

March 16, 2012  
Supreme Court Building  
American College of Bankruptcy  
Patrick A. Murphy – Distinguished Service Award

Tonight we honor our colleague, Patrick A. Murphy, by awarding to him the 2012 Distinguished Service Award, the highest honor the College may award to one of its members. The first items to be addressed are to note that last Saturday, March 10, was Pat's 73<sup>rd</sup> birthday and to wish him a very happy birthday and many, many more. Pat was recently interviewed and asked, to what did he attribute his advanced age? He responded, "I was born a long time ago." He also was asked that given his advanced age, did he have any aspirations. He answered that one major aspiration was that he wanted to live to the age of 150 and die from a bullet wound inflicted by a jealous husband!

Good luck Pat!

It is my great privilege and honor to be the person selected to present the award to Pat. Of course, I understand that Mitt, Rick and Newt were otherwise engaged! In any event, in preparing for this evening, I undertook to scour the universe to, perhaps, learn something I did not already know about Pat. Before I started that project, I always

thought of Pat as a unique individual. A great lawyer. A public- spirited citizen. A dedicated husband and father. And, more than that, an example for those who wanted to toil in the vineyard of commercial law, bankruptcy and reorganization. I am extremely pleased to say that I found nothing that in any way diminished those attributes and virtues that I have always associated with Pat.

It is interesting, at least for me, that as a typical New Yorker, in the 1960s and early 1970s, I really did not believe there was very much west of the Hudson River. Accordingly, I did not give much thought to the legal and commercial world outside of the greater New York metropolitan area and suffered from a New York-centric neurosis. However, in the course of my evolution in the world of restructuring and Chapter XI arrangements, I did come across a number of national in-house bank attorneys purportedly protecting the interests of their respective institutions. As a whole, I found them dull, rigid, arrogant and, to a large measure, incompetent. So, in the early 1970s, when I came across an article or a presentation by someone by the name of Patrick A. Murphy, who was described as Senior Counsel, Legal

Department, Bank of America, I said to myself, “Oh, another one of them!” However, as I concentrated on the article, I actually found it enlightening, if a bit mystifying as coming from an in-house bank attorney. I thought to myself, is this Murphy guy a mutant or what?

Soon thereafter, I was fortunate enough to meet Pat in connection with some obscure matter that I no longer recall, but I do recall being very impressed by his legal and pragmatic acumen, but not his appearance. It was the time of the flower children. Haight-Ashbury in San Francisco was their home base and Pat appeared to have joined the crowd. His hair was almost shoulder-length and flying in all directions. He carried the oldest, most scruffy briefcase I had ever seen and all sorts of things came out of that briefcase!

In my faint recollection, I remember lurking somewhere in the background was Peter Coogan, then a senior partner at Ropes & Gray in Boston and a lecturer in law at Harvard Law School. I listened intently as Pat and Peter debated some obtuse point in Article 9 of the Uniform Commercial Code. It sounded very profound. Indeed, I found it almost incomprehensible that Pat really was an in-house attorney at

the Bank of America in San Francisco. He just seemed too smart, too innovative and too practical.

As the years progressed, Pat and I became good friends and I was privileged to be invited to participate in his CLE programs and, particularly, those sponsored by the Practising Law Institute. In those days there weren't many CLE programs and we were able to travel around the country lecturing on the Bankruptcy Act of 1898 and the innovations adopted pursuant to the Chandler Act of 1938 and, finally, the Bankruptcy Reform Act of 1978. It was great fun, as well as educationally enlightening for me as we were joined by another California legal giant, Barney Shapiro. My esteem for Pat continued to grow.

To show my confidence in Pat, after he made the wise and very courageous decision to leave Bank of America and form the firm of Cowans Poppin & Murphy, which later morphed into Murphy Weir & Butler, I made the decision to send him an important piece of business. As a result of the bankruptcy of WT Grant & Co., my then partner, Mike Cook, and I were sued by a California-based disgruntled creditor for

some allegedly nefarious acts. After giving it a lot of thought and consideration of the gravity of the action as well as the demanded judgment in the amount of \$475, Mike and I concluded that Pat probably could handle it! I like to believe it established Pat's firm in the front ranks of major law firms.

Justice Oliver Wendell Holmes once said that "life is painting a picture, not doing a sum." So, let us look at the picture of Pat Murphy. Pat once paraphrased for me another remark by Justice Holmes to the effect that "the secret of his success is that at an early age he discovered he was not God." Rather, he views himself as a facilitator.

Why is Pat Murphy such a unique person? It is because he possesses all of the positive attributes of a human being and a realist. He recognized from the onset of his career that a major element of bankruptcy laws is the effect it has on the altering of baselines and that, therefore, it is bankruptcy laws that generate uncertainty which induces and facilitates negotiations and renegotiations that ultimately, among rational persons, leads to consensus.

Pat was greatly influenced by his relationship with Barney Shapiro. When asked during an interview as to why he thought Barney Shapiro was a great lawyer, Pat responded “Good Ears!” Barney heard what was said and what was not said. Pat enjoys that same great Shapiro skill and ability to score points with apt, penetrating and pragmatic force.

