

Inaugural Address as President of the State Bar of California

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It is indeed a pleasure to be present today before so many old friends and so many I admire so much. I walk in the shoes of many heroes of our bar. Names like Hufstedler, Armstrong, Vogel, Morrow, Fujie, Miller, Williams and Sloan. All have given so much and have set such a great example for me as mentors and friends. They have all set a high bar of ethics, professionalism and achievement that I am committed to following.

There are so many challenges facing the legal profession. These challenges include:

- Lawyers continuing to practice late into their senior years
- Counterproductive and unnecessary conflict between lawyers
- Adapting legal education to the changing legal market
- Creating equal opportunity for all our members
- Ongoing discipline problems as some lawyers attempt to perpetrate fraud on the public

We, as the only regulatory agency for a profession that is self-governing in California, must develop solutions in the interests of the public at large. Let me assure you that with the leadership of our board, through our Office of Chief Trial Counsel, committees and task forces, we are addressing each of these issues, remembering first and foremost our core mission of public protection.

But while acknowledging the great importance of these issues, one challenge rises far above all the rest. As officers of the court and stewards of our system of justice, we in the legal profession cannot turn a blind eye to this issue and its impact not only on our clients, but upon society at large. I, of course, am referring to the devastating and unacceptable cuts in funding to our judiciary.

Thus, I will confine my comments this morning to that one critical issue: defending the right of the citizens of California to full and fair access to justice. We must aggressively address the

crisis our citizens face which is caused by the deplorable decline in the funding of one coequal branch of our government – the California court system.

In my 42 years of practice, I have never before seen a crisis like that our justice system faces today. We have all heard the statistics. Five hundred forty-four million dollars cut from the budget this year – with more to come if Proposition 30 fails. Over the last several years, the number has been closer to \$750 million, or about 30 percent of the judicial budget. This is occurring at a time when filings and other demands on our court system are going up.

Through heroic efforts, our judges have kept the system alive by deferring maintenance, tapping reserves and very judiciously using other resources. However, that string has just run out. The reserves have been tapped out and services have been cut to the point that all that is left is closing courthouses, as we have seen in Fresno, eliminating court reporters in Los Angeles, delaying services, such as the six-month delay in securing a hearing date for a demurer in Sacramento, and closing court filing windows all over our state. The net effect is the denial of access to justice to a large segment of our citizens.

In short, because of limited court funding, justice is now being rationed. And as in all rationing programs, there are many who are harmed. Who is harmed? In the broad sense all of us. But those who are most harmed are those least able to fight for their rights. Examples include battered spouses who need a life-saving temporary restraining order, falsely evicted tenants, injured plaintiffs and small businesses that are essential to California's economic recovery. All of these involve very important rights to be vigorously protected.

As many of you know, I've dedicated much of my legal career to representing businesses, from small startups to international conglomerates, each trying desperately to succeed in an ever challenging global economy. Yet rarely do we focus our attention on the impact the judicial funding cuts have on our hardworking business community and, in turn, on our economy itself.. I want to focus our attention on that today.

Interestingly, when asked what the number one factor venture capitalists look for when considering investment in an emerging economy, former Federal Reserve Chairman Alan Greenspan replied immediately: a fully funded and independent judiciary. Why? Because every economist knows that in a complex economy, the ability to quickly and efficiently resolve disputes is vital. No judiciary means no investment. No investment means no jobs. No jobs mean

no social stability. And tragically we are watching the effects of social instability around the world today.

Continued cuts to our judicial funding not only impact our citizens directly, they destroy businesses, particularly small businesses, the backbone of the U.S. economy. This, in turn, impacts the very health of our economy nationwide. Just ask Alan Greenspan.

So what do we do? In the past year, we in the legal community have made significant progress: We unified the voice of the legal community regarding judicial branch funding. Through the leadership of the Open Courts Coalition, we reached out and unified the 280-plus bar associations across the state. From county bars to specialty bars to ethnic bars, we became one voice. This accomplishment is tremendous. But it isn't nearly enough.

The question for us this coming year is whether we in the legal profession will accept what has always been our duty to be the voice in the political arena for our state judiciary. Not just to be a partner with the judiciary in that debate, but to willingly move into the front lines, where the battles are most difficult, on behalf of the judicial branch. To, in effect, become the U.S. Marine Corps of the judiciary.

We know that the distinguished members of the bench, from the newest judge to the chief justice, are rightfully limited in the ways they can engage the political process. We respect that. But we, the lawyers, are not so limited. Bluntly stated, it is our duty to use all the tools available to us as lawyers – some of which are not available to members of the judiciary – to fight for full funding of the judiciary. And we move to the front lines now. And will stay there permanently.

Some ask how will we do that? All tools must be considered. Do we examine litigation options? Do we go to the ballot to finally strengthen Article VI of the state constitution, our judicial article? Do we employ a different and more aggressive strategy in the legislative process? As with any strategic challenge, you never disclose your plan. But I can assure our branch leadership and every member of the bar, that process has begun.

Chief Justice, I give you a pledge on behalf of all lawyers. We will move to the frontline position. And it will be my number one priority from the first day of my presidency to the very last day.

I have noted in recent op-eds and other articles that the rhetoric from certain lawyers and judges toward the legislative and executive branches has become extreme and antagonistic. This is sadly misplaced and frankly uniformed. And we will have no part of it. Yes, we have a difficult struggle ahead. But the other two branches are not filled with folks who hate the judiciary or wish to do it harm. Both branches are filled with hardworking public servants who are doing the best they can under extremely difficult circumstances. Let us understand those circumstances and help guide the other two branches to the right conclusion. Just like a good trial lawyer wants to understand his or her case better than anyone in the courtroom when you go to trial, we need to understand the challenge they face better than they do. Only then will we see the strategic path to full funding for the judiciary.

To start, we will be marshaling our resources to educate the legislature on the need to recognize the justice system as a full partner in the government of this state – not just a line item in a budget. We will also be reaching out to our citizens of California to impress upon them the vital role the justice system plays in their lives and the critical need for them to impress upon their legislators the importance of this issue and their continued support of those who make our laws – laws that are meaningless if there is no court system to enforce them.

The time is now for the 238,000 lawyers of California to step forward and take the lead in a far more proactive and aggressive program to protect access to justice for all of the citizens of California. Accordingly, and to make sure there is no equivocation and no misunderstanding, I am announcing the following two precepts that will guide our action in the coming year.

It will be as president my number one priority to champion the cause of our justice system in affording the access promised under our constitution to all citizens of our state.

It is the duty of all California attorneys to step forward now to protect our system of justice by aggressively advocating for full funding of our courts, whether it be to the legislature, the city council or the Kiwanis. The time has come when every one of us must take a stand. And make no mistake, this is indeed a call to action.

Thank you again and I look forward to serving with my fellow trustees and the 238,000 lawyers of this state in continuing to build a lasting coalition that will be on the front lines securing full funding for our justice system and, consequently, full access to justice for our citizens.