the fields of bankruptcy and insolvency."); *Sandy Qusba to Speak at South Asian Bar Association's 2018 Annual Conference*, May 11, 2018, <https://www.stblaw.com/about-us/news/details?id=2cd7eb0e-743d-6a02->

Although many have showered praises on this titan of the bar,<sup>25</sup> few have tried to provide insight as to how this particular individual transcended the practice and, in many ways, his era. Over enough time, as with many other influential individuals, it's likely the man and myth will start to blend together and become difficult to separate. Much has been made about his accomplishments and even style. Some have noted his penchant for wearing fine suits.<sup>26</sup> Others have highlighted his imposing physical presence, voice, and speech pattern.<sup>27</sup> Columbia Law School recalled that, due to the enthusiasm he displayed while recalling work anecdotes, some students affectionately dubbed his course "Miller Time."<sup>28</sup> An observer mentioned with amazement that an entire courtroom hushed when he stood up.<sup>29</sup> Though all these statements might be true, none of them explain, and in fact partially detract, from the core reasons this

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aaf8-ff0000765f2c ("Corporate Partner Sandy Qusba will speak at the South Asian Bar Association's upcoming 2018 Annual Conference on June 28 – July 1 in New York City. Sandy will speak as a member of the finance and banking panel taking place on June 29. The South Asian Bar Association provides professional growth, diversity and inclusion opportunities for South Asian legal professionals throughout North America as well as civil rights and access to justice for the South Asian community."); Rao, *supra* note 20 ("Prior to retirement, Pantaleo headed the highly regarded restructuring practice of Simpson Thacher & Bartlett LLP, which for decades has been considered by its peers as one of the broadest and deepest creditor-focused restructuring practices on Wall Street. Each of the current partners within the practice was personally mentored by Pantaleo or welcomed into the firm's partnership by a Pantaleo disciple. While leading and shaping this group, he was formally inducted as a Fellow of the American College of Bankruptcy . . . He served as the Secretary of the New York City Bar Association's Committee on Bankruptcy and Corporate Reorganization and received an education at two prominent Manhattan institutions, having received his bachelor's degree from Columbia University and his law degree from New York University. In short, Pantaleo was among the better known and influential New York City law firm leaders and restructuring and bankruptcy practitioners of his era and, accordingly, his impact is felt to this day.") (internal citations omitted).

<sup>25</sup> See, e.g., *Columbia Law School Tribute* ("Stephen Karotkin, a fellow partner at Weil and a close friend, said 'the respect and admiration' Miller 'engendered from the judiciary, his peers, and his colleagues cannot be overstated. He truly was a legend in the practice and he will be sorely missed by so many.'").

<sup>26</sup> Merced, *supra* note 4 ("Such was his stature that he billed around \$1,000 an hour, compensation that helped him indulge in one of his interests, fine clothing. He sometimes joked that Weil's offices, in the General Motors Building in Midtown Manhattan, were only a short walk from Barney's, the luxury department store.").

<sup>27</sup> *Id.* ("Through detailed knowledge of the law, a loquacious if sometimes unyielding negotiating style and an imposing presence, Mr. Miller became one of the most famous members of the corporate bankruptcy bar . . . In the courtroom, Mr. Miller stood out both physically — tall and deep-voiced, dressed in those tailored suits — and rhetorically. He frequently wrote out his text and spoke in complex paragraphs, and was quick with cutting, sometimes snide remarks directed at legal opponents."); Glater, *supra* note 4 ("Mr. Miller, tall, gray-haired and well dressed, is one of those hyperarticulate lawyers able to speak in complete paragraphs, offering off-the-cuff, for example, his detailed critique of the government's response to Lehman's collapse.").

<sup>28</sup> *Columbia Law School Tribute*.

<sup>29</sup> Michael Y. Park, *A Minor Deity in the Bankruptcy Arena*, *New York Metro Super Lawyers Magazine*, Sept. 25, 2009, available at <https://www.superlawyers.com/new-york-metro/article/a-minor-deity-in-the-bankruptcy-arena/ddf25722-fb17-4ad5-9619-7f1aea9bb5e5.html> ("That kind of prestige cloaks Miller in considerable gravitas. When a financial adviser to Barclays noticed how the entire bankruptcy court hushed once Miller stood to speak, he was so impressed that he turned to Tom Roberts, head of Weil, Gotshal & Manges' corporate department, and a member of the Lehman team, and stated, 'Harvey Miller is a minor deity in the bankruptcy arena,' Roberts recalls. Roberts adds, 'When [Harvey] talks about bankruptcy, everybody listens.'").

individual was magnetic to his students and the younger generation as a whole. Like other notable figures, caricatures of his personality further divert attention from genuinely comprehending the man. As an example, one news outlet in 2001 colorfully stated “. . . Mr. Miller, 67, is dignified in his suspenders and combed-back gray hair. He does not as easily invite either nicknames or comparisons—although a Wall Street Journal reporter once labeled him ‘Dr. Doom.’ His towering, well-accoutered frame quietly demands fealty; he is not known among the partners at Weil, Gotshal & Manges for raising his voice, though in one notorious incident he throttled someone.”<sup>30</sup>

Perhaps more than any of the above, the following anecdote sheds a little light on the man behind the myth. While Prof. Miller served as vice chairman of Greenhill, and well after he was already a well-known figure in business, legal, and academic circles, he scheduled a meeting with the author, one of his students, in a conference room at the bank. Though the room was quite large and equipped with a marble table and several stylish chairs, the only two people present in the room were Prof. Miller and the author. Prof. Miller cut a grand figure, wearing a tailored suit, imported shoes, and striking suspenders. The author wore an ill-fitting sweatshirt and a pair of casual trousers he purchased in Texas. Prof. Miller didn’t possess any notes, his published articles, or the casebook he employed at Columbia Law School. Rather, he devoted the time to patiently providing pearls of wisdom to the author based on decades of work and life experience. He explained that he began practicing law at a time before United States bankruptcy courts and judges existed as we know them today, and noted his early career involved a world prior to the enactment of the modern United States Bankruptcy Code. He provided background on his transition from Weil to Greenhill, as well as the many changes he observed to law firms, businesses, the legal academy, and the nation during the course of his career and life. What motivated someone of Prof. Miller’s immense stature to take time out of his valuable day to mentor a young child of Indian immigrants from Plano, Texas? In contemplating the answer to that question, the reader discovers a partial clue as to what animated this extraordinary individual and elevated him from a great practitioner and teacher to a great man.

