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Press Conference Opening Statement

10:00 am, Friday, August 4, 2006

Good morning. I am Michael S. Greco, President of the American Bar Association.

The ABA House of Delegates is considering many important policy resolutions at this Annual Meeting.

One of the most significant relates to a dangerous and ill-advised proposal in Congress to create an Inspector General for the federal judiciary.

This proposed legislation threatens to undermine the constitutional doctrine of separation of powers and hamper the judiciary's ability to make fair and impartial decisions free from the inappropriate influence of Congress.

The proposed ABA resolution opposes the creation of any statutory inspector general, controlled by Congress that would have broad investigative power over judges and the judiciary.

Congress already has broad powers over the judiciary, that are spelled out clearly in the U.S. Constitution. It determines the number and allocation of judges and approves their budgets. And, of course, Congress has the power to impeach and remove from office judges who violate their oaths of office or commit high crimes or misdemeanors.

But Congress should not, and must not, have the power to investigate the federal judiciary, except in the limited case of impeachment proceedings.

The companion bills pending in the 109<sup>th</sup> Congress -- H.R. 5219 (Sensenbrenner, R – WI) and S. 2678 (Grassley, R-IA), would upset the delicate balance of power crafted by our Founders by formally subjecting the judiciary to institutional pressure from Congress and away from the public eye.

These bills create a very real danger that members of Congress, who are unhappy with a particular judicial decision, or with the actions of a particular court, would attempt to use an inspector general to intimidate judges. This is far too great a risk to take. It could easily undermine the impartiality of our courts.

The federal judiciary has always had the power to police itself. The same is true, incidentally, for state judiciaries.

Strong codes of conduct and ethics, rules that ferret out conflicts of interest and judicial disciplinary systems all form an appropriate and effective system of oversight within the judiciary.

The ABA proposal, offered by the ABA Standing Committee on Federal Judicial Improvements, also urges the Judicial Conference of the United States, along with the Supreme Court, to reinvigorate public confidence in the judiciary by regularly reviewing and enhancing oversight of judicial administration and ethics.

Members of Congress and the federal judiciary should also build a more constructive, cooperative and regular dialogue about issues of mutual concern – to avoid heavy-handed and unnecessary mechanisms such as a statutory inspector general to investigate the judiciary.

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The House of Delegates will also consider an issue whose time, I believe, has come: the creation of a defined right to counsel for lower-income Americans facing serious civil legal problems.

Since the 1963 U.S. Supreme Court decision in Gideon v. Wainwright, people charged with a crime who face possible prison time have had the right to counsel, paid for by the state, if they cannot afford to hire a lawyer on their own.

It is time to ask why we have not extended the same right for lower-income people facing equally serious civil legal problems – problems that can imprison people in poverty, discrimination, and despair.

The ABA Task Force on Access to Civil Justice, which I appointed last August, has produced recommendations, which, if approved by our House of Delegates, will put the ABA on record for the first time as supporting a right to counsel for poor Americans facing the most serious kinds of civil legal problems – those that threaten the integrity of family, shelter, safety, and sustenance.

A right to counsel in civil proceedings is needed now more than ever.

More than 50 million Americans now qualify for civil legal assistance, and 70-80% of their legal needs go unmet year after year.

With this resolution, we have an historic opportunity finally to make good on the promise of equal justice – and equal access to justice – for all in our country.

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The ABA is now working to enhance diversity in the legal profession through the publication of a groundbreaking study of women of color in the law, “Visible Invisibility.”

Copies of the executive summary of the report and press release are available at the back of the room.

I am joined by Pamela Roberts, Chair of the ABA Commission on Women in the Profession, and Paulette Brown, Chair of the women of color research project, both of whom are available to answer questions about this study.

The report’s findings are stark and disturbing.

First and foremost, more than 80% of all women of color lawyers leave private law firms within five years of being hired.

Long before their departures, many women of color get lost in dead-end assignments—a tragic waste of talent and drive. 44% felt they had been passed over for favorable assignments, compared with just of 2% of white males, and 25% of men of color.

Why are women of color leaving the profession in such great numbers?

Do they face conscious or unconscious discrimination?

Are they excluded from informal networks, not supported by mentors, or shunted to inferior assignments with little client contact?

The answer, I’m sorry to say, is YES to all of the above.

As the report notes, women of color have a double whammy. They have many fewer natural bonds with firm leaders than either white women lawyers, or men of color.

To give you an idea of the environment facing many women lawyers of color in law firms, let me cite a few anecdotes from the report:

One Native American woman said: You have to have an incredibly tough skin. . . I had people make comments like, “Oh, you’re Indian. Where’s your tomahawk? Are you going to scalp me?” Or, “Can I call you Pocahontas?”

Many women of color reported feeling invisible, mistaken for clerical staff, court reporters, or paralegals.

An African-American associate said that if a white male partner approached her and a male colleague as they walked together, “He’d speak to the white male associate and he wouldn’t see me. It’s like I’m not there, or he assumes I am part of the administrative staff.”

Is there a professional cost to this for women of color? Let me quote one more statement from the report: “Partners do not invest in those they do not even see.”

I will not mince words.

This is intolerable. It stings the conscience of our profession, and we must all dedicate ourselves to change, to make the culture and practices of large firms welcoming and equitable for all lawyers who come to work there.

Lawyers are bound by professional standards to fight against discrimination and unequal treatment in all its forms – we do so on behalf of clients every day.

We must ensure that lawyers themselves do not have to fight such discrimination in their own workplaces.

The report makes a number of much-needed recommendations on how to address the barriers that women lawyers of color face, including:

1. Address the Success of Women of Color as A Firm Issue, not as a Women of Color Issue.
2. Integrate Women of Color into Existing Measurement Efforts
3. Integrate Women of Color into the Firm’s Professional Fabric, and integrate them into the Firm’s Social Fabric.

I am happy to answer your questions.