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2009-11-12 H. Thomas Wells, Jr. ABA Presidential Speech

H. Thomas Wells Jr.

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Peggy Sue Rentz

From: Windsor, Pedro [windsorp@staff.abanet.org]
Sent: Tuesday, November 10, 2009 1:21 PM
To: Tommy Wells
Cc: Peggy Sue Rentz
Subject: RE: Arkansas speech
Attachments: ATJC-Accomplishments.pdf; Arkansas Access to Justice Speech.DOC

Hi Tommy,

In the interest of time, I attached the speech I drafted yesterday for your keynote address at the Arkansas first annual "Promise of Justice Conference." It needs more work – so please don't hesitate to call on me. Some facts you may want to include – that are not currently in the speech are:

- According to the Arkansas Commission's 2007 Annual Report - just 42 attorneys in two legal aid organizations are trying to provide free legal services to a low-income population of over 50,000. Now keep in mind this figure is just for 2007 – as you know, we have seen the largest increases in unemployment throughout this country over the last two years: 2008-09.

Here is a link to an up-to-date itinerary for the event: <http://www.arkansasjustice.org/online/node/52>. Attached is also a PDF of the Arkansas "Access to Justice" Commission's accomplishments.

Pedro

From: Tommy Wells [mailto:TWells@maynardcooper.com]
Sent: Tuesday, November 10, 2009 12:20 PM
To: Windsor, Pedro
Subject: Arkansas speech

Pedro,

Any chance you can get me the draft remarks for Arkansas today? I'm slammed tomorrow and won't have a chance to review them.

Thanks.

Tommy

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20-minute keynote speech. The audience will consist of those involved in providing pro bono services—lawyers, judges, advocacy groups, program administrator, law professors and students.

You will be introduced by Past ABA President Phil Anderson, who I provided with a bullet-point list of “access to justice” initiatives during your year, including ABA Day 2009; National Summit on Fair & Impartial State Courts; and your appearance on Capitol Hill this past October.

In your welcome remarks (as drafted) you will give special thanks to: (1) Arkansas Supreme Court Justice Annabelle Clinton Imber - who personally sent you the invitation; has been one of the key driving forces for “access to justice” initiatives in Arkansas; and is the Chair of the Arkansas Access to Justice Commission’s Education Committee; and (2) Charles (Chuck) W. Goldner, Jr. - who is the Chair of the Arkansas Access to Justice Commission and Past Dean (currently a Professor) at UALR Bowen School of Law]

I. WELCOME REMARKS

- Thank you, Phil for that very kind introduction.
- It is my pleasure to be with you this morning and to bring greetings from the American Bar Association.
- I would like to first express our deepest appreciation and congratulations to your Access to Justice Commission for sponsoring this important event - the first annual “Promise of Justice Conference” in Arkansas.
- I would like to also give a special thanks to Arkansas Supreme Court Justice Annabelle Imber and Dean Chuck Goldner for their leadership and vision in ensuring that “access to justice” issues continue to be preserved and nurtured throughout Arkansas.

- As I said earlier, it is a pleasure to be with you all this morning.
- And it is particularly nice to look out and see that I am among fellow members of the bar who are dedicated to a core value of our profession - preserving and expanding equal justice and access to justice for all.

II. HEEDING THE “CALL TO THE BAR”

- You know. We have a saying in the South, a saying that I understand isn't used in other parts of the country. We say that lawyers are "Called to the Bar."
- Think about that - as lawyers, we are “Called to the Bar” - not just to make a dollar, but to make a difference.
- This “Call to the Bar” has never been more present then at this moment is our nation’s history – as our country grapples with one of the worst economic crisis since the Great Depression.
- As a result, an overwhelming number of Americans do not have access to an attorney – at the very time they are falling victim to legal problems related to this recession: evictions & foreclosures; unemployment & bankruptcy; consumer fraud and domestic violence.