A case in point, as a member and the President of the San Francisco Airport Authority, and in negotiations with the Interstate Highway Commission and the City of San Francisco over highways to the airport, Pat said: “If the Lord wanted people to fly, he would have made it simpler to get to the airport!”

For many years, CLE programs under the chairmanship of Pat for the Practicing Law Institute and others on “dealing with secured claims,” “structured financial products,” and “confirmation of chapter 11 plans” became standard bearers for CLE programs. Many others copied the Murphy format, but could not equal its excellence.

As a result, Pat quickly blazed a path as the “go to” attorney to deal with complex and difficult bankruptcy and reorganization

situations. Among his most notable cases were Memorex, Eastern Airlines, Morrison Knudsen Corporation, Evans Products, America West Airlines, Spreckels Corp., Dow Corning, FoxMeyer Drugs, Washington International Group (Morrison Knudsen redux) and Orange County, just to mention a few.

The Orange County chapter 9 cases in 1994 illustrate a material facet in the picture of Pat Murphy. The Orange County chapter 9 bankruptcy cases were notorious and involved billions of dollars.

They were the headline grabber of the time and encompassed legal and political complexities that had not been confronted before. Pat and his partners, including Bob Moore, went to Orange County to be interviewed to represent one of the creditors' committees. Almost every major law firm not otherwise engaged was seeking the assignment. Finally, after waiting around for some period of time, Pat and his team were granted an audience. Their predecessor interviewees had waxed eloquently on the subject of potential causes of action, fraudulent transfers, breaches of fiduciary duties, and complex, multi-faceted litigation strategies.

The creditors' committee was made up of principals of municipal bond houses, representatives of labor unions and trade vendors. Pat looked them in the eye and made his pitch. The essence of his pitch was that the chapter 9 cases would not be resolved by the prosecution of prolonged, complex litigation, but by the adoption of two strategies: negotiation and politics. A wave of reality swept through the interviewers and Murphy Weir & Butler was selected to represent the creditors' committee. It was a very successful representation, as the creditors represented by that committee received a 100% recovery, plus interest...a noteworthy result in any case.

Of course, like all of us, the picture of Pat is not perfectly symmetrical. We all have little quirks and, sometimes, overconfidence in our own judgments. In that connection, many years ago, as a leading citizen of San Francisco, Pat was asked to work on the financial distress of the San Francisco Opera. In his usual, efficient, comprehensive manner, Pat delved into the situation and made a complete review of the opera's administration and operations. Using his commercial, legal and



business experience, he made the following recommendations to the opera:

1. After reviewing the score for Mozart's Don Giovanni, a standard war horse of the repertoire, he concluded it had too many notes and directed the elimination of 20% of the score.
2. He questioned why the orchestra had 15 violinists and directed that the number be cut down to 3 and recognized no need for oboe players.
3. He did not understand the difference between a soprano and a mezzo-soprano and decreed that it had to be one or the other in every production.
4. He had the same issue with respect to tenors and baritones. He decided that tenors were unnecessary.
5. Finally, to cut costs, he directed that all operas should be performed in modern day dress with minimum scenery.

After reviewing all of his decisions and declarations, the Board of Directors of the opera determined that if the Murphy dictates were implemented, after one season the opera house would be turned into a shopping mall!

Nobody is perfect!

So, we have some of the picture of the man. If I had analyze the various components of the picture, the words that most definitively characterize Pat Murphy are: courage, tolerance and perseverance.

Pat has always had the courage to reach out beyond the established parameters to find new solutions and not be constrained by a fear of failure. As Theodore Roosevelt said:

It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows great

enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.

The description is fitting for Pat Murphy. He was in the arena and always exhibited tolerance for the views of others, modified by great perseverance in implementing the philosophy of our bankruptcy law.

The resolution adopted by the College to be presented to Pat tonight details Pat's qualifications and achievements. I will only highlight them.

Pat, although thought of as a native New Englander, was actually born in Huntington, Pennsylvania. He is a graduate of Williams College and a 1965 graduate of Boalt Hall School of Law of the University of California.

Pat has been a prolific contributor to legal periodicals, a teacher, a lecturer, and was inducted as a Fellow in the first class of the

College in 1990. He is a long time member of the National Bankruptcy Conference. Pat, also, was a major contributor to the legislative reform that resulted in the Bankruptcy Reform Act of 1978. After leaving the Bank of America, he led his law firm as a distinguished practitioner widely recognized for his excellence and wisdom.

As a successful professional, Pat always recognized the need to give back and enhance the way for others less fortunate or needy in an intellectual or material way. He, together with his lovely wife, Gail, have raised two sons, Alexander and Scott, and have always given freely of their time and efforts to civic affairs to improve the world in which we live. They are outstanding members of the San Francisco community.

Pat clearly has been an exemplar for all of us. He is very much a worthy recipient of the College's Distinguished Service Award.

Pat, it is my great pleasure to present the College's Distinguished Service Award to you.

Congratulations!!!