''immediate, actual, and apparent.'' On the contrary, as explained in the comment to Restatement §121, a risk can be substantial, within the meaning of the rule, even if it is ''potential or contingent,'' and despite the fact that it is neither ''certain or even probable'' that it will occur. The ultimate test is that there be a ''significant and plausible'' risk of adverse effect on one's ethical responsibilities.

When Judge Smith said, therefore, that on October 27th he ''began to develop concerns that Mid-State's involvement in SEC v. Black might, in the future, require it to play a more prominent evidentiary role in the litigation,'' he was acknowledging that he had a conflict of interest that required him immediately to recuse himself. That is, he was acknowledging that there was a ''significant and plausible risk''—even if it was not ''certain or even probable''—that he would find himself adjudicating a case in which he had a substantial financial interest.

Moreover, Judge Smith reiterates that ''Mid-State Bank was not a party to the litigation before me.'' As a Federal Judge for fourteen years, Judge Smith should be familiar with the leading Supreme Court case of Liljeberg v. Health Services Acquisition Corp. He should know, therefore, that it is immaterial whether the Bank had been a party. In Liljeberg, for example, Loyola University was not a party and, indeed, the judge had forgotten that Loyola had any possible interest in the outcome of the case. Nevertheless, simply because the judge had been a trustee of Loyola, the Supreme Court vacated the judgment under the Federal Disqualification Statute (28 U.S.C. §455).

For all of the reasons in my earlier letter and in this one, therefore, I continue to believe that Judge D. Brooks Smith should not be honored with advancement to a distinguished Federal Circuit Court.

Respectfully submitted,

MONROE H. FREEDMAN,

Lichtenstein Distinguished Professor of Legal Ethics.

TRIBUTE TO ROY S. ESTESS

Mr. COCHRAN. Mr. President, one of my State's finest Federal Government officials, Roy S. Estess, announced last week his retirement from the National Aeronautics and Space Administration.

Mr. Estes had served as Director of the Stennis Space Center in Mississippi since January 20, 1989. He has been responsible for managing the center and overseeing the Center's role as the lead center for rocket propulsion testing and the lead center for implementing commercial remote sensing applications. Prior to becoming Director, he had been the Deputy Director of the Center for nine years. He had played a pivotal role in having the Mississippi Test Facility selected as the test site for the Space Shuttle main engine.

Roy graduated from Mississippi State University with a degree in aerospace engineering, and he also completed the advanced management program at the Harvard Graduate Business School.

Roy has held various engineering and management positions during his 42 years of Government service. Thirty-seven of those years have been spent with NASA. His wide ranging experience with NASA included service as a special assistant in NASA Headquarters in Washington, DC, for two consecutive NASA Administrators. Roy also served temporarily as acting director of the Johnson Space Center in Houston, TX.

Among the numerous awards and honors he has received over the years are: the Presidential Distinguished Service Award—twice—and Meritorious Senior Executive Award; NASA's Distinguished Exceptional Service, Equal Opportunity and Outstanding Leadership Medals; the National Distinguished Executive Service Award for Public Service; and Alumni Fellow of Mississippi State University; as well as Citizen of the Year in his home town of Tylertown, MS.

We will truly miss having the benefit of the thoughtful, intelligent leadership of Roy Estess.

He has been a great friend and a trusted source of good advice and counsel for me throughout my career.

I commend Roy Estess on his truly outstanding career and I wish for him much satisfaction and happiness in the years ahead.

PHARMACEUTICAL RESEARCH AND DEVELOPMENT

Mr. HATCH. Mr. President, I rise to speak on a subject related to the debate that we concluded yesterday—at least for the time-being—and that subject is pharmaceutical research and development.

Yesterday, the Senate was unable to reach consensus on the appropriate structure and scope of the much-needed Medicare prescription drug benefit. This was unfortunate for millions of senior citizens across America, including thousands of Utahns.

It is my hope that after the August recess it will be possible for the Senate to match the success of the House of Representatives and pass a Medicare drug bill. I know that we sponsors of the tripartisan proposal will not give up. Senators BREAUX, JEFFORDS, GRASSLEY, SNOWE, and I will redouble our efforts to build support for our plan.

It was also unfortunate yesterday that the Senate adopted S. 812, the Greater Access to Pharmaceuticals Act.

This is the legislation that was originally introduced by Senators MCCAIN and SCHUMER and virtually re-written in the HELP Committee in the form of an amendment sponsored by Senators EDWARDS and COLLINS.