It’s difficult to comprehend Prof. Miller, including his contributions and legacy, in a vacuum. Therefore, it’s helpful to bear in mind the era he occupied, which involved a dramatically changing law firm landscape that resulted in many established law firms transitioning to partnerships in name only.<sup>31</sup> Also, to begin to understand Prof. Miller’s motivations and animating principles, one must remain cognizant of his origins. Prof. Miller was

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<sup>30</sup> Verini, *supra* note 12.

<sup>31</sup> See generally Sara Randazzo, *Being a Law Firm Partner Was Once A Job For Life. That Culture Is All But Dead*, *The Wall Street Journal*, Aug. 9, 2019, available at <https://www.wsj.com/articles/being-a-law-firm-partner-was-once-a-job-for-life-that-culture-is-all-but-dead-11565362437> (“This is life at the modern law firm, where not all partners are created equal, and data and money rule. Being named a partner once meant joining a band of lawyers who jointly tended to longtime clients and took home comfortable, and roughly equal, paychecks. Job security was virtually guaranteed and partners rarely jumped ship. That model, and the culture that grew up around it, is all but dead. *Law firms are often partnerships in name only*. Full-time chief executives, some without law degrees, have replaced the senior partner in running human resources and accounting. Law firm names have trended toward the shorter and snappier, more befitting a tote bag than a law library.”) (emphasis added).

born in the Gravesend neighborhood of Brooklyn, New York during the Great Depression, one of the worst economic periods in the country's history. He didn't come from a long line of lawyers or well to do professionals. Growing up, his family shared a small apartment with Prof. Miller's aunt and son. He certainly wasn't known for wearing expensive clothing in those days. In his own words, "[i]t was a world in which, when you wore out the soles in your shoes, you put cards there till you could get a new pair of shoes."<sup>32</sup> The general expectation for Prof. Miller, which was typical for that neighborhood at the time, was to obtain a job after high school to assist the family with household expenses. In fact, he was the first member of his family to graduate from college. He received his undergraduate education from Brooklyn College of the City University of New York, at the time a free university. After serving in the military, he was able to attend Columbia Law School on the G.I. Bill at the suggestion of his wife, Ruth. Prof. Miller obtained his first legal job after graduation through the friend of a fellow Gravesend native, with whom Prof. Miller played basketball in the neighborhood. He readily acknowledged he received assistance from empathetic mentors while learning the ropes and adjusting to law firm life.<sup>33</sup> Though it might seem odd in hindsight given he would eventually be considered a dean of the bankruptcy bar, as a new lawyer, he enrolled in a night course at local New York University to boost his confidence. Perhaps not since the incomparable William O. Douglas, who was born the son of an itinerant Presbyterian minister in Maine Township, Minnesota in 1898, has a man from such a modest background impacted the field of restructurings and bankruptcies as well as the broader community so considerably.<sup>34</sup>

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<sup>32</sup> Park, *supra* note 29.

<sup>33</sup> See, e.g., *Remembering Harvey R. Miller, Weil Restructuring*, Apr. 28, 2015, <https://business-finance-restructuring.weil.com/news/remembering-harvey-r-miller> (Prof. Miller, during his acceptance speech for the *Emory Bankruptcy Developments Journal's* Distinguished Service Award in 2002, acknowledging "[s]o how did I become a bankruptcy lawyer? It was purely fortuitous, but a great stroke of good fortune . . . For 15 years Professor Seligson was my mentor, my guide, and, best of all, my friend.").

<sup>34</sup> Shortly after Douglas's birth in Minnesota, he lost his father, who died in 1904. See Adam M. Sowards, *William O. Douglas (1898-1980)*, *The Oregon Encyclopedia*, last visited Jan. 23, 2020, available at [https://oregonencyclopedia.org/articles/douglas\\_william\\_o\\_1898\\_1980/#author-48-info](https://oregonencyclopedia.org/articles/douglas_william_o_1898_1980/#author-48-info). Douglas was raised in Yakima, Washington and graduated from a local public high school, Davis High School. He developed a lifelong love of the great outdoors, particularly the magnificent landscapes of Oregon and Washington. See *id.* He was able to attend Whitman College in Walla Walla, Washington on a full academic scholarship, where he joined Beta Theta Pi fraternity, whose brothers would come to his assistance in later years. Douglas earned income through various odd jobs during his education, including working alongside migrant workers, and he also spent a couple years as a school teacher in his hometown. See generally *id.*; *William O. Douglas, 1939-1975, The Supreme Court Historical Society*, last visited Jan. 23, 2020, [https://supremecourthistory.org/timeline\\_odouglas.html](https://supremecourthistory.org/timeline_odouglas.html); *William O. Douglas Lecture Series*, last visited Jan. 23, 2020, <https://www.whitman.edu/provost/guest-lecturers/ended-lectures/william-o-douglas-lecture-series>.

