

Remarks of Incoming PBA President Andrew F. Susko
PBA House of Delegates Meeting
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Ken Horoho, our PBA President, has just finished a truly outstanding year. Words cannot express, cannot fully capture how important Ken's friendship has been to me personally and how important Ken has been to this Association. His enthusiasm, emotion, and passion have ignited the energy of lawyers across the state and for me it has been so special to have had the opportunity to go through this with someone who I am so close to and who is, to me, like a brother.

No PBA President, and we have had many great ones and many of them are here in this room today, has been more devoted, in terms of time of service and effectiveness, in reaching and energizing lawyers from all corners of the commonwealth than our President Ken Horoho. From his time spent on the Hill in Harrisburg, to his partnership with Attorney General Tom Corbett on Project PEACE and Operation Safe Surf, to his passionate remarks for Judge Tom Golden and Justice James Fitzgerald to his Diversity Summit and Minority Breakfasts, his multiple Task Forces and most recently his Children's Summit. Ken has had a truly remarkable year, and we need to pause to acknowledge that and thank him for his dedicated service again.

I am truly honored and privileged to address you, the members of the Pennsylvania Bar Association's House of Delegates. As many of you know, I had the privilege of chairing the House from 1997 to 1999 and greatly respect its work. The collective wisdom of this body is second to none, and I appreciate, and support fully, the role of this House as the principal maker of policy at the Pennsylvania Bar Association.

Though we have a mechanism in place to allow the Board of Governors to take positions on matters when urgency requires, know that I believe such authority should be used only sparingly, and with full communication to the House. In today's modern age of technology, the ability to obtain the authority of the House, electronically, is such that the need to act between House meetings, without consultation, should only be sparingly used.

I also know that, in this information age, we must make every effort to make the work of the House efficient, including the way we transmit items of business to you. The work of the House of Delegates Reform Task Force, chaired by Paul Troy, is before you at this meeting, and I commend your careful review of that report.

I also announce today that we will develop a dedicated Web page to the House of Delegates, open only to House members, where suggestions and comment can be received regarding the workings of the House. Too often, excellent suggestions and input are left unacted upon, not deliberately, but because we are all so very busy in our day-to-day practice lives. The dedicated Web page for the operation of the House of Delegates, I believe, will be a significant advancement and improvement of the workings of the House.

I asked all of the PBA Zone Governors to escort me to the podium here today and did that for two reasons. First, while we hail from different geographic locations, we are one Association and one profession. I am very proud to be a Philadelphia lawyer, but we need to stand united, where we have common ground and can agree, and do so without regard to geographic location.

I want to speak first today about our PBA legislative efforts, including our committee/section practice improvement initiative and legislative priorities. Over ten years ago, President James Mundy addressed the House of Delegates on the issue of the creation of a Pennsylvania Bar PAC. A few years before, then-PBA President Paul Stevens had created a Legislative and Governmental Affairs Committee, and I was proud to serve as the first chair of that committee. Four years ago, then-PBA President Tom Golden and Executive Director Barry Simpson hired our current PBA internal lobbyist, Nevin Mindlin.

It is through the PABAR-PAC, the workings of our PBA Board of Governors, this House taking legislative and governmental policy positions, and the work of our lobbyist Nevin Mindlin, that we have greatly increased the effectiveness of our Association's legislative efforts. This point was underscored at last night's dinner by PBA Presidential Award recipient State Senator Stewart Greenleaf. Our PBA survey, commissioned by PBA Immediate Past President Bill Carlucci, has told us that taking legislative positions on matters that affect the profession ranked second on the "most important" membership benefit list. Indeed, the work of this House is at the center of the taking of those positions, especially in providing membership value.

Protecting the practice of law as we know it and protecting our profession as more than just a trade association are important goals of the PBA. We debate, at the PBA, whether we are a trade association or a professional organization, and the truth is we are both. But know that your PBA presidential officers and board are, and will be, ever vigilant in protecting the interest of lawyers to see that our noble profession is preserved and protected. We have previously, as an organization, recognized the good work of Bill Hoffmeyer, one of the three chairs of the Unauthorized Practice of Law Committee.

Over the course of the next three years, you will not have a more dedicated group of advocates for your interests and the interests of the legal profession than your presidential officers: myself, Dale McClain, Cliff Haines, and Ken Horoho.

Looming as a constant threat, but effectively minimized up to this point, is a potential sales tax on professional services, including a tax on legal services. No single legislative issue serves to galvanize the organized Bar than a tax on professional legal services. Such a tax is regressive, would limit further the accessibility of our justice system, and would place Pennsylvania lawyers at a comparative disadvantage to neighboring out-of-state lawyers. We cannot and will not ever allow a sales tax on professional legal services. We must also protect and defend our legal profession against legislative incursions on the practice of law that allow non-lawyers to perform core legal services.

