

ABF Fellows Award Acceptance Speech  
February 4, 2017

The 61<sup>st</sup> Annual Fellows Award Reception and Banquet was held during the ABA Midyear Meeting in Miami, Florida, on Saturday, February 4. Several awards were presented during the evening including the Fellows Outstanding Service Award. That Award was given to Helaine Barnett of New York and its presentation was followed by an acceptance speech by Ms. Barnett that discussed what can be done to help achieve the ideal of “justice for all.” These remarks should be of interest to all Fellows. Ms. Barnett’s remarks are set forth below and preceded by the remarks of Fellows Chair Mike Byowitz in presenting the Award to her.

Presentation of Award

It is my distinct honor and great pleasure to present the first award this evening. The Outstanding Service Award is presented to a Fellow who has adhered for more than thirty years to the highest principles and traditions of the legal profession and to the service of the public. This year’s honoree is **Helaine Barnett**. This Award has previously been presented to giants in our field, but I can think of no one who more exemplifies the qualities that this Award seeks to celebrate than Helaine Barnett.

Helaine has dedicated her career to providing legal aid and advancing equal access to justice. For 37 years, Helaine was a staff attorney to The Legal Aid Society of New York, eventually heading the Society’s multi-office Civil Division. Among her many accomplishments were the establishment of the Homeless Family Rights Project and organization of the 9/11 Disaster Assistance Initiative in the wake of the September 11 attacks.

In 2004, Helaine was appointed President of the Legal Services Corporation, a position she served in for six years. Helaine was then appointed by the Chief Judge of New York to Chair a statewide Task force to Expand Access to Civil Legal Services, what is now the New York State Permanent Commission on Access to Justice.

Helaine is a former member of the ABA’s Board of Governors and Executive Committee. She has authored several law review articles on access to justice and taught a seminar at New York University School of Law on Access to Civil Justice. Helaine is the recipient of many awards including the ABA Margaret Brent Women Lawyers of Achievement Award and the New York State Bar’s Gold Medal.

It is my privilege to present this year’s Outstanding Service Award to someone who has devoted her entire career to helping poor and underserved individuals and communities - a

remarkable individual who proves that giants are not all extremely tall – to someone I’m honored to call a colleague and a friend, Helaine Barnett.

### Acceptance of Award

Thank you, Mike, for those beautiful words, and thank you (Mike) and Mark Alcott for nominating me for this special award. I also want to thank my dear friends from New York and from the ABA UN Committee for being here this evening.

Since my entire career has focused on equal access to justice, I would like to say a few words this evening about the foundational concept of “justice for all,” an American ideal dating back to the Preamble of our Constitution, which affirms that its central purpose is to “establish Justice.” As Thomas Jefferson emphasized, “the most sacred of the duties of government . . . is to do equal and impartial justice to all its citizens.” And for generations we have concluded our pledge of allegiance to our flag by saying, “with liberty and justice for all”. It is a bedrock legal principle cherished by Americans, but we are still a long way from providing access to justice for all in America.

As you know, unlike in criminal cases, there is not a right to counsel in civil cases in the United States. As a result, many Americans of limited means facing legal proceedings where critical issues such as housing, protection from domestic violence, child custody, or access to health care are at stake, do so without the assistance of an attorney.

In 1974, Congress created the Legal Services Corporation (LSC) to distribute congressionally appropriated funding to legal services programs throughout the country that provide civil legal assistance to the poor. LSC is the single largest source of funding for civil legal assistance for the poor, but federal funding is clearly not adequate to serve the huge number of low-income Americans who need legal assistance. For the current fiscal year, federal funding is about \$385 million, to serve the over 60 million Americans, or 1 in 5 Americans, who are eligible for LSC assistance. While I was President of the Legal Services Corporation, we coined the phrase the

“justice gap” to describe the difference between what we promise, the ideal of justice for all, and what we actually provide.