From these relatively obscure beginnings, Douglas was able to secure employment at the leading New York law firm of Cravath, Swaine & Moore LLP, where he served under some of the most prominent attorneys in the field at the time, including Robert T. Swaine and John J. McCloy. Swaine has been described as "the nation's most prominent reorganization lawyer" by current leading bankruptcy scholar Prof. David A. Skeel, Jr., the S. Samuel Arsht Professor of Corporate Law at the University of Pennsylvania Law School. See David A. Skeel, Jr., *Vern Countryman and the Path of Progressive (And Populist) Bankruptcy Scholarship*, 113 Harv. L. Rev. 1075, 1090 (2000). McCloy, among numerous other accomplishments, would serve as the president of the World Bank,

Many individuals who shared similar experiences and later spectacular triumphs could be forgiven for, while recounting their life narratives, gravitating towards their later victories and glossing over the more humbling details. Yet, Prof. Miller never forgot where he came from — he frequently credited the New York City public school system and his wife for assisting him achieve his goals.<sup>35</sup> Contrary to the changing norms of his era, he was doggedly loyal to institutions that were loyal to him, particularly the City University of New York, Columbia Law School, and Weil. In 2003, he and his wife created an endowed fund to support Columbia Law School students who graduated from public institutions, as was the case with Prof. Miller and his

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chairman of Chase Manhattan Bank, chairman of the Council on Foreign Relations, and a prominent advisor to numerous United States presidents, ranging from Franklin D. Roosevelt to Ronald W. Reagan. On an interesting and perhaps inspiring note, Douglas received an offer of employment from the firm despite looking, according to McCloy who interviewed him, like “a singed cat.” See Richard M. Posner, *The Anti-Hero*, Feb. 24, 2003, available at <http://www.arlingtoncemetery.net/wdouglas.htm>. He practiced at the firm during two separate stretches, with a break to spend time in his hometown where he failed to gain traction practicing law.

After his time at Cravath, Swaine & Moore LLP, the young man from Yakima embarked on an academic career that is nothing short of the stuff of legends, during which time he was described as the most outstanding professor of law in the nation and transformed the Ivy League legal community. See, e.g., *id.* at 1079, n.19. To quote the eloquent Prof. Skeel, “[h]ard as it is to imagine now, in an era when the most hotly contested issues so often come from constitutional law and other public law areas, a disproportionate number of the early legal realists established their reputations in corporate and commercial law. Among this august company, one academic towers above the rest: William O. Douglas. It is no exaggeration to say that, during the decade from roughly 1928 to 1938, Douglas figured prominently in every significant development affecting bankruptcy law and bankruptcy theory. After moving from Columbia to Yale in 1928, as part of the defection that shifted the principal address of legal realism from New York to New Haven, Douglas embarked on the first important empirical study of bankruptcy.” *Id.* at 1079-80 (internal citations omitted). Douglas served as the Chairman of the Securities and Exchange Commission and was largely responsible for the drafting of Chapter X of the Chandler Act of 1938, a predecessor of today’s bankruptcy laws. See *id.* at 1080; David A. Skeel, Jr., *Creditors’ Ball: The New “New” Corporate Governance in Chapter 11*, 152 U. Pa. L. Rev. 917, 924 (2003). Eventually, he became the longest serving justice in the history of the Supreme Court of the United States. He earned the epithet “Wild Bill” and stands as a titan in the annals of the legal community and the nation. He is considered one of the greatest and most celebrated alumni of Cravath, Swaine & Moore LLP, and, to this day, represents to many an enduring symbol of the firm’s long-standing commitment to inclusivity instead of exclusion, tolerance rather than judgment, and substance over form. Davis High School in Yakima erected a statue of him, and Whitman College hosts a William O. Douglas Lecture Series and named William O. Douglas Hall in his honor. See also Adam M. Sowards, *William O. Douglas (1898-1980)*, *The Oregon Encyclopedia*, last visited Jan. 23, 2020, available at [https://oregonencyclopedia.org/articles/douglas\\_william\\_o\\_1898\\_1980\\_/#author-48-info](https://oregonencyclopedia.org/articles/douglas_william_o_1898_1980_/#author-48-info) (“Oregonians identified with Douglas. In the 1940s, the *Oregon Labor Press*, for example, proclaimed: ‘the common people of the country—and especially the common people of the West—know that Mr. Douglas understands their problems.’ . . . It was clear that Oregon held an especial regard for the justice.”).

<sup>35</sup> See, e.g., *Remembering Harvey R. Miller*, *supra* note 33 (Prof. Miller, during a speech in 2002, stating “[t]o be perfectly candid, I was both lucky and fortunate. Fortunate in the sense that I was given the opportunity to get a great education in the public schools of New York City and became the first member of my family to graduate from college. My wife, Ruth, whose support throughout our lives together has been crucial, encouraged me to apply to Columbia Law School. I did, and I was accepted. I was subjected to the Socratic method of great professors who imbedded in me a love of the law . . . During my tenure, I have watched the bankruptcy bench grow in stature and quality to become a proud and essential segment of our federal judiciary. Likewise, I have watched the bankruptcy bar move from being referred to as a less respectable segment of the bar practicing in an arcane, depressing area of the law to becoming an international and prestigious practice pursued by the largest and most prominent law firms in this country.”).

