

TRIBUTE TO PROFESSOR BEN DAVIS

*Jim Swinehart**

I have not known Professor Davis for long, just about one year. I had a case, however, that recently reached the United States Supreme Court.¹ The issue, on which *certiorari* was granted, was whether a non-signatory to an arbitration agreement could compel international arbitration under the New York Convention. (I will not drill into the case specifics.) I, however, needed an *amicus* brief prepared in support of our position. Therefore, I contacted Dean Ben Barros to see if any professor at the College of Law might be able to help. He thought of a professor, one Ben Davis. I called Professor Davis and overviewed the issues to see if he could support the position we were advocating. He listened, and he asked questions. Then, he announced that he was interested, nay eager, to help. Therefore, he came on board and wrote an *amicus* brief that was filed with the Supreme Court on November 26, 2019.

My relationship with Professor Davis mainly consisted of phone calls and e-mails, but eventually, we met in person—at the Supreme Court on the morning of January 21, 2020, the day of oral argument. He was calm (not so much me) and all smiles, drinking in the grandeur of the moment. During the oral argument, we sat together in the courtroom, literally shoulder to shoulder (in those pre-pandemic days). After the oral argument, he joined our attorney team for a luncheon at a Washington, D.C. restaurant.

Here is what struck me most about Professor Davis:

He was passionate—From the get-go, he was fired up about the international arbitration issue. He dove right into researching, analyzing, and drafting the argument for the *amicus* brief. He simply seemed to relish the task. Occasionally, I would call him to check on the status of the brief. From talking to him, I could tell ideas were popping in his mind. Also, he would frequently say “I’m on it,” both easing my nerves and inspiring me.

He was knowledgeable—Professor Davis had a strong base of knowledge with regard to international arbitration. He simply knew of what he spoke (or wrote). I could tell he deeply wanted the Supreme Court, and anyone else, to understand and appreciate the issues. He was very much the teacher in this regard. He also wanted to safeguard the fundamentals of international arbitration, such as consent of the parties.

He worked hard—Professor Davis was a workhorse. As already said, he jumped, with zeal, into analyzing and drafting the *amicus* brief. He set internal

* University of Toledo, College of Law, Class of 1982.

1. *GE Energy Power Conversion Fr. SAS Corp. v. Outokumpu Stainless USA, LLC*, 140 S. Ct. 1637 (2020).

deadlines for himself for generating drafts. He also queried colleagues about the pertinent issues and had his drafts peer reviewed.

He was cheerful—Most importantly, Professor Davis was so decent. He was friendly and pleasant. He laughed easily and often. He was a joy to deal with.

Professor Davis, I sincerely thank you for your help, and I thank you for being who you are—a special person.