

*For Immediate Release*

## ADDRESS TO ENTERING STUDENTS OF CARDOZO LAW SCHOOL

*THE LEGAL PROFESSION: THE GOOD THAT LAWYERS CAN DO AND HOW TO ACHIEVE THE PROFESSION'S PROMISE*

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Cardozo Law School, NY, Aug 24, 2005 – I address you today as you begin a very special journey -- the study and ultimate practice of the profession of law. I speak to you wearing many hats. I am, as the Dean said, the Corporation Counsel of the City of New York, meaning I am the City's chief lawyer. In that capacity, I welcome you as future lawyers of this great metropolis. I also speak to you as a very distant relative – and I emphasize “very distant” – of the man for whom this institution was named, one of this country's great judges (I can brag in this way since I am a “very distant relative.” Moreover, since Judge Cardozo never married, I can't even pretend that any of his brilliance rubbed off on me.) I particularly want to talk to you today as someone who has practiced law for almost 40 years. It is in that capacity that I want to give you my perspective of how to enjoy first the study, and then the practice, of law, while at the same time making a positive difference in this world, thereby helping to fulfill the great promise the legal profession offers.

Lawyers have a unique and enormous capacity to protect and improve people, and to move our values in a positive direction. Learning how to be a lawyer gives you the tools not only to solve legal problems, but also to make things better. This is true whether you are a criminal lawyer or a civil lawyer, a litigator or a transactional lawyer, an international diplomat or a judge. It is true whether the lawyer is working for the government, for a public interest law firm or in the private sector. When you take what you will learn in this Law School, and mix it with your life experiences, you will have the capacity to change an individual's life, as well as society's values. You can save someone from death or deportation. You can make the air cleaner and the water purer. You can help eliminate discrimination. You can prevent someone from being wrongfully evicted from his home or from suffering the scourge of domestic violence. All you have to

do is tell yourself that, no matter what kind of lawyer I turn out to be, I am also going to try to make this world a better place. For just a few minutes let me tell you first about the types of impact lawyers can have, and then the steps I suggest you take – starting right now – in order to achieve the profession's promise.

You are all no doubt aware of some of the differences lawyers have made in this country. The example that comes most readily to mind is in the racial discrimination area. In 1954, 90 years after the Civil War ended, much of this country, particularly the South, was segregated. And it was lawyers, those who argued the difficult discrimination cases, culminating in Brown v Board of Education, who were the principal force behind the enormous societal changes emanating from that ruling. Think of the satisfaction the great lawyers of that day – led by Thurgood Marshall – must have felt when Brown was decided by the United States Supreme Court. Of course, we still have a long way to go in this country in eradicating racial discrimination. This is one, of literally thousands of areas, in which lawyers and future lawyers – people like you – have the opportunity to make a difference.

Let me mention another story that illustrates how lawyers can effect a change in our values. In 1961, a poor and virtually illiterate man named Clarence Gideon had been accused of unlawfully breaking into and entering a building. He insisted he was innocent. But he didn't have any money to hire a lawyer to defend him. But, you may be thinking, doesn't the State have a constitutional obligation to appoint a lawyer to represent him? The answer, back in those days, was no; there was no constitutional requirement for a state to appoint a lawyer for a poor person accused of committing a felony. Needless to say a zealous prosecutor pursued the case, and Clarence Gideon, unrepresented by a lawyer, was found guilty, and sentenced to jail. He might have to spend the rest of his life there. What to do? A very famous lawyer, Abe Fortas, who himself later became a Supreme Court justice, agreed to argue the case on his behalf in the Supreme Court. He argued that the United States constitution required that a person accused of a felony, who couldn't afford a lawyer, had a constitutional right to have the State appoint one for him. The United States Supreme Court agreed and Clarence Gideon, who had been convicted because he could not afford a lawyer, went free. The legal principal established in that case -- the obligation of the State to appoint a lawyer for a poor person accused of a felony -- which is today a bedrock of our legal system, came about because this lawyer agreed to help. Think of the enormous difference in this country resulting from Abe Fortas agreeing to take on the Gideon case.

Lawyers making a difference and helping society are not just those who argue cases in the United States Supreme Court. The events surrounding 9/11 are a good example of this. September 11 produced many heroes -- firefighters, rescue workers, police, and structural engineers, to name but a few. And you know who some of the other

heroes were? The lawyers. Judge Judith Kaye, the Chief Judge of this State, has called the lawyers response to 9/11 the bar's finest hour. Let me tell you why.

