



*I can't help giggling at the irony of the ACS inviting someone who happens to be named Birkenstock. I guess the Federalists now need to invite someone named Countryclub!*

—Richard Nagareda<sup>1</sup>

On November 12, 2010, Vanderbilt Law School hosted a celebration of Professor Richard Nagareda's life. At the celebration, I was honored to welcome the many family members, friends, colleagues, staff, students, former students, and others in attendance.

In my opening remarks, I shared the quote that appears at the beginning of this Tribute to illustrate, in a small way, Richard's splendid sense of humor. I chose to repeat the quote in this Essay in part because I shared it at the celebration and in part because it hints at some of Richard's other most admirable and enduring qualities: his open-mindedness, his tolerance, and his humility.

To be sure, Richard held deep and well-reasoned views. He could argue persuasively in support of *all* of his opinions. But he never lost sight of the fact that he was advancing an *opinion* and that opinions are contestable. He might be right; his counterpart might be right; they might both be right; or they might both be wrong. Despite his deep political convictions, Richard never believed he had somehow cornered "the truth."

Richard was both my colleague and my friend. His life, all too short, was well-lived. He left behind many who loved him and learned from him; an influential body of scholarship; and a model for how to live life as a law professor and as a human being.

As time passes, and as Richard's death becomes more distant, I find myself reflecting less on my grief and more on the ways I can keep Richard with me. I have concluded that I can do so best by trying to emulate him and, in particular, by aspiring to temper my own deeply held views with the kind of open-mindedness, tolerance, and humility he so often displayed.

This Essay is a lightly edited version of the remarks I made at the celebration held in Richard's honor:

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1. Email from Richard Nagareda to Chris Guthrie (Jan. 22, 2007) (on file with author).

Earlier this fall, I had the privilege of appointing Richard to the David Daniels Allen Distinguished Chair in Law. At the time, I anticipated that we would formally install Richard as the Allen Chair at a ceremony that would occur at about this point in the semester.

I was really looking forward to *that* ceremony.

I confess that I have not been looking forward to *this* ceremony.

To be clear, I believe that Richard's life deserves celebration. He accomplished more in his forty-seven years—both personally and professionally—than most of us will accomplish in what we hope will be much longer life spans.

But the celebration of Richard's life forces us to confront Richard's death—and the feelings of loss and grief accompanying it.

Frank O'Connor, the well-known Irish writer and critic, is quoted as saying, "All I know from my own experience is that the more loss we feel[,] the more grateful we should be for whatever it was we had to lose."<sup>2</sup> In that spirit—and in what I hope will be the spirit of this celebration—I want to focus my brief remarks not on my grief but rather on my gratitude.

I am grateful that I had the chance to know, to work with, and to become friends with Richard.

As I reflect on the nearly ten years I spent as Richard's colleague and friend, I am reminded of his personal and professional integrity; his unwavering commitment to high standards; his penetrating intellect; his command of pop culture; his uncanny ability to impersonate others; his boundless generosity and other-regarding behavior; his stubborn refusal to wear jeans; and his awesome sense of humor.

With regard to his sense of humor, I can't resist sharing one anecdote—in *Richard's words*.

To appreciate this anecdote, you need to know that the American Constitution Society (or ACS) is a liberal or left-leaning organization and that the Federalist Society is a conservative or right-leaning organization. Richard was our long-time Faculty Advisor to the Federalist Society.

A few years ago, I sent an email to the faculty informing them that the ACS was hosting a presentation by a gentleman named Joe Birkenstock, the former General Counsel of the Democratic National Committee.

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2. Quote from Frank O'Connor, in ASHTON APPLEWHITE ET AL., AND I QUOTE: THE DEFINITIVE COLLECTION OF QUOTES, SAYINGS, AND JOKES FOR THE CONTEMPORARY SPEECHMAKER 131 (2003).

Shortly after sending this email to the faculty, I received the following reply from Richard. I can see the impish grin on his face as he typed it:

It's excellent that the ACS is adding to the outside speakers available to our law school community. The topic, too, sounds interesting. But I can't help giggling at the irony of the ACS inviting someone who happens to be named Birkenstock. I guess the Federalists now need to invite someone named Countryclub!<sup>3</sup>

But above all else, I am reminded, when I think of Richard, of his open and unabashed love and affection for both his family and the Vanderbilt Law School community.

Richard's abiding love for his family—for Ruth and Evan—was apparent. But shortly before his death, he made clear to me the depth of his feelings for his family, and for Evan, in particular.

As many of you know, Professor Tracey George and I are expecting a baby in the next couple of months. When Richard learned of this, he emailed us congratulations and graciously described our news as “absolutely joyous”<sup>4</sup> to him.

I thanked him and acknowledged that though I was excited I was also a bit terrified.

In response, he wrote as follows:

I was completely terrified, too, for what it's worth. But I will never, NEVER forget the moment when I first saw Evan resting in the baby ward after he was born and cleaned up. It was as if all the motion and tumult of the world had suddenly stopped. I've never experienced anything like that in my life.<sup>5</sup>

Richard also loved Vanderbilt Law School. His affection—particularly for his students—was palpable each May, when he presided over the Branstetter Litigation & Dispute Resolution Program ceremony in honor of the graduating students who had completed his capstone course.

At the ceremony, he congratulated each of his students individually; celebrated their accomplishments in front of their loved ones; and then delivered heartfelt farewell remarks that invariably brought him (and most of the rest of us) to tears.

This summer, Richard sent me an email that captured, at least in part, his affection for the Vanderbilt Law School community. Following the flooding in Nashville last spring, I sent an email to the

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3. See Email from Richard Nagareda, *supra* note 1.

4. Email from Richard Nagareda to Chris Guthrie (Aug. 30, 2010) (on file with author).

5. *Id.*

Law School describing how its members were supporting one another during that challenging time. Richard responded, in part, as follows: “I just read your well done and compassionate . . . e-mail message to friends of VULS . . . . [You’ve identified even] more reasons why I am glad, and proud, for all the reasons that you summarize in your message, to be here . . . .”<sup>6</sup>

I, too, am glad and proud that Richard was here.

*Chris Guthrie\**

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6. Email from Richard Nagareda to Chris Guthrie (May 7, 2010) (on file with author).

\* Dean of Vanderbilt University Law School and John Wade-Kent Syverud Professor of Law.