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Ronald D. Rotunda (1945-2018): A Giant in the Law Whose Likes We Will Not See Again

*Richard E. Redding**

It's every lawyer's dream to help shape the law, not just react to it.

—Alan Dershowitz¹

I regret never telling him so, but Ron Rotunda was ultimately responsible for my coming to Chapman University. In 2008, I was happily ensconced as a law professor on the East Coast, teaching at the University of the Virginia and later at Villanova University. I had become restless, however, tired of the winters and wanting a change of environs. I had the itch to go west and was excited by the opportunity at Chapman University, which was establishing a name for itself as an entrepreneurial, up-and-coming law school and university in beautiful (and always sunny) Southern California. “It never rains in Southern California . . .”

But Chapman was relatively unknown in the east. With my deadline quickly approaching for giving Dean John Eastman my decision, one of my Villanova colleagues excitedly ran into my office to tell me, “You’ll never believe who is going to Chapman . . . Ron Rotunda!” Like virtually everyone else in legal education, I knew the name Ron Rotunda; but my colleague, who taught professional responsibility, knew of his work more intimately—he even used Ron Rotunda’s casebook. It did not take long after hearing this news for me to make my decision. If Chapman was good enough for such a big name in the legal academy, it was certainly good enough for me. I was excited about embarking on this new adventure at a young law school and doing so with the likes of the famous Ron Rotunda.

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¹ *Alan Dershowitz*, ENQUOTED, <https://alan-dershowitz-quotes.enquoted.com/it-s-every-lawyer-s-dream-to-help-shape-the-law-not-just-react-quote.html> [<http://perma.cc/PN7F-2Z7U>]. Ronald Rotunda was a student of Alan Dershowitz’s at Harvard Law School and many years later, Professor Dershowitz consulted his former student on legal ethics matters. See Dershowitz Dep. 17:9–10, Oct. 15, 2015.

Ron Rotunda and I thus went west—he from George Mason University in northern Virginia and I from Philadelphia.² Coincidentally, we arrived at Chapman on the very same day to find that we were office neighbors. I arrived at my office at around 9:00 AM that sunny July morning to see Ron unpacking his many boxes of books and files. (Little did I know that Ron likely had already been in the office for several hours before that.) Of course, I was struck by his signature bow tie (and matching pocket handkerchief) and humility. Here was this giant in the law, doing his own unpacking, and he was excited . . . to meet *me!*

Office geography and propitiousness can determine friendships. We often get to know best those who work closest to us. That July day was the start of our decade-long friendship that I will always treasure. Ron and I would visit with one another nearly every day at work and we would often exchange cocktail and dinner invitations.

Dear Reader, let me tell you a bit about my good friend Ron Rotunda: Like many of considerable accomplishment, Ron was a complex person. To say that he was a “character” is an understatement. He was famous for his bow ties (which he would change during commercial breaks on his many national TV appearances), and “E MUSK” was the vanity plate on his Tesla.³ Ron appreciated the finer things in life; he loved fine wines and used to drive a Rolls Royce Silver Cloud, don’t you know. But Ron was as much a fan of Star Trek as he was of country music. One could not help but be struck by his erudition, his razor-sharp intellect, and his equally sharp wit (all traits which he shares with his surviving twin brother Don). He was a true Renaissance Man. He had, for example, a passion for astrophysics and astronomy. Ron owned his own rather sophisticated telescope and would photograph the stars. *Astronomy* magazine printed several of his photos on its cover.⁴ Ron could engage in a deep discussion about virtually any topic, from string theory to Medieval Italian history. Perhaps it was divine providence that this brilliant legal intellect died the same day as another brilliant intellect who Ron admired and read, the celebrated astrophysicist Stephen Hawking, both at about the same age. Ron was always intellectually curious. He audited Professor and

² Curriculum Vitae of Ronald D. Rotunda (last updated Dec. 18, 2017) (on file with Chapman University Dale E. Fowler School of Law), <https://www.chapman.edu/our-faculty/files/curriculum-vita/Rotunda-Ronald-CV.pdf> [<http://perma.cc/K33X-T88D>].

³ See Don Rotunda, *About My Brother Ron Rotunda* (Apr. 2018), JOSH BLACKMAN’S BLOG (June 21, 2018), <http://joshblackman.com/blog/2018/06/21/about-my-brother-ron-rotunda/>.

⁴ See Ronald D. Rotunda, *Mercury’s Transit of the Sun* (photograph), in *ASTRONOMY*, Feb. 1974, at 57.

Nobel Laureate Vernon Smith's economics class not once but twice, and he did all the homework both times!

Ron was an incredibly hard worker, arriving at the office every morning at 6:00 AM and working diligently until 6:00 PM. I think he is the only legal academic I ever knew to keep the hours of a big law firm (too bad he couldn't bill for them). My cue to leave his dinner parties (for which it was always difficult to set a time, as we would haggle by e-mail over whether, for example, 6:48 PM or 6:53 PM would be more convenient) was his suddenly announcing, "Tomorrow is a school night, so I need to get to bed early."

