

A TRIBUTE  
TO PROFESSOR ERICA BEECHER-MONAS (1949–2017)



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## Erica Beecher Monas—A Tribute

*By: Robert Ackerman\**

While I had the good fortune to call Erica Beecher Monas my friend, our relationship was largely a professional one. And Erica Beecher Monas was the consummate professional. She took her teaching, scholarship, and service obligations seriously, without taking herself too seriously. Her scholarship in the field of scientific evidence garnered national and even international respect. Her teaching included the value-added element that distinguished her classes from the mundane recap of the casebook and rules that suffices for legal education in some quarters (none of which bear the Wayne imprimatur).

Erica did not suffer fools gladly. After all, there was no time for that—not when there were classes to teach, scholarly articles to write, professional duties to be attended to—and yes, yachts to sail to the next exotic compass-point. I wish I had taken lessons in time management from Erica, who managed to pack so much into one life, a life that was cut all too short by illnesses that she managed with resilience, dignity, and grace.

None of this is to suggest that Erica was humorless. Sometimes her witticisms came and went so quickly and softly that they were history before many people in her audience could appreciate them. But when Erica had something important to say, she made sure you understood it. That was the case when, together with another respected colleague, Janet Findlater, we fashioned the Law School's response to a rare but serious allegation of sexual assault involving two students that arose when I was dean. Erica and Janet were calm but firm, guiding a dean with no prior experience in matters of this sort to a measured response that preserved the due process rights of the accused while assuring women in the law school that certain behaviors were not to be tolerated. As we worked through the problem, one could see the expertise of the evidence professor merge with the compassion of a woman who had earned respect in two professions (Erica was also trained as a scientist) at a time when, unfortunately, such respect could not be taken for granted. That such respect should, by now, be given as a matter of course was one issue on which there would be no backtracking, no concessions.

Nor were there to be any concessions when Erica confronted the physical ailments that beset her during the last several years of her life. I

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remember her telling me that she would have to undergo lung replacement surgery that would take her out of service for a while. Despite the substantial risks entailed in both her illness and its treatment, she reported both with neither rancor nor trepidation, in an almost matter-of-fact way. Aware of the risks and the discomfort, Erica was prepared to face it all head-on, with determination but without drama.

The precise timing escapes me, but I had apparently appointed Erica to chair our Appointments Committee just prior to learning of her health issues. Chairing Appointments is no small job under the best of circumstances. The Appointments Chair has significant and time-consuming responsibilities. The position requires substantial organizational skills—juggling the hundreds of names in the AALS Faculty Appointments Register, scheduling candidates for about two dozen interviews over two days, then reconciling the schedules of those candidates called back to campus with those of busy faculty colleagues. But the job also requires refined social skills—the tact necessary to deal with a variety of candidates, successful and disappointed, along with one's faculty colleagues, the communication ability necessary to sell—but not oversell—the Law School to candidates, and the grace and aplomb necessary to keep the ball rolling without missing a step. Nevertheless, Erica would hear nothing of relinquishing her responsibilities during her convalescence. She carried out her duties with alacrity and aplomb, meeting all of her appointments and ably directing the affairs of the committee, even as she had to wheel a respirator through airports and hotel corridors.

Erica Beecher-Monas commanded and deserved the respect and admiration of her colleagues. Prior to my arrival as dean, the junior faculty had begun convening regular workshops at which they would present their work to each other and solicit critiques. The concept was to provide for an honest critique, but without the pressure and apprehension that might accompany presentations before tenured members of the faculty. No senior faculty members were invited to these sessions, with one exception: Erica Beecher-Monas. Erica alone had both the respect and trust of her junior colleagues to pull this off, and I would receive reports from our untenured colleagues (all of whom are now tenured faculty themselves) about how Erica had assuredly but tactfully help them master the arcane world of legal scholarship. Professionalism tempered with warmth—that is the Erica I will remember.

