Introduction: International Litigation Symposium Honoring the Distinguished Career of Professor Russell J. Weintraub

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I. PROFESSOR RUSSELL J. WEINTRAUB

This issue of the Texas International Law Journal offers the papers presented by distinguished scholars and practitioners at a conference in honor of my colleague, Russell Weintraub. Russell has served the faculty of The University of Texas School of Law with great distinction for thirty-seven years. As the bumper sticker says, he wasn’t born in Texas, but he got here as soon as he could. I arrived somewhat later, and Russell and I had a memorable first meeting.

I had just gotten here from Chicago; it was my first week or so. I was still trying to match up names and faces; I didn’t know who was who. An unknown man came into my office, and in accord with the New York stereotype, he spoke rapidly. Unlike the New York stereotype, he spoke softly. He partly said and partly mumbled that he was glad I had come or some such thing and that his name was ummm mmm. I thanked him for stopping by, and I was pleased to meet him, too. I was trying to find a way to sustain this conversation and desperately looking for some clue as to who in the world this person was. I came up with a question that would narrow the search.

“And what do you teach?” I said brightly.

He was crestfallen; he appeared to be in pain. He was probably thinking, “Who is this rube from Chicago?” “Well,” he said, hesitating, “Conflict of Laws.”

“Oh! ‘Weintraub!’ I thought you said, ‘Feinbaum.’” I never did know if he believed me, but it was absolutely true. I had no clue what he had told me his name was.

† Alice McKeen Young Regents Chair in Law, The University of Texas at Austin. This introduction is based on concluding remarks at the final session of the International Litigation Symposium in honor of Professor Russell Weintraub.
Something that visitors would never guess about Russell Weintraub is that he was a serious poker player. For many years, there was a regular faculty poker game. I never participated. I cannot tell you where it took place. I assume that it was beyond the jurisdiction of the State of Texas. Quite possibly, Russell had a sophisticated theory of why some other state had a greater interest in regulating this poker game than Texas did.

I have it on very good authority that Russell was a regular and that he was a regular winner. He was calculating and disciplined. There was a range of talent and styles, as there is in poker. There was Barbara Aldave, who is a religious woman and even in poker believed in miracles. No matter what cards she was dealt to start, she would stay in long enough to see what she would draw. But Russell would regularly fold if he did not like his initial cards. He knew the odds, and he never stayed in just to see what might happen. He had a well-established reputation for betting only when he had a good hand. On the rare occasions when he bluffed, he was totally effective because his bluffs were so rare. At least that is what I am told.

Russell has been one of the real fixtures around this law school for a very long time. We are very proud of our great young faculty, but Russell was great young faculty before they were born. And he is great senior faculty today.

He has published five books, if you count only the titles. In fact, he has published fourteen separate editions. I just finished a new edition, so I know how much work a new edition is. He has published more than seventy articles. And perhaps most impressively, he has published three of the books and six of the articles since he turned seventy, and there are more forthcoming. His continued productivity is a role model for us all.

He has of course written about the topics discussed in this Symposium. That is part of the reason that those topics were chosen. He has written repeatedly about extraterritorial application of U.S. antitrust law. He has written on problems of getting the evidence to prove human rights atrocities in international cases. He has written on international problems in family law. He was doing globalization when globalization wasn’t cool.

He has also taught and written about the domestic law of contracts, and he is responsible for one of the great classroom illustrations, which I shamelessly steal every year in my Remedies course. It has to do with the boundary between contract and restitution. The law of restitution often requires you to pay for things that you did not contract to buy. But there are limits to that, and the most obvious limit is that if there could have and should have been a contract, you do not have to pay. I generally cannot send you things that you never ordered and then demand that you pay for them.

Russell teaches this to his first-year Contracts students by telling them, “If you come some night and build a purple pagoda in my lawn, I do not have to pay for the purple pagoda.” This is obviously the right result. I thought the illustration was memorable, and I have been using it in Remedies ever since I first heard it.

Now one year in Russell’s first-year Contracts class there sat the daughter of a construction contractor. And in the dead of night, the students did indeed come to his front lawn, they did indeed build a large pagoda, and they did indeed paint it purple. When I told this story at the conference, Zelda Weintraub was cringing just from the memory of the thing. Russell knew his rights and refused to pay; the students took it away before the neighbors got too angry; and Russell provided the beer at the demolition party. The illustration survives in the traditions of this law school and continues to be used, at least in his class and in mine.

Of course, his greatest academic love and his greatest contribution has been in the conflict of laws. Who but Russell would title an article, “How Are You Going to Keep
Them Down on the Farm After They’ve Seen the Conflict of Laws?  He has dealt with interstate conflicts in the United States; he has dealt with international conflicts. His great treatise, *Commentary on the Conflict of Laws*, is the dominant book of his generation in the conflict of laws. It is the most sustained attempt to systematically work out the application of interest analysis in the bewildering variety of fact situations that come up in the real world, and—Russell knows me well enough to take this as high praise—I think the interest analysis in the *Commentary* is as good as it gets.

Russell also has a memorable bluntness. Orally or in print, he lets you know exactly where he stands, and I have collected a few memorable Weintraub sentences. Complaining that a statutory amendment had not gone far enough and that the statute should have been repealed, he invoked the story of Chaim Weizman’s grandfather, who told his grandson (the future prime minister), “Yes, Chaim, an excellent speech, but not as good as no speech at all.”

When he wrote about *Texaco v. Pennzoil*, he said: “If you shopped for law in Bedlam, you would expect to find a ‘tort’ of interference with contract that could be committed by making a better offer. I leave the exposure of this counterintuitive and inefficient monstrosity in the capable hands of my colleague, David Anderson.” That was just an aside; it had nothing to do with what he was writing about.