- And yes, our profession is also grappling with financial strife brought on by this recession - But regardless of this reality - we must not allow our “Call to the Bar” to go unanswered.
- Because it is more than a mere request or suggestion – it is our duty.
- As ABA President I made it a point to visit legal service programs throughout this country so I could witness firsthand how attorneys fulfill this duty.
- Because you see - sometimes we do so much talking about “access to justice” issues - it becomes academic.
- We lose sight of the fact that we are talking about serving society - serving people.
- In Arkansas, for example, there is a woman named Miriam.
- Miriam emigrated from Peru and started a family with her American husband. Together they have two beautiful girls.
- Unfortunately, when the marriage was ending her husband became physically and emotionally abusive - threatening to have her deported; kicking her out on the street; and taking their two children.
- Unable to afford an attorney, Miriam was distraught and felt helpless.

- Fortunately, the Arkansas Center for Legal Services was willing and able to answer the “Call to the Bar”.
- The Center not only apprised Miriam of her rights but helped her petition for residency under the Violence Against Women’s Act and receive temporary custody.
- Today - Miriam is empowered, knowing her rights and having more time to focus on what’s most important in her life, raising her two beautiful little girls.
- Wow - just take a moment to think about that story - it serves as an impressive reminder of why I became a lawyer - to make a difference.

A. “Call to the Bar” Includes Independent Courts & Pro Bono Service

- Preserving equal justice and access to justice, however, encompasses more than just funding legal services programs and clinics.
- Our profession must advocate for an independent fully functioning judiciary and be committed to pro bono as well.

1. INDEPENDENT COURTS

- First, regarding an independent judiciary - the recession has also made maintaining an independent judicial branch more critical and timely than ever.

- Hardly a week passes without news of jurisdictions severely cutting criminal, civil, or juvenile justice programs due to revenue shortfalls.
- Our ability to maintain courts as an independent branch of government is threatened if they don't have the resources they need to carry out their work.
- That is why, during my Presidential Year, I convened the National Summit on fair and impartial state courts.
 - ABA received the endorsement of Justice Sandra Day O'Connor, the honorary chair and keynote speaker.
 - Delegations were sent by the chief justices of 34 state supreme courts and three territorial high courts. These delegations represented all three branches of state government, justice-system leadership, and the bar. We spent the weekend developing strategies to maintain adequate justice-system budgets and ensure their courts' institutional legitimacy by promoting communication, cooperation, and collaboration among the three branches of government.

2. PRO BONO SERVICE

- Preserving equal justice and access to justice also requires a commitment to pro bono work.
- The good news is that according to a recent ABA study, the number of hours of pro bono work performed by each lawyer has increased, to 41 hours per lawyer per year in 2008 up from an average of 39 hours per lawyer in 2004.
- Also, the number of lawyers who report having done pro bono work has increased: 73 percent in 2008 up from 66 percent in 2004.
- We can also favorably compare the rate at which lawyers volunteer their services each year - nearly three-fourth - with that of the general population, which is only about one-fourth.
- But as much as we can celebrate these accomplishments - we must not become complacent in our obligation to expand our efforts to promote pro bono work.
- Yes, there are some differences between private practice and public-interest work, but the distinctions are insignificant in comparison to our shared responsibility to provide pro bono and public service.

- In Northwest Arkansas, for example, there lives a 6 year old little boy named Brendan - who is trying hard to connect with his dad by looking at old pictures in a photo album.
- You see, Brendan's father was killed while bravely serving this country during his second tour in Iraq.
- However, Brendan's father and mother were not married and, therefore, his mother had a difficult time receiving military survival benefits for her son.
- She couldn't afford a lawyer to work through the red tape and feared that she would have to struggle alone for the rest of her life - to support her son.
- But an Arkansas attorney, who normally specializes in banking and estates, with no expertise in survival benefits - answered the "Call to the Bar".
- He took the case on a pro-bono basis and within a couple of months was able to win an order of guardianship and receive \$50,000 he put in a trust. Now Brendan receives a monthly survivor's benefit of almost \$1100.00.

