

A. Leon Higginbotham Lecture

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June 9, 2009**

Life is a Public Interest Journey

Thank you Danielle and Kim for those extraordinarily kind words.

I have to start by confessing to a slight sense of trepidation. Given the events of the past few days, public speeches have taken on a whole new significance. So I owe you an apology. Most of the best lines I took out.

Seriously, I want to start by thanking the Philadelphia Bar Association and the Sandra Day O'Connor selection committee for this joint honor of receiving the Sandra Day O'Connor award and delivering the A. Leon Higginbotham Public Interest lecture. I also want to thank all my friends, colleagues and Temple law students who are here. Thank you, too, to the many wonderful friends who nominated and supported me for this award. There are many distinguished people in this room who deserve recognition, and for those I don't mention please forgive me. But there are three today whom I want to acknowledge by name. I want to recognize Judge Norma Shapiro, the inaugural recipient of the Sandra Day O'Connor award and the first female judge on the federal court for the Eastern District of Pennsylvania; the Honorable Dolores Sloviter, a 1997 O'Connor award recipient and first female judge on the Third Circuit. And Ed Chacker, who as Chancellor of the Bar Association in 1999 inaugurated this wonderful lecture series.

I cannot express my gratitude at being associated with two legal giants: the Honorable A. Leon Higginbotham, in whose memory this lecture is named; and the Honorable Sandra Day O'Connor, in whose honor this award has been named – as well as the numerous prior lecture presenters, and prior Sandra Day O'Connor award recipients, many of whom are friends gathered on the dais today. I am honored and humbled to speak to you yet I must confess to a small measure of somber reflection.

As part of this process, I was interviewed by the Legal Intelligencer, and asked to reflect on my parents and their role in bringing me to this point in my life. For the first time in a long time I thought back to my mom telling me how she had always wanted to go to college. Back then high schools had three tracks: the academic track, for those who were college bound, the commercial track, for those who would be office workers, and the general track, for those who would be laborers. My mother, who dreamed of being a

doctor, selected the “academic” track. What she remembered most, she told me, was not just that the school said “no” to her choice, but that her guidance counselor had laughed at the idea until tears rolled down her cheeks.

That memory, in turn, reminded me that thirty-five years later when I, in 11th grade in the same school system, had the obligatory meeting with my guidance counselor, she encouraged me to become a hairdresser. The difference was that my mother had asked me to do something she’d not been allowed to do – plan to go to college. So that’s what I told my guidance counselor. And the difference was that times had changed. My guidance counselor didn’t laugh. She didn’t help, but she didn’t laugh.

along with the awe and humility I feel, I can’t help thinking that despite a host of wonderful things that have come my way in life, today is a pretty big day for me, and that my parents, if they were alive, would be very proud. I am supported, however, in spirit by my husband, Jay, who was unable to be here today but who heard the speech at home, and in person by my dear cherished friend, Bobbi Liebenberg, who is the closest thing I’ll ever get to the sister I never had.

Most years, the Higginbotham lecture and the Sandra Day O’Connor Award are separate events, on separate dates, and feature different individuals. Today presents a wonderful opportunity to talk about these two legal giants in the same breath, and to celebrate the things they shared.

Even now, it’s hard to believe Judge Higginbotham is gone. Until you got to know him, both his presence and his voice were thoroughly intimidating. But inside, he was a kind and decent man, our champion, our cheerleader – and our conscience. He was one of our nation's most passionate and steadfast advocates for civil rights. Through his work and with his voice he reminded us of what we should stand for – that as lawyers we have a special obligation to lend our efforts to influence the course of events for good. He also reminded us that despite the degrees, the license, and the privileges that come with our profession, we are, first and foremost, world and community citizens.

Justice Sandra Day O’Connor, too, has lived an extraordinarily influential life. After graduating 3rd in her class from Stanford Law School, she accepted a position as deputy county attorney. Later, after settling in Arizona, she served with distinction in all three branches of the Arizona state government, before leaving the legislature for the bench. Appointed to the Supreme Court in 1981, she pursued a quiet solution-oriented jurisprudence. Her achievements remind us that just like the booming visionary, the quiet principled pragmatist has an important role to play in influencing the course of events.

Both Judge Higginbotham and Justice O'Connor intended to pursue careers in fields other than law. For each, personal encounters led them to consider law. For Justice O'Connor it was a legal dispute concerning the Lazy B Ranch. For Judge Higginbotham it was Purdue University's conclusion that it was quite acceptable to house black students in an unheated attic – because the law did not require otherwise.

Both went to law school in the years immediately following World War II, long before any public consensus that women and black men were suitable candidates for legal careers. Despite excelling in law school, neither was able to find work in major law firms after graduation because of their respective gender and race. As a result, they each eventually opened their own practice and then turned to public service. Were they destined to be trailblazers or were they forced to become so? Whichever, both had a profound impact on history. So on this day of honoring them, I want to briefly touch on three areas where the legacy of Judge Higginbotham and the work of Justice O'Connor intersect: on the importance of courageously embracing diversity, on the value of mentoring, and on our duty to live a life in the public interest.