One final example of this: I am told that in her final hospitalization, while she was in the ICU, Erica completed work on the book she was writing sent it off to the publisher. I am sure that it gave her satisfaction to do so—to complete one more significant task and add to an already

brilliant collection of insightful work. Erica Beecher-Monas demonstrated to us all that we could be polished professionals and decent human beings at the same time, and did it with style. And that is her enduring legacy.

## FOR ERICA

By: Paul R. Dubinsky\*

“So what?” she asked repeatedly. She spoke between bites of grilled sardines. Erica and I were at one of Detroit’s new restaurants. A tapas bar. We were among the new East-coast “foodies” on the faculty. We had relocated to Detroit from East-coast food meccas (Miami, New York) at a time when the pickings on Cass and Woodward were modest but improving.

That evening, Erica and I were talking about the direction of U.S. treaty law. The meeting was for my benefit; I was struggling with how to move forward on a book arguing that domestic U.S. treaty law had come to foster unilateral behavior by the United States and that this was a significant departure from U.S. treaty law in previous eras. For example, since the 1980s, U.S. treaty interpretation had drifted away from a mode in which U.S. actors involved in the interpretive process took a long-term view of the value of the country’s reputation for nondiscrimination, even-handedness, and reliability in adjudicating the treaty rights of non-U.S. litigants. The generation that had penned the Supremacy Clause, I noted, had upheld the Treaty of Paris against anti-British, anti-Tory legislation at the state level. Before there was *Marbury v. Madison* there had been *Ware v. Hylton*. Contemporary actions by the political branches and the Supreme Court, however, gave primacy to the statements of U.S. negotiators and deference to the meaning ascribed to treaties by the Executive branch. Some in the academy even called for the transplantation of the *Chevron* doctrine from U.S. administrative law to the U.S. law of treaty interpretation.

Erica was not overly impressed. To be sure, she was engaged, encouraging, challenging, and provocative, as always. But if the judicial approach to treaty interpretation was indeed changing, so what? If the new jurisprudence was more deferential to the Executive Branch than had been the case in the past, was that a good thing or a bad thing? Well, I said, U.S. courts are losing credibility with foreign litigants, and that trend would lead to forum selection clauses that pointed not to New York but elsewhere or to arbitral tribunals. “Okay,” she interjected, “is that a good thing or a bad thing?”

Well, you get the idea. At the first round of appetizers, I was not yet at the place where I needed to be. By the time the check arrived, I was a good deal closer. The conversation with Erica had been helpful. She had nudged and cajoled but had refrained from bludgeoning. She had done

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for a colleague what a good teacher does for a student: pose a series of questions of increasing difficulty and put them on the table at the juncture at which the student needs to confront them.

Erica had the essential traits of a good partner in crime on a law school faculty: She loved restaurants, especially new restaurants. She loved talking about ideas. And she was frank without being harsh. Add all of these ingredients to the mix—ideas, food, red wine, and honesty—and you have the makings of an engaging evening, one that is very useful to a junior colleague struggling to flesh out the full significance of a topic.

Erica and I were members of the Wayne incoming faculty class of 2005, the largest incoming group of faculty in quite some time. We still hold that distinction. There were four of us: Jocelyn Benson, Noah Hall, Erica Beecher-Monas, and me. We were hired in a burst of optimism just before the nationwide financial crisis and Detroit's battle with bankruptcy. Erica and I were lateral hires from other law schools.

Erica was somewhat of a lightning rod for our incoming faculty group and for subsequent junior faculty. Her intellectual interests were wide, from corporate fraud to neuroscience, from statistical proof to the means of predicting violent behavior, from insider trading to the problems that judges have with "junk science." She was even interested in bite-mark evidence. The breadth of her mind was on display at faculty workshops and at meetings of junior faculty. While she was healthy, Erica liked to attend both regularly. She was an especially welcome set of eyes and ears at the works-in-progress meetings of junior faculty members. She read papers in full and gave useful and tactful comments.

