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2009

2009-08-03 no. 2 H. Thomas Wells, Jr. ABA Presidential Speech

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FOR THOSE WHO ATTENDED OPENING
ASSEMBLY, I'VE GOT SOME GOOD NEWS

— NOT GOING TO SING —

Thank you, William, and thank you, my friends. Thank you so much.

We are here in the Land of Lincoln, celebrating our great lawyer-president's bicentennial year. As *he* often liked to do, let me tell you a *story*. It was told to me by a judge at a state bar reception a few months ago.

The judge and I were talking about ~~this and that~~ ^{and} ~~when~~ the topic turned to our kids. ~~She told~~ ^{Turns out} ~~me~~ that her son was about to graduate from college. So I asked:

"What was ^{is he} ~~her son~~ planning to do?" ~~Well, she~~ ~~said~~, the young man wanted to go out and buy a retail franchise, ~~but~~ she was concerned because

he had never worked in that type of business before.

So here's what the judge advised her son: In order to *run* a business, you need to first *appreciate how it operates*. Don't buy a franchise right away, she said, but instead get a job in the industry to understand the business from the ground up rather than expect to be able to start successfully at the top.

That judge's story stuck with me. It came to mind a few weeks later when I was asked to do an assignment for the ABA that brought me, so to speak, to *our* roots.

That assignment involved *Job One* at the ABA—and that's growing and nurturing our

membership. It's our Number One priority because we need the support of as many lawyers as possible—solos and lawyers in firms of all sizes, government and public-interest lawyers, JAGs, general counsel. We need them—*all of them*—to improve the profession and make us better lawyers, to defend liberty, and to deliver justice.

→ My assignment was to make phone calls to the managing partners of firms with the largest number of ABA members—to thank them for their support and see if they needed anything from the ABA.

As I made these calls, it dawned on me that I was essentially a *salesman* for the ABA and our

profession. As president of our Association, it's quite frankly the role I enjoy most. Not only do I love the ABA—I love being a lawyer, and I love our profession. And I certainly hope that was apparent during the year I have been honored and privileged to *lead*—let me correct that, to *serve*—the American Bar Association.

[PAUSE]

God only knows what was on Henry Upson Sims' mind when he was president of the ABA. You'll recall that I have a special connection with Henry Upson Sims, as he was the *first* ABA president from Alabama. My friend and law partner Lee Cooper, of course, has a

somewhat similar connection as the ABA's *second* Alabama president.

I say *somewhat* similar because Lee, you see, served from *1996* to *1997*. Henry Upson Sims was president of the ABA from *1929* to *1930*. (pause)

And that, of course, brings us to the year *I* was called to serve. (smile and pause for effect.)

(Channeling spirit of Sims) (Poisoned well for any other Ala. candidate)

I understand the economic challenges our profession has faced together this past year, and I know it's difficult for many lawyers—indeed, for many of *you*.

But we can be assured that it's times like these when *membership*, and, indeed,

leadership, in our bar communities is most valuable. The ABA's wealth of educational and networking resources is unmatched *anywhere*—especially when leveraged with the resources and relationships we share with our bar affiliates throughout the country . . . and, the world.

We're expanding our efforts to foster our members' professional development during these difficult times by including *free career resources* on our web site, by extending hardship membership rates to those who need them most, and by aggressively planning for membership growth. We have just added a JOBS BOARD to the website. We're all encouraged by the efforts of President-Elect

Carolyn Lamm's membership initiative and the energized work of our talented Standing Committee on Membership, chaired by *Trish Refo*.

We've begun the dialogue on what *more* the bar can do to help our members and *reach out to non-members* during the recession. Our dialogue involves *all* segments of the profession, and it will *continue* under Carolyn's extraordinary leadership as a presidential commission next year.

~~You ~~we~~ know why we need members. We're the national voice of the legal profession, and we're most effective with as strong and broad-based a voice as possible.~~

~~Even in these~~ ^{his} difficult economic ~~times~~, there are times we lawyers can be pretty good at making a *dollar*, *But* we are still at our *dead level best* when we are *making a difference*.

This past year we have indeed been making a difference to advance our core values. Among these core values is an independent profession.

If you're from Connecticut, you know what I'm talking about. If you're not, listen carefully, as something like this can ~~easily~~ happen in your state. Back in the spring, the governor, like most governors these days, was looking everywhere to find ways to close the state's budget gap. She

identified the state bar's client security fund—about \$2 million—and wanted tried to appropriate it for the general coffers.

Now, as you know, those client security funds are independently raised by the bar. These funds are lawyers' way—*just one way*—of holding ourselves up as an *ethical* and *independent* profession.

