

IN MEMORIAM  
DAVID F. RYAN  
1942-2016

It is with a profound sadness that the NYIPLA shares the news that David F. Ryan, a long-time dedicated member of the Association, passed away on January 4, 2016 at the age of 73. Dave served the Association in many capacities, including as a member of the Board of Directors, but he will forever be associated with the Association's Amicus Brief Committee (or the ABC, as he liked to call it), which he chaired and co-chaired at various times.

Dave obtained his LL.B. from Columbia Law School and had a degree in Physics from College of the Holy Cross. After graduation from Columbia, Dave clerked for the Hon. Marvin E. Frankel (S.D.N.Y.) and



then joined Kaye, Scholer, Fierman, Hays & Handler, where he became a partner. He always considered himself an antitrust disciple of the late Professor Handler. In 1981, Dave became a partner at Fitzpatrick, Cella, Harper & Scinto, from which he retired in 2004.

Those who worked closely with Dave, whether at his firms or on Association amicus briefs, came to appreciate his keen insights, identification of complex relationships between seemingly unrelated cases, historical knowledge of how cases and the law developed, and his amusing analogies, as well as hidden purple prose. Dave will be sorely missed.

## Tributes

Dave was a brilliant advocate who loved the practice of law. He was also a kind friend who knew how to find joy in life. He will be missed.

—Ed Vassallo

Although I never met Dave Ryan in person, his phone conversations always left the most vivid impressions on me. His spirited contributions to our monthly Amicus Brief Committee meetings were invaluable. His lively and informed comments on patent case law and his vast knowledge of patent prosecution and litigation procedure made it crystal clear that Dave had a rare and encyclopedic intellect in his chosen field. Yet he was never dry or pedantic. And, although his health issues restricted his mobility in the last years of his life, they did not dull his zest for living. He shared his wry opinions and good humor on a wide variety of issues, such as tennis and beer, with all who came in contact with him. He will be greatly missed.

—David Goldberg

I first met David Ryan shortly after I attended my first Supreme Court oral argument in *Quanta*. I wrote a few pieces on that argument and the subsequent decision. For those who knew Dave, they will not be surprised that these articles caught his eye. I subsequently learned that Dave had a fond passion for the law of patent exhaustion, and it would be the subject of many spirited discussions in the years to come.

Thereafter, I was recruited to join the Amicus Brief Committee or "ABC," which Dave was quick to point out was not merely the "Amicus Committee." After working on my first brief for the Association, I quickly learned that Dave was a great source of legal precedent knowledge, Association history, and the ABC's historical positions. His tutelage on Supreme Court practice has been firmly ingrained in me. Whenever it is time to consider timing for a petition, his reminders of the rules ring loudly in my head.

Later, when I became a co-chair with Dave on the ABC, I got to know Dave better, and to truly enjoy his wit, knowledge, and at times sass. He told us stories about the sometimes outlandish activities he undertook when he was still practicing at a firm. He taught me to

read carefully any last minute edits that he might make, because who knows what “nuggets” he might sneak into the brief.

His years of service to the Association and to the ABC will be sorely missed.

—Charley Macedo

Dave Ryan will always be for me a certain voice on the phone, delivering reason (his, at least) with support and challenges, offering counterpoint and vigorous debate, and delivering points of information and correction. I came to know Dave late in his life through the Amicus Brief Committee. So I never had the opportunity to meet him in person, look him in his eyes, shake his hand, and thank him for being there and doing what he did. This I deeply regret. I did get to work with him on several briefs, and this I cherish. Regardless of my client workload, I always looked forward to our ABC conference calls because inevitably Dave would say something witty, insightful, or combative (in the finest legal tradition), or point out a flaw (in his mind, at least) in someone’s position that would make the call all the more worthwhile. And yes, entertaining. Dave was a resource and a prime reason why I continued on the ABC; he helped make the ABC the most intellectually interesting activity one could hope to participate in, even if it was a constant, generally losing battle to keep up with him. I will miss our long-running joust over the meaning of certain Supreme Court dicta, and Dave’s ability to cite some arcane case or brief to make his point, as well as his wise counsel, collegiality, and his voice on the phone.

—Robert M. Isackson

I first met Dave in 1985 when I was a law clerk at Fitzpatrick Cella, not yet admitted to the bar and fresh from my fellowship at the Federal Circuit. He scared me (I was not alone in this, by the way) — he didn’t scare in a mean way, it’s just that how much the man knew was overwhelming. Every time he called me on the telephone or, “worse,” stopped into my office (I was a very junior associate after all), I knew that I was going to feel this sense that there was so much to learn and that it was impossible to do so. But learn I did, assisting Dave with client briefs, amicus briefs, articles, speeches, etc.

After a few years I changed firms and went to Kaye, Scholer — Dave’s prior firm! There I met even more people who were overwhelmed by Dave’s encyclopedic knowledge of cases, and antitrust law. And while this was all true, where Dave truly excelled was sharing trivia about judges (particularly Supreme Court justices and Second Circuit judges) and Solicitors General, as well as the history of cases and legislation.

Using this broad knowledge, Dave had this ability to pull together the most diverse sets of facts and law to somehow cobble together a new way of constructing an antitrust or licensing issue. (I will admit that I didn’t always follow his logic, but often he waited for me to catch up to

him when sharing the fifth or sixth explanation.) When I again changed firms Dave yet again followed me, this time with frequent phone calls starting with one that announced “Since you’re partner now Jeff, you should start writing amicus briefs for the NYIPLA.”

Over these 30 years I have had the privilege of serving as a member of Dave’s “kitchen cabinet” on dozens of projects for the NYIPLA (primarily amicus briefs, some of which I actually appeared on), debating recent Supreme Court and appellate rulings with him, and even using Dave as my sounding board on issues. Most recently, Dave provided comments and debated critical issues in an article that I published this summer about the intersection of patent and antitrust law. I am glad that I had the chance to send him a reprint so he could see the thank you footnote naming him before he passed away. I, for one, am going to miss his calls to either shout about what those “people down on First Street did” every time the Supreme Court issued a patent or antitrust opinion he disagreed with or once again tell me that “Polly understands” when Judge Newman penned a patent licensing dissent. But I’m not the only one who will miss Dave; we all learned so much from him, and we will miss him and his contributions.

—Jeffrey I. D. Lewis

There are few benefits in our profession that compare with the resonance of working together with someone passionately devoted to the law and committed to reaching the correct outcome. Dave Ryan is/was one such person. Dave has had an indelible impact on the NYIPLA, our profession, and on those of us who had the pleasure and privilege of knowing him, working with him, and witnessing his skillful mastery of legal concepts and arguments practiced at the highest levels of the profession.

Although I never had the privilege of practicing alongside Dave Ryan, I have been truly fortunate to have met him, gained immeasurable knowledge and insight from him, and enjoyed the pleasure of every interaction we had during my twelve years serving and working with him on the Amicus Brief Committee (“ABC”). Dave’s encyclopedic knowledge of patent and antitrust law issues, and his ability to navigate the nuances of argument before the Federal Circuit and the Supreme Court, is an irreplaceable resource that will be sorely missed. Thanks to Dave’s mentoring and unique guidance, his is a voice that so many of us on the ABC will continue to hear in our heads and repeat on behalf of the NYIPLA and in our own practice. In that way, he may continue to speak through us on the critical patent law issues of the day to be decided in the courtrooms and chambers at every level of the Federal Judiciary. But, try as we might, as with all great thinkers and leaders, Dave may be imitated but he will never be duplicated. RIP our mentor, good buddy, and colleague, Dave Ryan.

—Rob Rando