Erica had her contradictions: she was a Detroit booster who could not wait to head to South Beach at the first opportunity. She was a senior member of the faculty who liked to hang out with the junior faculty. She wrote a lot about law and science but was very much engaged with the arts and the humanities. Her scholarship dealt with some exotic topics, but typically she was plain spoken.

The last lengthy, work-related conversation that I had with Erica took place in January of 2017. Erica had presented a brown-bag draft of an article about the insights of brain science for our understanding of volition and criminal intent. I had been out of town on the day of the workshop. Subsequently, we arranged to talk by phone. She was in Miami. I was in Ann Arbor. The elephant in the room (or on the phone) was Erica's long and brave battles with illness. She had pushed on through pain and fear. Neither of us made reference to it. I admired the efforts that she made to continue writing. We joked: no need for her to worry about contracting illness from my germs during a phone

conversation. (This was always an issue when we met for lunch or dinner).

Her draft was interesting. I offered comments: Provide the reader with cites directly to primary sources in the neuroscience literature rather than secondary sources. You don't need such a long windup on the front end about the concept of intent in criminal law. "But," she interjected, "if I make those deletions, the article would be much shorter." "So what?" I thought.

## A TRIBUTE TO ERICA BEECHER-MONAS: MY COLLEAGUE AND FRIEND

*By: Julia Ya Qin\**

It was my privilege to have known Professor Erica Beecher-Monas, not only as an esteemed colleague but also as a dear friend. Her sudden death has left a hole in my life, as well as in the Wayne Law community.

Erica joined the faculty of Wayne State Law School in the fall of 2005, from the University of Arkansas at Little Rock School of Law. Soon after her arrival, she hosted a party in her residence on campus for her new colleagues. I remember being deeply impressed by the delicious food she had prepared, her beautifully decorated apartment, and above all, her warmth and hospitality. Over the years thereafter, Erica would host parties in her house in downtown Detroit from time to time, to celebrate the promotion of her colleagues, or simply the change of season. Her last house party was on Thanksgiving 2016, when she invited foreign students from China and Bangladesh, as well as some of her colleagues, for a traditional Thanksgiving dinner. It was the first such American experience for these foreign students. Besides hosting parties, Erica occasionally opened her house for small classes so that her students would enjoy learning law over homemade coffee and healthy snacks in a beautiful and relaxed setting.

I am not sure when Erica and I, both downtown Detroiters, started a tradition of Sunday breakfasts in her house. On those late Sunday mornings, Erica would serve delicious blueberry pancakes of her special recipe – those were easily the best blueberry pancakes on earth—and we would enjoy them over freshly brewed cappuccino, and talk. Our conversations would wander from the big events of the world, to the new books or articles we had read, and to our friends and families. “Breakfast at Chez Erica” is what I will always miss.

Erica led a rich and interesting life. Growing up in an intellectual family, she lived in Europe as a teenager, and spoke fluent French. She started her career as a biologist before turning to law. While studying at law school, Erica continued to work and raised three young children as a single mother. After graduation, she practiced as a litigator in a major New York law firm, working side-by-side with some of the best attorneys in the nation. Then she decided to go back to school. Upon obtaining her LL.M. degree, she joined academia. While teaching at Arkansas, Erica continued to pursue advanced legal studies, which led to her J.S.D. degree from Columbia University. It was through her tireless intellectual pursuits that Erica established herself as a true scholar.

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Erica's diverse training and life experiences contributed to her insights in law and her cosmopolitan outlook. Although she and I specialized in different fields of law, Erica was genuinely interested in my scholarly work, which concerns international trade law in general and China-related issues in particular. It was a luxury for me to be able to discuss new ideas with her and to receive her insightful comments on my writings. From what I observed, Erica was equally generous in helping with other colleagues, especially junior members of the faculty. She would offer to read drafts of their articles and provide her thoughtful feedback, supporting whole-heartedly their academic endeavors.

