

## Whats the problem, now?

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Yesterday morning, I checked my e-mail. The usual smattering of bookings for lectures, and collectors wanting prices for paintings or dolls, was outnumbered with buzz about my very first blog. Until yesterday, I was never really convinced that busy people had time to read blogs. I'm happy to be wrong.

It seems that opponents of the Barnes Foundation think there was some revelation in my blog that contradicted testimony given in the three-year legal process in Montgomery County Orphans Court. There isn't.

I wrote, "Bankruptcy was not the reason we filed the petition to move the Foundation to the city. At the time the petition was filed, the Barnes Foundation had a cash surplus and we had no debt - none. But, saying so made the rescue so much more gallant." Before I go any further with addressing that comment, I'll start with the word "bankruptcy."

Complex ideas are condensed for print/broadcast media, to make sharp, clean compelling stories. Words are used that cut to the chase, that capture the sentiment, the moment, and the reader/viewer's attention. They do it because they have deadlines, limited space and other assignments. The media used "bankruptcy" to describe our situation. It was convenient and it stuck, and it made the story of the donors and the \$150 million campaign larger than life.

Believe me, what funders and philanthropists did for the Barnes is larger than life; unprecedented and courageous. Without them, who knows what our future would have been. No matter how many times we tried to explain our financial situation, reporters and journalists abbreviated the complexities to "bankrupt." The more complex the explanation, the more difficult the search is for just one word to sum it all up.

Private and public philanthropies, individuals, and others helped us turn the Foundation around and position it for where and what it is today. When the petition was filed, as documented in court testimony (which are public documents available through the Montgomery County Court system), attorney Sherry Swirsky took our accountant through one of the most exhaustive, yet easy-to-understand analyses of the Barnes' finances on the stand, before Judge Ott. Swirsky's examination was nothing short of brilliant. I would find it hard to imagine anyone could witness that part of the hearing and not understand where we were, financially. Montgomery County Orphan's Court Judge Stanley Ott certainly did. Anyone who is curious enough can read the transcripts of testimony and Judge Ott's opinions. The IRS form 990's are public documents and are accessible on-line.

The term bankruptcy has a specific meaning. It is protection from creditors because of an inability to meet obligations. That did not apply to the Barnes Foundation in 2002 when the petition to relocate the Foundation was filed. An article from 2000, correctly reported that we

were projecting a \$500,000 cash shortfall - then. Getty, Pew, the Mellon Foundation, and Wilmington Trust were among the philanthropies who stepped up. In 1998 when I arrived at The Barnes, they had a deficit of over \$3 million. That too, was changed by the time we filed the petition.

But then, there's the problem created by the small group of people who, for whatever reason seem hell-bent on keeping the Barnes in court. There was a story in the Inquirer about why a certain neighbor was hell bent on chasing us out of Merion. He said, "If you had a golden splinter in your ass, wouldn't you want it removed?" He clarified his comment with a letter a few days later and said it was the current administration and not the Barnes that was the "...golden splinter in his ass."

From 2002 to 2005, after having personally spent 10 hours on the stand, we demonstrated more than adequately, in Dr. Barnes' only words, his feelings about Philadelphia and the Barnes Foundation. He wrote about Philadelphia children using the Barnes Foundation. The architect Paul Philippe Cret initially designed the Barnes Foundation building to be built to the left of the Eakins oval, near the Rodin Museum also designed by Cret.

And then there is the Barnes Foundation Indenture, which very specifically states if the Barnes Foundation can't make it in Merion, the collection should go to a Philadelphia institution. The Indenture also said the Barnes should remain a separate and distinct institution that should not be merged with any other organization. Moving the Barnes Foundation and remaining an independent institution was the least drastic alternative. Judge Ott's ruling concurred with our reading of our situation.

What boggles my mind is the group of "friends" who believe they know more about what Dr. Barnes would have wanted than the good doctor himself. Their motivations have never been in line with what Dr. Barnes and the Barnes Foundation are all about.

We made our case over three years, and seemingly endless days of testimony. Judge Stanley Ott's brilliant assessment said we proved financial exigency. We were okay, but in the face of a disaster, an emergency, or the six-figure settlement being demanded by the very neighbors who put signs on their lawns about the Barnes staying in Merion, we could have been in very dire financial straits. When you have stewardship of a \$70 billion plus collection, having a financial cushion is mandatory. We had a small cash surplus and we had no debt. That wasn't enough.

As attested by Judge Ott's last decree, the Foundation has been abused by frivolous legal actions to the point that restitution was ordered. Those ordered to pay restitution are fighting it, of course. They are the same folks exhibiting hysteria about my blog. Their learning curve seems high.

No I didn't lie on the stand. I was taught that lying to someone is one of the worst forms of contempt anyone could display for another human being. I was educated by Quakers. Speaking truth to power is so much more fun.

In writing my book about my seven years at the Barnes, I plowed through thousands of pages of court transcripts to create a fact-based narrative for anyone who wants to know what really happened. Maybe since I included a few ghost stories, the "friends" will claim that Dr. Barnes really isn't dead. Trust me, he is. I'd rather keep editing that get sidetracked with "Yaarian" hyperbole

You could walk yourself over to the Montgomery County Courthouse, get the transcripts, and a good chair and start reading. My favorite part was when Judge Ott said the neighbors' and the Township's behavior bordered on hysteria! Isn't there therapy for that?

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Tags: Untagged