

Commencement Address
Pace Law School
May 8, 2011
Jonathan Lippman

I am deeply honored to have been invited to be your commencement speaker today and to accept an Honorary Doctor of Laws degree from this great University and Law School.

My first order of business is to extend congratulations to every one of the graduates, to the proud families and loved ones who helped you get to this day with their support and encouragement, and to all the professors and Law School administrators who guided you to this critical moment in your lives. While the very difficult economy may have made your job hunting more arduous and challenging, and made some of you start to wonder what you have gotten yourself into, let me assure you and your families that a wonderful, satisfying and rewarding career in the law awaits you.

As for me, Pace Law School is very much a part of my personal and professional family, given that the Law School campus is shared by the court system's New York State Judicial Institute, which provides legal education to our judges and nonjudicial staff, and it was here at Pace where my wife Amy, class of 1988, who is with us today, received her J.D. degree and such a fabulous legal education. And with my honorary degree today, that makes two of us in the Lippman family who have Pace degrees, and I am very proud of that fact.

As you proceed in your lives and new careers, you will face many forks in the road, and my first advice to you would be to follow the guidance of that great philosopher,

Lawrence Peter Yogi Berra, who famously said “when you come to a fork in the road, take it!”

As helpful as that advice will be, however, I thought I’d talk to you just a little more seriously -- actually much more seriously -- about what, I believe, can best guide you if you hope to live up to the ideals of our great and noble profession and make your careers meaningful and truly rewarding.

The profession that you join today can be summed up very simply in two words: pursuing justice. I’m not talking about pursuing justice in just a conceptual or abstract sense, but rather about making it a part of your day-to-day reality and your very identity as a lawyer. We all must earn a living, but we cannot define our existence by the billable hour or paychecks alone. Being a lawyer shouldn’t be so empty, parochial and mechanical. Rather, being a lawyer is all about service, leadership, and compassion. We are at our best, our noblest, when we are serving others, helping clients with their problems, helping to mend broken lives or challenging systemic injustices -- whether as lawyers in the private or public sectors, as professionals devoted to serving low-income clients and communities, or as pro bono volunteers who understand the critical role of access to justice in a democracy. Justice has no real meaning without lawyers to give it life - - unless you can feel it in the very fiber of your being, and unless it is equally applied and accessible to all.

Equal justice is so much a part of the ethical and legal underpinnings of our civilization, going back to biblical times and the Old Testament’s mandate: “justice, justice shall you pursue for rich and poor and high and low alike.” And it is surely the life blood of our democracy. If we cannot deliver on the promise of justice for all, we might as well close the doors of our courthouses and our law offices. The pursuit of justice is what

defines our powerful and privileged profession; it is at the very heart of what it means to be a lawyer -- it is our calling. And when we forget that calling of service to others, especially to the less fortunate among us, we lose our collective soul -- we lose our bearings as a profession.

My thoughts today about the profession are not inspired so much from the perspective of my judicial role -- presiding over the Court of Appeals -- although make no mistake that the pursuit of justice is absolutely the driving force in each and every case we hear. Rather, today I speak to you primarily in my role as head of the Judicial Branch of government -- the role that is not usually covered in law school courses or on bar exams and is not always well understood by the general public. As Chief Judge of the State, I have a duty to ensure that our system of justice is accessible in a meaningful way to each and every New Yorker. No issue is more basic to me than access to justice -- no issue should be more basic to any lawyer. And to my mind, at the heart of access to justice is that it is equally available to all people, including the poor and vulnerable -- and that happens, can only happen, through the services and good works of lawyers like you. Today, with the economic tsunami that we face, there is by any standard a crisis in access to justice for the poor in New York and around the country. As Chief Judge, I am acutely aware of what this means for all who come through the doors of our courthouses seeking justice, and I want to share that with you and sensitize you to your new responsibilities as a member of our profession.

As I am sure you all know, the federal constitution guarantees all persons accused of a crime the right to be represented by a lawyer, even if they cannot afford one. We are reminded of this in every one of the multitude of TV crime shows, movies or novels

involving the criminal justice system. That right to counsel was recognized nearly fifty years ago by the United States Supreme Court in the landmark case of *Gideon v. Wainwright*, where the Court said: “In our adversary system of justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth.” And although the constitutional right to counsel has not solved all the access to justice issues in criminal cases, it remains a principle that has elevated the American justice system in the eyes of history and the world.

