DAVID STRAUSS
BY Ranjit Hakim, ’05

The start of law school can be nerve racking and uncomfortable for all sorts of reasons, not the least of which is an introduction to the Socratic method. Few can honestly claim that they relished the opportunity in those first uncertain weeks to fumble their way towards the fundamental truths of the law under the steady inquisition of the country’s brightest legal minds. The presence of ninety-plus recent strangers transcribing what little they could glean of the dialectic between pregnant pauses and halting half sentences only added to the misery.

This may explain why Professor David Strauss quickly became a favorite of the Class of 2005. Sure there was the Office of Legal Counsel pedigree, the editorship of the prestigious Supreme Court Review, and even (let’s admit) the uncanny good looks of a man of a certain age. Yet as the instructor for Elements of the Law during fall quarter of our 1L year, Strauss could also credit his forgiving brand of the Socratic for his widespread acclaim. Make no mistake, Strauss certainly put his young charges through their paces like any other professor. But when we signaled how far out of our depths we were with a particularly useless answer, Strauss would rescue us from our deserved public humiliation by thanking us for the rambling, readdressing the class, and moving on with, “So what I think [insert: name of grateful student] is trying to say is [insert: correct answer that resembles our hopelessly muddled response by no more than an overlapping word or two].”

That phrase, repeated so frequently with little variation during those early days, was a gracious reprieve, a tacit acknowledgement of our ignorance and its simultaneous forgiveness. It was also exactly what some of us needed to stop being so nervous. A gentle course correction when we had lost our way. And as the year progressed, in Elements of the Law and elsewhere across the 1L curriculum, we all settled in, started thinking like lawyers, and stopped needing to hear Strauss’ reassuring absolution quite so often.

We would not have another class with Strauss until the spring when he taught Civil Procedure II. That same term, Justice Scalia came to judge the moot court competition. Perhaps acquainted with our professor over the course of a string of Supreme Court arguments or simply nostalgic for his own days as a distinguished member of the faculty, the Justice wandered into Strauss’ classroom, ascertained the topic (personal jurisdiction, if I recall, though I’ll confess to being unreliable on this point) and quickly took over.

While we were sharper than we had been at the very beginning of law school, as a collective, we were not yet members of the Supreme Court Bar. The Justice seemed genuinely disappointed in us. And the more questions he asked, the fewer answers we could muster. The old nervousness crept back in; eight months into law school and we still didn’t get it. In those first weeks with only our peers as witnesses to our Socratic missteps, we suspected our hopelessness but there seemed a possibility that we could grow out of it. Now no less eminent a source than the high court (where some of us hoped to practice one day) was writing us off. The Justice’s hard Socratic dissolved into a jeremiad of the ways in which we were failing to uphold the proud traditions of the school.

Strauss did not interrupt our esteemed guest as he gave voice to all of the insecurities that we had felt at one time or another during the year.

But when the Justice had finished and we were duly chastised, Strauss thanked him, readdressed us, and began, “So what I think Justice Scalia is trying to say is . . .” I don’t know if Professor Strauss intended that as a joke or a transition, but whatever was meant to come next was drowned out by laughter. The Justice left. And when I saw him again seven years later as a litigant at the U.S. Supreme Court, I had long since forgotten the particulars of International Shoe, but I had Professor Strauss to thank for being just a little less nervous.