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A Good Day to be a Lawyer

By Susan M. Holden

Can you think of a recent moment when you thought it was a good day to be a lawyer? I hope that there are many days when you are proud of your work as a lawyer or judge and proud of our profession and its unique role in our system of justice. For me, one such moment occurred on a mild April morning earlier this year while I was in Washington, D.C.

My taxi stopped directly in front of the building. I paid the fare, got out, and ascended the white marble staircase toward the magnificent, columned entrance of the United States Supreme Court. It is an impressive structure — a monument to our legal system. A single message, “Equal Justice Under Law,” is engraved high overhead. On that morning I thought to myself, “It’s a good day to be a lawyer.” I was about to be sworn in to the bar of the United States Supreme Court along with a few of my colleagues, fellow bar leaders from several Midwestern states.

THE HIGHEST COURT

Our group was escorted to a private dining room for breakfast with the clerk of court. The clerk briefed us on the procedure for the swearing in: where we would be seated, the motion, the oath, and the chief justice’s remarks welcoming us to the bar of the highest court in America. The clerk also described the lawyers who would be presenting oral arguments in the only case to be argued that day, advising that we were about to observe two of the finest lawyers who appear before the Supreme Court argue *Arthur Andersen L.L.P. v. United States*, one of the highest profile cases of the term.

In this court respect for tradition and decorum are revered. Like clockwork, upon

the marshal's announcement and a single stroke of the gavel, the justices enter the chamber in order of seniority at the very moment scheduled. Security is tight. Media has its assigned seating. The counsel tables are only a few feet from the justices. Members of the bar are seated immediately behind counsel tables, followed by the gallery of observers. Everyone sits quietly in their seat. No photography is allowed. It probably goes without saying that cell phones, pdas and other electronic or recording devices are banned.

That day the chamber was packed. When oral arguments began, my colleagues and I had been sworn in and were seated in the front row with an unobstructed view of the proceedings. Our expectations were high and we were not disappointed. It was a fine display of appellate advocacy. Each lawyer responded to lively questioning by the justices, apparently unfazed by the intimidating surroundings. Neither lawyer appeared to work from notes; each demonstrated complete command of the facts, technical statutory language, and law under review in the case. To no one's surprise, time limits were strictly enforced and the arguments concluded promptly. Witnessing these talented lawyers made me proud of the profession — it was indeed a good day to be a lawyer.

ANTI-JUDGE ANIMUS

It was not necessarily a good day to be a judge. The decorum and respect shown by all who entered the Supreme Court chamber that day stood in sharp contrast to the discord and animosity toward the judiciary then on view in Congress. A few politicians played the anti-judiciary theme to the media, spawning multiple articles including a *Newsweek* piece that reported "The War on Judges" that had been waged following the Terri Schiavo matter. Quotes from politicians who seemed intent on curbing the judiciary were headlines on the evening news. Criticism of "activist judges" was the topic of multiple media interviews and commentary and has continued.

It is an issue that should concern the bar. Unfair attacks on a particular judge's opinion or ruling can affect the independence of that judge. Charging the entire judiciary with improper "activism" has real potential to erode the independence of our judiciary and the public's trust and confidence in our courts.

It is my intention that we all spend some time in the coming year considering what is important to the future of the legal profession. I submit that one of the core values worthy of preserving is a court system accessible to all that includes impartial and independent judges who act based on the rule of law in every case that comes before them.

It is perhaps inevitable that the courts will bear some criticism in society. In a sense, the courts are “second guessing” the laws passed by popularly elected legislators who in theory act on the majority will of their constituents. In doing so, the courts are guided by the past (cases, constitutions, statutes, etc.) and not necessarily (intentionally not) by the political will of the people. In circumstances where those two concepts collide, criticism is bound to occur. Yet the growing tide of animosity toward the courts borne by some people in power threatens to undermine and damage the independence of our courts.

It is ironic that this vitriol is directed at our courts while we are simultaneously “exporting” our system of justice to many countries around the world. American attorneys and judges travel the world to assist in setting up court systems modeled after our own. Yet at home, the rhetoric against judges is increasingly shrill.

May we rediscover the values that make our justice system appealing to others in the world: the guiding principle of “Equal Justice Under Law” which provides every citizen access to the courts to resolve disputes with the help of an independent judge guided by the rule of law. If we do that, I am confident our futures will include many more days in which we will be proud of our membership in the legal profession and its unique role in our system of justice. C

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