- Once again, it is stories like this that should remind us all to never lose sight of those in our society, like Miriam and Brendan, who rely on us to heed our “Call to the Bar”.
- Whether that means working for a legal services agency; as a pro-bono attorney; lobbying our federal and state legislatures for increased funding; or simply donating our time and expertise to help our neighbor.

B. ABA’s “Access to Justice” Efforts

- So what does the ABA bring to the table as it relates to promoting, facilitating and nurturing access to justice?
- As the world's largest voluntary membership organization. Nearly 400,000 members strong, we represent and bring together all practice areas and segments of the legal profession.
- Together with the state and local bar associations we use our influence to lobby on Capitol Hill each year to support maximum funding of LSC and advance the policies on social justice that are adopted by our House of Delegates after considerable vetting and debate.

1. ABA Day 2009

- During ABA Day 2009, for example, we focused solely on Access to Justice Issues.
- ABA lobbied:
 - For increased funding for LSC. *For those who don't know LSC is the single largest provider of civil legal aid for the poor in the nation.* Our delegation to Capitol Hill was armed with a letter signed by 52 state and territorial bar presidents and, for the first time, the presidents of the major bars of color. The letter urged Congress to increase LSC funding to at least \$435 million. The letter was a strong show of nationwide bipartisan support.
 - For Legal Services Benefit Act of 2009, that would restore the pre-tax status for group legal employee benefits, a tax status that was eliminated in the mid-1990s.
 - For increase funding for the Legal Orientation Program for immigrant detainees administered by the Department of Justice, which informs detained immigrants of their legal rights.

- Also, this past October, I traveled to Capitol Hill and appeared before the House Judiciary Committee providing testimony regarding the vital need of increased and continual funding for LSC.

2. Division of Legal Services

- In addition, I hope you all are familiar with the ABA's Division for Legal Services, our flagship on access to justice issues.
- Within the Division is the Standing Committee on Pro Bono and Public Service. Along with conducting the Equal Justice Conference, the Standing Committee is the ABA's brain trust on encouraging lawyers to fulfill an important professional responsibility: to provide at least 50 hours of free legal services to the poor each year.
- Within the Division is also the ABA Standing Committee on Legal Aid and Indigent Defendants (“SCLAID”).
 - SCLAID is a prime player in moving the ball forward in realizing an important ABA policy: the right for all to have access to counsel in civil cases where basic human needs are at stake.

- SCLAID also is a moving force in helping local jurisdictions call attention to the public defender crisis, which undermines the constitutional right of the accused to counsel.

3. Other ABA Entities

- I also hope you're familiar with the ABA's other groups that provide policy development and guidance on access-to-justice issues:
 - The Center on Children and the Law and the Council on Racial and Ethnic Justice;
 - The Commissions on Domestic Violence, Homelessness and Poverty, Immigration, Law and Aging, Mental and Physical Disability Law, and Youth at Risk;
- Also most of the ABA's sections and divisions sponsor access-to-justice activities involving particular areas of practice such as Litigation, Business Law, Tax, Criminal Justice, and Family Law.

III. CONCLUSION

- In closing, I would like thank everyone for your kind attention and for supporting such an important event.

- I would like to also applaud and congratulate the Arkansas Access to Justice Commission and the Bar for all your efforts and dedication to the pursuit of justice.
- Allow me to end with these last words of encouragement:
- We are all members of an honored profession built on the foundation of justice - that serves as the rock upon which our republic firmly rests.
- That is why - as stewards of justice - it is imperative to the vitality of our society - that we continue to dedicate ourselves to the ideals consecrated in the U.S. Constitution and mirrored in the Arkansas Attorney's Oath: "I will not reject, from any consideration personal to myself, the cause of the impoverished, the defenseless, or the oppressed. I will endeavor always to advance the cause of justice!"