

## **Kenneth Herbert Crook**

*I went to the woods because I wished to live deliberately, to front only the essential facts of life, and see if I could not learn what it had to teach, and not, when I came to die, discover that I had not lived.*

*Henry David Thoreau*

Our good friend and partner, Ken Crook, died peacefully on March 9, 2008 at his home in Victoria, B.C. with his wife, Sara, by his side. Ken was born in Edmonton, Alberta on March 28, 1960 and raised in Fort Saskatchewan. He was the youngest son of the late Clifford and Helen Crook.

Ken was born with haemophilia and learned at a very young age just how precious life is. Shortly after turning 17, he announced to his closest friend that he had just outlived his life expectancy - and so Ken lived his life well and he lived it deliberately, packing into each day as much knowledge, experience and love as he could. His life was an example to all of us, and he remains a shining light in the lives of those who knew him.

Ken graduated from the University of Alberta with degrees in Philosophy (1983 magna cum laude) and Law (1986), earning many honours and awards in the process. He moved to Vancouver in 1986 to commence his articles with Alexander, Holburn, Beaudin & Lang and was called to the Bar of British Columbia in 1987. Although Ken practiced law for only a short period of time, he had a brilliant career. He was a member of our litigation practice and worked closely with Michael Ragona, Q.C. In Michael's words, Ken was undoubtedly the brightest lawyer he ever had the privilege of working with. There was no legal issue that Ken would shy away from and as a result, he was looked to by members of our firm for consultation on the most complex cases. He brought a joy and level of commitment to the practice of law that is seldom seen. He loved what he did and he was a perfectionist. When he prepared a brief or factum, it was always thorough, concise and deadly accurate. Ken could occasionally be seen preparing his submissions by rehearsing orally in his office. He wanted to make sure the submission sounded perfect and, ever conscious of the impression he would leave with the court, would time the submission to ensure that it could be completed in the time allotted for the hearing.

To say that Ken was eager would be a serious understatement. This trait was perhaps best exemplified in his handling of a straightforward motor vehicle defence very early in his career. He received the file from the client with instructions to maintain a complete denial and so he very promptly prepared, filed and served his Statement of Defence. Counsel for the plaintiff wrote back and thanked him for the Statement of Defence but kindly pointed out that although a Writ had been served, a Statement of Claim had not yet been filed. Shortly thereafter, Ken received in the mail a Notice of Discontinuance of the action. I remarked to Ken that plaintiff's counsel must have examined the Statement of Defence and then advised his client, "No claim would stand up to this defence". This remains the finest example of proactive defence work I have ever observed.

Over the years, Ken became a kind and patient mentor to our younger lawyers and students. His door was always open (except when rehearsing his submissions) and he was a friend and colleague you could always count on when you had a problem. At the same time, Ken had his mischievous side. His practical jokes remain part of the firm folklore. Perhaps his most memorable practical joke was one that came at the expense of a young associate who had just completed his very first trial. The case was tried in Kamloops before

Mr. Justice Robinson. The young lawyer had acted for the defendant, a highway maintenance contractor, in a personal injury action. Judgment had been reserved, but he was confident that the case had gone well and would be won. Ken decided that the associate was perhaps a bit too cocky for his own good and so set about to write fabricated Reasons for Judgment. He spent hours carefully drafting a lengthy decision and put it into a form that made it practically indistinguishable from the real thing, including the judge's signature and the Kamloops Registry stamp. Every argument the young lawyer had made at trial was clinically dismantled and torn to pieces. The "decision" was laced with subtle, but deadly personal criticisms of the young lawyer's advocacy skills. In the end, Ken had our client suffering an enormous loss with damages awarded in an amount greater than those sought by the plaintiff. Using the young lawyer's secretary as an accomplice, the reasons were delivered to the desk of the unsuspecting victim. He was absolutely devastated. Meanwhile, Ken and others were skulking around the corner doing their best to restrain their laughter. The poor young man finally mustered the courage to walk into the office of the senior partner who had assigned the file, to deliver the horrible news. After waiting an appropriate length of time, Ken sauntered into the corner office and just stood there and smiled. As a footnote, the real Mr. Justice Robinson dismissed the action.

It took that same associate a number of weeks to realize after returning from vacation that the legs of his desk were sawed off by a few inches and that was why his knees kept on banging the bottom of his desk. That was Ken's handiwork as well.