*alma mater* the City University of New York.<sup>36</sup> Well after achieving renowned status that few in any legal discipline could ever hope to achieve, Prof. Miller continued to teach students at his former institutions and set aside time for life and professional mentorship. Though some characterized him as larger than life, Prof. Miller downplayed certain elements of his personality and often cut against the stereotype. His humble origins and the assistance he received from mentors towards the beginning of his career created a sense of gratitude, which encouraged him to be generous with his resources and time. No doubt part of his generosity with the author can be attributed to their common nondescript backgrounds and shared experiences with the public school and university system, which likely created a sense of commonality and empathy in Prof. Miller.<sup>37</sup> Though the formal relationship as student and teacher might have ended with the author's graduation, the bond that was forged failed to be severed. At his core, Prof. Miller possessed a strong sentimental streak.

In stark contrast to when Prof. Miller first began practicing at Weil, towards the end of his career many of his peers at major law firms, in response to the changes in the law firm

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<sup>36</sup> *Columbia Law School Tribute* ("In 2003, Miller and his wife created the Harvey R. and Ruth Miller Scholarship, an endowed fund that supports Columbia Law School students who have graduated from public institutions, including his alma mater CUNY.").

<sup>37</sup> The author attended the local public school system of Plano, Texas and was a member of the inaugural graduating class of newly formed Plano West Senior High School, which was established near the area's lush Arbor Hills Nature Preserve and located near local landmark Prestonwood Baptist Church. The author subsequently attended the McCombs School of Business at The University of Texas at Austin, a public institution. See *The University of Texas at Austin Overview*, last visited January 22, 2020, <https://www.utexas.edu/about/overview> ("As a public university, we take seriously our charge to serve the great state of Texas that supports us . . . The University of Texas at Austin provides an exceptional return on investment. An enduring symbol of the spirit of Texas, we drive economic and social progress, all while serving our city, state and nation as a leading center of knowledge and creativity."). In addition, the author enrolled in summer courses at a local public community college with a branch in Plano, Collin County Community College (now named Collin College). During his undergraduate studies, the author joined Sigma Tau Gamma fraternity, which was founded in Missouri, and earned income during summers while residing at his parents' home, which assisted with his educational and related expenses, by working as a research assistant at The University of Texas at Dallas, located in Richardson, Texas (a city that borders Plano), and as a marketing intern at Frito-Lay, a subsidiary of PepsiCo headquartered in Plano. In fact, the author completed his foundational coursework at The University of Texas at Austin School of Law prior to moving to New York City on the recommendation of The University of Texas at Austin School of Law faculty (and, of course, by corresponding acceptance by the Columbia Law School faculty) and in particular Prof. David S. Sokolow, a Columbia Law School alumnus, five time recipient of the Teacher-of-the Year Award, and disciple of the late Prof. E. Allan Farnsworth, a renowned Columbia Law School faculty member and one of the most influential contracts law scholars in the history of American jurisprudence. Like Prof. Miller, Prof. Farnsworth was a Columbia Law School alumnus and a veteran of the United States military. At Columbia Law School, where the author first encountered Prof. Miller, the author served as a research assistant and teaching assistant to Prof. Farnsworth's successor as the institution's Alfred McCormack Professor of Law, Prof. Robert E. Scott. Prof. Scott was born in Nagpur, India (at the time part of the British Raj), and, after his undergraduate education at Oberlin College, attended two public institutions, namely William & Mary Law School, located in Williamsburg, Virginia, and the University of Michigan Law School, located in Ann Arbor, Michigan. He served as the Dean of the University of Virginia School of Law, a public institution located in Charlottesville, Virginia, before joining the Columbia Law School faculty and subsequently serving as its Interim Dean.

environment, shifted addresses rather quickly if a better opportunity happened to present itself.<sup>38</sup> Law firm leaders developed into shrewd marketers, which succeeded, in large part, in impressing clients, colleagues, and subordinates. Many lawyers made a conscious and concerted effort to ride the wave of emerging business trends and shifting legal landscape. At the same time, the path to partnership (or any form of permanent posting) at major law firms often became lengthier, increasingly convoluted, and, at times, unrealistic for many. Ambitious attorneys were advised to cobble together large books of portable business to gain leverage in the marketplace and even within their own firms. Volunteerism on boards and participation in extracurricular activities were encouraged, but only if they somehow, directly or indirectly, could be seen to further a mercantile agenda. Often, an implicit distinction emerged between lawyers who maintain business relationships and lawyers who possess subject matter knowledge. Many law firm practice heads began to pride themselves as much, if not more, for their skills as business executives and department administrators than as legal experts and teachers. Partners nearing retirement age with significant wisdom, experience, and insights were pushed out the door with little fanfare, even after years of devoted service, to the extent it was marginally profitable in the short term. The meteoric rise of many of Prof. Miller's contemporaries coincided with law firms evolving from true professional partnerships to entities, at least in certain ways, more akin to regular commercial enterprises, which increased the profitability for many who happened to be existing equity partners but altered the governing culture of law firms and reduced the level of collegiality therein. Perhaps unsurprisingly, the loyalty of many lawyers ceased to lie with the institutions that reared and supported them; rather, such loyalty was largely reserved for a few select individuals who admired them. It became increasingly rare for law firm leaders to divulge the struggles they encountered on the path to success. Rather, it became more fashionable to display oneself as a tough realist, highly commercial, and largely self-made, with any helping hand simply hastening events that would have inevitably transpired on their own. Accordingly, it became increasingly uncommon for many practitioners to share the general sense of gratitude and empathy that animated Prof. Miller towards the end of his career and his related desire to mentor young men and women looking for assistance.