Let me be clear. I am supportive of reasonable changes to the Drug Price Competition and Patent Term Restoration Act, commonly referred to as Waxman-Hatch, or Hatch-Waxman.

I do not oppose amending the Act. However, I do oppose the way in which it was amended, both in the HELP Committee and here on the floor.

I have spoken at some length about the deficiencies of this bill—that appeared only the day before the mark-up on July 10th, and was rocketed straight to the Senate floor the next week. While it was pending for over 2 weeks, it is accurate to say that the central matter under consideration was the Medicare drug benefit issues and that there was relatively little focus on the specifics of the underlying bill.

Despite the lopsided vote yesterday, I have explained why I thought, and still think, that it would have been preferable to hold hearings on this potentially important but largely un-vetted bill.

As ranking Republican member of the Senate Judiciary Committee, I have made known my objections to the manner in which the HELP Committee has acted to usurp the jurisdiction of the Judiciary Committee. When all is said and done, S. 812 is fundamentally an antitrust bill colored by civil justice reform and patent law considerations.

We all know that S. 812 became the floor vehicle for the Medicare drug debate for one major reason the Democratic leadership recognized that if the regular order were observed and a mark-up were held in the Finance Committee, it was almost certain that the tripartisan bill would have been reported to the floor.

I would point out to my colleagues that have just secured final passage of the conference report to accompany the omnibus bipartisan trade package. This bipartisan bill—perhaps the most important economic legislation of this Congress and a bill that will have lasting impact for years to come—came out of the Finance Committee.

I think most would agree that the Finance Committee has a long track record of reaching bipartisan consensus on major issues facing our country.

Perhaps if the Democratic leadership had given the Finance Committee the opportunity to do its job, the great success of the trade legislation would have been duplicated with respect to the Medicare drug benefit.

Instead, we come to the August recess without a Senate Medicare drug benefit bill to conference with the House.

We also come to August, almost as punishment for failing on the Medicare drug benefit issue, with the flawed HELP Committee substitute to S. 812 now adopted by the full Senate.

We could have held hearings on the actual language of the substitute.

We could have taken time to study the facts and recommendations of the major Federal Trade Commission report of the very provisions of law that S. 812 amends.

We could have learned why the Patent and Trademark Office opposes the language of the bill.

We could have learned what the Food and Drug Administration and Department of Justice, and the Office of the United States Trade Representative had to say about the bill.

But we did not.

Instead of taking the time for a careful evaluation of a potentially important change in the law, for the sake of

short-term political tactics in an election year, we brought this bill to the floor in a poisonous atmosphere designed in part to vilify one segment of the pharmaceutical industry.

While S. 812 completely revised most of the McCain-Schumer language and made several significant steps in the right direction, there are significant problems in several of the new features that so mysteriously found their way into the bill on the day before the mark-up.

Since I have done so in some detail previously, I will not catalog these problems again today.

And even though I still oppose various aspects of key provisions of the bill that passed the Senate in the denouement of the Medicare debate yesterday, I want to congratulate Senators MCCAIN, SCHUMER, KENNEDY, EDWARDS, and COLLINS for the substantial vote yesterday.

Nevertheless, I hope that our colleagues in the House will study the Senate legislation, and consult with experts in the Administration, including the FTC, PTO, DOJ, FDA, and USTR, and other affected parties as they decide how best to address the matters taken up by the still barely three weeks' old language of the HELP Committee substitute to S. 812.

Again, let me reiterate that I do not oppose legislation in this area. I concur with the majority of the HELP Committee and the Senate that changes need to be made. They just need to be made in a more measured fashion, taking into account the latest recommendations of the Federal Trade Commission.

I plan to continue to participate in this debate as action moves to the House. I will work with the House, the administration, and others with a stake in the outcome of this legislation.

Frankly, my first impression is that the FTC report provides some critical information and thoughtful recommendations for legislation. I was, of course, pleased that the FTC's first major recommendation—allowing only one 30-month stay for all patents listed with FDA at the time that each particular generic drug application is filed with the agency—was precisely what I have advocated.

The Senate-adopted version of S. 812 goes way beyond this policy. Why?

I am also supportive of the FTC's second, and final, major recommendation, to require that any potentially anticompetitive brand name-generic agreements be submitted for FTC review. This is consistent with the suggestions I made to Chairman LEAHY in connection with his bill, the Drug Competition Act, S. 754.

