Determining Sentencing Laws after Cunningham

EARN MCLE CREDIT

Page 13

To the Fore
Gretchen M. Nelson is the Association’s 2007–08 president

PLUS

Filming on the High Seas page 16
Lottery Rules and Online Promotions page 21
Medicare Fraud page 24
The Deepwater Port Act page 40
Ensuring Equal Justice under Law

ETCHED IN THE ARCHITRAVE above the marble columns that front the main entrance to the U.S. Supreme Court are the familiar words Equal Justice Under Law. These four simple words form the heart of our system of justice. They drive us to recognize the importance of the rule of law and the need for checks and balances on those who govern. But more important, the phrase compels us to acknowledge that every person is entitled to an equal opportunity to be heard.

The harsh reality is that there are far more indigent and middle-income individuals who are unable to obtain representation than there are lawyers willing to give time to assist them. We have the ability to change that. I urge all of you to accept Justice Johnson’s challenge and strive to ensure that everyone who enters the legal system has the benefit of legal assistance.

Second, we have an obligation to make certain that judges retain their independence and are not subject to unjustified economic pressures. Right now, U.S. district court judges are paid far less than many other federal employees. Many newly minted law school graduates—including some who have clerked for our federal judges—earn many thousands of dollars more than these judges. Please join the Bar’s efforts to correct this appalling fact by calling on your representatives in Congress to increase pay for federal judicial officers.

At the state court level, we must guard against untoward erosion in the conduct of judicial elections. No judge should ever have to mortgage a home to ensure reelection. And, none of our state courts should have to go begging for funding to fix courthouses that are seismically unsound or for simple necessities such as pencils and other supplies. We must also work hard to ensure that the Los Angeles Superior Court remains a strong and viable presence downtown. Recent efforts to develop the Grand Avenue corridor are to be applauded but not at the expense of the superior court. The seat of our local government is downtown. What message do we send to those who govern if they are able to walk blithely into their offices without ever having to pass by our courthouse? The old adage, “Out of sight, out of mind,” will no doubt result. Each of you must speak out to your legislators, county supervisors, and councilmembers and make clear that the superior court must continue to stand in its current position facing those who govern in City Hall and the county building.

Third, we bear a strong responsibility to ensure that judges do not abuse their positions. There are hundreds of highly competent and dedicated individuals who have been elected or appointed as judges to our state and federal courts. Each day they rule fairly, wisely, and with respect and civility. But there are some who do not. No lawyer expects to win every argument. But every lawyer expects to be treated with respect and civility. But there are some who do not. No lawyer expects to win every argument. But every lawyer expects to be treated with respect and civility.
with respect when arguing. This Association—through the leadership of many, including Robin Meadow, John Collins, and Edith Matthai—has implemented ongoing programs and committees devoted to ensuring that those who judge do not abuse their power. But we cannot act alone. We need your input and insight into those who act improperly so that we can act to correct the problems.

Fourth, we must ensure that civil litigants retain the right to a jury trial. Every day, fewer and fewer cases go to trial. If we allow this to continue, we run the risk of decreased funding for civil jury trials and the potential demise of that right. Collateral damage also results from fewer jury trials, because that means that fewer lawyers are learning how to try a case. Although the system could not survive if every case went to trial, a balance must be struck. We must encourage our young attorneys to go to trial and not continually harp on settlement. If a client is prepared to go to trial and the settlement proposals simply are not in the ballpark, do not ever be afraid to try the case. If you find yourself fearful of an impending trial, think of this: Trials are like airplanes, they take off every day.

And, finally, we must never, ever give up. We have an obligation to stand strong for the principles to which we committed ourselves when we took that oath and became members of the bar. But more importantly, we each owe it to ourselves and to our community to remain a presence in the law. I was deeply disappointed to read the cover article of the February 2007 issue of *California Lawyer*. Titled “We Quit,” it confronted the increasing trend of women leaving law firms and the law. As only the ninth woman elected to run this 129-year-old Association, I simply cannot, and I will not, sit by and watch women check out of the practice of law. Moreover, this disturbing trend parallels the concerns of the legal community and the public over the general absence of diversity in the bar and the bench. Your Association, through the extraordinary efforts of a committee of amazing lawyers chaired by President-Elect Danette Meyers, recently sponsored a two-day summit aimed at promoting dialogue and commitment to action to increase diversity in the Los Angeles legal profession. That dialogue and the Association’s commitment to increasing diversity will continue. But, each of you must join with us because it is only through you that we will truly have equal justice under law.

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