Some found Ron a difficult personality, others charming. Indeed, he could be both, often at the same time. He sometimes reveled in challenging authority and was the bane of more than a few administrators. Underneath the sometimes-abrasive exterior was a soft, kind-hearted man who felt for others, including the little guy and those with whom he did not always get along. He was catholic in his professional ambition but a serious Catholic in his religion and charity, and he knew which was more important.

Dear Reader, shortly before his untimely death, Ron was trying to adopt a severely disabled boy. When he found out that he was not able to do so, he started to cry and said, "I would have really like to have helped the boy, in his wheelchair." He was known for his courtesies and friendship to the law school staff. Several years ago, one of our colleagues died tragically. It was no secret that she and Ron did not get along, to put it charitably. Yet he chose to sit in the first row of her remembrance service at the law school and teared up for much of it; later he remarked to me how affected he was by her death.

While at Harvard he volunteered to teach at the Massachusetts Correctional Institution, a prison for the criminally insane.⁵ One of his students, "the Boston Strangler,"⁶ was so appreciative of Ron's help that he painted a nice portrait that hung prominently in Ron's home. Ron would always tear up—you may be sensing a pattern, he could be as outwardly emotional as he was intellectual—when he talked about the difficult lives of the inmates he taught there. He wore his heart on his sleeve and was completely without guile—you knew exactly what Ron thought and felt, but as a lawyer he was the model of professional discretion and probity.

Ron's career, from his graduation from Harvard (*magna cum laude* from both college and law school, where he served on the

⁵ See Rotunda, *supra* note 3.

⁶ See Ronald D. Rotunda, *The Boston Strangler, the Classroom and Me*, WALL ST. J., July 26, 2013, at A11.

Harvard Law Review) until his untimely death, was remarkable and brilliant, in both the intellectual and British sense of the term.⁷ His fifty-five page curriculum vitae (CV) is perhaps really a 100-page CV considering how much he packs into every line on every page.⁸ His passing made national and international news,⁹ and when is the last time that ever occurred for a law professor? The depth, breadth, and innovativeness of his work is striking. And, not infrequently he had fun with the serious topics about which he wrote. One of his op-eds, for example, discussed how “[t]he motive for Russian interference [in the election] reflects an episode of Rod Sterling’s *The Twilight Zone* over a half century ago.”¹⁰ His books included *Six Justices on Civil Rights*¹¹ and *The Politics of Language: Liberalism as Word and Symbol*,¹² and he wrote on topics ranging from reforming presidential nominating conventions to commercial speech and the First Amendment to Shakespeare to, well, lawyer jokes (which he curated and loved).¹³

Ron authored over 500 articles, widely used casebooks that taught tens of thousands of law students professional responsibility and constitutional law, a number of seminal treatises, several other books, and scores of op-eds in the *Wall Street Journal*, *New York Times*, and various other newspapers, magazines, and blogs.¹⁴ Of course, the true measure of Ron’s scholarship is not its considerable volume but its impact. His work has been cited in the academic literature thousands of times.¹⁵ He was listed as one of the most cited law professors and among those most cited by jurists. He is among the most influential constitutional and legal ethics scholars and his treatises equally so.¹⁶

⁷ See Rotunda, *supra* note 2.

⁸ See *id.*

⁹ See Tony Mauro, *Ronald Rotunda, ‘Brilliant Dynamo’ of Con Law and Legal Ethics, Dies at 73*, NAT’L L. J. (Mar. 19, 2018, 3:21 PM), <https://www.law.com/nationallawjournal/2018/03/19/ronald-rotunda-brilliant-dynamo-of-con-law-and-legal-ethics-dies-at-73/>.

¹⁰ Ronald D. Rotunda, *Facebook, Russian Interference and the Monsters on Maple Street*, VERDICT (Dec. 18, 2017), <https://verdict.justia.com/2017/12/18/facebook-russian-interference-monsters-maple-street> [http://perma.cc/6MUP-JXV2].

¹¹ RONALD D. ROTUNDA, *SIX JUSTICES ON CIVIL RIGHTS* (1983).

¹² RONALD D. ROTUNDA, *THE POLITICS OF LANGUAGE: LIBERALISM AS WORD AND SYMBOL* (1986).

¹³ See Rotunda, *supra* note 2, at 6, 7, 21, 51.

¹⁴ See *id.* at 5–55.

¹⁵ Brian Leiter, *Measuring the Academic Distinction of Law Faculties*, 29 J. LEGAL STUD. 451, 471 (2000).

¹⁶ See Rotunda, *supra* note 2, at 3. See also Symposium, *Interpreting Legal Citations*, 29 J. LEGAL STUD. (part 2) (2000) (listing Ron Rotunda as thirty-fourth in reputation among judges and legal scholars, and twenty-seventh in non-scholarly reputation); Fred R. Shapiro, *The Most-Cited Legal Books Published since 1978*, 29 J. LEGAL STUD. 397, 404 (2000) (listing Ron Rotunda’s constitutional law treatise as the seventh most cited legal treatise); Brian Leiter, *Measuring the Academic Distinction of Law Faculties*, 29 J. LEGAL STUD. 451, 471 tbl.6 (2000).

