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Privileged to Call Her a Friend: A Tribute to Marjorie Corman Aaron

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PRIVILEGED TO CALL HER A FRIEND:
A TRIBUTE TO MARJORIE CORMAN AARON

*Dwight Golann**

We all know Marjorie Corman Aaron as a delightful friend, colleague, and a superb teacher who brings extraordinary energy and intelligence to everything she does. Her warmth and energy attract everyone who meets her, creating a community of colleagues, students, and practitioners ready to join her amazing range of activities.

Marjorie's ability to create friendships and connections may, however, lead us to miss another key quality: her originality. She has been an innovator, bringing concepts from specialties as varied as medicine, drama, and social science to improve lawyers' ability to negotiate, mediate, and counsel. I would like to explore these qualities from an outsider's perspective, from my experience as Marjorie's friend and collaborator in publications, training, and the creation of teaching materials that have helped students, colleagues, and practicing lawyers understand concepts that many of us had previously not known existed.

First, a bit about Marjorie's early career. Her academic excellence led her to become a junior lawyer at an old-line Boston firm (her mentor's office included a musket used in the Battle of Concord). After a few years, however, Marjorie did something that must have struck colleagues as bizarre: she abandoned the prestige and security of big law for the legal equivalent of the Wild West, becoming a criminal prosecutor to gain experience that would later enrich her teaching and coaching at the College of Law.

From the courtroom Marjorie moved to a different frontier, the nascent field of civil mediation. Here she settled cases ranging from family disputes to complex class actions, while her excellence as a writer attracted the attention of Harvard Business School professors who enlisted her to create realistic negotiation simulations. That in turn led to Marjorie's appointment as the executive director of Harvard's storied Program on Negotiation.

It was at this point that I entered the path of the Aaron comet, when I asked her to contribute a chapter to a book on mediation techniques. Doing so introduced me to the best possible collaborator in teaching, writing, and exploring new concepts, as well as a long-term and dedicated friend. Characteristically, Marjorie's writing focused on a controversial topic: whether mediators should offer parties a forecast, or evaluation, of their chances of winning in court if they did not settle. Many teachers

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believe evaluation is an ineffective, even unethical technique, arguing that using it compromises a mediator's impartiality and leads parties to cast the neutral as an adversary.

Marjorie drew on her practice experience to challenge this view. She had seen lawyers give clients pessimistic assessments without losing their confidence, and had herself used evaluative techniques successfully as a mediator. Her combination of practical experience and eloquence as a writer enabled her to identify the dangers inherent in the "total abstinence" philosophy. She pointed out that not teaching the technique did not mean that mediators would not use it, simply that they would do so without knowing how to execute it safely, thus producing the very harms about which opponents had warned. Marjorie provided the first, and still the best, advice on how to apply this controversial technique effectively.

Characteristically, though, Marjorie did much more than explain a technique. She brought into the discussion a mathematical discipline—decision analysis—that applies logic and sophisticated graphics, supported by software, to power case analysis. In doing this, she opened a new tool to teachers and practitioners which culminated in her book, *Risk and Rigor*.

Dispute resolution was not the only area Marjorie explored; she also became an expert in client counseling, creating a course familiar to every Cincinnati Law student. Again, she went beyond conventional analysis, studying social science findings about cognitive forces, methods taught in medical schools to deliver charged diagnoses, and techniques taught by the University's College-Conservatory of Music to modulate voice and gesture. This work formed the basis for her book *Client Science*, published by Oxford University Press.

Perhaps Marjorie's most unique contribution, however, are the videos she has created to demonstrate best practices in negotiation, mediation, and client counseling. Marjorie began by persuading colleagues, including me, to abandon the wooden scripts and over-the-top acting that had characterized existing videos. Instead, she recruited practicing lawyers and teachers (available through her unmatched personal network), put them in challenging situations, and told them to approach problems exactly as they would in practice. Allowed to draw on their expertise, Marjorie's players produced extraordinary performances (viewers often ask if they are watching an actual case).

The videos provide another example of Marjorie's qualities—generosity. She gives away intellectual property, inviting teachers everywhere to download and use her videos freely and without obligation. More than 900 professors and trainers have taken advantage of this offer. The videos are perhaps the most widely used dispute resolution videos in

the world, having been translated into languages including Mandarin, Russian, Portuguese, Vietnamese, and Turkish.

Marjorie's signature products, however, are roleplays. The acknowledged "queen" of the medium, she has created hundreds of vignettes and teaching simulations. These materials deal with an extraordinary range of situations and issues, and again are offered without charge to teachers around the world.

Let me close by mentioning a quality known to everyone who has had the good fortune to come into contact with Marjorie Corman Aaron. While there are many productive scholars in our field, it is hard to think of anyone who has produced original work in so many different areas, from bargaining techniques to psychological insights and mathematical analysis, in mediums ranging from videos to scholarly publications. Even more important, though, has been her interest in people and ability to form friendships and connections. The number of colleagues, former students, and practitioners who call Marjorie a friend and joined in her initiatives is unequalled. I feel privileged to be one of them.