I am still studying the three minor FTC recommendations that aim to promote price competition and hinder the type of collusive arrangements that on a few but very unfortunate occasions have grown out of the 180-day marketing exclusivity provisions of the law.

Taken together these three recommendations appear to promote a very aggressive version of the use-it-or-lose-it policy I have advocated. Not that I pretend to understand the very complicated exclusivity, forfeiture, and transfer provisions of section 5 of the Edwards-Collins Amendment—and a review of the transcript of the mark-up suggests that I am not alone in my confusion—the HELP Committee adopted quasi-rolling exclusivity policy triggered only by an appellate court decision appears to be significantly at odds with where the FTC and I come out on this issue.

It is very unfortunate that the rushed timing brought about by the tactically convenient decision to mesh S. 812 with the volatile politics of Medicare acted to minimize the value of this over-a-year-in-the-making, but still only 2 days' old, FTC study. As was demonstrated over the past two-and-a-half weeks, the charged atmosphere of election year Medicare debates on the Senate floor is not conducive to fine-tuning of complex and nuanced matters of antitrust and patent law.

As co-author, with my House colleague, HENRY WAXMAN, of the statute that S. 812 seeks to amend—the Drug Price Competition and Patent Term Restoration Act of 1984—I have a long-standing interest in legislation affecting pharmaceutical research and development and the continued growth of the generic drug sector.

A key principle of the 1984 Hatch-Waxman Act is balance between the interests of developing the next generation of new medicines and making available generic copies of existing drugs. For reasons I have spelled out over the last two weeks, I am unable to conclude that this principle of balance has been observed in the bill the Senate adopted yesterday.

No law as complex of the 1984 Act is so perfect that it cannot be improved as it measures up to the tests of time and changing conditions. In my view, there have been several unintended and unanticipated consequences of the 1984 law and other changes in the pharmaceutical sector that bear attention by Congress.

I would like to spend a few minutes today to outline several issues beyond the 30-month stay and the 180-day marketing exclusivity rule that, along with the manner in which the drafters attempt to codify FDA's current bioequivalence standards, have dominated the recent Hatch-Waxman reform debate.

On any number of occasions, I have heard proponents of S. 812 cite as their rationale for this legislation the need to restore the old balance and original intent of the Waxman-Hatch Act.

I am afraid that—not only does the legislation fall short on the balance test but this misdirected attempt to look backward to the intent of 1984 may result in missing important opportunities to facilitate the future of drug discovery and increasing patient access to these new medicines.

If you do not ask the right question, you will get the wrong answer.

I wish to share my perspective on how the science of drug discovery and the pharmaceutical marketplace are changing.

Historians will record the recently-completed mapping of the human genome as a major achievement in the history of science.

Each day, progress is made on new avenues of biomedical research. For example, developments proceed apace in the field of nanotechnology—the precise manipulation of molecules at a sub-molecular level. Similarly, there is great excitement related to proteomics—the study of the structure and function of proteins and the interaction among proteins. We know that genes regulate proteins and, as our understanding of human genes becomes more complete, we will spend more and more time and effort on learning about the relationship between genes and proteins and how proteins carry out these assigned roles.

As has been debated on this floor earlier this year and will undoubtedly be debated again this fall, there is great interest in the promising field of stem cell research. While there are a host of ethical issues that need to be addressed in this area, many leading scientists tell us that stem cell research may one day virtually revolutionize the practice of medicine. The nascent field of embryonic stem cell research may succeed in bringing forth the knowledge that will yield new diagnostics and treatments for a host of currently incurable diseases.

We know that many, including more than 40 Nobel Laureates and virtually all leading science organizations, have concluded that the highly promising, emerging science of regenerative medicine will be advanced by the use of human somatic cell nuclear transfer as a method to develop stem cells.

I mention this to comment on how our almost exponential growth in biomedical knowledge is affecting the pharmaceutical industry.

Looking at all these developments compels me to make the following observation:

When we adopted the 1984 Hatch-Waxman law, we were in an era of small molecule medicine and large patient population blockbuster drugs. Times have changed.

It appears that we are rapidly entering an era of large molecule medicine and small patient population drugs. Some believe that we may be entering an age of literally single patient, person-specific drugs and genetic therapies.

We are already in something of a transition away from old-fashioned chemical-based drug products to futuristic biologicals. This will not occur overnight and there will always be a place for old-style drugs in the therapeutic armamentarium. Experts remind us that this new wave of therapeutic protein molecules are more

complex than the type of drugs developed in the past. To cite but one example, the molecular weight of Prozac is 345 daltons, compared with the biologic, EPO, which is 30,400 daltons and about 10 times the size of many common old-line drugs.

