

## In Memoriam: Professor Frank S. Polestino

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## IN MEMORIAM: PROFESSOR FRANK S. POLESTINO

PATRICK L. MCCLOSKEY†

Frank Polestino did not start teaching at St. John's Law School until 1972, and since I had already graduated in the late 1960s I missed having him as a professor.

I did not meet Frank until the 1980s. I was sitting at my desk at the Nassau County District Attorney's office and he was calling on the phone. He introduced himself and, said he knew that I taught trial techniques at Hofstra Law School and that I ran the District Attorney's training program. He wanted to know if I would speak about cross-examination at a meeting of the St. John's Criminal Law Institute. I told him I would be glad to, and so on some Wednesday back in the 1980s, I went to one of the rooms on the second floor of the law school and met Frank face to face. It struck me that he was soft spoken and yet commanded the attention of all of the students in attendance. He did not have to raise his voice to be heard that day. After he finished with some housekeeping measures, he introduced me to the group and I began to speak. I expected him to leave the room, but instead he remained present and stoic throughout my talk, and thanked me profusely when it was done.

After that day, and throughout many years that followed, I spoke to the Criminal Law Institute at Frank's request about various trial related topics and on all but one occasion, Frank was present and remained present throughout. After one of my talks ended, I remember saying to him: "I'm surprised you stayed. You know all this stuff." He said: "I always learn something from you." I was touched by the sentiment but I was also able to conclude that the comment spoke more about

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Frank's insatiable desire for knowledge than about any presumed skills I possessed.

Frank's desire for and accumulation of knowledge was evidenced by the syllabus he put together for his Criminal Procedure class. It was nearly fifty pages in length and consisted of case citation after case citation with an occasional statute thrown in. It reminded me more of Clifton Fadiman's *Lifetime Reading Plan* than of a class assignment sheet for a single semester course.

In 1990, after I had known Frank for some years, he encouraged me to apply to teach as an Adjunct Professor at St. John's Law School. I was lucky enough to get the job and I thank Frank for thinking of me because I found the St. John's Law School Family to be first class and, except for Frank's absence, that is more true today than it has ever been.

Drawing on both our professional relationship and our friendship, I asked Frank, one day in the mid-1990s, if he would come out to Nassau County and deliver a talk to my ADAs on the current state of Fourth Amendment law. He immediately said that he would and I recall two things that happened that day. The first occurred about an hour into Frank's talk to a packed house. He looked over at me sheepishly and asked: "Would it be alright if we took a little break?" I knew of course what he wanted and so for the fifteen-minute break period, Frank and I discussed life, liberty and the pursuit of happiness on the courthouse steps as he enjoyed his cigarette. My second memory of that day is more substantive. I had been wrestling with several Fourth Amendment cases, trying with little success to reconcile them all into a sweet succinct statement of the law. I felt that my inability to do so was a sign of the unthinkable, namely, that with respect to this area, I just "didn't get it." With one sentence, however, Frank chased my demons away. In discussing the first case in this area, Frank looked up and intoned: "We have now gone from confusion to chaos." "Amazing," I thought. The problem was not in me after all. Why was I so sure? Because Frank Polestino had spoken.

When I learned from Dean Bellacosa and Assistant Academic Dean Simons about Frank's deteriorating condition and then his passing, I was of course saddened. As I attended Frank's wake and saw the many pictures of him and his beloved grandchildren, I thought to myself that although grandchildren

always think that their grandparents are special, those grandchildren could not have known how extra special Frank Polestino was. In time they will.

I also thought that it was sad that Frank could not pass along his knowledge of the law as part of his estate. But then I caught myself, realizing that all of his students and all of us who knew him have been his beneficiaries all along.

In his book, *The Lawyers*, Martins Mayer said, "I have never met so many first rate minds working on so many first rate problems." Frank Polestino had a first rate mind. He worked on first rate problems. It was my privilege to know him and, best of all, I have a unique way of thinking of him even now. Frank was the first person from St. John's Law School that went into my rolodex. As years went by and I joined the faculty, I added more and more names and phone numbers. But I added them above and below Frank's name. And so today, or any day, if I need to call Dean Bellacosa or Associate Academic Dean Simons, or Professor Bobis, or Isabelle or Tricia or secretarial services, it is all very easy. I just look under the letter "P" in my rolodex. I was always telling myself that I had to reorganize that system. Now I never will. Thanks for everything, Frank. Rest in Peace.