There were literally thousands of people who needed legal help after 9/11 -- for example, the families of the victims who had to apply for available government assistance and who needed access to bank accounts and apartments; small business near the World Trade Center who needed to apply for insurance; workers whose employers' businesses had been destroyed and who had no way to earn a living; and immigrants who were faced with discrimination. But many of these people didn't know how to deal with probating an estate, or the bureaucracy of obtaining insurance, or applying for government aid. What were the families of the victims, or the people whose business had been destroyed, to do? They needed legal help, and many of them couldn't afford to pay for lawyers.

In the weeks following 9/11 the bar did what it does best; it gave help. Three days after 9/11 literally hundreds of lawyers lined up to get into the City Bar Association to learn how they could help those affected by the tragedy. It didn't matter if these were high-powered corporate lawyers from the big firms, criminal lawyers or government lawyers. These lawyers knew there was a need for their talent and they wanted to help. And help they did in so many ways -- filling out the insurance and government forms, obtaining death certificates, probating estates, and literally hundreds of other tasks they knew how to do because they had been trained as lawyers. Those lawyers made a difference in those people's lives.

Other lawyers who made a difference in the days after 9/11 were the attorneys in my office, which is located literally one block from ground zero. On that terrible day everyone fortunately escaped our building unharmed, but we couldn't return to that Office for nine months. However, the critical work of government couldn't wait. The emergency legislation that had to be passed at the State and national level to deal with this crisis, which had no parallel in American history, had to be written; the executive orders Mayor Giuliani had to sign declaring a state of emergency had to be drafted. Whose job was it to do all of this? The lawyers. And do it they did. They sat on the street outside a pier on the Hudson River -- I mean this literally -- with their laptops and did the needed drafting. Think of what was at stake. Think of the personal emotional crisis each of these lawyers was going through. But they did the work and did it well. Looking back on the horrible events of those few weeks one of the lawyers in my office was quoted by the New York Times as saying "this is why I became a lawyer."

But it doesn't take a 9/11 or the potential for a far-reaching Supreme Court decision for lawyers to have an impact. They make a difference in our lives every day, in large ways and small. Lawyers who work for public interest

organizations like the Legal Aid Society make a difference on a regular basis. On the criminal side of course, their successful advocacy can prevent someone wrongfully accused of a crime from going to jail or can allow a woman accused of abandonment, but who instead had had a medical emergency, from losing custody of her children. On the civil side lawyers working for public interest organizations can bring the public's and the court's attention to wrongful government action, be it not providing shelter for the homeless, or allowing prisoners to be abused in jail, or not appropriating adequate funds for public education.

Government lawyers do so called good works every day as well. Lawyers in my Office, for example, wrote the smoking law that bans smoking in virtually all public establishments in New York City, thereby enabling thousands of workers to escape the effects of second hand smoke. Similarly lawyers in my Office have recently brought significant environmental suits against energy companies, contending that their actions have contributed to the crisis we know as global warming. My Office is presently involved in the critical debate of how to balance, in this post 9/11 world, our freedoms against the threat of terrorism. As the legality of the subway bag searches plays out in a federal court room over the next few weeks think of the opportunities the lawyers working for me, who are defending the legality of those searches, have to shape the law so that our precious liberties are preserved, while at the same time our City is adequately protected against terrorist attacks.

Lawyers in the private sector also have unparalleled opportunities to do good deeds. When you counsel a private client, for example, on how to avoid discrimination lawsuits, you have the opportunity to shape a client's conduct, and with it help the client to avoid committing discriminatory actions. Lawyers advising major corporations, in this post-Enron era, have an opportunity to play a major role in preventing corporate fraud, and being sure that public filings are accurate.

