

*Robert W. Hillman*

There is a clipping that has been on Fritz's message board for as long as I can remember. It says, simply, "when all other means of communication fail, try words."

That was easier for Fritz than it is for most of us. He could, after all, turn to German, or Spanish, or French, or even Italian for the occasions when English proved too limited. But I think even Fritz would be challenged in coming up with the right words on this day.

In thinking about Fritz as I have known him over the last twenty plus years of his life, the word that most often comes to my mind is *truthful*. Fritz was above all else a truthful man. Perhaps the most truthful man I've known. In a time when feelings are often protected at the expense of the truth, Fritz would not compromise. Honesty, not acceptance, guided Fritz's actions, as well as his words. He could always be counted upon to speak his mind. And if that offended the listener, as it often did, so be it.

At times, Fritz could be irritating. But when we think back to those occasions, the irritant invariably was the truth as Fritz perceived and expressed it. To Fritz, there was no greater act of friendship, or collegueship, or responsibility, than to simply speak your peace. On more occasions than I can remember, Fritz reaffirmed our friendship this way – by telling the truth, even if this listener did not want to hear it. Usually, the message he gave was: try harder; you can do better. When delivered to his friends, this message was usually accepted, for we knew that Fritz was never as demanding on others as he was on himself.

Ironically, Fritz was sparing when it came to words about himself. Those who knew him realized that Fritz was really an exceedingly modest man. It may seem odd to think of him that way. He was, after all, self-assured and forceful in presentation. He had a boldness and swagger that combined to create his unique style. But I have never heard Fritz boast or call attention to his achievements. All that I know of his enormous professional accomplishments and honors I have learned from others. Fritz was simply incapable of self-promotion.

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In his last months, as Fritz's body began to fail in ways visible to us all, we only now realize the struggle that life had become for him. I will never forget my last conversation with Fritz, which took place one week before his death. We had met in the hall and walked back to his office. He did not look well. His hand was shaking, his limp was pronounced. He was pale and seemed to be tired. When we arrived at his office, we shut the door and sat down. I noted his obvious discomforts and asked Fritz how he was doing. This man of so many languages, this man who so loved words, this man who could communicate with a power and an elegance and a style few of us can ever hope to match, simply shook his head and said softly, "Getting old sucks."

There was not much to be said on that score, so we talked about other things for a few minutes. And then unexpectedly and uncharacteristically Fritz turned the conversation back to himself. He said, softly and more to himself than to me, "I think the time has come for me to retire." I'm sure we talked about some other things, but these are the last of Fritz's words that I can recall. I never thought that I would hear Fritz say those words. I also never thought that the energy, and the vitality, and the spirit, and the spunk, would ever leave that body.

We certainly would have understood if Fritz slacked off a bit in the last of his months. In fact, if we thought there was any chance he would have listened we would have insisted that he take it a little easier, get a little more rest, stop pushing himself so hard. At the very least, maybe cut down to six days a week in the office rather than seven. That wasn't Fritz. Fritz was never as demanding on others as he was on himself. To the very end.

After our last conversation, Fritz spent the final weekend of his life working in the office. And from the arrangement of materials on his desk it is very clear what he last worked on. He was preparing for his torts class, scheduled to meet on Monday. He was planning to discuss the duty of care. The casebook was open to a section on duties owed to unborn children.<sup>1</sup> Carefully placed on top of the open book were two Westlaw printouts on a French case decided only two months earlier.<sup>2</sup> In that case, a French judge had ruled that a disabled child was entitled to damages for being born. Not content to rely on dusty notes from past classes, Fritz was determined to make this class a fresh, contemporary,

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<sup>1</sup> VICTOR SCHWARTZ ET AL., PROSSER, WADE AND SCHWARTZ'S TORTS 461 (2000).

<sup>2</sup> *Damages for "life not worth living,"* THE TIMES OF LONDON, Nov. 18, 2000, available at 2000 WL 28129548; *French court finds for disabled boy who "did not want to be born,"* AGENCE FRANCE-PRESSE, Nov. 17, 2000, available at 2000 WL 24761699.

and global experience for his students. Fritz prepared for his last class as he had for his first.

Fritz did this because he loved teaching, and he loved the law. For Fritz, the law professor has a special role and responsibility as a "trustee" of his fields. Fritz was not an advocate; he was a scholar, in the classic sense of the word. Fritz's scholarship was not about ego, it was about making law better. In his own words – the last words published before his death – he put this so elegantly in an article published just a week or so before his passing. He concluded that article with words that I am sure he would be pleased to have shared on this occasion. Fritz said:

"The conflict of laws has always posed a formidable intellectual challenge; to explore the field requires arduous labors. It is therefore understandable that those who have finally mastered it and have earned the respect of their peers are reluctant to rethink the premises on which their views are based. Yet we who teach the law of conflicts should guard against becoming enamored with the conventional wisdom, however fashionable it may have become. For all the intellectual enjoyment we may derive from this challenging field of law, we should not lose sight of the simple fact that it, like any other, exists for a purpose. . . If we keep that in mind, we shall have plenty to do in the new century. . . As conflicts teachers, we will have an important role to play, for in dealing with choice-of-law problems, judges and legislatures have always looked to scholars. Let us not disappoint them."<sup>3</sup>

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<sup>3</sup> Friedrich K. Juenger, *How Do You Rate a Century?*, 37 WILLAMETTE L. REV. 89, 89, 121 (2001).

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