

BUSINESS LAW NEWS

Morris Hirsch Receives Business Law Section's Lifetime Achievement Award

Mark Moore



Morris Hirsch

Since 1977, the State Bar of California Business Law Section (BLS) has given its Lifetime Achievement Award to recognize the lawyer who “over an extended period has made significant contributions to the Section or to business law generally in the State of California and who has achieved high status in the legal community.” We are pleased to announce that the recipient of the 2015 BLS Lifetime Achievement Award is Morris W. Hirsch.

Morris is a third-generation native of the San Francisco Area and graduated Phi Beta Kappa from the University of California, Berkeley in 1977 with a major in English Literature. “The plan was to get an advanced degree and be an English Professor, but I was told that these jobs were few and far between,” Morris tells us. Looking back, this may have been a lucky turn of events for all of us, since Morris’s “Plan B” was to go to law school. That he did, receiving his J.D. cum laude from Harvard in 1980. He came back to California and joined then Pillsbury, Madison & Sutro as a young associate, where he specialized in commercial transactions and

bankruptcy/debt restructuring. Morris was made partner in 1988, but that gets a little ahead of our story. Even as an associate, Morris had started to make a difference in the practice of law in California.

As an associate, Morris had impressed Pillsbury partner Marvin Heilesen enough that in 1983 Marv wanted to see Morris become a member of the BLS Uniform Commercial Code Committee. Marv, a former Chair of the UCC Committee, could see what a contribution Morris would be able to make. There was a problem, but it was quickly overcome. At the time BLS rules required (and still require) at least five years of legal practice before a lawyer could be on any of the BLS’s Standing Committees, including the UCC Committee. The problem was that Morris, in 1983, was barely three years out of law school. Undeterred, Marv petitioned the Business Law Section’s Executive Committee (BLS Ex Com) for a special exception for Morris from the standard “five-year rule,” and won. The exception was

granted, Morris joined the UCC Committee and quickly got involved. Morris puts it this way:

At my first meeting of the UCC Committee, Chairwoman Peggy Sheneman asked if there was anyone who had a practice that included UCC Article 8. Peggy needed someone to help shepherd what was then a new and revised version of Article 8 through the legislature in California. Article 9 – attachment and perfection of security interests in personal property, priority rules and foreclosure proceedings – that stuff we all had down. But Article 8 focuses specifically on investment securities and no one really practiced in that area on a day-to-day basis. Hearing no volunteers and after a short pause, she looked at me and said, “Morris, I’ve heard that there is a Pillsbury lawyer who’s done some work in this area, and that you sit down the hall from him. That’s good enough, so you’re it.” And that’s how I first got involved in making law in California!

The experience was a good one, and revised Article 8 was enacted in 1985. Morris worked with a good team, including Larry Doyle, then the State Bar’s chief lobbyist. The bill itself was not particularly controversial, but as with all things “Sacramento” the process took enormous time and effort. We can all thank Morris for his willingness to spearhead an improvement to California law that was both needed and helpful.

The next effort was more controversial, and of course more difficult. As with other states, California law deals with personal and real property collateral differently. Mixed collateral (where both personal and real property are subjected to a lien to support a loan) can create complications, particularly if it comes time to foreclose. This highly technical area of law was ripe for a change, and the UCC Committee again stepped up with Morris in the forefront. His team this time included Harry Sigman, an intellectual powerhouse who was also on the UCC Committee at the time and who received the 2005 BLS Lifetime Achievement Award. With Harry and Larry Doyle, Morris and the rest of his team focused on how we might have a statute that would provide greater clarity

and fairness in mixed collateral foreclosure proceedings. The result was a revised California UCC Section 9501(4), adopted by the Legislature in 1986.

While the analytical underpinnings of this statute are relatively straightforward (real property law governs foreclosure of any real estate collateral in a mixed collateral case, while Article 9 and the UCC govern foreclosure of any of the personal property collateral), in actual practice there were often problems (and ensuing litigation) over such things as how real property rules governing one-form-of-action and anti-deficiency would play out. Anyone who wants to see how complex policy compromises can lead to a workable and helpful statute need only read Section 9501(4). By providing a detailed procedural road-map for foreclosing on mixed collateral, this Section is a model for a good solution: creditors know what to do, and how to do it, while borrowers are given strong procedural protections. It was not always so in California, and we again have Morris to thank for taking the lead on finding a solution and then making it work.