For the last six years, after returning to New York from Washington, DC, I have been privileged to work to help close the justice gap in New York by serving as Chair of what is now the New York State Permanent Commission on Access to Justice. Its mission is to achieve equal access to justice for all New Yorkers in need of assistance with civil legal problems affecting the essentials of life - in the areas of housing, family matters, access to health care and education, and subsistence income.

As a result of the Commission’s work, and with the invaluable support from former Chief Judge Jonathan Lipmann and New York’s present Chief Judge Janet DiFiore, New York has gone from no significant state funding for civil legal services to 100 million dollars in annual state funding, more than any other state in the country. We have also established that funding for civil legal assistance is a good investment, through studies showing that \$1 in spending for civil legal assistance results in nearly \$10 of positive economic return for the state through federal benefits received and avoidance of higher societal costs associated with homelessness, as well as the positive impact on the operations of the courts, on represented litigants and on businesses. In addition, New York has gone from 2.3 million litigants annually appearing unrepresented in civil court proceedings to 1.8 million and from only meeting 20% of the civil legal needs of low income New Yorkers to meeting 37% of those needs. While substantial progress has been made in narrowing the justice gap, it is clear that much more needs to be done.

The Permanent Commission has also recommended non-monetary solutions, focusing on increasing pro bono efforts, on the role of law schools, the use of technology, and in addition using non-lawyers to help close the justice gap. A new study by the American Bar Foundation, which

reflects the Foundation's commitment to research that advances justice, has confirmed the effectiveness of our Navigator Program in which trained and supervised non-lawyers provide assistance to unrepresented tenants in Housing Court in New York City and concluded that the program was effective in providing both procedural justice and improved outcomes for the tenants in the program. In addition, we are experimenting with ideas such as the Legal Hand neighborhood storefront centers in low income communities staffed by trained non-lawyer community volunteers who provide information, assistance and referrals with matters such as housing, family issues, benefits, and immigration, in order to help prevent matters from turning into legal actions.

What we have accomplished in New York, in my opinion, is an example of what can and should be done at the state level throughout the country and also demonstrates the importance of the leadership and support of the Chief Judge of the State.

This year, the Commission is embarking on a new initiative to address the justice gap. New York is one of 7 states that received a \$100,000 grant from the Public Welfare Foundation to develop a strategic action plan, with the goal of providing effective legal assistance to all New Yorkers facing civil legal problems that impact the essentials of life. Effective assistance could be provided by technology-assisted help, by brief services by non-lawyers, by limited-scope legal services, or by full attorney representation.

The work with the Permanent Commission has been for me the latest chapter of a most rewarding career focused on helping to provide civil legal assistance to the most vulnerable in our society. I have always been inspired by the meaningful difference legal assistance makes in the lives of clients, such as by preventing a family with children from being evicted and falling into homelessness, by saving a battered woman from a violent and abusive relationship, by helping a young mother gain access to necessary healthcare for her child, by preventing a grandmother from

losing her home to foreclosure, or by overturning an improper denial of benefits for a returning veteran. I have also been so fortunate throughout my career to work with remarkable and exceptionally talented and dedicated colleagues.

We must close the justice gap and to do that, we need the help of everyone here this evening. As leaders in the legal profession, you can assist by supporting increased federal, state, and local funding for civil legal services, providing enhanced pro bono assistance, securing private funding from corporations and foundations, working with law schools and thinking creatively about how technology, simplification efforts and non-lawyer advocates can help meet the civil legal needs of the poor as well as creating and strengthening successful partnerships and strategic collaborations. We need to keep in mind the words of Supreme Court Justice Lewis Powell who so eloquently stated, “Equal justice under law is not merely a caption on the façade of the Supreme Court building. It is perhaps the most inspiring ideal of our society . . . It is fundamental that justice should be the same, in substance and availability, without regard to economic status.”

Thank you again for this recognition. I hope you will join me in accepting as all of our responsibilities the important role we can play in helping to provide equal access to justice to the less fortunate, so that our nation’s promise of equal access to justice will one day be not just for some, but truly for all.

Thank you.