

# Book Review

David M. Becker, *Lessons Learned: Stories of a Teacher and Teaching*, Durham, NC: Carolina Academic Press, 2019, pp. 192, \$24 (paperback)

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Perhaps the most remarkable feature of *Lessons Learned*, a fictional story about a long-time law professor and his relationships with students and colleagues over the course of fifty years of teaching, is that it feels nostalgic and modern at the same time. In the preface, longtime and now deceased Washington University School of Law Joseph H. Zumbalen Professor of the Law of Property Emeritus David M. Becker<sup>1</sup> acknowledged that either a “third person non-fiction” or “an embellished autobiography” would have been a more conventional approach to his subject, but he chose a fiction story because it allowed him “to depart from personal experience and real life, and to disguise and borrow from others, and especially to completely fabricate.”<sup>2</sup> What Becker did not acknowledge is that in using the first-person narrative form, he separated his work from the customary scholarly lens of most legal academics and deeply personalized the lessons taught throughout. In doing so, he exemplified one of the greatest of lawyering skills: the art of storytelling.

Accepting these qualifications, it is difficult (if not impossible) to approach this work (which consists of nine loosely connected first-person essays, seven told by the fictional professor, E. Randall Mann, and two by his former student and research assistant, Billie Williams) as something other than a memoir from a law professor whose career in academia has spanned more than five decades. Topics that receive insightful and instructive attention include

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1 Professor Becker passed away on April 17, 2023, having taught at the Law School for 50 years and received numerous awards and honors for his service and teaching. Washington University in St. Louis, *The Record* (May 18, 2023), <https://source.wustl.edu/2023/05/obituary-david-m-becker-professor-emeritus-of-law-87/>.

2 David M. Becker, *LESSONS LEARNED: STORIES OF A TEACHER AND TEACHING* ix (2019).

faculty/student relations, including mentoring and professional development; effective pedagogical approaches; changes in the legal market over time and their impact on student expectations and ambitions; and entry into and success within academia by law professors.

*Lessons Learned* feels most nostalgic when it discusses Mann's entry into legal academia and what the academy looked like when he got there. As the story opens, it is the mid-twentieth century and Mann is working at a family law firm started and managed by his trailblazing mother. He receives a letter from an elite law school soliciting his application for a full-time teaching position. He has been recruited as a result of the post-World War II "anticipated enrollment increases" at the school and the need to hire "the best young faculty available." Mann was identified as a faculty candidate through a canvas of "my law school and several others [seeking] names of several graduates from recent years whom they highly recommend for teaching." Mann responds to the solicitation with appropriate humility and even disbelief, given his lack of what he perceives to be the qualifications for an academic position (expertise on many subjects, or even one, and the ability to command and control classroom discussion).

Several elements of this recruitment process are surprising (if not shocking) to legal academics from a later generation. First, while Mann's race is never mentioned in the piece (a notable omission that adds to the dated feel), one can only assume that he is white, and that this kind of canvassing of past professors was unlikely to generate women candidates or candidates of color, both because so few of them attended law schools during this period and because those few who did were unlikely to rise to the top of a list of "qualified" candidates generated by a group of all but exclusively white male professors. Second, not only is past scholarly production, or even the capacity to generate effective scholarship, not listed as one of the qualifications, there is no indication that scholarship will be an important (or even tangential) aspect of the job. Third, the nature of the position that the law school is seeking to fill is not discussed. Will it be tenured? Tenure-track? Something with limited if any presumption of contract renewal? What will be the criteria for continued employment if there is the possibility for long-term status? Nothing other than the ability to effectively manage a law school classroom (with a "standard" four-course load for his first year of teaching) appears to be on the minds of the law school or the applicant.

There are certainly valid critiques of this means of finding and hiring candidates for law school academic positions, the limited focus on diversity and scholarly engagement perhaps being the most damning. But the almost exclusive focus in the hiring process on the classroom and the assurance of the appropriate educational experience for students, as opposed to what often appears to be similarly exclusive attention to scholarly production in most modern job searches, is provocative. It poses a vital question for modern legal academics: While something has clearly been gained by increased expectations for scholarly engagement and production among law school faculty, has

something of equal (or even greater) value in quality teaching been lost in the process?

