



By Mark A.
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Address to the Members

Remarks from the Installation on June 11, 2015:

I am profoundly honored by the opportunity to serve as the 75th President of the Louisiana State Bar Association (LSBA) and humbled that so many of my partners, friends, mentors and family members are here to share this event with me. I believe that no one can achieve success in life without help from others, and I owe any measure of success that I have achieved to the people in this room.

Let me begin by thanking the Louisiana Judicial College for its collaboration with the LSBA in hosting our Annual Meeting/Summer School Program. I particularly would like to acknowledge Judge Wicker, Judge Koch, Bob Kutcher, Minor Pipes and other members of the Summer School Committee for their hard work and dedication in producing what have been top-flight programs.

I also would like to acknowledge Chief Justice Bernette Joshua Johnson. She is the leader and inspiration for our legal community in Louisiana, and I am thankful that she has joined us. We also have been joined this week by Justices Knoll, Weimer, Clark, Hughes and Crichton and many members of the Louisiana Supreme Court staff. Their partnership and support are critical to our ability as an association to achieve our mission of service to the public and service to the profession.

Let me also thank all of the other state and federal judges and dignitaries who are present today including Chief Disciplinary Counsel Chuck Plattsmier. I would ask all of us to specifically

acknowledge United States District Judge Jay Zainey of the Eastern District of Louisiana. He is a former President of the Louisiana State Bar Association and an example to all of us in what is possible when someone dedicates his life to helping others no matter what their station in life.

I am also pleased to see the Executive Director of the Lawyers Assistance Program, Buddy Stockwell, who has dedicated his professional life to helping judges and lawyers suffering from addiction, depression and other mental illness. We are so thankful for his critical work.

So many leaders from the Louisiana Bar Foundation, Louisiana Appleseed, the Pro Bono Project and other members of the public interest legal services community are here today. Their work and ability to keep access to justice alive and well in Louisiana is awe-inspiring to all of us.

A critical link to our success as an association is our partnership with the voluntary and specialty bars of Louisiana, and I would like to thank the Baton Rouge Bar Association, the New Orleans Bar Association, the Jefferson Bar Association and the Shreveport Bar Association, as well as the Louisiana Association for Justice and the Louisiana Defense Lawyers Association, for their leadership and support of the LSBA.

I want to thank my wife and family for supporting me in my choice to undertake this role. I am also fortunate to work with decent, smart people who embrace diversity in thought and background. My firm, Jones Walker, very much believes it has an obligation to serve

the profession and the communities in which we do business and has shown me nothing but encouragement in my pro bono work and service to the LSBA. President Shea likes to remind me that I am the third attorney from Jones Walker to serve as President of the LSBA and that I follow in the footsteps of a true statesman, my partner, Harry Hardin.

I would like to spend the next few minutes speaking with you about an ideal that I believe is embodied in all of you who are here today. Some call it the transformative power of the law. I call it the transformative power of the profession. It is reflected in our ability as lawyers to alter the course of not just an individual but of entire communities by providing a voice of the voiceless.

It is an ideal that you can find in attorneys in every part of Louisiana and in every practice area. Some of these attorneys may be focused on civil rights. Others may be working on economic development or fighting crime. Some defend the rights of children. Others defend the rights of the homeless. They work in legal aid organizations and non-profits, but are just as likely to work as public servants, solo or small firm practitioners, or as corporate attorneys at a large firm. Some will spend their entire careers in the courtroom while others will never step foot in one. However, they all share a common commitment to the rule of law and the ethical rules that govern our profession.

Yet many lawyers in Louisiana are struggling in their professional and personal lives. Many young lawyers are saddled with substantial law school

debt. The incomes of established lawyers are declining. At the same time, the cost of doing business is rising. Lawyers are three times more likely than other professionals to suffer from depression. Our profession has some of the highest percentages of suicide, substance abuse and burnout. The average lawyer in Louisiana makes between \$50,000 to \$60,000 per year. That is not a living wage, not when many lawyers carry twice that amount in law school loans.

