

Opening Statement

Beyond the Moral Archetype

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One of the most revered lawyers in popular culture and within the profession is Atticus Finch, the fictional lawyer made famous by Harper Lee in her legendary novel, *To Kill a Mockingbird*. Actor Gregory Peck was the movie version of Atticus Finch, and we so identified with him that the American Film Institute declared Atticus the “greatest hero in 100 years of film history.” Atticus is the antidote to lawyer jokes, bad publicity about lawyers, and assertions that the law is now just a business and no longer a profession.

We all know the story. Atticus, acting out of a sense of duty, risks reputation and personal safety and gives up social status and acceptance to represent a black laborer accused of rape, a crime he did not commit. That Tom Robinson would be convicted by an all-white and all-male jury in the South of the 1920s was foregone even before Atticus spoke the first words of his opening statement. Of course, that did not stop Atticus from defying the racial prejudice and bigotry of his day to try to make the legal system work for Robinson.

I have long admired Atticus for the reasons most lawyers do. Atticus represents the best in us. He is the ultimate: the lawyer and person every lawyer wishes to be. He inspires us to greatness because he believed in justice and equality. He embodies our highest ideals and represents the nobility of the profession. Plus, trial lawyers respect Atticus because he was a superb trial lawyer. Lawyers are still learning cross-examination skills from Peck’s memorable performance—and some of us are still brought to tears when we listen to him.

Throughout much of our history, lawyers were the “Atticuses” of their communities. They were the public servants who gave unselfishly of their time and resources, the leaders in their communities and the defenders of the poor, outcast, and downtrodden. In courtrooms throughout America, they represented the unpopular causes and people. Judges made rulings that went against the tide of public opinion and were seen as the guardians of justice. People looked up to lawyers and respected them for their judgment, wise counsel, and leadership.

A sea change has occurred in the public perception of lawyers. The profession itself is often confused as to what it stands for. The Section of Litigation’s recent work on the Raise the Bar initia-

tive highlighted some of those concerns. Lawyers question the traditional underpinnings of the profession. The pressure of billable hours and dissatisfaction with their lifestyles cause lawyers much stress. Firms pay lip service to public service, but many do not reward pro bono and community work. Law is seen as a business and is no longer the noble calling of Abraham Lincoln and Clarence Darrow. Lawyers do not feel good about themselves or our system of justice. We are often defensive about our work. We are the butt of jokes. The media rarely highlight the work of great lawyers, but we all are barraged by the corrupt, the attention seekers, and the unethical among us.

Despite issues of perception and the competing pressures we face in the profession, many dedicated lawyers still make a difference in our communities every day. So many lawyers have asked me to highlight the good work that lawyers do that I decided the issue deserved a column. Because I believe much good is done by lawyers and am convinced of the need to focus more attention on the good we do, I asked Section leaders to share with me some examples of today’s Atticuses in our profession. The responses were overwhelming, just as I thought they would be. There are many lawyers doing extraordinary work in courtrooms and classrooms every day. Although lawyers must still strike the right balance between demanding practices and the desire to provide public service, many unsung lawyer heroes achieve this balance every day. They are the examples, and I wanted to use this column to highlight some of the excellent work of today’s Atticuses.

Atticuses are certainly found in our courtrooms. As Judge Barefoot Sanders retires from 27 years of outstanding service on the federal bench, he is a shining example of an Atticus in the Dallas community in which I practice. Judge Sanders presided over many cases during his service on the bench, but he is particularly remembered for his work on the *Tasby* litigation that ended segregation in the Dallas public schools. The case, originally filed in 1971, was litigated until 2003, when Judge Sanders finally declared the school district desegregated. After he took the case in 1981, Judge Sanders’ name became a fixture in local newspapers. Working with education experts, Judge Sanders oversaw the

implementation of measures such as magnet schools and neighborhood learning centers. The community did not always agree with Judge Sanders's rulings, and public disapproval and hate mail were rampant after some of his rulings. That did not stop him from taking the actions necessary to ensure equality in one of the nation's largest public school systems.