The most archaic feature of the law school that Mann enters after his successful application process (even beyond what one must again assume is a stark lack of diversity) is how small the faculty is—a total of nine presumably full-time professors. Mann discusses the law school’s culture of multiple weekly lunches with five or six of these nine colleagues. It is difficult to imagine how a faculty of that size could teach the academic program at a law school even then, let alone now. But one thing appears certain—the range of course offerings (let alone scholarly and cultural perspectives) must have dwarfed that available at even moderately sized modern law schools (and perhaps larger law schools of the era?). Again, the benefits of collegiality that could be expected to flow from such a small community of professors with frequent, even daily, face-to-face engagement must be balanced against the dramatic cultural, pedagogical, and scholarly limitations that it mandated. And a similar question seems appropriate again: Do the benefits of a larger faculty outweigh the drawbacks? And if we can reasonably answer “yes,” we must still face the follow-up questions: How big is too big, and how small is big enough? And it should be noted that, given recent downturns in law school enrollment, smaller law school faculties may already be more modern than archaic and perhaps even more so in the years to come.

Another feature of *Lessons Learned* that makes the reader nostalgic is Becker’s emphasis on the interpersonal relationships that he built with students over the years, either through discussions of course material in his office or pickup basketball games or tennis matches. In past articles he has shared some of the characteristics of successful and effective teachers, among them the ability to connect with and know students, the positive chemistry they have in the classroom, and accessibility outside of the classroom.<sup>3</sup> One cannot read the book without understanding that Becker understands deeply “the true joy of teaching.” With that joy comes the “glorious and shared moments when a student struggles, responds, and finally catches on,” when “a teacher really knows that he has made a difference.”<sup>4</sup> But it also comes from the personal relationships that we build with our students, and that we retain long after they graduate. Becker credits now-deceased Supreme Court Justice Antonin Scalia as observing that the shelf life of a law review article is short, but the “impact of a good teacher upon a student is endless.”<sup>5</sup>

The relationship between Professor Mann and his on-again, off-again research assistant Billie Williams is another aspect of the story that feels dated, but provocatively so. In the story, Williams (whose race is again not disclosed),

3 David M. Becker, *Teaching Teachers About Teaching Students*, 87 WASH. U. L. REV. 1105, 1112-24 (2010).

4 David M. Becker, *Some Concerns About the Future of Legal Education*, 51 J. LEGAL EDUC. 469, 483 (2001) [hereinafter Becker, *Some Concerns*].

5 *Id.* at 483 n.14.

is also an outlier from the majority of law students, but in a different sense. She is a highly ranked student who has a “full ride” scholarship through law school and is on the “fast track” to a top law firm. She acknowledges that competition and “survival of the best” are what drove her. The first essay, written in Williams’s voice, begins with Mann’s invitation to serve as his research assistant. Williams initially ignores it, and reconsiders it only when she learns about the scarcity of summer jobs available to students who have just completed their first year.

When Williams shares about the extent of Mann’s efforts to connect with her, one can’t help but long for a law school environment in which professors spend the time to emotionally invest in their students outside of the classroom. Parts of these exchanges demonstrate Mann’s privilege and associated blurring of appropriate power dynamics (the sipping of espressos over elegant, multicourse meals one on one with the student, for example). And yet, the reader can’t escape recognizing the inherent value that it brings to Williams’s personal and professional development, as she would attest. How might the culture of law school change if more professors expressed genuine curiosity by asking Mann’s simple question, “What makes you hum?,” to understand what inspires their students? The relationship between teacher and student as portrayed by Becker challenges us to consider the impact it would have on our students if more professors carried their teaching beyond the classroom walls by challenging students on an individual basis to move beyond assumptions, to think strategically and analytically with respect to their own lives as well as the law. These vignettes suggest what is potentially lost when professors retreat from engaging in a more dynamic way outside the classroom with all, or at least some, of our students.

