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REMEMBERING MARY C. DALY: A LEGAL ETHICIST
PAR EXCELLENCE

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One could go on at length about how much Mary Daly accomplished in her too-brief life. But I want to focus on just one area of Mary's accomplishments, namely, her work in the field of legal ethics. That is the field in which I had the pleasure and privilege of laboring with Mary for two decades. For sixteen years, we worked closely together as colleagues at Fordham Law School, where Mary was the James H. Quinn Professor of Legal Ethics. During that time, we worked together on faculty committees, co-authored an article and commented on each other's writing, collaborated on projects of Fordham's Stein Center for Law and Ethics, and taught together in CLE programs, and I served under Mary's leadership of the New York City Bar's ethics committee. We continued to serve together on professional programs after Mary left Fordham to become Dean and John V. Brennan Professor of Law and Ethics at St. John's University School of Law.

During a quarter century as an academic, Mary made exceptional contributions to legal ethics and professionalism as a teacher, scholar, administrator, mentor, and participant in the work of the organized bar internationally, nationally, and locally. She was also an ethical exemplar for her students and academic and professional colleagues. During this time, Mary excelled in both the academic and professional realms, while building bridges between them.

Mary's achievements as a legal ethics teacher and scholar were enviable. She began teaching Professional Responsibility as a young, untenured professor and very quickly became a leader in the field. When she joined the Fordham faculty in 1983, Professional Responsibility was a one-credit required course which, as at most other law schools at the time, received very little respect. Within a few years, Mary was the senior member of the law school's young professional responsibility faculty. Mary took the lead in transforming the Professional

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Responsibility curriculum at Fordham and then used her work at Fordham to promote the development of the field in legal academia nationally. As discussed in a 1995 article,¹ she championed the expansion of Fordham's legal ethics course from one to three credits and the expansion of its legal ethics curriculum to include a host of specialized courses. She developed two specialized courses that built upon her special interests and expertise—first, a course on professional responsibility in corporate, business, and international transactions, and later, a course focusing on professional responsibility in tax and regulatory practice. On behalf of the law school, she successfully applied for a foundation grant to support the further expansion of the law school's curriculum.

Through her writings and participation in academic programs and conferences, Mary shared with others what she was accomplishing at Fordham, endeavoring to give the study of legal ethics the dignity it deserved in legal academia nationally. Her work encouraged comparable curricular reforms at other institutions. Throughout her academic career, Mary continued her early efforts to promote a national commitment to legal ethics as a serious academic subject.² These efforts played an important role in the development of what legal academics increasingly regard as a robust and vibrant area of academic study.

Mary contributed to the development of professional knowledge in the field through her scholarly and professional publications, which had a particular (but by no means exclusive) focus on corporate, comparative, and cross-border practice. Building on her love of foreign travel and cultures—she had undertaken graduate studies in Paris—Mary became a pioneering scholar in the area of transnational practice. She

¹ Mary C. Daly, Bruce A. Green & Russell G. Pearce, *Contextualizing Professional Responsibility: A New Curriculum for a New Century*, 58 LAW & CONTEMP. PROBS. 193 (1995).

² Mary's recent articles on legal ethics teaching included: Mary C. Daly, *Teaching Integrity in the Professional Responsibility Curriculum: A Modest Proposal for Change*, 72 FORDHAM L. REV. 261 (2003); Mary C. Daly, *The Structure of Legal Education and the Legal Profession, Multidisciplinary Practice, Competition, and Globalization*, 52 J. LEGAL EDUC. 480 (2002); and Mary C. Daly, *The Ethical Implications of the Globalization of the Legal Profession: A Challenge to the Teaching of Professional Responsibility in the Twenty-First Century*, 21 FORDHAM INT'L L.J. 1239 (1998).

called attention to the choice-of-law problems for lawyers practicing outside their home states in an early, and frequently cited, article.³ She explored the significance of global law practice,⁴ as well as the particular problems of in-house lawyers for global corporations.⁵ Mary's other scholarly publications on international, transnational, and comparative legal ethics include a forthcoming book,⁶ an article on multidisciplinary partnerships,⁷ and articles on comparative approaches to professional responsibility.⁸

Beginning in the early 1990s, Mary helped nurture and expand a small, young community of legal academics who had begun working in the field of legal ethics. This is one of the first endeavors toward which she dedicated resources of the law school's Stein Institute of Law and Ethics (later renamed the Stein Center for Law and Ethics), which she directed and later co-directed. She encouraged young legal ethics faculty from different law schools (me among them) to attend the ABA National Conference on Professional Responsibility and organized and hosted dinners for faculty in attendance until the group grew too large. As one of the senior faculty in the group, Mary served as a mentor and cheerleader. She gave young academics confidence in the value of their teaching and scholarship and helped to forge a cohesive, close-knit, egalitarian,

³ Mary C. Daly, *Resolving Ethical Conflicts in Multijurisdictional Practice—Is Model Rule 8.5 the Answer, an Answer, or No Answer at All?*, 36 S. TEX. L. REV. 715 (1995).

