

**MINNESOTA JUSTICE FOUNDATION – 2020 VIRTUAL AWARDS CEREMONY
“ACCESS TO JUSTICE DURING A TRIFECTA OF CRISES”**

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Thank you, Judge [Michael] Davis, for that very generous introduction.

I'd like to take a moment to recognize and salute Judge Davis' lifelong commitment to and pursuit of equal justice and equal access to justice for all. His entire life and career have been a personal inspiration to me, and I wanted to let you know, Judge Davis, how much I truly appreciate your friendship and the warm hospitality that you extended to me years ago when my family and I first moved to the Twin Cities. Thank you, Judge Davis.

I also want to extend my personal congratulations to the winners of this year's Outstanding Service Awards:

- Sothea Phea Poch, Erin Osborne, Dick Allyn, and this year's law student awardees: Dylan O'Brien (of the Mitchell Hamline School of Law); Marisa Tillman (of the University of Minnesota Law School); and Katherine Boland (of the University of St. Thomas School of Law).
- And a special shout-out to the work done in 2020 by the Mitchell Hamline Reentry Clinic, and the law students from all three Minnesota law schools, on the Conditional Medical Release Project.
- I am so inspired by you and the amazing work you are doing, and I commend you for your true dedication to public interest work and to providing pro bono legal services to low-income and under-represented Minnesotans and their families.

I'd also like to open my remarks with a request for you to join me for a moment of silence – to remember and honor the life of Justice Ruth Bader Ginsburg, who passed away 12 days ago.

I got to know Justice Ginsburg when she was a Judge on the U.S. Court of Appeals for the DC Circuit, when I was a clerk on the same court for one of her friends and close colleagues, Judge Abner Mikva. Then, and throughout her career, Justice Ginsburg was a true pioneer and a trailblazer for civil rights and equality -- she was a scholar, a fighter and a jurist without parallel -- and she inspired generations of fighters, young and old, to continue in our pursuit of equal justice under law. [Pause for a moment of silence.] Thank you.

So, here's the question I want to ask you tonight: What new things have you been doing during the pandemic?

I remember when, back in March of this year, we first started to work from home ... or, as I like to say, being "at home, during a crisis, trying to work." We started hearing about people taking on new hobbies – things like baking sourdough bread; reading War and Peace; or training to run a marathon ... you know, those sorts of things. For me, it turns out I've been spending a lot of time stress-eating and stress-snacking!

A few weeks ago, I posed this question to a neighbor-friend as we were walking to an outdoor pavilion for a take-out picnic. He replied with something I had not heard before. He said he was spending his time during quarantine memorizing poems. And he proceeded to recite a famous, but obscure-to-me, poem.

Wow, I thought to myself, that's an impressive hobby! Being an orator. Maybe I should try it. So, as we walked along the path after dinner back to our homes, I asked him, "What are you working on now?" He said he was in the midst of memorizing a Shakespeare sonnet ... number 22 it turns out:

*My glass shall not persuade me I am old;
So long as youth and thou are of one date.*

That's about as far as I got, but it certainly felt good to exercise my brain in a new and different way!

I then reminisced to my friend that, when our children were young, we had them memorize two things. The Gettysburg Address and the Preamble to the Constitution. And to make the Preamble easier to memorize, we came up with a mnemonic. You know, like "Roy G. Biv."

Ours was not a great mnemonic, but here it is nonetheless: FEIPPS [pronounced "fee-ippss"]. Each letter is the first letter of each one of the key phrases. Ready, here goes:

- *We the People of the United States, in Order to ... (OK, so far, that's the easy part)*
- *F = Form a more perfect Union;*
- *E = Establish Justice;*
- *I = Insure domestic Tranquility;*
- *P = Provide for the common defence;*
- *P = Promote the general Welfare; and*
- *S = Secure the Blessings of Liberty to ourselves and our Posterity.*

Got that? F-E-I-P-P-S. (Repeat the phrases.) That's it! You got it. During or after dinner tonight, practice it a few times, and I guarantee you, you can use it to impress your friends and family.

And that brings me to the topic of my remarks tonight: Access to Justice During a Trifecta of Crises.

It's notable that the first purpose of the new government established by our Constitution – after the overarching, “to form a more perfect Union” – is to “establish Justice.” It's significant, because the Founders knew that establishing justice is fundamental to the legitimacy and authority of any government, especially one created in the name of “We the People.” The other purposes of government are, of course, important and just as essential, but there's something special about that first one.