Over the next decade and into the future, a great deal of inventive energy will be concentrated on developing biological products.

The list of 66 approved medications using cloned recombinant DNA will almost certainly expand. The future of the pharmaceutical industry may one day be dominated by biological products.

As we enter this new era of drug discovery, certain policy questions should be considered by Congress:

Are our intellectual property laws relating to pharmaceuticals adequate to promote the large molecule, small patient population medicine?

For example, currently under Waxman-Hatch, process patents are not eligible to receive any patent term restoration. Why should this be the case? If targeted patient populations get smaller and smaller and the production process patents become relatively more important than composition of matter patents, should we make process patents eligible for Waxman-Hatch partial patent term restoration?

Is it possible that one day in the future there will be more drugs intended for patient populations under the 200,000 patient limit established by the Orphan Drug Act or even patient-specific biological cocktails and gene or protein therapies? If so, would it be appropriate to re-think and re-design any of our intellectual property laws?

Unfortunately, S. 812 as passed by the Senate appears to give less value to patents and treats them more as targets for litigation than valuable insights to be respected.

Another key question is whether Hatch-Waxman, as a general matter, adequately values pharmaceutical intellectual property relative to other fields of discovery?

The American Inventors Protection Act which passed with a broad bipartisan consensus in 1999 permits all patents to be restored up to 17 years of patent life if there is undue administrative delay at the PTO. The 1984-adopted Hatch-Waxman law caps patent term restoration for drug patents due to FDA delay at 14 years. Moreover, most patent applications are reviewed by PTO in one and one-half to two years, so that the effective patent life for most products is actually 18 to 18.5 years.

When all is said and done, most patents run appreciably longer than patents related to drugs due to the 14-year Waxman-Hatch cap. We must ask why time lost at PTO should be treated differently than time lost at FDA? Why should the proverbial better mousetrap be treated better under the patent code than a life-saving drug?

Similarly, the Hatch-Waxman Act provides for five years of marketing exclusivity for all new chemical entity drugs, independent of patent protection. In contrast, it is my understanding that most European nation's and Japan have adopted a 10-year data exclusivity rule. Why not consider harmonizing and move to the European standard for this important information which, but for Hatch-Waxman, would be considered proprietary information?

I want to commend Senator LIEBERMAN, with whom I am working, for his advocacy of an aggressive set of intellectual property incentives in his bioterrorism legislation, S. 1764, that are designed to stimulate the private sector to direct its inventive energies and financial resources to develop the necessary measures to counter biological, chemical, or nuclear terrorism. I will continue to work with Senator LIEBERMAN as he refines his legislation, which among other provisions, provides for day-for-day-patent term restoration for time lost at FDA.

The Senator from Connecticut understands the value of intellectual property incentives in facilitating biomedical research. We should all look closely at this approach in the area of bioterrorism and consider applying these principles to other important areas of medical research.

Another major issue will be whether the current lack of Waxman-Hatch authorization for the review and approval of generic biologicals is sound public policy?

Although the Senate failed to adopt a Medicare drug benefit this week, I remain hopeful and committed to working toward the day when we will get the job done for America's seniors.

Part of the impetus behind the McCain-Schumer bill and other efforts for Hatch-Waxman reform is to help seniors reduce the sometimes staggering out-of-pocket costs of their prescription drugs.

Given the enormous costs associated with providing only limited pharmaceutical coverage under Medicare, that for catastrophic expenses last year estimated by CBO to cost $368 billion over 10 years it is absolutely essential for policymakers to explore enacting regulatory pathways for biological products to enter the market once patents have expired.

As we learned in the 1980s when Congress first passed, than unceremoniously repealed, a law which included Medicare drug coverage, the cost-estimates of providing this benefit will only go in one direction: ever higher and higher, and upward and upward.

According to CBO's March 2002 estimates, those seniors who will spend greater than $5,000 in annual prescription drug costs amount to 10 percent of all Medicare beneficiaries. Astonishingly, they account for 38 percent of total prescription drug spending by Medicare beneficiaries today.

By 2012, CBO estimates that these numbers will skyrocket. Fully 80 percent of all spending for drugs by Medicare beneficiaries will go to those 38 percent of the total Medicare beneficiaries with greater than $5,000 in annual prescription drug spending. This will represent the lion's share of total projected Medicare beneficiary prescription drug spending of $278 billion just ten years from now.