⁴ E.g., Mary C. Daly, *The Ethical Implications of the Globalization of the Legal Profession: A Challenge to the Teaching of Professional Responsibility in the Twenty-First Century*, 21 FORDHAM INT'L L.J. 1239 (1998); Mary C. Daly, *Thinking Globally: Will National Borders Matter to Lawyers a Century from Now?*, 1 J. INST. FOR STUDY LEGAL ETHICS 297 (1996).

⁵ Mary C. Daly, *The Cultural, Ethical, and Legal Challenges in Lawyering for a Global Organization: The Role of the General Counsel*, 46 EMORY L.J. 1057 (1997).

⁶ RIGHTS, LIABILITY, AND ETHICS IN INTERNATIONAL LEGAL PRACTICE (Mary C. Daly & Roger J. Goebel eds., 2d ed. 2004) (new edition forthcoming).

⁷ Mary C. Daly, *Choosing Wise Men Wisely: The Risks and Rewards of Purchasing Legal Services from Lawyers in a Multidisciplinary Partnership*, 13 GEO. J. LEGAL ETHICS 217 (2000).

⁸ E.g., Mary C. Daly, *Monopolist, Aristocrat, or Entrepreneur?: A Comparative Perspective on the Future of Multidisciplinary Partnerships in the United States, France, Germany, and the United Kingdom After the Disintegration of Andersen Legal*, 80 WASH. U. L.Q. 589 (2002); Mary C. Daly, *The Dichotomy Between Standards and Rules: A New Way of Understanding the Differences in Perceptions of Lawyer Codes of Conduct by U.S. and Foreign Lawyers*, 32 VAND. J. TRANSNAT'L L. 1117 (1999).

mutually supportive national community of legal ethics professors. To the best of my knowledge, clinicians are the only other group in legal academia to have developed a comparable community. In recognition of her contributions, Mary was elected early in her teaching career to chair the Professional Responsibility Section of the Association of American Law Schools. As chair, she set the groundwork for a two-day workshop on legal ethics designed to advance teaching and scholarship in the field.

While accomplishing so much as a teacher and scholar, Mary kept one foot planted firmly in the legal profession. She did so for several reasons: because she had great appreciation for law practice, having worked in private practice and then having worked her way up in the United States Attorney's Office, where she headed the Civil Division before coming to Fordham; because engagement with the profession enhanced her teaching and scholarly study of the legal profession, including its regulation, its history and tradition, and its norms of conduct; and most importantly, because she was dedicated to public and professional service, and as a legal ethics professor who understood the legal profession and studied its governing law, this was an obvious area in which she could serve.

Mary's professional activities ranged widely. She gave individual advice to scores of lawyers who faced thorny ethical dilemmas. More broadly, she helped shape practicing lawyers' understanding of their professional obligations by editing and authoring a treatise on New York's legal ethics rules.⁹ She also spoke frequently in CLE programs locally, nationally, and even internationally. For example, in 2002 and 2003, she joined three separate delegations of the Association of the Bar of the City of New York, visiting Chile, Rwanda, and Brazil to lecture on legal ethics and pro bono obligations. Mary's CLE course materials were of uniformly high quality. Unusual for such writings, her material on such topics as the prevention and resolution of professional problems in corporate law practice, were later cited in the academic literature. She was an outstanding teacher as well. The last CLE presentation in which we participated together was on the subject of outsourcing legal services to

⁹ THE NEW YORK CODE OF PROFESSIONAL RESPONSIBILITY: OPINIONS, COMMENTARY AND CASELAW (Mary C. Daly ed., 1997 & Supp. 2003).

foreign countries, a newly emerging practice. As always, Mary was masterful in bringing both an academic and practical perspective to the ethical issues raised, and she did so in a way that was engaging as well as illuminating.

Mary made some of her most impressive contributions to the profession through her work with bar association committees. Nationally, one of her most significant contributions was as the Reporter for the ABA Commission on Multidisciplinary Practice from 1998 to 2000. This commission addressed one of the most contentious ethics issues in recent memory—namely, whether lawyers should be allowed to establish professional services firms in which they would partner with accountants and other non-lawyer professionals to deliver a broad array of legal and non-legal services. As Reporter, Mary helped commission members seek common ground based on the existing knowledge and experience and in furtherance of the public good. The commission's report, which took Mary many hours to prepare and which reflected her sensitivity, objectivity, and scholarship, made an enormous contribution to reasoned discussion of the subject.

