

# Obituary

## Remembering Peter Tiersma

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I don't remember just when I first met Peter Tiersma, but it was some time in the early 1990s. I was still practicing law at the time, and we met at a conference. Peter had already made the move from practice to academia in 1990 when he joined the faculty at Loyola Law School in Los Angeles, where he remained for 24 years, until his death on April 13, 2014.

The world of language and law scholarship was a welcoming one then, as it still is. I was working at a New York law firm, doing some academic research during my free time. I would periodically speak at conferences, having been encouraged by people in the field. Typically, at that time, language and law would occupy one or two panels at a large conference, such as meetings of the Law & Society Association, or the Linguistic Society of America. Almost invariably, one of the participants would tell me that I really should get to know Peter Tiersma because we both had the same educational backgrounds (a Ph.D. in Linguistics followed by a law degree), and seemed to share an outlook on language and law scholarship. At one of these conferences he and I did meet, although I can't now recall which one.

What I do remember quite specifically, though, is that my friendship with Peter began shortly before I joined the Brooklyn Law School faculty in 1996. Early that year, after I had accepted the teaching position but before it had started, I had to travel to Los Angeles for a case I was litigating. I didn't know Peter well, but I thought it would be nice to stop at Loyola to say hello to him. I also wanted to meet his then Dean, Gerald McLaughlin, who had earlier taught at Brooklyn Law School for many years. By then I had read some of Peter's work, especially his work on language issues in contract law, and it was absolutely first rate – perhaps the best I had seen in the field. So I was happy to have the opportunity to get to know him a little better.

We spent several hours together – including a very nice meeting with the dean. What I recall from that day was discovering that Peter was very learned in areas about which I knew very little, especially the history of language and the history of law; that he had a good sense of humor; and that our interests were not identical but overlapped a great deal. Perhaps most importantly, we got along well and seemed to like one another. I was just beginning a new career and it meant a lot to me to begin it having a colleague with whom

I would want to share work and ideas, even a colleague who lived and taught 2,500 miles from my home.

Once I started teaching, we began to attend the same conferences, and often spoke on the same panels. It was during that time that the number of conferences devoted to one or another aspect of language and law began to proliferate, increasing our opportunities to spend time together. Before long, we would make sure we had dinner together when we were at these events, and soon began to be seen as a kind of pair. We laughed at similar things and would banter, often entertaining others and enjoying it. Peter was a charismatic figure, reflected in his captivating talks and his off-the-charts teaching evaluations at Loyola year after year. For many years, when we travelled to academic events, I don't think anyone would even have thought of inviting one of us to have dinner without the other, and I don't think either of us would have considered it. "Larry, do you want to join us for dinner?" "Sure, I'll get Peter." And the same, no doubt, in the other direction. Yet in other respects, Peter was quite private, not quick to share his feelings except with a few people.

As we grew closer, we decided to write a book together. Peter was just finishing his important 1999 volume, *Legal Language*, published by the University of Chicago Press. We wrote to our editor, John Tryneski (I had also published a book with Chicago), and suggested a book dealing with topics on language and law. Tryneski was enthusiastic, and the project later became our 2005 book, *Speaking of Crime*. But something happened in between. I had suggested to Peter that we spend some time together at the January 1998 AALS (Association of American Law Schools) meeting planning out the book. He responded that my idea was great, but that he would not be able to do that because he had just been diagnosed with leukemia. Round 1.

Peter fought his way through the leukemia over the next couple of years, and then we fought our way through the book. Well, we never did fight, but we had different styles and we needed to learn when to give the other space. That came very easily for the most part. Some of the chapters were for him to draft, others for me. We then would edit each other's drafts, questioning details, tightening up the arguments. The book was better than either of us would have been able write alone, and it was much more fun. The only difficulty we had was over the chapter on perjury. Both of us had written about that. Our analyses differed in technical respects that seem small, but which had consequences and were hard to reconcile. We argued for weeks over the details (sometimes stubbornly, I'm sorry to have to admit), and eventually came up with a solution of which we were both proud. We regarded that as a major achievement.