And yet, what Becker fails to acknowledge in the book are the risks that can come from delving too deeply into our students’ personal lives. Although Williams’s initial reaction to Mann’s probing questions is “how dare him!,” she grows to appreciate Mann over time and to treasure the relationship that they have, despite her initial discomfort. But not all students would have such a reaction, and not all professors may be equipped to build those kinds of relationships with their students and to navigate the delicate balances required for that kind of personal engagement. Indeed, many faculty could run the risk of inappropriately crossing interpersonal and professional boundaries, particularly if, as is the case in the book, a more senior male professor begins by asking that a younger female student call him by his first name or asking that she give him a ride home after a game of tennis (or suggesting the tennis match at all). The time may have passed when this kind of personal, individual, and even intimate professor/student relationship depicted in the book would be appropriate. And again, as with much of the book, this reality could foster equal measures of nostalgia and relief in the reader.

In addition to its provocative picture of a bygone days of legal education, *Lessons Learned* has a great deal to teach legal scholars and law students alike about the importance of language and the role it plays in our central function

of educating students. Some of Becker's lessons are artfully learned rather than taught by Professor Mann, and have great (or greater) resonance today than they did decades ago—for law students and all citizens. For example, he learns this from an important mentor, Mr. BB, as a young adult in the second essay:

What we say, and how we say it, shapes our existence within family, community, country, and the world. Words are like the finest of jewels, to be valued and treasured. They can cause joy, pain, sorrow; indeed all human emotions. They convey ideas big and small, complex and simple, and dangerous and secure. They can function like a scalpel or sledge hammer, or a sword or shield.

These passages will resonate with law faculty as well as law students, especially given the current climate in our country.

Perhaps the most lasting impact of reading this work (even beyond the nostalgia it engenders) is the sense of the overwhelming seriousness with which the author reflects on his role as a teacher and the goals of legal education. One clear message is that not all law school reforms intended to benefit law students have succeeded. Perhaps proponents of reform of the legal academy have been too eager to push for change without considering all of the consequences, particularly on the personal and professional development of the various students who are the intended beneficiaries of the reform.

Anyone who has read Professor Becker's past work will recognize these concerns. Of course, it was not until much later in his tenured life that Becker began (or felt free) to write about legal education, as opposed to topics in his area of expertise of property law. He has expressed concern, for example, "that the best of what law schools have accomplished during the last century will be abandoned and disappear completely over time, while also recognizing the areas where law school has improved, such as diversity, curricular innovation, and interdisciplinary influences."<sup>6</sup>

Becker lamented that with the advent of technological communications such as online course pages and e-mail, many law professors have reduced the face-to-face time that they spend with students "with open doors and liberal office hours."<sup>7</sup> He took issue in the book, as in past work, with the idea that one of law professors' primary goals is "information delivery" rather than, as he would argue, the teaching of analytical skills and process by encouraging experiential, applied learning through the use of hypotheticals and the problem method.<sup>8</sup> Although technology can enhance learning, he raised valid concerns that too often it is used to simply "serve up" legal rules and doctrine to students in an efficient manner.

6 *Id.* at 469-70.

7 *Id.* at 477; David M. Becker, *My Two Cents on Changing Times*, 76 WASH. U. L. REV. 45, 60-65 (1998) [hereinafter Becker, *My Two Cents*].

8 Becker, *Some Concerns*, *supra* note 4, at 477; Becker, *My Two Cents*, *supra* note 7, at 67-69.

If there is one thing that we would most hope to bring to today's legal academy from the seemingly distant past of *Lessons Learned*, it would be a reemergence among law faculty of a commitment to the centrality of their roles as teachers and mentors, in addition their impact as scholars. In this sense, what is past may well be prologue (or at least should be).<sup>9</sup>

9 William Shakespeare, *The Tempest*, Act II, Scene 1.