We can cast about blaming others for these challenges, but the truth is that we have often been our own worst enemy. Our profession has been slow to innovate. We have been slow to embrace technology. Most troubling, however, is that we spend much of our time trying to marginalize each other.

For years, defense lawyers turned a blind eye as special interest groups bashed trial lawyers as part of their political campaign in support of tort reform, the Class Action Fairness Act, and the eradication of punitive damages and other remedies designed to deter serious misconduct and protect the public. These same attorneys now wonder why trial lawyers file so few cases in Louisiana.

We are seeing a similar dynamic between the district attorneys and public defenders in our state. Every year, many district attorneys go to Baton Rouge to lobby against additional funding for indigent defense. They claim that the indigent defense system is already overfunded and engaged in widespread waste and mismanagement. While the current system is far from perfect, common sense and the tone of the debate tells us that these district attorneys are primarily concerned with keeping what we all know to be a broken system crippled in a misguided belief that they are acting in the interest of the public. The public, however, is best served when all sides are equally funded and equally matched — not when District Defenders are forced to restrict their services due to lack of funding, and certainly not when the State of Louisiana has the highest rates of incarceration not only in the United States but in the entire world.

We also see lawyers increasingly attacking the integrity of judges as a

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**—Mark A. Cunningham
2015-2016 LSBA President**

litigation strategy or excusing their own errors when they cut a bad deal, fail to prove an essential element of their claim, or simply find themselves in a forum they don't like.

All this in-fighting has serious consequences for the profession. If our profession cannot provide solutions to access to justice or provide an effective criminal justice system, nonlawyers will fill the gap. High-tech businesses are already rolling out products to take the place of lawyers and judges. Washington State, New York and California are already experimenting with permitting nonlawyers to serve as courtroom advocates. The American Bar Association is poised to issue a report in the next year in which it is likely to conclude that the profession should accept the inevitability of nonlawyers practicing law.

If we don't want our profession to be marginalized, we must begin by not marginalizing each other. We must put aside our differences on matters affecting the profession when we step outside the courtroom. That means taking sides — not for or against prosecutors or public defenders or any other particular group but for the profession. It means each of us must step forward when we see our colleagues marginalizing other members of our profession, even when it would be financially or politically expedient to do nothing. The LSBA will continue to correct the record and stand up for judges and other parts of

our profession that are unfairly attacked for political expediency, but we need all members of the profession to join in this effort. In order to succeed, we all must share equally in both the fault and the solution whether we are trial lawyers, defense lawyers, district attorneys or public defenders.

Despite the challenges we face, all of us should be excited about the future of our profession. Over the next year, the LSBA will be focused on promoting innovation and entrepreneurialism in our profession and with rolling out new services to provide lawyers, particularly solo and small firm practitioners, with the tools to succeed in business and life. Our focus will be on leveraging technology as a way of reducing attorney costs and improving productivity. We will also leverage our economic power as an association with more than 22,000 members to improve member access to capital, insurance coverage, and other services critical to effective practice management. Our most significant investment over the next year will be in the area of attorney wellness so we can expand the programs and options available to lawyers suffering from substance abuse, depression and other mental health diseases.

We also have a strong base of young leaders in Erin Braud, the Chair of the Young Lawyers Division, and Darrel Papillion, who will succeed me as President. We have an amazing Executive Director and an equally amazing staff. And we are fortunate to be able to build our future on a strong foundation established by President Larry Shea and 73 other presidents who preceded me.

But our greatest reason for optimism is you. You are each volunteers. You are all doers. Your commitment to the public good is the reason why our profession is unique in its ability to transform the communities in which we live and our beloved State. I could not be prouder of my membership in the LSBA, and thank you all for this opportunity to serve the public and profession over the next year.

Mark A. Cunningham