One of my favorite stories arose early in the development of *Speaking of Crime*. At a conference, we were meeting with John Tryneski to run through the process of completing the manuscript. John liked what he heard – he was always very supportive of us. At the end, though, he said that one of us would have to take charge of a final stylistic edit so that the book would read with a single, coherent voice. I thought, "That's it. There is no way I want to do that." Peter thought, "That's it. There is no way I want to let Larry do that." Somehow, John picked up on our facial expressions, and asked Peter to take on the role. He agreed, sounding reluctant. It wasn't more than an hour later, over a glass of wine, that Peter and I shared our reactions and had a long laugh together. Even recently, Peter and I talked about writing a sequel to that book, and had he lived, no doubt we would have done so.

During the first decade of the century, we were quite a team. We wrote not only *Speaking of Crime*, but we also wrote eight articles together as we wrote other things on our own. Two of Peter's were his wonderful book, *Parchment, Paper, Pixels* and his article "The Textualization of Precedent," which I continue to think is the best piece he ever wrote. It is filled with excellent contributions to legal theory, made all the more creative through its insights about the relationship between the history of technology and the history of law.

We also had become the best of friends. We didn't talk much on the phone, but we were never out of touch for long, and saw each other several times a year, at least most years. We visited each other, continued to attend the same conferences sometimes taking short trips together at their end, arranged to meet in Europe when we both happened to be there, taught together in China. On one of his trips east, he shoveled snow with me. It was his first time. Not mine. In California, we would visit beautiful historic sites, and go to wineries where we would sample Pinot Noir. He and his wife, Thea, were always extremely hospitable, and I came to regard their guest room as my own, knowing it wasn't true, but not caring very much.

These trips were especially easy for me because there is nothing that Peter enjoyed more than being a tour guide, even of places he had never before been. He would always read extensively before a visit and have a very good eye for the cultural and historical sites that were the most interesting. And he was knowledgeable about all kinds of things, especially natural phenomena, everything from birds to rocks. After one conference in Amsterdam, we drove to Friesland, the northern part of the Netherlands where Peter was born in 1952, and saw the old farm house where he spent his early childhood before his family emigrated to the United States, eventually settling in Central California. They were dairy farmers, and, for that matter, some still are. Peter was always happy to let people know that Frisian was his first language. Actually, he spoke many languages: Dutch was his second. English, Spanish and German came later, his proficiency in German coming in college at Stanford. (He later earned his Ph.D. from the University of California, San Diego, and his law degree at Berkeley.)

We also shared our friends with each other. Some readers of this remembrance know me because of Peter, others knew Peter because of me. In retrospect, that part of our relationship is perhaps the most important to me.

In 2009, we started working on the *Oxford Handbook of Language and Law*, which was published in 2012. Peter took the lead. He was more disciplined than I am, and it was a very big project in which discipline was the key. But we ultimately shared the work fairly and published the book, which contains many very good articles. Two are ones that he and I wrote together, the last two pieces that we co-authored. It was during this time that Peter was diagnosed with pancreatic cancer, in early 2012. I saw him about a month before the diagnosis when I went out there for us to finish technical aspects of the *Handbook*. Peter was in a great deal of pain, the disease, though not yet detected, was already having an effect. I also saw him a number of times as he fought heroically against the cancer, sometimes suffering, sometimes feeling much better as the result of medication and surgery. We continued our visits to the wineries and to local restaurants, although the lengths of the outings were shortened by his reduced stamina. He knew where pancreatic cancer was likely to lead, but he continued doing the best he could, recognizing each day as a precious gift.

Over the past year or so, I have had occasion to reread a lot of Peter's work in connection with a book in his honor that I am co-editing with Janet Ainsworth and Roger Shuy. He made such contributions to so many areas, including the history and nature of legal language, defamation, perjury, consent in rape cases, the tension between literal language and pragmatic inference in legal interpretation, the formation and interpretation of contracts, criminal procedure, substantive criminal law, statutory interpretation, and jury instructions.

I initially got know Peter very well by virtue of our having independently developed similar careers based on similar academic interests. Our paths were bound to cross. All the rest was my good fortune.