Our current legislative efforts include an internal lobbying and Legislative Department operation, headed up by Nevin Mindlin under the direction of Barry Simpson; our PABAR-PAC, which I will speak about more in a moment; our committees and sections that first bring policy issues forward, and then, ultimately, our House of Delegates.

Because the need is great and our effectiveness limited when we do not act collectively, I have again asked that the Legislative and Governmental Relations Committee be reconstituted. This special committee will serve principally to develop a comprehensive grassroots effort so that the PBA voice on the Hill will not be limited to PBA presidential efforts and the efforts of our lobbyists, but will also be constituent-based. A real, constituent, grassroots network, with personal contacts with legislators, has long been a goal of the PBA.

I have asked Past PBA President Jim Mundy and current President Ken Horoho to co-chair this effort. The newly created Legislative and Governmental Relations Committee has as its goal taking our legislative efforts to the next level. That role is essential because, once this House has taken a policy position, we then begin pressing PBA policy to become law of the commonwealth. The principal charge of this committee will be to create such a grassroots network by harnessing the talent of many of you in this room who are willing, and I am deeply indebted and gratified that both Jim Mundy and Ken Horoho are willing to lead our Association in this capacity.

Under the leadership of our Immediate Past President Bill Carlucci, our PABAR-PAC will continue to expand its efforts to provide our Association meaningful access for the PBA with the General Assembly. We pause to give thanks to soon-to-be PBA Vice President Cliff Haines, who is the former chair of the PAC, and who has in motion a number of improvements that offer to substantially upgrade our PABAR-PAC. We look to have a broader base of support for the PAC. Without meaningful access, our ability to protect the profession is limited. Improving PAC contributions, broadening the base of contributors to the PAC, and developing leaders who can make sure that funding for the PAC will remain a significant focus of the Association and your presidential officers.

We have vastly improved our PBA internal resources under the leadership and vision of our in-house PBA lobbyist Nevin Mindlin. Nevin's tireless efforts and focus on policy have served the Association well and we need, and he agrees, additional focused support in our lobbying efforts on matters of greatest importance to the legal community. Recently, our PBA Board of Governors approved and, we soon plan to retain, the services of an outside lobbyist to supplement the excellent work of our Legislative Director.

It is through these new efforts, through our newly created Legislative and Governmental Relations Committee, through our upgraded effort with our PABAR-PAC, and through a concentrated focus on our lobbying efforts, that we can begin to take this Association to the next level in Harrisburg.

Last night I spoke about the betterment of our legal profession and practice improvement initiatives. The day-to-day work of the Pennsylvania Bar Association is done by our committees and sections. Indeed, the House gets the bulk of its business from our committees and sections. The PBA has devoted substantial energy over the last two years to make sure that our committees and sections are empowered to better the profession.

To that end, I am calling on all substantive committees and sections to report to me at the Committee/Section Day in Somerset, Pennsylvania, August 2, 2007, on the following five items. First, identify practice improvement initiatives within the substantive law area. Second, that the committees and sections identify their legislative priority, or priorities, for 2007. Third, I have asked the committee and section leaders to identify potentially divisive issues where consensus cannot be achieved so that the Legislative Department and the PBA officers have direction from the substantive practice areas. Fourth, and complimenting the Access to Justice initiative, a report from the committees and sections regarding the accessibility of the justice system in their substantive practice area, including pro bono efforts specific to the substantive law practice. Lastly, I will ask the appropriate committees and sections to report on the status of alternative dispute resolution as a way to advance early resolution of disputes between the parties. It is through these efforts, practice improvement initiatives, legislative priorities, accessibility of the justice system, pro bono efforts, and ADR that we can seek to better our profession and do so proactively.

I want to talk to you about the Access to Justice Initiative that will be before you later during the session. National studies reveal that an estimated 80 percent of low-income Americans see their legal needs unmet. One in two people who actually have the wherewithal to present themselves to a community-based legal aid services facility are turned away because resources are not adequate to meet their needs. When recently surveyed, Pennsylvanian lawyers answered “No” to the question: “Have you ever taken a pro bono referral?” We can do better – we must do better.

Accessibility of our court system is a linchpin of a fair justice system for all. We can talk about civil and equal rights and landmark decisions that protect them, but these rights do not have full meaning and do not bring the full promise of equal justice for all, if the courts are not truly accessible.

