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Celebrating a Lasting Legacy: Marcella Silverman

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MARCELLA SILVERMAN*

*Elizabeth Maresca***

Marcella Silverman, a pioneer in the Law School's clinical program, perfectly embodied the Fordham Law motto: "In the Service of Others." Determined to use the law to improve the lives of low-income New Yorkers, she harnessed her sharp intellect, penetrating judgment, deep knowledge, and practical experience to achieve miracles for individual clients and large reforms to our legal system.

Marcella arrived at the Law School in 1996 after an impressive career at the Civil Division of the Legal Aid Society of New York City. At Fordham Law, she continued to represent low-income clients while developing expertise in a wide array of civil justice areas. Unable to resist new challenges, she worked in clinics in diverse fields like welfare rights, securities arbitration, tax, and consumer protection. She pursued opportunities for her students to represent individual clients and amici in almost every arbitration panel and court in the state—her students appeared in cases in the New York City Civil Court, New York Supreme Court, New York's Appellate Division, Southern District of New York, Second Circuit, and the New York State Court of Appeals. A well-deserving recipient of the Law School's Public Service Faculty Member of the Year Award, Marcella used her passion and drive to improve the lives of clients and inspire the generation of law students she has taught over the past twenty-five years.

A tireless and fearless litigator who could never refuse anyone in need, Marcella devoted her career to eliminating unfair practices and pursuing social justice, one client at a time. In a case of first impression, while representing a consumer who had been scammed into signing an auto loan he could not afford, Marcella won a hard-fought victory, convincing the New York State Appellate Division, First Department, that the federal Truth in Lending Act¹ did not preempt state law² and permitted claims against the lender which included a violation of New York State's unfair and deceptive

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** Clinical Professor of Law and Supervising Attorney, Federal Tax Clinic, Fordham University School of Law. These remarks were delivered as part of an event honoring departing faculty members at Fordham Law School in the spring of 2020. The text of these remarks has been lightly edited and footnoted. For an overview of the corresponding Tribute, see *Foreword: Celebrating a Lasting Legacy*, 89 FORDHAM L. REV. ONLINE 1 (2020).

1. Pub. L. No. 90-321, 82 Stat. 146 (1968) (codified in scattered sections of the U.S.C.).
2. *Ramirez v. Nat'l Coop. Bank*, 938 N.Y.S.2d 280, 282 (App. Div. 2011).

practices law.³ The opinion was reported on the front page of the *New York Law Journal*, which noted its significance: “the Appellate Division clarified the rights of consumers under longstanding laws that have been ignored for all too long.”⁴

Marcella is well-known for hard-fought victories for individual clients against giant institutions, banks, investment brokers, and auto companies. Although she started out teaching a public benefits clinic, in 2007, when the need for legal services exploded in the housing and consumer area, she and I started another practice with the creation of the Consumer and Tax Litigation Clinic.⁵ The Clinic’s first case involved clients who had lost legal ownership of their home after falling victim to scam artists who tricked them into signing away their deed. The clients sought help when the thieves were about to evict them and their children from their home. Marcella and her students litigated that case in three separate courts: Kings County Housing Court; New York Supreme Court, New York County; and even the U.S. Bankruptcy Court for the District of Delaware, where they moved to have the automatic stay lifted so the third-party complaint against the nefarious mortgage holder could proceed.

In addition to being a consummate lawyer, Marcella has been a superb teacher, mentor, and career counselor who exemplifies the best of civil legal services traditions. Fiercely dedicated to her students and infinitely generous with her time, advice, and guidance, Marcella was loved and admired by the students she worked with. As one student stated, “my relationship with Prof[essor] Silverman is the best student/teacher relationship I have had in law school.” Marcella was direct and always kind, and she always delivered criticism constructively. Her students knew how deeply she cared and benefited from her selfless investment in their success. Through her work in the Clinic and her tireless devotion to the Stein Scholars program, Marcella has mentored hundreds of Fordham Law students. Another student told me, “Professor Silverman has been my best mentor at Fordham Law School. I will miss her dearly.”

Beyond her work with individual students, she was also involved in the broader public interest work that the Law School carries out in its many centers and programs. She worked tirelessly as a volunteer attorney in the Feerick Center for Social Justice’s Civil Legal Advice and Resource Office (CLARO) program. Every Thursday you could find her and her students offering legal advice to low-income, unrepresented defendants with consumer debt cases. In 2015, when the Law School was asked to start a Pro Bono Scholars Program, Marcella jumped right in, creating opportunities for students to perform full-time pro bono work on behalf of low-income clients.

3. N.Y. GEN. BUS. LAW § 349 (West 2020); see *Ramirez*, 938 N.Y.S.2d at 283.

4. Brendan Pierson, *Federal Law Does Not Block Action by Car Buyer, State Panel Finds*, N.Y.L.J. (Dec. 7, 2011), at 1, LexisNexis (quoting the author).

5. The Clinic has since separated into the Consumer Litigation Clinic and the Tax Litigation Clinic.

In addition, she has selflessly assisted many of her colleagues. Even at her busiest moments, she would set aside time to help them think through a problem or provide concise and relevant advice, whether related to a client matter or a student. In addition to being an ideal teacher, colleague, and friend, she remained a devoted spouse to her husband Foster and a wonderful mother to her sons Ben and Kyle.

Personally, Marcella is open, honest, unpretentious, and genuine. She has the courage to say what she thinks. We will miss her infectious sense of humor and her ability to lighten the mood with a funny story or quip. We will miss her honesty, passion, keen legal mind, and fierce brand of lawyering. Hundreds of Fordham Law graduates are better lawyers because she was their teacher. She retires knowing that they are making the world a better place having studied under her guidance.

Thank you, Marcella, for your collegiality and contributions to the Law School. Good luck; we will miss you. We wish you a happy, healthy, and long retirement.