The state bar, of course, cried foul, and it asked for a *national* perspective and voice on the issue. They got it from the American Bar Association and our Standing Committee on Client Protection. Our collective efforts from the *state* bar and the *American* bar got the governor to back off. We scored a *victory* not

only for an independent profession, but also for the local-national collaboration on these issues that we accomplish day in and day out.

SIMPLY PUT, WE MADE A DIFFERENCE. 

~~Here's another area where local-national collaboration made a difference: You'll recall that in November, the FDIC issued a rule to exclude all interest-bearing accounts from full federal guarantee. This rule would have excluded IOLTA monies, a significant source of funding for legal services, and mandatory in 37 states. The ABA mobilized with *numerous* state and local bars and had 500 comments submitted to the FDIC. In the end, the FDIC allowed the~~

OUR LOCAL-NATIONAL

IN A SIMILAR WAY, ~~WE ARE~~ COLLABORATION

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TO IOLTA ACCOUNTS,

~~federal guarantee to cover IOLTA monies. WE
MADE A DIFFERENCE.~~

Hopefully, we'll enjoy ^{ANOTHER} a victory for our independent profession on another emerging issue. By now, you've probably heard of a rule issued by the Federal Trade Commission—the so-called Red Flags Rule. It mandates businesses to monitor and report to the government any warning signs of identify theft as they extend credit to their customers.

The FTC believes that the definition of ^{it} creditors ^{it} includes lawyers who bill clients.

~~Now, raise your hand if you bill your clients.~~

~~[pause] Guess what! The FTC says you're a creditor!~~

NOW I DON'T KNOW ABOUT YOU, BUT NOT ALL MY WORK IS PRO BONO. I DO BILL CLIENTS. SO THE FTC SAYS I AM A "CREDITOR"

Our Governmental Affairs Office polled a variety of ABA sections and committees, and heard from state and local bar associations.

They universally reported that while the FTC's policy may be worthwhile to combat identity theft, as applied to lawyers it is unnecessary, it is costly—*especially for small firms and solos*—and it is *not supported by law*.

So, again, our *national, collective* voice of the legal profession is empowering us to act, and we're getting results. After many meetings with the FTC and on Capitol Hill, we've just learned of the agency's second three-month delay in enforcing the rule. With the expert advice and pro bono assistance we're receiving,-

- thank you to Steve Krane and Proskauer Rose
-- we're prepared to litigate if necessary to
preserve our core value of an independent
profession. *WE ARE MAKING A
DIFFERENCE.*

And, finally, the Financial Markets
Regulatory Reform Task Force we established
this year, with assistance from the Business Law
Section, is reviewing proposals that may
purposely—or inadvertently—regulate lawyers.
We need to stay on top of these issues and act—
and we can do so only with the *collective*,
national voice of the profession that is the ABA.

Now let's talk about what we've been doing on behalf of another important aspect of independence, an independent judiciary. **HERE, TOO, WE'RE MAKING A DIFFERENCE.**

*First, an independent judiciary requires a well-qualified judiciary. The ABA scored a victory for the American people this year when the White House restored our Standing Committee on the Federal Judiciary's traditional pre-nomination role in peer reviewing federal judicial candidates. Much as I would like to take credit for this victory, I'm reminded of a wise Native American saying: **"The success of a rain dance is all in the timing."** (PAUSE)*

The ABA's role is *universally* respected, and it is *uniquely* independent. You may have noticed something interesting about the list of witnesses for Judge Sotomayor's (soe-toe-my-YORE's) hearings. It had three components: There were witnesses for the *Democrats*. And there were witnesses for the *Republicans*. And, finally, *listed separately*, were the witnesses for the *American Bar Association*—underscoring our independent voice for the profession on behalf of the public. ^{OUR} ~~Those two~~ witnesses were the Standing Committee's chair *Kim Askew* and chief evaluator *Mary Boies*. We thank them and the entire committee for their valuable contributions in providing the *only peer review*

of federal judicial nominees. We thank them for making a difference.

Our federal courts are obviously crucial. But it's our **state courts** that receive the lion's share of the American judiciary's workload, and threats to *their* independence are widespread. That's why the ABA, working closely with the National Center for State Courts, convened a National Presidential Summit on Fair and Impartial State Courts this year.

At that Summit, we had delegations invited by 37 state and territorial supreme courts. Justice Sandra Day O'Connor was our honorary chair and keynote speaker.

Many strategies were shared—regular meetings between the judiciary and the other branches, judicial election reform, improvements in the budget process. One frequently mentioned strategy to shore up *long-term* support for independent state judiciaries was the need for our schools to step up *civics education*. Those of you who joined us at our Opening Assembly heard the stirring words of Justice Souter, who called on the ABA to shine a spotlight on civics education and make a difference. The ABA has long been committed to this issue, and we ~~will take~~^{are taking} up Justice Souter's call with renewed zeal from the leadership of incoming president-elect Steve Zack. In

ensuring fair, impartial and effective state courts, *WE ARE MAKING A DIFFERENCE*.