Moreover, the Code of Professional Responsibility to which all New York lawyers must adhere, directs lawyers to "render public interest and pro bono legal services." In a command that dates back to the middle ages, if not earlier, lawyers are instructed by this Code to perform for the public good. If you are in private practice you can volunteer to take on a case representing a poor person, or bring a class action challenging a particular corporate or governmental policy. One story I am fond of telling concerns a woman who escaped from her African country after being threatened with death because her husband had lost a political battle for leadership of the tribe of which she was a member. The United States Immigration Service tried to deport her because she lacked proper immigration papers, rejecting her plea for political asylum. A lawyer I know in private practice agreed to represent this woman and fought her battle against the Immigration Service – at no charge – for eleven years. She finally prevailed and today the woman is living safely in this country. For

those eleven years that lawyer, who was an incredibly busy private practitioner in her every day life, was all that prevented this woman's deportation back to her native country and with it the certain death that awaited her there.

Some lawyers in private practice do pro bono work in hospitals writing wills for Aids patients; others give free corporate legal advice that allow not for profit corporations to establish themselves. Some people take on the representation of otherwise unrepresented destitute tenants facing eviction from their apartments.

The examples could go on and on but hopefully you get the point. Your opportunity to do good when you leave this Law School, indeed while still in School, is enormous. All you have to do is put your mind to doing it.

But, you may be thinking, I am a first year law student just starting out on what you described as a very long journey. How do I get from here to attaining those lofty goals? Let me give offer you three specific suggestions: work hard, be yourself, and start now.

First, hard work. The law, as you will quickly learn, is a demanding profession. It is intellectually challenging. It can encompass incredible detail. It requires long hours. And every day of the rest of your life, as a law student or as a lawyer, should be devoted to what I like to call the dogged pursuit of excellence. Read the cases, debate the law with your fellow students, burn the mid-night oil. Learn never to be satisfied with your first, second, or even third drafts of a paper. Ask yourself if there isn't still one more way to analyze an issue, or some new approach to take in researching it. Whether you are a first year law student or someone who has been practicing for many years never be satisfied; pursue excellence.

Second, and directly related to the first, be yourself. "The law," it has been said, "is a jealous mistress." That means you work hard, and work long hours. But if you don't remember whom you are, and what brought you here in the first place, you may fail. "All work and no play makes Johnny a dull boy," the old saying goes. This can certainly be true in the law and you need to guard against it. If, as is true of some people in my Office, you are interested in creating interesting pottery keep creating.. If you play the flute keep playing. If you enjoy repairing antique cars keep repairing. Because if you don't, and if you are not careful, you will find that the law, no matter how intellectually challenging, can be all confining. Don't let that person you have become since you were born change into some narrow dull individual simply because you are now working hard to become a lawyer.

Another Cardozo, the Judge for whom this institution was named, put it this way:

“This is no life of cloistered ease to which you dedicate your powers. This is a life that touches your fellow men at every angle of their being, a life that you must live in the crowd, and yet apart from it, man of the world and philosopher by turns.”<sup>1</sup>

Turning back to this Cardozo let me put it this way: If you pursue your other interests you will enjoy life more, and as a result, the study and practice of law will be more interesting and rewarding and you will be a better lawyer.

One way to be sure you are “living in the crowd,” as Judge Cardozo phrased it, or “pursuing your other interests,” as this Cardozo puts it, is to seize the opportunity you have to make a difference, and to commit yourself to doing so. That brings me to my third piece of advice on how to achieve the profession’s promise: Today, right now, begin your commitment to doing good works. Obviously, you are not yet ready to argue the Gideon case before the United States Supreme Court, or to go into court to challenge the legality of detaining prisoners at Guantanamo naval base. But believe it or not, by next semester you will be able to argue a moot court case presenting the same issues. Within weeks you will be able to start researching legal principles, advising immigrants of their rights, and tenants on how to avoid being evicted. You don’t have to wait until you graduate to start doing good works.

In three years, when you graduate from this great institution, you will be faced with many choices. Should you go to work for a large firm, and make lots of money? Should you work for a public interest law firm or in the public sector to obtain the satisfaction that work every day in the public interest will bring? Each choice has its rewards. My point today is that no matter what your ultimate employment choice turns out to be there is more to life as a lawyer than practicing law. If you recognize that fact you will enjoy life more, and be a better lawyer. Satisfaction will come if you commit yourself now to find time to do more, to fulfill the Profession’s promise of good works.

Welcome to the great journey we call the practice of law. Grab the opportunity the law offers you. Good luck.

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<sup>1</sup> Benjamin N. Cardozo, “The Game of the Law and Its Prizes” (speech at Albany Law School Commencement), 10 June 1925, in Law and Literature, 160, 175 (1931).