Judge Sanders handled other landmark cases, but lawyers likely will remember him for the traits we admire in the great jurists in our system. He recognized the majesty of our judicial system and the need for lawyers to always practice with civility and honor. He demanded and personified professionalism. It was an honor to appear before this judge. He regularly attended bar meetings, participated in CLE programs, told great war stories, and taught lawyers— young and old—the true meaning of being a lawyer. Law was a “calling”—a profession. He gave the best trial tips and swore in new lawyers in a manner that made us burst with pride to be one. At a recent bar event honoring him, a young lawyer told me that whenever she heard Judge Sanders speak about being a lawyer, “It just touches my heart and makes me want to be a lawyer over and over again.” Instilling in young lawyers this sense of a greater purpose will do much to stem the tide of young lawyers who now leave the profession.

Judge Sanders is an example of the many fine judges who preside over our state and federal courts every day. They enforce the rule of law, protect our sacrosanct right to jury trials, and dispense justice in cases often complex and unpopular. We may disagree with the rulings of judges and sometimes question the precedents they cite, but judges are examples of the best in our legal system. So many judges are Atticuses.

A particularly poignant example of the nobility of lawyers is the heroic sacrifice of New York lawyer Glenn J. Winuk, who gave his life helping others on September 11. Winuk, the law partner and friend of many leaders in our Section, was a successful lawyer and an experienced volunteer firefighter and EMT professional. By all accounts, he left his Manhattan law offices for Ground Zero, where he was outfitted with equipment and a medical bag so he could immediately begin applying his medical expertise to victims in the South Tower. Sadly, he was there when it col-

lapsed. His remains were found six months later, outfitted in protective gear, with his medical bag by his side. His law firm erected a memorial wall to honor him and all the firefighters who so bravely gave their lives that day, but Winuk's actions are especially moving to us as lawyers. He represented the best in any person, but he was a lawyer. He was one of us. As one of his former partners so eloquently stated, Winuk's actions are a “shining example of the nobility and sacrifice that a lawyer can bring to his country, community, and profession.” Winuk was an Atticus.

When I mentioned my Atticus idea to a former chair of this Section, she immediately sent me news clippings about a federal magistrate judge who recently donated a kidney to a fellow lawyer. U.S. Magistrate Judge J. Gregory Wehrman donated a kidney to a long-time prosecutor in his court. As reported by the Louisville, Kentucky, *Courier Journal*, the judge and the prosecutor were not good friends, but the judge believed the donation of his kidney would give another person a chance at life and would help to raise awareness of the need for organ donors. After watching this lawyer's health deteriorate, the newspaper reported, the judge felt he had to do something. The judge's unselfish act and personal bravery saved a life and set a stunning example.

The Atticus archetype is well demonstrated in the pro bono arena, so much so that this entire magazine could not adequately describe all the contributions of lawyers and judges. I reviewed some of the websites and bar journals of state and local bars across the country and was impressed with the number of pro bono programs and programs that support legal services. In cities large and small, lawyers are handling thousands of civil and criminal cases free of charge. The August 2005 ABA Report Supporting Justice: A Report of the Pro Bono Work of America's Lawyers, found that lawyers contribute “many thousands of hours of free legal service help to the poor each year.” Lawyers give many reasons for doing pro bono work, but most are driven by a “sense of duty,” the “personal satisfaction that accompanies helping someone in need,” and the “awareness of the large number of unmet legal needs of the poor.” The profession barely makes a dent in providing the needed legal representation to the poor, but we admire those who con-

tribute and make our profession better through their service.

To speak generally of pro bono work does little to put a true face on some of the extraordinary work being done—an example or two shows who these lawyers are. Hal Arteaga is a Florida lawyer who has worked with the Florida Immigrant Advocacy Center to represent abandoned, neglected, and abused children. He recently represented children from Honduras, Haiti, and Jamaica to obtain special immigration status to prevent their being returned to their home countries, where they would likely perish. He also was able to stop the deportation of another child by arranging an adoption with a U.S. couple.