For our state courts to function, they have to be *perceived* as *fair* and *impartial*. This perception can be threatened when vast sums of money flow into judicial election campaigns. Massachusetts Chief Justice Margaret Marshall, at this House in February, quoted Justice O'Connor that the "single greatest threat to judicial independence is fairly modern and uniquely American" – vast amounts of money flowing into judicial election campaigns. At the U.S. Supreme Court, the ABA filed an amicus brief in support of the petitioner in *Caperton v. Massey Coal*. We sought to establish a federal

due process right to a fair and impartial court, free from the appearance of bias caused by substantial campaign contributions by a party. As President of the ABA, I was proud to sign that brief on your behalf. And I must tell you, the majority opinion in that case, which cited the ABA's judicial ethics standards, sounded a lot like the amicus brief we filed.

WE ARE MAKING A DIFFERENCE

Another core value we advance is *access to justice*, which is all the more challenged by the economic crisis. IN THIS AREA, TOO, WE ARE MAKING A DIFFERENCE.

This past year, dozens and dozens of court systems nationwide aren't providing enough public defenders to handle criminal caseloads. Without fail, the advocates for public defender staffing get their authority from the ABA, whose indigent defense standards—adopted by this House—*they cite time and again.* ~~WE ARE MAKING A DIFFERENCE.~~

On the *civil* side, we know about the desperate need for access to civil justice—about how half of all people who call legal aid offices with legitimate legal problems are turned down simply because there's not enough staff to handle the workload. It's the ABA, the *national* voice of the legal profession, that's been

lobbying for *more* Legal Services funding, and Washington is listening. Thanks to the grassroots support we've organized, Legal Services is due for a significant funding increase. This is especially important in these times when people could use a lawyer's help to avert serious problems like *foreclosure*, or *eviction*, or *bankruptcy*. And thanks to our lobbying efforts, the White House and Congress are working to lift cumbersome and unjust restrictions on the Legal Services programs that get federal funding. In access to ~~civil~~ justice, *WE ARE MAKING A DIFFERENCE.*

Access to justice, of course, doesn't end there. ~~As Pres Obama reminded us at this point at the point~~ *(respectfully)* A central creed of our profession is doing

As Pres Obama noted in his message to the ABA at our Opening Assembly ~~pro bono, and the ABA's standards are cited time and again as the inspiration we hold ourselves to.~~ ^{the ABA at our Opening Assembly} ~~As Pres Obama noted in his message to the~~ Volunteer lawyer programs and individual lawyers throughout the nation are helping disadvantaged people resolve their legal needs free of charge. I've observed and highlighted many of these programs—in San Francisco, in Oklahoma City, in St. Louis, throughout Ohio, and with the ABA's Military Pro Bono Project—and those are only a few examples. *All* of these outstanding programs show **THAT LAWYERS ARE MAKING A DIFFERENCE** in our communities.

We're also making a difference on our core value of *diversity*. I've said before that when gifted women and men of diverse backgrounds face systemic barriers to entering and graduating from law school, passing the bar, and climbing the ranks of the profession, it's not just a *lack* of opportunity for them. It's a *lost* opportunity for our profession which is called on to serve an increasingly diverse society. /

This is especially true with those from groups that have been historically held back in our profession and in our justice system: *women, people of color, people with disabilities, and people of varying sexual orientations and gender identities.*

An ABA national summit on diversity in the legal profession this year attracted 200 bar leaders to share experiences and ideas for making our profession look more like America. We have to *continue* these conversations, find out what's working and what's not working, and take the next steps to expand our commitment to this core value of the profession. In advancing diversity, WE ARE MAKING A DIFFERENCE.

You know, they call Chicago the City of Big Shoulders. Well, it's clear that the ABA offers some pretty big shoulders of our own to support our core values.

This is a message I am proud to take on the road with me as essentially a *traveling salesman*. I've been on the road 215 days since the gavel was passed to me a year ago, more than ~~360~~ days since I began my journey as president-elect

But if I'm the salesman, *you* are providing the *goods*. Let me thank you for all *your* efforts to make us better lawyers and *promote our common core values*.

Thank you to all of you who have hosted me in your communities and shown off the important and impressive work you do.

Thank you to the best staff in the world—
those who help us as members and leaders to
shine.

*Thank you, Jan, for your love and support
that have enabled me to serve the ABA and the
profession.*

*Thank you, Lynlee + Trey, for being the best lawyer children
And, most of all, thank you, all of you, for anyone
could
answering the call to leadership and for making have
a difference as we serve the world's greatest
profession.*