Unfortunately, **our current system of justice – both civil and criminal – fails low-income people and families in our country**. Most litigants in our justice system are unrepresented. A study by the National Center for State Courts found that in 76% of civil cases (in our state courts), at least one party did not have a lawyer. And the Legal Services Corporation's recent Justice Gap study showed that 86% of those needing civil legal assistance received no or inadequate legal assistance. Law students who are unfamiliar with how our system of justice actually works don't always appreciate, that when you read the cases in your casebooks, most of the time you're reading decisions in cases where both parties are represented by able lawyers.

The consequences of this gap in our ability to fairly administer justice, by the way, falls disproportionately on people and communities of color. And if you layer onto that situation, the current environment we're in:

- a persistent, global pandemic that has claimed the lives of one million people around the world, and over 200,000 people in the United States alone;
- a debilitating economic recession that has caused massive unemployment and wiped out countless small businesses; and
- a national reckoning on racial equity and social justice, triggered by the brutal and horrific tragedy of George Floyd four months ago,

it's the perfect storm.

And, speaking of storms, if you add the wildfires on the West Coast and other severe weather we've experienced – which some scientists attribute to climate change – it's not just a trifecta, but a quadfecta of crises (it turns out there really is such a word!).

The ultimate consequence of this failure – of the justice gap – is that it risks causing people to lose faith in our system of justice. And that loss of faith in our ability to fairly administer justice is exacerbated by the pandemic and the economic adversity that it's leaving in its wake.

And so, here's my key message: **Faith in our justice system is essential to the rule of law.** If people don't think there's a level playing field, or that they'll get a fair shake – either because they're poor or because they're a person of color – then we risk undermining one of the bedrock foundations of our democracy. The same rules should apply to both the powerful and the powerless.

This is not a theoretical issue. As those of you who provide civil legal assistance or who do pro bono legal work know all too well, one person can make a difference in helping to confirm or restore **faith in the fairness of our system of justice**, one person at a time. We must also, in this time of Covid, accelerate technology innovations, build capacity and engage in regulatory reforms to jump-start our efforts to close, not just the justice gap, but what is really a justice chasm, in our country.

By rededicating ourselves to the mission of the Minnesota Justice Foundation, we can help push our society closer to fulfilling that promise of equal justice for all. To making it real. This is a moment of hope, because collectively, we have the opportunity to chart a new course ... toward a stronger democracy ... and a more perfect Union.

* * *

I'd like to close with what may seem like two unrelated thoughts. First, Sonnet 22 is about an older poet expressing his feelings to a younger friend. As you know by now, it starts:

*My glass (that is, my mirror) shall not persuade me I am old;
So long as youth and thou are of one date (so long as you are young).*

The older poet goes on to declare that he and his friend have exchanged hearts – his heart lives in the youth's chest, as the youth's heart lives in his. Which means that the younger friend must take care of his heart, for he is carrying the older poet's heart. And when the older poet's heart stops beating, then the youth should not take for granted that his own heart will be restored.

Like the older poet, speaking to a younger audience, my heart – my hope for a system of justice that engenders faith and trust and lives up to its promise – is in yours. When I am gone, you should not take for granted that our system of justice will be restored. You must take care of it. You must take care of our democracy.

Second, in remembrance of Justice Ginsburg, I want to close with two things she said that I find particularly meaningful now. She said she wanted to be remembered as “Someone who **used whatever talent she had** to do her work to the very best of her ability” and “To help **repair tears in [our] society**, to make things a little better through the use of whatever ability she has.”

And she warned: “**The greatest menace to freedom is an inert people**; that public discussion is a political duty; and that this should be a fundamental principle of American government.”¹

So ... with all the crises and challenges that we’re facing, it’s good to have this little bit of clarity:

- It’s not about how much money you make, or having that fancy car or house.
- It’s not about your title or having a lofty position.
- It’s about doing what you’re called to do ... to the best of your ability ... and to take your special gifts and make the world a better place.
- **Do what you can to repair the world;**
- **Don’t be inert!**
- **And take care of our democracy.**

Thank you all very much for inviting me here tonight; congratulations again to all our award recipients; and I’ll now turn it back over to you, Jack [Sullivan, President, MJF Board of Directors].

¹ This quotation is taken from Justice Brandeis’ famous concurrence, articulating a theory in defense of the First Amendment’s guarantee of freedom of speech, in *Whitney v. California*, 274 U.S. 357, 375 (1927) (Brandeis, J., concurring).