There is a theme that starts to come out about Morris and his life, which is that collaboration and selflessness can lead to great things. This willingness and desire to “give back” are hallmarks of so many of our BLS Lifetime Achievement Award winners, and Morris follows in this strong tradition. While in private practice, representing lenders and other creditors, Morris’s ability to navigate difficult legislative policy and political issues drew heavily on his desire to “make things better,” rather than to get an edge. The theme develops even more in the next phase of Morris’s career.

In 1989, Morris looked for and found a new role as a commercial lawyer. He moved from being a partner at Pillsbury to being a Vice President and Senior Counsel at Union Bank. Looking back, Morris says “I’ve played a few roles in my life and enjoyed them all. But going in-house was a terrific move for me.” For the next 19 years, Morris would – under the tutelage of Union Bank’s General Counsel John McGuckin, Jr. – move to positions of greater and greater responsibility within the Union Bank legal team. In 2008, following in the footsteps of his mentor John, Morris would himself be named General

Counsel of Union Bank, a position he would hold for the next five years until his retirement in 2013.

And what was most distinctive about Morris's in-house career, including as General Counsel? His commitment to pro-bono work has to rank high on the list. Among other things, he spearheaded volunteer efforts to help tenants facing eviction or otherwise facing housing-related legal challenges. As General Counsel, he formalized this support for pro-bono, establishing a policy at Union Bank that allows in-house lawyers there to spend up to 4 business days each year helping nonprofit organizations. "Community service," as Morris puts it, "is part of what allows us to be true to ourselves."

A glance at his resume shows a lot more that could be said about Morris and his career. Starting in 1987, he worked for four years on a joint project with the State Bar of California Real Property Section, searching for comprehensive reform of and a statutory solution to problems embedded in California's real property anti-deficiency laws. In 2004, Morris was awarded the Almon McCallum Award by the California Bankers Association (CBA) for distinguished service to the California banking industry. From 1990 to 1993, and again from 2006 to 2008, Morris served on the BLS Executive Committee, devoting countless hours and serving as a Vice-Chair (1992-1993). He served as a member of the CBA Legal Affairs Committee from 1993 to 2001 (Chair 1999-2001), of the American College of Commercial Finance Lawyers (2000-2008) and of the San Francisco Bank Attorneys Association (1990-2013; Chair 1994). His publications include (as co-author) "California Foreclosure Law and Practice", Shepard's/McGraw-Hill, Inc. (1995); "The U.C.C. Mixed Collateral Statute – Has Paradise Really Been Lost?", 36 UCLA Law Review 1 (1988); and "Private Subordination Agreements and the U.C.C.: Is Section 1-209 an Un-Wyse Solution?", 38 Business Lawyer 555 (1983).

A final example shows how Morris and his collaborative style can lead to the State Bar at its best. For ten years (2000-2010), Morris served on the BLS Opinions Committee (Vice-Chair 2002-2004 and Chair 2004-2007). This is another example of Morris and a

devoted team making the practice of law easier for all of us. During Morris's tenure, the Opinions Committee focused on third-party "remedies opinions," which are opinions delivered at closing in major commercial transactions such as large loans or merger and acquisition deals. These opinions are typically requested by a counterparty (a bank, for example) to provide assurance to it that the terms and conditions of the underlying contract are enforceable. For decades, there had been contention between the East Coast and the West Coast on the scope and meaning of a remedies opinion. Morris and a team that included John Power (2004 BLS Lifetime Achievement Award recipient) were able to find a way to bridge the differences between the two Coasts, leading to the landmark publication of "Toward a National Legal Opinion Practice: The California Remedies Opinion Report", 60 Business Lawyer 907 (2005). Morris and John would be among the first to acknowledge that there are many others who serve on the Opinions Committee without whose help there would be no Remedies Opinion Report. But we see again how the desire to "make things better" placed Morris in a leadership position on a project that had a selfless goal. We see again an example of how Morris has "over an extended period ... made significant contributions to the Section [and] to business law generally in the State of California and who has achieved high status in the legal community."

Morris is now retired, and you might expect that he is relaxing on a veranda somewhere, reflecting on past accomplishments. To the contrary! Morris continues to be very active in ways that improve the lives of those around him. "I always wanted to be a teacher," Morris said. True to form, Morris always accomplishes what he sets out to do. After his distinguished legal career, Morris now volunteers as a tutor helping disadvantaged Oakland/East Bay students. They are lucky to have him, as are we.

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