Turning first to diversity, I first want to congratulate the Philadelphia Bar Association, and in particular Chancellors Mike Pratt and Sayde Ladov for institutionalizing support for diversity in our local legal community by creating the position of diversity director, now held by Sean Kathleen Lincoln.

Though there have been great strides in diversifying the legal profession, there is still much to do. In 2008, women made up 34% of all lawyers, but 99% of law firms reported that their highest paid lawyer was a man. 92% of managing partners were men. Only 1 out of 6 equity partners is a woman. In terms of lawyers of color, in 2008 fewer than 6% of large law firm partners were minorities. Minority women comprised less than 2%. 19% of law firms in this country do not have a single lawyer of color. And of the Fortune 500 General Counsels, 82 are women; just 7 are women of color.

I offer these statistics because while they signal progress, they remind us of the work yet to be done. But as we think about diversity today, I want to encourage us to think of diversity writ large. Too often when we think of diversity, it's a placeholder for personal characteristics: race, ethnicity, gender, sexual orientation and disability. Judge Higginbotham was a life-long champion of the "voiceless and the forgotten." Compared to those of us here today – vocal and engaged – the voiceless and forgotten are a diverse constituency.

The reason I encourage a broad definition of diversity is because diversity isn't just a politically correct catch-phrase currently in vogue. Diversity makes us better than we

would be without it. Although diversity can be uncomfortable, that discomfort can spur creativity. What's great about our world is that we're all different. What's challenging is that ours is a profession that loves conformity. The problem is that conformity is anesthetizing – dulling the divergent – and potentially creative – instincts of those who are different from us.

I wasn't being glib when I asked a moment ago whether the circumstances faced by Judge Higginbotham and Justice O'Connor contributed to their success. I believe it had a very real impact. Being different – and the sense of exclusion that so often comes as a result – has the potential to motivate, to energize, to inspire. Whether you're moved by being frustrated, sad, or perplexed, your ability to see the world – and its potential – in a way that's different from the person next to you is where opportunity and creativity and innovation are born. So our challenge is to understand the benefits of pushing ourselves towards the unfamiliar. The person not ready to buy into the way you've always done it may be a source of annoyance – or a source of insight.

The second point of intersection between Justice O'Connor and Judge Higginbotham pertains to the value of mentoring. When she was appointed to the United States Supreme Court, Sandra Day O'Connor changed the world for women. Much the same way that the election of Barack Obama has allowed all manner of people to believe in their own potential, by her very appointment Justice O'Connor paved the way for millions of women and girls who recognized that the world was changing and opportunities were expanding.

The Sandra Day O'Connor Award celebrates, among other things, mentoring, one way of paving the way. Both Judge Higginbotham and Justice O'Connor served as mentors for countless people – men and women – who were inspired by their words, their work, and their relentless pursuit of justice. But today I want to emphasize the point that mentoring is a small “m” word, not a “capital M” word. By that I mean it is not limited to formal associations, initiated by assignment or memorialized with a writing or a handshake. We mentor any time we contribute to someone else's development. It can happen across gender and diversity lines. I wouldn't be in the position I hold today if it were not for my predecessor, Bob Reinstein, who in countless ways paved the way for my development. It can happen without a label – just by showing up at an event important in someone's life, by a word of encouragement or recognition of a job well done you can signal to someone that they are important. In other words, you can mentor – and do so profoundly – without even realizing it.

We can also mentor by what we stand for and what we speak out against. A recent research report from the Center for Work-Life Policy that examined career paths of highly

qualified women across a range of fields including law found that close to 40% of highly qualified women are “off-ramping” – that is, voluntarily leaving their careers for some period of time. A study by Catalyst, a women’s think tank, found that over two thirds of women identified personal and family responsibilities as the single largest barrier to women lawyers’ advancement.

Though women often struggle to balance work and family responsibilities, it’s not so clear that this alone is what drives them out of law firms. The Center for Work-Life Policy found that the biggest reasons women lawyers quit are because they are more dissatisfied than men with their jobs. Perhaps this explains why 77% of the lawyers in public interest jobs are women. Though often paying less, public interest legal positions are thought to be different – in positive ways. They demand less rigid conformity, are thought to be more accommodating with respect to child and other familial obligations, and possibly most significantly are considered to be more substantively satisfying.

This statistic provides us an opportunity to mentor. If we believe that consigning job satisfaction to just one sector of our profession is rational, then we should do nothing. But for those of you with daughters, ask yourself how large a range of opportunities you want for her. If you want her to have the chance to have it all, then we must push to ensure that women, who have a lot to give, can find personal and professional satisfaction in all parts of our profession. By pointing out where we could do better, both Justice O’Connor and Judge Higginbotham symbolize the highest values of our profession. We should do no less.