We know that biological products are likely to be more expensive than old-line drug products. Sooner or later, we must face up to the generic biologics challenge. We literally cannot afford to continue avoiding this issue.

Now that the HELP Committee has finished, for the time being at least, its foray into antitrust policy, patent law, and civil justice reform, perhaps it could find the time to hold hearings on matters that are actually within the committee's jurisdiction, such as the legal, scientific, and policy issues related to the FDA review of generic biologics.

As far as I am concerned, the sooner we change the law, the better. As more and more biologics come onto the market, we will face transitional products issues and carve out requests that will greatly complicate the legislative process. I speak from experience—I lived through the so-called pipeline issues in 1984 and it was not pretty.

Congress simply cannot, and should not, attempt to enact and sustain over time a Medicare drug benefit unless we seriously explore what steps must be taken to end an FDA regulatory system that acts as a secondary patent for biological products. Patient safety must never be jeopardized. The task will not be easy.

In this regard I must cite an article by Lisa Raines, published in The Journal of Biolaw & Business in 2001 entitled, ''Bad Medicine: Why the Generic Drug Regulatory Paradigm is Inapplicable to Biotechnology Products.'' Lisa was a special friend to all of us interested in biotechnology. She had experience both in the public sector—at the old Congressional Office of Technology Assessment—and in the private sector—with the Biotechnology Industry Organization and Genzyme. One of the many tragedies of September 11 was that Lisa was among the passengers on the plane that was crashed into the Pentagon. We all miss her indomitable spirit and friendship.

Let me stipulate, as the article points out, that it will be difficult to manufacture generic equivalents of biologicals. However, I do not think it is an impossible task. As we attack this problem we will need to adopt one of the mottos of the Marine Corps: the difficult we do immediately, the impossible takes a little longer.

I think it would be wise to charge an expert organization such as the United States Pharmacopeia to convene a group of experts, in alliance with the FDA, to begin to identify the technical issues that need to be addressed in order to bring about bioequivalent generic biologicals, including clinical trials if necessary.

Some will argue that generic biologics cannot be manufactured, but unless we try to invent a fast track approval process for biologics, I do not see how we will ever know how to overcome the technical obstacles.

It seems to me that one of the highest priorities of the next Commissioner of Food and Drugs will be to make certain that the leadership of FDA's Center for Biologics is committed, in partnership with the private sector and academic researchers, to identifying the issues and attempting to find solutions to the many issues that need to be resolved in order to make generic biologics.

I want to acknowledge that Senator ROCKEFELLER has introduced a legislative proposal in this area although I have problems with his study and automatic pilot features.

The last overarching issue that I will raise today is how the structure and strength of the research-based segment of the American pharmaceutical industry has changed since 1984.

On the one hand, we have seen substantial growth in the biotechnology industry. There are now some 1,400 U.S. biotech firms, although only 41 of these biotech companies have any revenues from FDA-approved products.

On the other hand, I think that Congress should consider whether there are any appropriate actions we can, or should, take today to make sure that America retains a vibrant research-based large-firm pharmaceutical sector. I have nothing against the several new consolidated multinational drug firms but we must never allow our national leadership in biomedical research to erode. I suggest my colleagues review the transcript of the March Commerce Committee hearing on the McCain-Schumer legislation and examine the thoughts of Senator WYDEN related to the financial health and status of the product pipeline of the large drug firms.

Senator WYDEN, with his long ties to consumer groups like the Gray Panthers, is certainly no patsy of the drug industry. But the Senator from Oregon clearly understands that while we politicians always want to focus on how to help distribute the golden eggs—the new medicines—to our constituents, we also need to pay attention to the health of the goose. It is true that the pharmaceutical industry has had a great run of success since about 1994 when the Clinton health care plan was rejected. But today's dry pipelines presage problems tomorrow.

The fact is that the drug discovery business is a high risk, high reward endeavor and Congress can do real, and perhaps irreversible harm, to some firms if we choose the wrong intellectual property policies. We need to discuss if there are appropriate ways to increase our nation's biomedical research capacity, such as the set of proposals set forth in the Lieberman bill.

We should not be so quick to vilify the research-based pharmaceutical industry as was done repeatedly for the last three weeks. We know what happened. Political and tactical considerations led some to believe there needed to be a villain in this Medicare debate. In a sense, history repeated itself as some took a page right out of the Clinton Administration play book.