Mary was also busy on the state and local level. She was the Reporter to the New York State Bar Association Task Force on the Profession in the mid-1990s. She chaired the New York City Bar's ethics committee, which issued a series of opinions on cutting-edge issues. In that role, she set a tone of openness and civility that facilitated the committee's ability to achieve consensus on hard questions to which committee members brought very different perspectives. She also served as a member of the Departmental Disciplinary Committee for the Appellate Division, First Department from 1990 to 1996, participating both in the adjudication of disciplinary cases and in setting policy. She engaged in many other bar association projects as well.¹⁰

How appropriate it is that this year Mary will be the posthumous recipient of the ABA's Michael Franck Professional Responsibility Award, which, as the ABA describes, "brings deserved attention to individuals whose career commitments in

¹⁰ To name a few: Mary served as a Trustee of the Federal Bar Council Foundation, as a member of the Out-of-the-Box Committee of the American Bar Association Section of Legal Education and Admissions to the Bar, as a member of the Standing Committee on Professional Discipline, and as a member of the Editorial Board of the ABA/BNA Lawyers' Manual on Professional Conduct.

areas such as legal ethics, disciplinary enforcement and lawyer professionalism demonstrate the best accomplishments of lawyers.” And how especially appropriate that the award is scheduled to be given in May of this year at the upcoming ABA National Conference on Professional Responsibility, to which Mary was devoted, and that the award is to be given by the President of the ABA, which Mary served with such distinction.

At Fordham, Mary found in the Stein Center an ideal vehicle through which to bring together the two professional communities—the community of legal academics and the community of practicing lawyers—to which she was so dedicated. In around 1990, Mary first met with Lou Stein, who emphasized that he wanted Fordham to be a place that the legal profession identifies with ethics. Mary took that to heart. Beginning with a 1991 conference on ethics in international legal practice that Mary organized along with Professor Roger Goebel, the law school's ethics center brought together leading lawyers and academics from around the country, and sometimes from around the world, to share their experiences on the ethical practice of law, to discuss problems of mutual concern, and to offer their insights to the broader community. Mary was creative in the use of the institute's resources and generous in allowing others access to them. She was particularly enthusiastic about using the center to establish and oversee a program for students seeking careers in public interest law and public service. That program, the Stein Scholars Program, began with seventeen students in the fall of 1992, and since then has graduated close to 300 students who have received intensive preparation in ethics and public interest practice. Over the years, Mary helped to transform the Stein Center into a leading (we liked to think the leading) law school ethics center, accomplishing more than Lou Stein or anyone else could ever have first imagined.

I am immeasurably grateful to have had the opportunity to work with Mary as a friend and colleague and to learn from her both through observation and in collaboration. I often turned to her for advice because I could count on her to give wise and objective counsel not only on legal ethics but also on bar and academic politics. She was a joy to work with because she more than kept up her end of the bargain. She was a role model for me in many respects. She was always the hardest worker in the room. She was always positive. When others saw obstacles, she

saw opportunities. Whatever she did, she did with absolute integrity.

I learned a great deal from watching how Mary built communities and consensus. She was masterful in bringing together people with opposing ideas and finding common ground. I watched her do that at Fordham's ethics conferences, when she led small discussion groups of attorneys and professors to develop recommendations on questions about how to represent vulnerable clients, and again, when I had the privilege of serving on the City Bar's ethics committee under her leadership. In these and other contexts, the question was always what was in the best interest of others—students or clients or the general public. One never felt that Mary was pushing her own ideas. Somehow, no matter how much disagreement there was at the start, a consensus always emerged. The collective result was much greater than what any one person could have achieved.

Finally, in an era when lawyers universally worry about the difficulty of maintaining a reasonable work-life balance, Mary kept the balance true. Whenever we spoke over the years, the very first agenda item, and her number one subject of concern, was family. Mary's greatest source of pride was that she and Tony raised three wonderful children—Anthony, Stephen and Meg—who grew to share their commitment to learning, to service, and to doing what was right.

It is impossible to paint the full picture of Mary Daly's contributions to legal ethics and professionalism, because much of what she contributed was a product not of what she accomplished but of who she was. Mary was a consensus-builder as a bar leader and law school administrator, and a community-builder in all aspects of her academic and professional work. She was a model of openness, self-sacrifice, hard work, intellect, and grace. She was a friend and role model to junior colleagues and a supportive and inspirational peer. In the end, a big part of what Mary's friends and colleagues considered so special about her was this: At the same time that she excelled in lawyers' ethics as an academic and professional subject, she also, and more importantly, excelled in ethics as a way of life.