Erica had a wonderful spirit of adventure. She loved traveling to different parts of the world and experiencing vastly different cultures. For her 2009 sabbatical, she signed on to teach at the China University of Political Science and Law (CUPL) in Beijing as a Fulbright scholar. Through her teaching, Erica connected with her Chinese students, some of who kept contact with her in the years thereafter. (Recently I have found in her office a certificate issued by CUPL, thanking Erica for her generous donation of law books to the school.) While in China, Erica travelled to remote corners of the country by herself, even though she spoke no Chinese. One of her favorite stories was how she had happened upon a group of local elders playing folk music in a village in Yunnan Province (adjacent to Vietnam, Laos and Myanmar), and how wonderful she had felt to be able to connect with the villagers through music alone.

Erica was the most courageous person I have ever known. In the last seven years, I watched both closely and from afar how tenaciously she fought against devastating illnesses and how, incredibly, she won her battles one at a time. It was nothing short of a miracle that she survived a double-lung transplant in 2012 and lived a productive life for another five years. This miracle was one of modern medical science, but it was also one summoned out of her sheer will. Because of the transplant, she had to undergo many painful treatments and experienced numerous ups and downs. It was her tremendous love for life and unwavering determination that made her such a survivor. One can never forget the scene of Erica walking with an oxygen tank to teach in the classroom. Even with her precarious physical condition, Erica remained fully committed to her teaching and other professional responsibilities. She was forging ahead with the writing of her new textbook and the revision of her latest law review article up until her final days.

Erica has left us. But her love and spirit continue to touch us and will remain as inspiration in our lives.

## AN ARTIST IS NEVER POOR

By: *Steven L. Winter*\*

*Babette's Feast*<sup>1</sup> was one of Erica's favorite movies. Babette lives with two elderly sisters who preside over their late father's severe Lutheran congregation on the barren coast of Jutland. Babette is a refugee from France following the suppression of the Paris Commune. She arrives on their doorstep bearing a letter from one of the sister's former suitors, a Paris opera star. The sisters take Babette in as their unpaid housekeeper and cook. Every year for 14 years, one of Babette's Paris friends renews her lottery ticket. When Babette wins, she decides to spend the entire 10,000 franc prize on a sumptuous dinner for the sisters and their aging congregation to celebrate the hundredth birthday of their founder. The sisters and their parishioners are uncomfortable with the decadence of the meal, which they eat in stoic silence. One of the guests is a general, the nephew of one of the parishioners and one of the sisters' former suitors, who had been an attaché in Paris. He marvels at the quality of the wine and the extravagance of the food. When the main course is served—a dish of quail in puff pastry stuffed with foie gras and truffle sauce called *Cailles en Sarcophage*—he recognizes the signature dish of the famed *Café Anglais* in Paris. The general is moved by the magnificence and generosity of the meal to make a lovely, quite spiritual toast. As dessert is served, the parishioners are overcome with a spirit of reconciliation and grace.

After dinner, Babette reveals to the sisters that she was the chef at the *Café Anglais*. When the sisters assure her that they will remember the marvelous evening long after she returns to Paris, Babette tells them that she is not going back because her friends and her money are all gone. The sisters are aghast that she spent all of her money on the dinner for them. "Now you will be poor the rest of your life," one of the sisters protests. Babette replies, "An artist is never poor."<sup>2</sup>

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1. *Babette's Feast* (1987) (directed by Gabriel Axel). The movie is adapted from a short story by Isek Dineson (Karen Blixen). *ISEK DINESON, ANECDOTES OF DESTINY* 23 (1958). Erica is in good company: The film is also one of Pope Francis's favorites. See *AMORIS LAETITIA* of the Holy Father Francis to Bishops, Priests, and Deacons, Consecrated Persons, Christian Married Couples, and All the Lay Faithful on Love in the Family 97, available online at [http://m.vatican.va/content/dam/francesco/pdf/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20160319\\_amoris-laetitia\\_en.pdf](http://m.vatican.va/content/dam/francesco/pdf/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia_en.pdf)