Maryland lawyer Jeff Pankratz cared so deeply about the plight of children subjected to “bonded labor” in India that he took a leave of absence from his lucrative law practice and moved his family there, where he worked with an international human rights organization. He developed presentations and lectures on the cruelty and illegality of bonded labor, participated in raids that freed scores of children from servitude, and assisted in establishing microfinancing entities to enable disadvantaged families to borrow small sums of money and avoid subjecting their children to bonded labor.

I could go on and on. Local and state bars honor lawyers every day for the significant pro bono contributions they make. Regardless of the name of the program or the lawyers they honor, these awards speak to the greatness of our profession. They recognize those who donate countless hours to assisting those with limited access to justice. These lawyers, judges, and paralegals demonstrate the unselfish service of Atticus.

Legal services lawyers are always on the frontlines of representing the poor, often at great sacrifice, giving up high salaries and established careers to work for frequently underfunded organizations and agencies. Recognizing their contributions, bars throughout the country work to ensure funding for the agencies' continued operation, as well as for ongoing training and equipment for the lawyers who represent disadvantaged clients. Many of these lawyers must be included among the Atticuses of the profession.

For several years, Section members have worked closely with the National Institute for Trial Advocacy to conduct

seminars to train legal service and public interest lawyers. In the face of billing pressures and client demands, many of the profession's most experienced lawyers nevertheless volunteer to conduct these sessions. Veteran trial lawyers with the highest hourly rates and well-known judges take time away from their practices and courtrooms to train these lawyers in the latest trial practice techniques. I have attended some of these programs and know that their quality surpasses some of the most expensive legal CLE available in the marketplace. Indeed, the private market could never attract these giants of the law to do training—these lawyers and judges do so solely to be of service to their profession.

Although the Section takes no official position on the death penalty, it has—like the ABA as a whole—done much to lead the profession in the critical work on death penalty cases. Atticuses are certainly among the lawyers who handle these often difficult and controversial cases. Many Section members have personally represented clients pro bono in death penalty cases. Some of our former chairs—Mike Tigar, Larry Fox, Barry McNeil, Scott Atlas, Trish Refo, and Brad Brian—have not only personally handled these cases but also worked tirelessly to raise awareness on issues affecting death penalty representation, including the need to identify and train private lawyers to handle the cases, and to provide necessary financial support to the organizations that lead death penalty work.

For many years, the Section's Texas Defender Project, which represents defendants on death row, in concert with the ABA Death Penalty Representation Project, has served as a model on recruitment, training, and consultation for lawyers who handle these most challenging cases. The Section also funds

the Equal Justice Initiative in Alabama, which provides similar services in a state that has no statewide public defender system and denies right to counsel to defendants challenging their convictions and sentences. Amazing results are achieved through these programs. Convictions are overturned. Fair trials are held. Hundreds of private lawyers—but not nearly enough—work diligently as a result of these and other programs to handle death penalty representations.

Each day in courtrooms, jails, boardrooms, special detention facilities, and places unimaginable to the everyday citizen, lawyers and judges are engaged in the work that inspires all of us. They are the Atticuses among us. Their triumphs make us proud to be lawyers. They take one case at a time and simply do their best—which often results in significant rulings and landmark decisions, in an accused's having a home or being on the streets, in the difference between life and death. From representing undocumented children to overturning the conviction of innocent defendants denied their rights to a fair trial, our profession never shines brighter than when we represent the poor, those who lack access to justice, and controversial and unpopular causes.

I write this column to remind all law professionals that our profession is a noble one and that Atticuses do exist. We can improve our system, and although our work likely will never end, we should be proud of what we do. Our legal system faces unprecedented challenges, but we are up to the task. As you answer the call to duty, just look around and remember that Atticuses are somewhere close by. Applaud them and follow their examples. Atticus can be you. ☐