By the time the author met him, Prof. Miller was, by any common measure, materially wealthy. That said, the author cannot recall one instance in which Prof. Miller described in significant detail his considerable financial resources and cultural capital. He rarely discussed his enviable lifestyle with the author at length, though undoubtedly it included access to the finest venues in New York City and some of the most prominent names in the business, legal, and academic communities. He seemed, almost effortlessly, to be able to connect with the common man, and he never appeared embarrassed, or too proud, to acknowledge he was once a common man himself. Unlike some of his contemporaries at law firms, he didn't impress upon the author the social importance and status connected with acquiring and maintaining vacation homes, separate from a primary residential address. Prof. Miller preferred to describe his career and the changes he observed to the business, legal, and national landscape to provide context,

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<sup>38</sup> Randazzo, *supra* note 31 (“In the new paradigm, lawyers are expendable, and partners may jump to a competitor for the right amount of money, taking as many clients with them as possible on the way out.”).

and perhaps inspiration, in an informal, almost avuncular, manner. He declined to portray his lifestyle and career as aspirational goals, which were possibly within reach depending on one's choices and abilities. As for marriage advice, unlike some, he didn't subtly suggest the author locate a lawyer or business leader to create potential synergies. Ironically, given his success as a business executive and law firm leader, Prof. Miller often mistrusted business leaders. All the same, he frequently mentioned career choices outside of law firm life to the author with a genuine sense of appreciation, ranging from those in the business community to academia. Concerning himself, he stated he had a sincere love of the law. During his acceptance speech in 2002 for the *Emory Bankruptcy Developments Journal's* Distinguished Service Award, he memorably stated "[i]t really doesn't seem like 40+ years have passed. It seems much shorter. It must be because it was an extremely enjoyable and fascinating time. I have been told that Confucius said, '[c]hoose an occupation that you will love, and you will never work a day in your life.' I truly can say that, despite the volumes of fee applications I have made, that I have never worked a day in my life."<sup>39</sup> The foregoing is particularly noteworthy, as Prof. Miller's era witnessed a change in attorneys' relationships with the academic community; many lawyers felt increasingly distanced from it, as though legal practitioners and academics occupied fairly distinct worlds, largely without overlapping concerns. Prof. Miller noticed that, particularly concerning the new crop of practitioners who entered the legal profession after his graduation, attorneys throughout the nation seemed to be displaying less veneration and appreciation for legal academics and perhaps teachers as a whole.

It's easy at first blush to label Prof. Miller as "old school," but he was far too complex for such a superficial label to encapsulate him. Prof. Miller, while acknowledging his humble origins, didn't hesitate to learn and appreciate new experiences throughout his life. He enjoyed the arts, particularly the opera, and had a keen eye for history.<sup>40</sup> He even encouraged the author

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<sup>39</sup> *Remembering Harvey R. Miller*, *supra* note 33.

<sup>40</sup> *See, e.g., id.* (Prof. Miller, during a speech in 2002, stating "I have always been reluctant to accept awards. First, because I have great difficulty in talking about myself. Second, I am always concerned that I really don't deserve the award, and before I finish my acceptance, you all will recognize the truth. Indeed, I am reminded that when John F. Kennedy was asked how he became a hero, he replied, 'It was involuntary. They sank my PT boat!' I sometimes feel as if they sank my PT boat. However, I have decided not to dispute your collective wisdom, and I graciously and humbly accept the award. Nonetheless, it has caused me to retrospectively review my career, the impact, if any, that I have made on the development of bankruptcy reorganization law, and how it all came to be."); *Remembering Harvey R. Miller: The Evolution and Changing Environment of Bankruptcy Reorganization Law and Practice*, *Weil Restructuring*, Apr. 29, 2015, <https://business-finance-restructuring.weil.com/news/remembering-harvey-r-miller-the-evolution-and-changing-environment-of-bankruptcy-reorganization-law-and-practice> (Prof. Miller, during a speech in 2014 on the 40<sup>th</sup> anniversary of the Southeastern Bankruptcy Law Institute, stating "[i]t might be fair to say that modern bankruptcy practice began in the 1960s. It was an age defined by an expanding U.S. economy, strong labor organizations, civil rights struggles, and the expansion of individual rights. It was also defined by a democratization of credit, a change in living standards with the migration of large segments of the population to the suburbs. It was the age of the automobile and the demise of downtown Main Street and its businesses. It also was a much simpler world. Most businesses were privately owned. They operated on the foundation of long-term relationships, customer and vendor loyalty and prudence. In most situations, you could actually determine the value of a business by reviewing its financial statements . . . The bankruptcy court, in particular, was a strange place. There were no judges. Bankruptcy cases were filed in the United States District Court and referred to and administered by referees in bankruptcy. Referees in bankruptcy were support personnel for the District Court. They did not have law clerks and very little in the way of facilities. In some districts, there

to develop an appreciation for the artistic community while residing in New York City, advice the author attempted to take to heart.<sup>41</sup> He also appeared genuinely proud of the author's volunteerism to benefit his *alma mater* Columbia Law School.<sup>42</sup> Though he might have been uncomfortable with this characterization, he undoubtedly assisted in the creation of what would become the modern distressed debt market and distressed mergers and acquisitions business.<sup>43</sup> And, make no mistake, despite his considerable success as a business man, leader, administrator, and practitioner, Prof. Miller was a deeply philosophical man who was quite aware of the world changing around him. Although he wouldn't have described himself as an academic's academic, he still managed to pen articles that were published in major law reviews.<sup>44</sup> He engaged in dialogue with renowned scholars of the time, including the heralded Prof. John C. Coffee, Jr., the Adolf A. Berle Professor of Law at Columbia Law School, one of the most prominent current

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were part-time referees who presided over bankruptcy cases two or three days a week and practiced privately the remainder of their time . . . The world that existed in 1978 is long gone. We face a global, interconnected economy with a different dynamic and vastly different financing techniques and pressures, economic policies, as well as ubiquitous political issues.”); *id.* (“As I pondered presenting the subject to this sophisticated and experienced audience, I thought of Elizabeth Taylor’s seventh husband on the first night of their marriage, who thought to himself, ‘I know what I have to do, but can I make it interesting?’”); *Weil Tribute* (“Mr. Miller loved the opera and he was a long-time Advisory Director of The Metropolitan Opera.”).