All of which brings me to my third point, which is living in the public interest.

I want to congratulate the vibrant and active Philadelphia public interest legal community for all that it does in response to an enormous range of needs. Today, though, I want to remind us that we are not merely lawyers; we are people. Public interest law is important because the public interest is important. No matter what we do most of the time, some of the time we should be living in and for the public interest. We can do that by promoting a diverse and fair workplace, by mentoring those coming behind us, or by stepping out of our law shoes and into our world shoes – because there is a lot of need in our world that we could help ameliorate. Here are just three examples.

First, our educational system. The educational systems in most of our largest metropolitan areas are a disaster. They are under-funded, inadequately staffed and too often ignored. In the words of Judge Higginbotham, public school kids are too often “the voiceless and forgotten”. Here in the Philadelphia School System, of the students who entered 9th grade in 2004, and who would have been expected to have graduated in 2008,

fewer than 60% graduated. Said differently, obviously, more than 40 percent did not. Is it any surprise that many people – not all – but many people with options abandon urban systems – understandably desirous of providing for their children the very best education they can afford, and in recognition of the absolute connection between education and professional success. Those who are left behind are literally left behind.

Now let me acknowledge those who run these large urban school districts, including our own Arlene Ackerman. They are doing tremendous work and can claim significant achievements. But Dr. Ackerman and others like her are working against enormous odds.

This need for an improved and better funded public educational system should be keeping us awake at night and nagging at us like an itch we cannot scratch. These children are not all unintelligent. But too many of them are persistently undereducated. They can be predators. Or they can cure cancer. Part of that choice depends on whether we fight for them or look past them.

What about the child welfare system? It, too, is broken. Again, I don't point fingers at the many dedicated people who work there. They are doing the best they can against nearly overwhelming odds. But the system is overwhelmed. How can you help? Become a foster parent. Become a child advocate for a foster child. My friend, Stephanie Resnick, inspired me to become a child advocate, and consistent with my plea of leveraging every thing you care about, I dragged my colleague Eddie Ohlbaum into the venture with me. And although there are days when my head threatens to explode from frustration, it's among the most rewarding things that I do.

And speaking of our foster care system, what about our court system? Providing adequate compensation to our judges is, with some in the audience, no doubt popular. So too with advocating for adequate resources to run the court system. But these are not just popular slogans. And they're not just lawyer issues. They're citizen issues. A well-functioning court system is crucial to ensuring a stable society – at the core of our public interest.

My point here is that every one of us has something to offer to the public interest. Some of us will use our lawyer training. Some will volunteer. Some will raise money. Some will talk to friends who, in turn, will be inspired to action. Our ability to help is boundless. The first step is for us to slow down and look around. I'm sure that the people who know me best will find a certain humor in my making this suggestion. But I'm working at it. We must practice looking beyond our own lives and inform ourselves about the issues we care about. And where necessary, we must speak up and label what

we have now as not good ENOUGH. Not safe ENOUGH. Not caring ENOUGH.

I started out by pointing out similarities in the early experiences of Justice O'Connor and Judge Higginbotham. But interestingly, in many ways the parallels waned as their careers progressed. These were very different people; their priorities – and dreams – were different. Yet that is my point. No matter what your area of practice, you can be a protagonist for justice. You don't have to be a public interest lawyer or working on a pro bono legal matter to advance the public interest. The spectacular reality of diversity is that we don't have to be any one sort of person in order to make a difference. We need visionaries and worker bees, theoreticians and practical thinkers, dreamers and realists. As we seek to solve our society's problems, we each have something to contribute. The key is for each of us to chart our own course.

Embracing diversity gets easier with understanding. Treat yourself to a conversation, a real conversation, with someone different and seek to discover what that person's difference truly means. Don't expect the conversations to always be easy, but expect them to be invaluable. As a mentoring effort, reach out to someone who might benefit from some encouragement. And if you want to blend diversity and mentoring, look for someone who doesn't necessarily want to be you. Start with the support staff in your office. You can make an immeasurable impact just by encouraging their development.

The key is mindful reflection. At the end of each day, before you fall asleep, do two things. Think of one good thing that happened to you during the day, and one good thing you did for someone or some thing. There's no one right way to give back – or to motivate yourself to give back. But it is immensely rewarding.

Judge Higginbotham and Justice O'Connor each remind us how powerful our presence and our voices can be and how, through our actions, we can touch the lives of others. They also remind us that if we don't stand for something, we live for nothing. When we do something for someone else, we engage in an act of service. When we engage in an act of service, we make this world a better place. And anytime we make the world a better place we are living a life in the public interest.

Thank you.