Ken could not only hand out the practical jokes, he was also able to take them. In the days when all of our names were on the letterhead, Ken suffered the brief humiliation of seeing his name drop from the middle of the pack to the very bottom (a feat performed by an equally mischievous colleague using a razor blade, glue, and a good photocopy machine). Ken was not amused when he was told by his secretary, who was in on the joke, that it was a mistake made by our printers that would be rectified in three months or so, on the next order of letterhead. Months later, he was even less amused when he received a letter from his insurance company (fabricated, of course) questioning whether the fire that had destroyed his jeep a week earlier might have been incendiary in nature and asking that he attend at the insurer's office to submit to a polygraph. But, it was when Ken received a "Rolex" watch as thanks for a speaking engagement that his true character came to the forefront. The watch was contained within an authentic Rolex box, complete with warranty. In fact, it was the kind of "Rolex" one might purchase from a street vendor in Bangkok. Ken believed it was the real thing and that its value was in the thousands of dollars. He at first contemplated returning it, but then decided to take it to the managing partner of the firm and surrender it to him as a firm asset.

Ken was made a partner of our firm on February 1, 1994. At the time, he had just successfully completed the lengthy trial in *Krusel v. Firth* and was working on responding to an appeal from the trial judge's decision. His career was hitting its stride. Tragically, he learned in August of that year that he had contracted AIDS from the tainted blood product he had been taking for years to combat his haemophilia. In 1994, a diagnosis of full-blown AIDS was a death sentence and we all thought we would lose Ken before the year was out. Miraculously, he came through and with the new medications was able successfully to battle the disease, although not without significant pain and side effects. What we did not know at the time was that Ken had also contracted Hepatitis C from the same blood product and, ultimately, it was consequential liver failure that led to his death.

In his last 14 years, Ken still lived life to its fullest, notwithstanding his many physical limitations. He attempted a return to practice on two occasions, but the stress associated with legal practice was harmful to his condition and his doctors demanded that he stay away. Despite his disappointment, he understood his limitations and maintained a steady calm and a sense of humour, even in those moments -and there were many- when death was staring him in the face. I will never forget the e-mail he sent to me and others shortly following surgery last October to amputate a leg ravaged with infection. The title of the e-mail was "The Return of Stumpy". He spoke of how much better he felt after losing 25 pounds and how he did not miss the leg – although its disappearance was presenting some "balance problems". His last words in the message were ironically "next year – I think – will be much better". This was the extent of hope, optimism and love of life Ken possessed.

Those of us who practiced with Ken missed him greatly during the last 14 years, but we were confident that Ken was absorbing life even as it was slipping away from him. Along with his best friend, Derek Truscott, he authored two books on professional ethics and the law. He had begun a project to write a book on the law of nuisance, but unfortunately his declining health and eventual passing intervened. He loved the beauty of the written word and was a voracious reader on almost any subject, particularly poetry, music, philosophy, automobiles, history, architecture and art. In his last few years, he learned how to play the piano and he learned it well. He surrounded himself with things of beauty, whether it was art or music, and he shared them generously with the people he loved.

While we will certainly remember Ken for his brilliance and wit, we will remember him most for his tremendous love, his humility and the courage he demonstrated in the face of the most difficult challenges anyone could imagine. He has been an inspiration to all of us who knew and worked with him. We continue to feel his presence in the example he gave us of a life well lived. We will remember him as a great lawyer, and an even better man.

One cannot speak of Ken without also speaking of his wife, Sara Neely, a fellow member of our profession. They met and fell in love here at Alexander, Holburn, Beaudin & Lang and married in 1992, just two years before Ken fell ill. They knew at an early stage in their relationship of the prospect of future illness given Ken's haemophilia. Such was the extent of their love. Sara was Ken's true source of strength and her deep love sustained him.

Ken is survived by Sara and will be missed by his sister, Jo-Ann, and her husband, Ernie Mee, brother Rick and his wife Pat Crook, nephews David and Andrew Mee (to whom Ken was the "wicked uncle"), and Sara's parents, Pat and Gerry Neely.

At the memorial service for Ken, his best friend, Derek, remarked that Ken would want his family and friends to heed the words of Michelangelo:

*If we have been pleased with life, we should not be displeased  
with death, since it comes from the hand of the same master.*

Ken was not afraid of death and he was indeed pleased with his life. All of us were pleased to share it with him.