Here is how the book, The System, authored by David Broder and Haynes Johnson, two highly respected journalists, described the tactics of the Clinton White House in trying to pass its too grand health care reform plan in 1993 and 1994:

> . . . Clinton's political advisers focused mainly on the message that for ''the plain folks it's greed—greedy hospitals, greedy doctors, greedy insurance companies. It was an us-versus-them-issue, which Clinton was extremely good at exploiting.''
>
> Clinton's political consultants—Carville, Begala, Grunwald, Greenberg—all thought ''there had to be villains'' . . . at that point, the insurance companies and the pharmaceutical companies became the enemy.

Unfortunately, that strategy reappeared over the last few weeks and we lost an opportunity to debate in a more reasoned fashion the complex set of issues and delicate balance required in pioneer-generic issues that I have just described. Nor did we do any great justice in delving beyond the surface and into the substance of the issues addressed in S. 812.

I have made it clear that my vision and preference for Waxman-Hatch reform is to help facilitate a constructive dialogue among interested parties. We all could benefit by a fair exchange of viewpoints on a broad range of innovator/generic firm issues, including the matters I have just outlined.

The issues that are addressed in the HELP Committee Substitute to S. 812 are important issues. So are the notice provisions contained in Senator LEAHY's bill, S. 754.

Unfortunately, the politics of Medicare prevented the debate over S. 812 from unfolding in a manner that encouraged a thoughtful discussion of even these narrower set of issues, let alone the initiation of a public dialogue of the broader—and perhaps more significant in the long run—Hatch-Waxman reform issues that I have just described.

I wanted to take this opportunity to set forth these ideas for the future consideration of my colleagues and other interested parties.

I look forward to debating these issues in the future and to working with the House and other interested parties to further perfect the Senate-passed version of S. 812.

THE EFFORTS OF STUDENTS AT MONTELLO MIDDLE SCHOOL AND HIGH SCHOOL

Mr. FEINGOLD. Mr. President, I would like to take a moment to recognize a group of students from Montello, WI, who have reached out to show their support and appreciation for the U.S. Navy sailors on duty in the North Arabian Sea. In support of Operation Enduring Freedom, 168 students from the Montello Middle School and High School have dedicated tremendous time and effort to showing their support for our sailors on board the USS *Seattle* and the USS *Detroit*. Their appreciation for the work our sailors and military personnel are doing overseas should be an inspiration to every American.

This group of students, led by their teacher Catherine Ellenbecker, sent 35 boxes of snacks and cookies to the crew aboard these ships. They also collected 18,892 golf balls for the sailors and were given a donation of 100 golf clubs by B&G Golf in Appleton, WI.

By sending these gifts, the students greatly improved the morale of those on board. As one Navy Captain wrote, ''Your gifts and many good wishes have helped to bring home a little closer today.'' A total of 116 students continue to correspond with the USS *Detroit* and 52 other students have pen pals on the USS *Seattle* through both emails and letters.

I applaud these students for their thoughtfulness, their diligence, and above all for their support of our men and women in uniform. These students recognize that we are safe here at home thanks to the hardworking men and women of the U.S. military. It gives me great pride to know that students from my home state of Wisconsin have done so much to support these sailors. I commend the students from Montello Middle School and High School for their efforts.

ADDITIONAL STATEMENTS

IN MEMORIAM: MARI-RAE SOPPER

● Mrs. BOXER. Mr. President, I would like to take this opportunity to share with the Senate the memory of one of my constituents, Mari-Rae Sopper, who lost her life on September 11, 2001. Ms. Sopper was a 35-year-old lawyer and gymnastics coach when the flight she was on, American Airlines Flight 77, was hijacked by terrorists. As we all know, that plane crashed into the Pentagon, killing everyone on board.

Ms. Sopper was a native of Inverness, Illinois and attended William Fremd High School in Palatine, Illinois. At the age of 15 she set the goal of becoming a champion gymnast. She succeeded, becoming all-American in four events, the school's Athlete of the Year and the State's Outstanding Senior Gymnast of the Year.

Larry Petrillo, her high school gymnastics coach, remembers her as brash and committed. ''One thing she taught me is, you never settle for less than you are capable of. We should never accept limits. We should always fight the good fight. She was a staunch supporter of gymnastics and what's right,'' he recalls.

Upon graduating from Iowa State University with a degree in exercise science, Ms. Sopper earned a master's degree in athletics administration