2. The final scene can be viewed online at: [https://www.youtube.com/watch?v=vgO9v\\_7DaB4](https://www.youtube.com/watch?v=vgO9v_7DaB4)

Babette's Feast articulates an ethic of generosity, care, humility, and artistic integrity. Erica was that kind of person. I knew Erica for over thirty years both as student and treasured colleague. She was an extraordinary person. Quiet, confident, and self-possessed, Erica was a person of tremendous intelligence, strength, and resilience. Before going to law school, she was the only woman working in a nuclear power plant. Because she had an advanced science degree, she served as the compliance officer—making her doubly an outsider. Nothing was too difficult for Erica because, when she faced some challenge, she said to herself “this is not as hard as the nuclear power plant.”

Erica had one of those little Zen gardens—a wooden box of sand with little stones and a rake—sitting on her desk. It symbolizes her for me. Beneath a calm, unassuming surface, there was a person of great passion and integrity. Erica had a strong moral compass; she never lost her capacity for indignation and outrage. You could see it in her scholarship as she called out the hypocrisy and stupidity of courts that failed to question the pseudo-science admitted as evidence in criminal cases.<sup>3</sup> Erica was fierce in the face of injustice. Knowing her as I did, it came as no surprise. But I can remember the look of shock on a colleague's face as Erica admonished him for the unreconstructed way in which he had handled an allegation of a student's sexual misconduct.

Erica was incredibly smart. Though a single mother with three kids, Erica excelled as a law student; she was the only student at the University of Miami whom all of the faculty treated as a near-colleague. But what most impressed me about her as a student was how she processed criticism with self-reflection and grace. As chair of the appointments committee many years later, I was thrilled to recruit her to Wayne. Erica was a thoughtful and productive scholar, a gifted and committed teacher, an inquiring intellect, and a collaborative colleague. One of my best teaching experiences occurred during the three years in which we each taught a first-year section of The Regulatory State course. Erica and I met every week in her office to discuss the readings, to compare notes about how best to present the often-demanding material, and to share insights about what worked and why. Erica was a fabulous co-teacher. I teach The Regulatory State as an upper-class elective now, and my teaching is still informed by her insights and suggestions.

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3. See Erica Beecher-Monas, *Reality Bites: The Illusion of Science in Bite-Mark Evidence*, 30 CARDOZO L. REV. 1369, 1370 (2009) (“Nonsense masquerading as science has no place in being admitted into evidence to prove an issue disputed at trial.”). See also Erica Beecher-Monas & Edgar Garcia-Rill, *Actus Reus, Mens Rea and Brain Science: What Do Volition and Intent Really Mean?* (forthcoming).

Erica's Zen garden now sits on my desk. It is a reminder of how much we have lost.

It is sobering when you realize that you have outlived two of your favorite students. We think of mortality as an inevitable, but distant landmark. Yet, even that is a form of denial. Corporeality and impermanence are indispensable aspects of our being. We are embodied creatures whose very capacity to "have" a world is contingent on our ongoing physical and social interactions with it.<sup>4</sup> We cannot step outside the materiality and mortality of existence any more than we can escape the physical world of mass, energy, momentum, and entropy. "It is because we are through and through compounded by relationships with the world" that "they are taken for granted, and go unnoticed."<sup>5</sup> When those relationships are gone, we suddenly stand face-to-face with our finitude and the evanescence of our existence.

The art of life is the art of managing loss, and we do so best by curating and sharing with others the joy and grace of our everyday endeavors. Erica understood and practiced that aesthetic. We will miss her. I console myself with the knowledge that a person who can count Erica as colleague and friend is never poor.

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4. See MAURICE MERLEAU-PONTY, *SENSE AND NON-SENSE* 24 (H. Dreyfus & P. Dreyfus trans. 1964) ("There can be no consciousness that is not sustained by its primordial involvement in life and by the manner of this involvement.").

5. MAURICE MERLEAU-PONTY, *THE PHENOMENOLOGY OF PERCEPTION* 440 (Colin Smith trans., 1962).