

STATE BAR PRESIDENT INAUGURAL ADDRESS

JEFF BLEICH

Anaheim, California

September 29, 2007

Thank you Mr. Chief Justice. And thank you to the distinguished members of the bench, the conference of delegates, and all my friends and colleagues from the State Bar.

I especially want to thank Shelly Sloan for his leadership this past year. Beyond all the accomplishments that he's described, he's set an example for how to lead this bar without ego. As president, he's never once put his own interests -- political, personal, or professional -- ahead of those of the bar. Instead, he has worked this year with me and with each of my wonderful fellow vice-presidents -- Ruthe Ashley, Marguerite Downing, Jo-Ann Grace, and Jim Scharf -- to achieve the bar's goals without fanfare but just with quiet encouragement and determination. So I thank you, Shelly, and I know that your wife Shelby and your golf shoes are glad to have you back.

I also want to thank the members of my firm, Munger, Tolles & Olson for being here, and for the great support you've all shown. For the next year, you'll all be taking on a little more work and giving up some income. I'm grateful for that sacrifice . . . even if it *is* just to get me out of the office. I especially appreciate my wonderful assistant Milvi Giesinger and my dear friend and boss, Kim Coates, for all that this job is going to demand of them.

Finally, I'd like to thank my own family -- my wife Becky and our children -- Jake, Matthew, and Abby -- for donating me to charity for the next year. They are the greatest love and joy in my life. They've endured more of my speeches than any family ought to -- particularly the ones about closing the refrigerator door completely and turning off the lights when you leave a room. But we have always stayed together and supported each other, and I am proud they all are here today. Thank you. And Jake you can put your ipod back on now.

I know that each year, as the new president approaches this podium, there is really one question on the mind of almost every lawyer in this room. "How long is this speech going to go on?" This question actually is so important, that it is often preceded by some appeal to a divine creator, such as "for god's sake, how long is he going to go on." Some of you have already called to share your special prayers and appeals for mercy with me. One person actually emailed me the following calculation: 900 attorneys billing at an average rate of \$250/hour means that you will be costing our profession \$3,750 for every minute that you speak."

This person threatened to bill me for that.

I've also gotten other emails. More ominous ones. One person noted that President William Henry Harrison, at his inauguration, spoke for several hours, which caused him to catch pneumonia and die.

So let me tell you right off, that as your new president, I have heard you. I have heard your death threats. So I promise to be brief and to tell you only why I am grateful for the chance to serve as your president, and what I hope we can accomplish together this year.

Although many of you have wished me well in the year ahead, I've received some mixed reactions to being elected bar president. In fact, the most common question I've been asked is why I would want to be bar president. And I'm actually paraphrasing that question. The question usually has the words "why on earth" in it.

Some folks ask that question because of the time and other commitments this job demands, but I also think that the question reflects an ambivalence about the bar. It's an ambivalence that I've heard often and that I've shared. About five years ago, I was on the board of a very popular bar, the Bar Association of San Francisco, with 8,000 members who by and large really like being members. I remember having the State Bar President come to one of our board meetings. As she talked about the bureaucratic issues that the state bar faced, distrust by the legislature, complaints by lawyers, attacks by the public -- I remember thinking, what sort of masochist would want *that* job. And afterwards, I talked with others who complained that the bar was too bureaucratic and unresponsive. And we congratulated ourselves on having steered far clear of it.

And I don't think that view is so rare. While some lawyers have overwhelmingly positive or negative feelings about the bar -- and trust me, I've heard from those of you with the very negative feelings -- a lot -- many of us have viewed the bar mostly as kind of an obstacle, something that interferes with our making a living. We pay the bar a lot of money to take an awful test that about half of us fail. Once we run that gauntlet, we have to keep on paying dues and meeting new ethical standards, we have to take continuing education courses, and not just the ones that interest us. Our dues are expensive and they keep going up. And virtually all of it goes to fund a discipline system that the vast majority of us never encounter, and hope we never will encounter. So it's no surprise why we might resent the bar and see it as a burden and a distraction from our practice of law. The complaint that many of us had, was always that the bar seemed to be constantly demanding things without doing enough for us personally in return.