<sup>41</sup> As an example, the author joined The Players while residing in New York City, an artistic-themed club located in Gramercy Park. The club and its warm, welcoming membership provided an opportunity for the author, who acknowledged a lack of deep artistic knowledge, to learn about New York City history, the theatre, and the arts more generally. Also, the author joined the Frick Collection’s Young Fellows, the Metropolitan Museum of Art’s Apollo Circle, and the Morgan Library & Museum’s Young Fellows, all of which are community groups in New York City committed to bringing artistic knowledge to the younger generation.

<sup>42</sup> As examples, the author volunteered on the Board of Governors of the Columbia University Club of New York and the Board of Directors of the *Columbia Journal of Law and Social Problems* while Prof. Miller was alive. A substantial portion of the author’s volunteerism at the Columbia University Club of New York was devoted to assisting the organization’s young alumni committee. The *Columbia Journal of Law and Social Problems* was established relatively recently as the institution’s only entirely student-written journal in 1965, subsequent to Prof. Miller’s graduation from Columbia Law School. See also *Jay D. Rao Speaks at Columbia Law School*, Apr. 25, 2011, <https://www.stblaw.com/about-us/news/details?id=2e8ac08a-a7f8-44ae-957a-cdd4288773f4> (“On April 20, 2011, corporate associate Jay D. Rao spoke at a lunch panel at Columbia Law School regarding the benefits, both before and after law school, of joining a legal journal. The panel was organized by the *Columbia Journal of Law and Social Problems*.”); *Jay D. Rao Speaks at Columbia University*, Jun. 27, 2014, <https://www.stblaw.com/about-us/news/details?id=ce86d60e-743d-6a02-aaf8-ff0000765f2c> (“On June 27, 2014, corporate associate Jay D. Rao taught a class entitled ‘Introduction to Corporate Bankruptcy’ at Columbia University’s Leadership in Law program. Topics discussed included Chapter 7 and Chapter 11 of the U.S. Bankruptcy Code, along with the policies advanced by their enactment. Jay serves on the board of directors of the Columbia Law School Association.”).

<sup>43</sup> See Nora Macaluso, *Weil Gotshal’s Harvey Miller, Credited With Transforming Bankruptcy Law, Dies at 82*, *Bloomberg Law*, Apr. 27, 2015, <https://biglawbusiness.com/weil-gotshals-harvey-miller-credited-with-transforming-bankruptcy-law-dies-at-82/> (“The distressed M&A business and the secondary debt markets exist in part because of Harvey,’ [Jack] Butler told Big Law Business. At the same time, he said, ‘there’s a little bit of irony’ in the fact that he took issue with the rising influence of Wall Street debt traders and fund investors.”).

<sup>44</sup> See, e.g., Harvey R. Miller & Shai Y. Waisman, *Is Chapter 11 Bankrupt?*, 47 B.C. L. Rev. 129 (2005).

members of that law faculty.<sup>45</sup> Probably due to his own layered and multifaceted personality, he was slow to characterize or stereotype individuals around him. For example, he never seemed to judge, or even particularly notice, the author's choice in clothing, or draw broad assumptions about the author based on his Texas roots or immigrant parents.<sup>46</sup> It's difficult to neatly fit Prof. Miller into a confined box. Though he was born in Brooklyn and educated in New York City's public schools, he seemed unafraid to meet the vast world around him, just as he was, warts and all. Unlike some of his peers, he didn't strongly favor individuals who most closely resembled him in terms of life choices, style, appearance, or background. Even in older age, he displayed curiosity about the world around him. He inquired regarding the author's life in Texas, presumably because it was quite different, in both place and time, than the environment he was raised. He listened with amusement to lighthearted anecdotes from the author's days working at a local grocery store in Plano. He was intrigued when the author informed him that his uncle was assisted with his transition to the United States by the local Christian community residing in a small town in South Carolina. He seemed somewhat impressed that, at a time when fraternity and sorority involvement became increasingly unpopular and subjected to greater public suspicion and scrutiny, the author fondly recalled his own fraternity involvement at The University of Texas at Austin. He asked about the military service of the author's grandfather, who was a veteran of the Pacific Theatre of World War II prior to moving to Florida and South Carolina.<sup>47</sup> He didn't appear to be purely commercial and authoritarian in his relationships with young men and women. To be clear, Prof. Miller certainly had the ability to be every bit as

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<sup>45</sup> See, e.g., *Dodd-Frank Act Remains a Work in Progress, Panel Says*, Jun. 24, 2011, [https://www.law.columbia.edu/media\\_inquiries/news\\_events/2011/june2011/doddfrank-reunion2011](https://www.law.columbia.edu/media_inquiries/news_events/2011/june2011/doddfrank-reunion2011) (describing a panel involving Prof. Miller as a participant and Prof. Coffee as a moderator). On an interesting note, Prof. Miller and Prof. Coffee were both inducted into *Lawdragon's* inaugural "Hall of Fame" in 2015 (Prof. Miller being recognized posthumously). See *Prof. John C. Coffee, Jr. Inducted into Lawdragon "Hall of Fame"*, Aug. 21, 2015, [https://www.law.columbia.edu/pt-br/media\\_inquiries/news\\_events/2015/august2015/lawdragon-hall](https://www.law.columbia.edu/pt-br/media_inquiries/news_events/2015/august2015/lawdragon-hall). As background, Prof. Coffee is well known to transactional lawyers (and perhaps all lawyers) throughout the nation, and he has been repeatedly listed by the *National Law Journal* as among its "100 Most Influential Lawyers in America" and described as the country's most cited law professor in the combined corporate, commercial, and business law fields. See generally *Securities and Exchange Commission Biography of John C. Coffee, Jr.*, last visited Jan. 25, 2020, <https://www.sec.gov/spotlight/proxyprocess/bio/jccoffee.pdf>. Like the aforementioned William O. Douglas and Richard B. Levin, he is an alumnus of Cravath, Swaine & Moore LLP. See also Rao, *supra* note 24 ("He is one of the most famous living alumni of Cravath, Swaine & Moore LLP . . . an American legal institution over two centuries old that can claim as one of its own United States Secretary of State William H. Seward of 'Seward's Folly' fame for negotiating the acquisition of Alaska. When he passed by aspiring transactional lawyers in the corridors of Jerome L. Greene Hall, even the most brash and irreverent student often became slightly weak in the knees.") (internal citations omitted).