What many nonlawyers don’t realize, however, is that there is no analogous right to counsel for poor litigants in civil proceedings. The irony is that someone caught in public with an open can of beer is typically entitled to a lawyer -- and rightly so -- but someone appearing in a civil court who cannot afford a lawyer to keep a roof over her head is on her own. Even if the very necessities of life are at stake -- the fate of families and children, one’s health and livelihood, or even personal safety -- there is no established legal right to counsel in civil cases. Does it not strike you as an equally “obvious truth” that basic fairness requires that human beings facing such life-transforming crises should have the right to have a lawyer provided to them when they appear in court? Regrettably, that is just not the case in New York or around the country.

If poor litigants in New York are very fortunate, they may be represented by one of the civil legal services programs run by not-for-profit organizations that provide free representation to low-income New Yorkers. I say “very fortunate” because even when the economy was strong, these chronically underfunded programs served only a fraction of those in need -- well fewer than 20% according to studies done over the years. And with

the current economic downturn, probably the worst since the Great Depression, funding for these programs has never been more threatened and resources more strained. Today in New York City, believe it or not, for every person legal services providers represent, eight to ten others are turned away because of a lack of resources.

The sad reality is that the direct legal and human fallout from the economic collapse has brought us a growing number of newly indigent litigants who cannot afford a lawyer. Last year in our courts more than 2.3 million people were unrepresented in civil cases, including a staggering 98 to 99% of tenants in eviction cases; 95 to 97% of parents in child support matters; and the overwhelming majority of homeowners facing foreclosure proceedings.

Access to justice is not a luxury, affordable only in good times -- it cannot be allowed to fluctuate with the ups and downs of the economy. The truth is that the need for civil legal services is greatest when the economy is weakest, because it is then that the vulnerable in society struggle the most.

How can we as lawyers, judges and law professors fulfill our calling to pursue justice when a significant segment of our population, for all intents and purposes, lacks meaningful access to the courts?

As the constitutional steward of our justice system and the person entrusted with ensuring the impartial administration of justice, I feel it is my moral and ethical obligation to act in my capacity as Chief Judge of the State to confront this crisis head on. And, over the past year, I am very pleased that we have been able to achieve greatly increased funding for civil legal services for the poor. However, these monies are just the beginning of our efforts in New York to level the playing field for the poor and the indigent who, like

all of us, are entitled to their day in court. In your new careers, each of you should also be playing a role in leveling that playing field, and you can do so in so many different ways.

The most direct route is to represent the indigent and the poor, in criminal or civil matters, as your full-time professional career and way of life. Make no mistake: you will not earn a lot of money, but helping the less fortunate among us with your newly acquired legal skills will help make your lives meaningful and fulfilling.

But that role is not for everyone, and some of you may be seeking or have already taken more financially lucrative legal positions in law firms, corporations, or even the government. As private or public sector attorneys not representing the indigent as part of your everyday jobs, your role in ensuring equal justice in New York will be in providing volunteer pro bono legal representation for the poor. It is your duty to do so. The court system, law schools, bar associations, law firms, nonprofits, civil legal services providers and others have made many volunteer opportunities available for lawyers and they continue to look for innovative ways to encourage more pro bono work and to use volunteer lawyers' services efficiently and effectively.

I know this is not an unfamiliar topic to you. Many of you have worked with Pace's Public Interest Law Center, the Pro Bono Justice Program, the Summer Public Interest program, or clinical programs, where you experienced the excitement of changing society for the better, even if you helped only one client. This is so much a part of what Pace Law School has been all about. You know about the priceless fulfillment and personal rewards one gets from helping our fellow citizens, not to mention the opportunity to hone the skills you have and to develop new ones. You learned that public service and public interest work can be so personally gratifying.

Every society is ultimately judged by how it treats its most vulnerable citizens. And for the legal profession and the Judiciary we can and should be judged by whether we provide meaningful legal representation for the poor, particularly when the essentials of life, the very lives and well being of real human beings, are at stake. If we fail in this most basic of our obligations, we become easy prey for those who seek to undermine the justice system and the rule of law.

What is at question today, more than ever, is the legitimacy of our justice system. The rule of law -- the very foundation of our democracy -- loses its meaning when the protection of our laws is available only to those who can afford it.

I want to leave you with these final thoughts. No matter what forks in the road you encounter, remember that the pursuit of justice is the paramount responsibility of our profession. By engaging in that pursuit, you will join a legion of others who down through the years have done our profession proud, who have lived up to the ideals that you immersed yourself in during these last three years -- ideals that are the bedrock of the uplifting and energizing profession that you embark on today.

Graduates, whatever you choose to do in the law, heed the call to pursue justice, be a force for justice, and you will be proud to call yourself a lawyer -- today and every day.

Thank you.