So what made me want to run for the Board of Governors of this organization and now serve as your president? The real trigger was a case I handled. I took on a pro bono case for a woman -- a Native American woman -- whose daughter had been taken away from her out in Lake County. She had a good case for why she should get her daughter back. But the lawyer who had handled the case never met with this woman, never told her about court appearances, and didn't know about the various federal rights she had. And while this case went through the courts she lived on a reservation trusting that her lawyer was helping her. The woman had no contact with her daughter for two years, and during that time her daughter grew up and grew away from her. Day by day, this little girl became someone else's child, bonding to another mother. The woman, when she came to me, had never had a chance to make her case in court; she didn't even get a chance to go to court and tell her daughter how she felt. And when she lost her daughter for good, she lost all hope. She told me that she had expected that a poor woman from an Indian reservation in a foreign legal system would have lots of things to fear. The one thing that she thought she could trust in-- was her lawyer. And when he failed to know the law, when he failed to call her, when he failed to show up for court, she lost every last thing that mattered to her -- including her trust.

When I think of her, I think of every member of the public who depends on us. She reminded me that I'd been asking the wrong question all along -- what the state bar could do for me. Because we don't have a legal system so that you and I can have a job, we have a legal system for her. A bar so that she and every other person in this state will have an equal shot at justice.

The State Bar -- especially what we resent about the State Bar -- is just an extension of the things that we all took a sworn oath to do: to know and faithfully apply the law, to help those in need, and to protect the integrity of courts. The bar is just the lengthened shadow of each of us. And so when we give up on the bar or like me -- as a local bar leader -- choose to steer clear

of the bar. When we fail to take responsibility for fixing those things that could be improved, we diminish all of our shadow.

And if we are honest with ourselves, we know that our shadow has diminished. The bar's influence has waned, and this has happened in no small part because of our own distrust and disinterest. When lawyers don't believe that the bar reflects our highest ideals, or is worthy of our time, we can't really expect the public, or the legislature, or the courts to believe that. And so we have -- as a group -- largely stood by, as our bar has been beaten up. Throughout the 1990s, we were hit with lawsuits, that silenced our voice not merely on political issues, but on issues fundamental to the administration of justice. The bar lost years fighting efforts to dismantle the mandatory bar. It was even shut down altogether by the governor's veto of our dues bill. When it was re-constituted, it was deliberately kept weak, and a lot of lawyers were glad to see it reduced that way. It has been audited, inspected, consulted, and restricted to within an inch of its life. And every choice it makes is attacked. And when legislators or the public say that lawyers seem more concerned about protecting themselves than the public, they don't see us doing anything to strengthen our own bar. We somehow let those charges go unchallenged and unaddressed because too often we have stopped thinking of the bar as our bar, as our reflection.

I know that some folks assume that they'd trust the bar more if it were better. That bar board or its staff are indifferent or bureaucratic. Frankly, that was my view before I joined the board. But after three years of really working closely with the bar, I don't think the problem starts there -- the bar is a reflection of us. And it is a reaction to each of us. Although the bar's leaders are smart and hardworking, the bar does what any of us do if we're attacked and have no protection. We tend to withdraw, we become defensive. Our impulse is to become a little less open and a little less willing to take action. The bar is us. If we do not like the bar -- if we think it is too small and too cramped to reflect our dreams -- it is because we have made it that way.

When I joined the board of governors, I didn't do it dreaming of being president. I dreamed of being part of a bar that we loved and were proud of. A bar that was universally respected for advancing the goals of our profession -- I ran for president because I believe that 211,000 educated and committed people can make that mission real.

I know I'm an optimist, but as Winston Churchill said, I'VE never seen the point in being anything else. And it would not require a revolution for this to be the year when each of us stops rooting against the bar and starts rooting for it. Each and every one of us could do that today.