Ron's work has not only national significance but international impact as well. He was a visiting professor at universities in Belgium and Germany, and a Fulbright Scholar in both Italy and Venezuela.¹⁷ Ron drafted the professional responsibility rules for the Czech Republic and advised the new democracies of Moldova, Romania, Ukraine, and Cambodia on the drafting of their constitutions.¹⁸ His writings have been translated into French, Portuguese, German, Romanian, Czech, Russian, Japanese, and Korean.¹⁹ That so many foreign countries found his work so relevant despite their very different legal systems is a genuine testament to its importance.

Ron also had a distinguished career as a practicing lawyer and legal advisor, and he was consistently listed among the "best lawyers" when he practiced in Illinois, Washington, D.C., and California.²⁰ In addition to advising foreign governments, he was a consultant to the Administrative Conference of the United States and was special counsel to Judge Kenneth Starr's Whitewater Investigation.²¹ Most recently, he served as special counsel to the Department of Defense and as a Commissioner on California's Fair Political Practices Commission.²² Of course, Ron's best-known public service is what really began his scholarly career, when after clerking for Judge Mansfield on the Second Circuit Court of Appeals and a brief stint at Wilmer, Cutler, and Pickering, he served as the Assistant Majority Counsel for the Senate Watergate Committee (while, incidentally, Hillary Clinton served in the same position for the House committee).²³ His Watergate experience is what motivated Ron to develop what was then the nascent field of legal ethics. He became good friends with John Dean, who wrote that Ron was the "man responsible for Watergate's most lasting impact"²⁴ through his groundbreaking work in legal ethics in response to the Watergate scandal that brought down a president. The preface to Ron's 2000-page *Legal Ethics: The Lawyer's*

(listing Ron Rotunda as the seventeenth most-cited law professor in the nation); Brian Leiter, *Brian Leiter's Top 119 Cited Faculty, 2002-03*, BRIAN LEITER'S L. SCH. RANKINGS, http://www.leiterrankings.com/faculty/2002faculty_impact_cites.shtml [<http://perma.cc/DJT6-ZBZA>] (listing Rotunda as the eleventh most cited law professor in the nation).

¹⁷ Rotunda, *supra* note 2, at 1, 2.

¹⁸ *Id.* at 30, 54.

¹⁹ *See, e.g., id.* at 11, 14, 27, 30.

²⁰ *Id.* at 3.

²¹ *Id.* at 53, 54.

²² *Id.* at 1.

²³ *See id.* at 2.

²⁴ John Dean, *R.I.P. Ron Rotunda—A Man Responsible for Watergate's Most Lasting Positive Impact*, VERDICT (Mar. 16, 2018), <https://verdict.justia.com/2018/03/16/r-p-ron-rotunda-man-responsible-watergates-lasting-positive-impact> [<http://perma.cc/D48B-8G5Y>].

Deskbook on Professional Responsibility,²⁵ published and updated yearly by the ABA since 2000, observes: “During the Watergate hearings, Congressional investigations disclosed political corruption, which led people to ask, where were the lawyers when politicians engaged in criminal and fraudulent acts?”²⁶

God broke the mold when he made Ron Rotunda. The likes of him we shall not soon see again. Very few have the rare combination of vision, mind, and work ethic to have the uniquely stellar career that Ron had. His life does hold lessons for all of us, however. Work hard, read widely, cultivate curiosity about a range of topics, be true to yourself, act with integrity, do not be scared to voice your opinions or to be politically incorrect and challenge the status quo, and be tough when necessary but have a good and kind heart.

And . . . it certainly never hurts to wear a bow tie.

It is difficult to grasp that Ron is gone. We have lost a true giant in the law. He was such a character—of the kind that one supposes will simply live forever, which he does through his lasting impact on the legal profession and the life of the law. Ron was so vigorous, so full of life, and always looking forward to his next project or adventure. I miss his good company, wit, and intellect. I am deeply honored and humbled to be the inaugural holder of the Ronald D. Rotunda Distinguished Professor of Jurisprudence, the chair that Ron endowed shortly before his death. To be sure, I cannot live up to the kind of career that Ron had. But I will take to heart the important lessons from his remarkable life and career.

Rest in peace, dear friend, Ron Rotunda.

²⁵ RONALD D. ROTUNDA & JOHN DZIENKOWSKI, *LEGAL ETHICS: THE LAWYER'S DESKBOOK ON PROFESSIONAL RESPONSIBILITY* (15th ed. 2017).

²⁶ Dean, *supra* note 24, at 2 (citing RONALD D. ROTUNDA & JOHN DZIENKOWSKI, *LEGAL ETHICS: THE LAWYER'S DESKBOOK ON PROFESSIONAL RESPONSIBILITY* (6th ed. 2008)).