He is not intimidated by reputation. He has said, “[T]here is much confusion and not a little nonsense stemming largely from Learned Hand’s opinion in *Scheer v. Rockne Motors Corporation*.”

And my favorite is: “There are a lot of intelligent people who do not regard interest analysis as the greatest thing since sliced bread.” Many of you know that I am one of those people who thinks that interest analysis is not nearly as good as sliced bread. Russell was even generous enough to put me in the footnote of “intelligent people” who don’t think that interest analysis is the greatest thing since sliced bread. We have had a deep and longstanding substantive disagreement without a hint of rancor or personal conflict. That disagreement was far more central to his work than to mine, so most of the credit for our relationship goes to him.

Russell is now on what we call phased retirement, which changes his contractual status with the University but shows no signs of affecting his productivity. I am confident that we have not heard the last of Russell Weintraub and that he will explain to us at least a few more times why interest analysis is indeed the greatest thing since sliced bread. Russell, thank you for all you have done for us, and congratulations on a great life in the law.

Mazel Tov.

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3. Id. at 75 n.89.
5. WEINTRAUB, supra note 2, at 609.
6. Id. at 600–01 n.62.
II. PUBLICATIONS AND RECOGNITIONS

A. Published Works

1. Books


Clifford Davis, Russell J. Weintraub et al., The Iowa Law of Workmen’s Compensation (1967).


2. Articles


Jurisdictional Problems in Enforcing Foreign Arbitral Awards, 2 International Arbitration News 2 (Summer 2002).


When and How to Demagnetise Magnet Forums, 12 King’s College Law Review 195 (2001).


'At Least, to Do No Harm': Does the Second Restatement of Conflicts Meet the Hippocratic Standard?, 56 MARYLAND LAW REVIEW 1284 (1997).


Establishing Incredible Events by Credible Evidence: Civil Suits for Atrocities that Violate International Law, 62 BROOKLYN LAW REVIEW 753 (1996).


Response to Professor Robertson, 29 TEXAS INTERNATIONAL LAW JOURNAL 381 (1994).


A Defense of Interest Analysis in the Conflict of Laws and the Use of that Analysis in Products Liability Cases, 46 OHIO STATE LAW JOURNAL 493 (1985).


Interest Analysis in the Conflict of Laws as an Application of Sound Legal Reasoning, 35 MERCER LAW REVIEW 629 (1984).


The Fifth Circuit Wrestles with the Texas Long Arm, 14 TEXAS TECH LAW REVIEW 1 (1983).


How to Choose Law for Contracts and How Not To: The EEC Convention, 17 TEXAS INTERNATIONAL LAW JOURNAL 167 (1982).

Jurisdiction over Foreign Non-Sovereign Defendants, 19 SAN DIEGO LAW REVIEW 431 (1982).

Is This Marriage Legal? In Some States, Yes; In Others, No, 3 FAMILY ADVOCATE 20 (1981).


Legal Research at Iowa, 1 Iowa Advocate 1 (1962).


3. Reviews


4. Contributions


The United States as a Magnet Forum and What, If Anything, to Do About It, in International Dispute Resolution: The Regulation of Forum Selection: Fourteenth Sokol Colloquium 213 (J.L. Goldsmith ed., 1997).

Choice of Law and Marital Property: *Division on Divorce or in Probate*, in 10th BIENNIAL SPECIALISTS SYMPOSIUM ON TEXAS FAMILY LAW AND COMMUNITY PROPERTY, 1-1 (1988).


*Judicial Jurisdiction to Affect Status and Full Faith and Credit to Status Decrees*, in ADVANCED FAMILY LAW COURSE (State Bar of Texas, Professional Development Program ed., 1981).

*Jurisdiction over the Person and Service of Process*, in ADVANCED CIVIL TRIAL COURSE (State Bar of Texas, Professional Development Program ed., 1980).


5. Audiovisual Materials


PIERRE LOISEAUX, FRANK ELLIOTT & RUSSELL J. WEINTRAUB, CONSUMER RIGHTS (Austin: University of Texas Communications Center, 1968).

B. Awards and Honors

Ronald Graveson Memorial Lecturer, King’s College, London, 2000
Carl H. Fulda Award in International Law, 1993
Hague Lecturer on Private International Law, Hague Academy of International Law, Netherlands, 1984
First Holder, Dougherty Chair for Faculty Excellence, The University of Texas, 1977 (Re-awarded 1987)
Teaching Excellence Award, The University of Houston, 1980
Teaching Excellence Award, The University of Texas, 1979
Certificate of Meritorious Service, Committee on Continuing Appellate Education of American Bar Association, 1977
Elected member of American Law Institute
Elected member of Scribes
Elected life member of American Bar Foundation
Elected life member of Texas Bar Foundation

C. Professional Activities

Consultant, U.S. State Department, Conventions dealing with private international law (1987–present)
Bar Memberships: New York, Iowa, Texas
Faculty Member, American Bar Association Appellate Judges’ Seminar Series (1977–1981)
Faculty Member, State Bar of Texas Courses in Advanced Family Law and Advanced Civil Trial
American Law Institute Consultative Committee for Revision of Uniform Commercial Code, Article 2
National Council of Commissioners on Uniform State Laws, Consultant to Committee for Revision of Uniform Commercial Code, Article 1
National Council of Commissioners on Uniform State Laws, Consultant to Committee for Revision of Uniform Commercial Code, Article 9