<sup>46</sup> The author's parents are immigrants to the United States of America from the Republic of India. At the time of the author's birth, the author's parents were teachers at the University of Georgia, a public institution located in Athens, Georgia, though the author's mother later taught at Bellarmine College (now named Bellarmine University), a private Catholic university located in Louisville, Kentucky. Both of the author's parents received their entire university educations from public institutions, including the Indian Institute of Technology Kharagpur, located in Kharagpur, West Bengal, India, the University of South Carolina, located in Columbia, South Carolina, and North Carolina State University, located in Raleigh, North Carolina.

<sup>47</sup> After the war, the author's grandfather attended two public institutions, namely Florida State University, located in Tallahassee, Florida, and the University of South Carolina, located in Columbia, South Carolina.

intimidating as any of his contemporaries, but such displays were largely reserved for relative peers. For Prof. Miller, certainly towards the end of his career, the younger the subordinate, the more open-minded and informal he presented himself. He took no issue with, and even seemed at times to encourage, young students to disagree with him. Prof. Miller's broad lens was attracted to the energy, enthusiasm, curiosity, and optimism of youth, even well into older age. His desire to mentor the youth stemmed from his humble beginnings, a related sense of appreciation, and, more selfishly, his natural inclination towards fresh minds and novel ideas.

In other ways, Prof. Miller was indeed "old school." During the course of his career, many lawyers began to view law firms as platforms largely for their own ends and client relationships as belonging to individuals, not firms. Summer associates started to symbolize nothing more significant than potential hires and junior associates came to represent little more than current employees. Reverence for a law firm's history and managing positive relationships with a firm's alumni and the broader community, at least in many cases, ceased to maintain the same significance as in previous decades. Similarly, attorneys began to view abstract concepts with suspicion; ideas such as legacy, reputation, and honor, in and of themselves, held little meaning unless they could be translated into something more tangible in relatively short order. The relationship between Prof. Miller and Weil was of a different sort; the bond between the two was deep, sentimental, and symbiotic. Prof. Miller was not simply the founder and leader of Weil's restructuring and bankruptcy practice. During many years, it could be argued he was the face of Weil itself. He played no small part in its role in becoming a preeminent national and international law firm, and it's highly unlikely he would have joined another firm after serving as vice chairman of Greenhill.<sup>48</sup> Weil returned Prof. Miller's devotion and loyalty by providing him senior statesman status and, even after his passing, didn't forget the important role he played in the development of the institution. The firm even established the Harvey R. Miller Lecture Series at Columbia Law School in his honor.<sup>49</sup> Prof. Miller, despite his business achievements and turn as an investment banker, never seemed to fully embrace evolving law firm marketing efforts in the same manner as his peers. Although he acknowledged the growing significance of private equity and hedge funds in the restructuring arena, he viewed the changes they might impose on the practice and the economy with a level of suspicion.<sup>50</sup> Regarding general strategy, he seemed to hold to the maxim that, if a proposed course of action was so convoluted you couldn't easily explain it to others, you probably shouldn't engage in such course of action. This basic philosophy spilled over into his classroom lectures and partially explains the reason for his tremendous success as a teacher and mentor. He never made issues more complex than needed;

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<sup>48</sup> See Glater, *supra* note 4 ("Mr. Miller left Greenhill last year and returned to Weil, a move that generated headlines in trade publications. It is not clear what prompted the move; in a statement at the time, Mr. Miller said that 'Weil is where I grew up, and it's always felt like home to me.'"); see also Rosen, *supra* note 7 ("While Mr. Miller was at Greenhill, other law firms had come calling to try to entice him to return to the law.").

<sup>49</sup> *Columbia Law School Tribute*.

<sup>50</sup> See, e.g., Miller, *supra* note 9 ("Distressed debt traders may have morphed into hedge funds, or hedge funds may have become distressed debt traders. Recently, I asked several knowledgeable persons, 'What is the definition of a hedge fund?' No one would answer me. They had difficulty distinguishing a private equity fund from a hedge fund.").

quite the contrary, he excelled at making the relatively complex digestible for others. On a related note, although he was certainly an uncommonly gifted individual, whether inside or outside the classroom, he never appeared to strive to make himself seem intelligent or intellectual to observers — he was among the most self-assured men the author has ever met.