There are some concrete things that I hope we can accomplish together in the year ahead to make that a reality.

First, we need to repair our relationship with the legislature, by showing them that we know how to help those in need. We need the legislature to trust us enough to give the bar a multi-year dues bill. No organization of this size can do proper long term planning if it does not know what its funding will be beyond the coming year. So instead each year the bar makes do deferring long-term issues, and using stopgaps like leaving jobs unfilled in order to make it through the year. We need a multi-year dues bill we need a bill that will stop our running a deficit, allow us to finally upgrade our infrastructure, and make wise investments instead of losing tens of thousands of dollars for rent in our southern California office -- and that is going to take trust. In return we need to do something to show the legislature that we deserve this trust by giving back. With your help, we need to -- and we will -- apply our vast economic leverage as lawyers not for ourselves but to drastically increase legal services funding. We have the power to demand that banks increase our return to IOLTA accounts. If we can together push to raise those rates for client trust accounts, we can -- without costing Californians a dime -- increase

funding for legal services across the state. That's the sort of thing that we can do, if we just have the will. We will need all of you in this room to help advance that goal.

Second, we need to repair our relationship with the public and reach out to them through all of us here today -- all the leaders of the bench and bar. The policies are there, but we need you to implement them. In the past three years, the board has adopted programs to finally bring diversity to our profession, to increase and expand pro bono, and to promote civility. But at this point they are still words on paper -- and they will stay that way unless we all show the will to make them real.

On the diversity pipeline, how can the public trust us to promote equal opportunity for all, when in one of the most diverse states in our nation, the California bar remains overwhelmingly white and male. We must take models that work -- like the bar association of San Francisco's diversity pipeline of programs that start in the middle schools and gives children in low-income minority communities exposure to the legal system, jobs in law firms, training in the law academy, help getting into college, and minority scholarships. We need to extend that program statewide.

The same is true of pro bono. If we don't find ways to give access to those who can't afford an attorney, then we are failing. Period. The public trusts us to ensure that everyone, regardless of how poor they are, can have their day in court. But today in one of the wealthiest and most powerful states in human history, 60% of the children leaving foster care will either be institutionalized, homeless, or dead within five years, and we have only a handful of lawyers helping to stop this tragedy. Providing pro bono service to fix this system is not a gift. It is who we are. If we aren't already helping indigent people as a legal aid lawyer or a public defender or a provider of low-cost services, then we should give time to those who can't afford a lawyer. I hope in the next year, working with our young lawyers, the courts, and the county bars through existing programs, we can finally begin to deliver real help to the 86,000 youth currently in foster care who need us.

Finally, I know there are some who think it is antiquated for the bar to talk about restoring civility and to pass a civility code. But I don't. The public trusts us to show them how to resolve their problems without bitterness and without needless expense. When we lack civility -- when we create bitterness or expensive sideshows with our own nasty treatment of one another -- it is no wonder the public loses confidence in us. I would hope that our firms and our courts will do as the Santa Clara County Bar does and post these civility rules in their courtrooms and hallways, and tell lawyers to go out and read them when they forget those rules. Not as mandatory rules, but as a reminder of what their job really is all about. I will ask the courts and the local bars and the leading firms in this state to join me in this.

So let me conclude with this thought. I know that some people will say that this is a naïve speech; that the law has become just a business and we can't really expect trust from the legislature or the public or our own members. But every day, we prove this isn't really true. We ourselves still trust every day. We trust that the driver on the other side of the road coming towards us loves her life and obeys the law the same way we do. We trust that when a juror says that they will apply the law faithfully and without prejudice, that they mean those words the same way we do. We trust our clients when they tell us their most important confidences. We trust our jury system, our clients, even strangers on the road every single day. Let's trust our own system. Let us trust ourselves, and our bar again, so **THAT OTHERS WILL TRUST IT AGAIN, TOO.**