Although he witnessed years of increasing specialization of large law firm attorneys, he didn't champion this prevailing trend, and he often touted restructuring practices as the last bastion of the true generalist, acknowledging, almost with a certain sense of sadness, that practitioners of the old days were a dying breed.<sup>51</sup> As attorneys considered adding more adjectives to their practice descriptions, he remained more or less a Renaissance man with a talent for administration and a noticeable thoughtful streak. Even while he was a successful banker, he seemed to long for his old life as a lawyer.<sup>52</sup> His published law review articles don't appear to have a watchful eye towards marketing himself, his practice, or even his firm; rather, they read like the musings and wisdom of an insightful philosopher.<sup>53</sup> While negotiating deals in the business and legal communities, he still loved classroom teaching. After it had long since become considered antiquated for law firm lawyers to believe in heroes, he acknowledged having them.<sup>54</sup> He cared deeply about abstract concepts, including his legacy, the country's

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<sup>51</sup> See, e.g., Merced, *supra* note 4 (“In Mr. Miller’s eyes, bankruptcy law allowed him to rove across industries that included banking, steel and energy, a freedom he relished. ‘It is probably the last area of the generalist,’ he told *The New York Time* in 2007.”); Rosen, *supra* note 7 (“‘Life should be an adventure,’ he said. ‘My practice at Weil was and still is exactly that. By working on reorganizations and restructuring work in so many different businesses — such as energy, retail, manufacturing and even satellites — that’s the glory of the practice and that’s what I love about it. I’ve always said that about restructuring practice. It is probably the last area of the generalist.’”).

<sup>52</sup> Rosen, *supra* note 7 (“‘It’s not about the money,’ says Harvey R. Miller, with a Zen-like calm. Mr. Miller, 74, the most prominent bankruptcy lawyer in the nation, has left the investment bank Greenhill & Company to return to Weil, Gotshal & Manges, the Manhattan law firm where he practiced for 32 years. At Greenhill, he performed advisory work, rather than legal work. And he said in an interview yesterday that ‘while I learned a lot while I was here, over the last year, I was involved in matters that had more legal aspects, which activated something inside me that said, I miss that practice.’ It is a practice that Mr. Miller has largely defined.”); *Changing Climates in Bankruptcy Procedure – Harvey Miller, Vice-Chairman of Greenhill & Co., Argyle Executive Forum*, last visited Mar. 28, 2020, <https://www.argyleforum.com/session-transcript-harvey-r-miller-vice-chairman-greenhill-co> (“Harvey Miller, the Vice-Chairman of Greenhill & Co., addressed the 2007 Leadership in Distressed Markets Forum as ‘a bankruptcy reorganization lawyer in what purports to be an investment banker’s body.’”).

<sup>53</sup> See e.g., Miller, *supra* note 9, at 402-03 (“As the noted physicist Neils Bohr said, ‘Prediction is a difficult task, particularly if it involves the future.’ So if you expected me to predict the future, I apologize for declining that opportunity.”).

<sup>54</sup> *Harvey Miller – Bankruptcy Legend, Remembered, Chambers USA*, last visited Jan. 31, 2020, <https://www.chambers-associate.com/the-big-interview/harvey-miller-bankruptcy-legend-remembered> (Prof. Miller, in response to a question regarding legal heroes, answering “I have two: Professors Charles Seligson and Lawrence P. King.”). The late Prof. Seligson and the late Prof. King both served with distinction on the New York University School of Law faculty. On a fitting note, the Distressed Investing Conference’s Harvey R. Miller Outstanding Achievement Award was provided in 2018 to Prof. Edward I. Altman, the Max L. Heine Professor of Finance (Emeritus) at New York University’s Stern School of Business. Like Prof. Miller, Prof. Altman was raised in New York City, attended New York City public schools, and received his undergraduate education from the City University of New York. Many professionals are familiar with the Altman-Z Score model, which Prof. Altman

youth, and ensuring access to opportunities for all members of society, which accounts for some of his choices towards the end of his career and life. To employ his own inspiring words, he wanted to be remembered as a man who “. . . dreamt the impossible dream and reached the unreachable star.”<sup>55</sup> One cannot honestly characterize Prof. Miller as simply “old school,” given his attraction to new ideas, the changes he brought to the legal and business landscape, and his propensity for mentoring young students. While observing, analyzing, and evaluating his surroundings, Prof. Miller seemed to belong to a world almost divorced from the typical constraints and influence of location, era, and origins.

Many of Prof. Miller’s successful contemporaries could be fairly labeled creatures of their time and circumstances, which propelled them, along with their considerable abilities and drive, to the heights of the reorganization bar and legal community. From that lens, like Queen Victoria of England, they came to typify and embody the era in which they lived, undoubtedly assisting in their rise towards the pinnacle of the profession and the law firm community. Understandably, many sought, and will seek, to emulate this general blueprint to achieve considerable success in the legal and business spheres. Prof. Miller, on the other hand, transcended and altered his era; he shaped the world around him as much as, if not more than, it shaped him. His progression from a humble child of Gravesend, Brooklyn to a Wall Street giant, along with his subsequent contributions to the communities that made that progression possible, exemplify the American dream and the best of the country’s values. Through his authenticity, diversity of experiences, humanity, curiosity, inclusivity, humility, and comfort in his own skin, Prof. Miller was able to relate to and inspire those around him, including individuals of all ages and backgrounds, in a manner few truly matched within his own time and, perhaps, few will come to match in the near future. If many of his prominent peers could be considered excellent matches for their era and circumstances, then Prof. Miller was a man for all seasons. Of course, upon reflection, Prof. Miller would be riveting to much of the younger generation, even if he didn’t hold any special affinity for the nation’s young law students and lawyers — his personality would likely be captivating to any generation in any location. As the man becomes legend and facts start to be considered myths, it’s good for future students and practitioners around the country to know that at least some of those myths were true. It’s quite possible we will not see his like for many decades to come.

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created for the prediction of business bankruptcies. In 2005, Prof. Altman was named one of the “100 Most Influential People in Finance” by the *Treasury & Risk Management* magazine.

<sup>55</sup> *Id.*