The private Bar, along with the Bench, has an obligation to continue to improve the accessibility of the court system to average Pennsylvanians. That accessibility can come from innovative programs such as the Dauphin County Bar “Self-Help” package, providing basic legal advice and forms to all citizens who come before the Court *pro se*; the Landlord Tenant Pro Bono initiative in Philadelphia County spearheaded by Joe Sullivan and in partnership with Philadelphia Common Pleas Court Judge Lisa Rau, where pro bono lawyers volunteer for the day to assist unrepresented tenants in mediation; and the Allegheny County initiative in the family law area headed by Judge Kimberly Clark, President of the Allegheny County Bar Association, providing again limited pro bono representation in child custody disputes at mediation conferences.

Innovative partnerships between the Bench and the Bar can provide a bridge, or pathway, matching the significant need to our collective action at the Bar. These partnerships and the creation of new ones across the state will help us to assure that our courts become more meaningfully accessible to our citizens.

Before you later today is a resolution from the Delivery of Legal Services to the Public Committee. Last night, I made a simple, aspirational call, that every Pennsylvania lawyer take or maintain an active pro bono case in their inventory of cases. This important resolution embodies a non-mandatory aspirational goal, for all of Pennsylvania’s lawyers. The resolution further recognizes that limited participation is of benefit to improving the accessibility of our justice system.

Although it is only a first step, we believe it is an important first step to broaden the base of lawyers committed to the culture that so many of us share, namely a dedication to active pro bono service and a commitment, thereby, to improving the accessibility of our justice system for everyone.

Improving diversity in our profession is vital to our continued success as an organization, a long-stated priority of the PBA. Improving the diversity of our governing board, officers, House of Delegates members, and committee/section leadership and members was last addressed in a 2004 Task Force Report chaired by Carl Cooper from Pittsburgh. That comprehensive work again restated the need for the Association to focus and make a priority having the leadership of this Association reflect the rich and growing diversity of our membership.

I will soon become the 113th President of the PBA, and I had the privilege to introduce the PBA’s only woman President in 1998, when I was privileged to serve as chair of this House. We can do better and we must do better.

To illustrate this point, each year, your PBA presidential officers attend a Mid-Atlantic Bar Conference. The conference consists of four presidential officers from New York, New Jersey, Maryland, Delaware, Pennsylvania, and the District of Columbia. Except for Leslie Miller's tenure, for the past decade, the PBA's representatives have been all men. When I looked around the table at the first conference I attended in Pittsburgh in 2006, every state bar association, except for Pennsylvania, had one and many two or even three women leaders in the line of succession. We must value as an Association the participation of women and implement the Task Force recommendations previously approved by this House of Delegates.

To that end, I have appointed a newly-created PBA Leadership Development and Recruitment Committee. This Leadership Development and Recruitment Committee is designed to identify future leaders of our organization, provide information to those leaders regarding the process of how to obtain leadership positions, and give encouragement to those individuals to seek positions within the Association, including the position of PBA Vice President. I have asked this newly-created Committee to begin its work immediately and am pleased to report that Judge Norma Shapiro of the United States District Court of the Eastern District of Pennsylvania has agreed to chair this effort. Joining Judge Shapiro on the committee will be Judge Kimberly Clark, Rhoda Neft and Carl Cooper from Pittsburgh; Sam Cooper and Karen Balaban from Harrisburg; and Mike Reed, Leslie Miller and Mike Pratt from Philadelphia. The committee is designed to serve as the bridge between our organization's goals, and talk about those goals, and meaningful action to change the face of the PBA. It is through our collective will, and ultimately the will of this House, that we will be able to truly change the face of our PBA family.

Also I announce today, the formation of a working group to consider expanding the PBA's international outreach efforts. Our PBA Labor Law Section already currently has an initiative with Poland. It is highly appropriate that, here in Philadelphia, we consider the possibilities for the legal community with an ever-increasing globalization of our world economy. We must be forward-thinking and looking at the next horizons and opportunities for the legal profession.

I have asked my own law partner, Gary Biehn from White and Williams, who has an active international business practice, with emphasis on the Shanghai Province in China, to chair this small working group to explore and make recommendations regarding appropriate, efficient, and cost-effective efforts determining potential business opportunities that our globalized economy brings to the legal profession. In this regard, we intend to partner with the New York State Bar Association as we explore this opportunity.

Finally, no single issue threatens to dominate the Bar Association's attention and the time and energy of your presidential officers than the upcoming judicial retention and open seat elections. This fall, eight sitting appellate judges and sixty-six sitting trial judges will stand for retention election. On the Pennsylvania Supreme Court, for example, two open seat elections and the retention election of Justice Thomas Saylor place three of the seven Pennsylvania Supreme Court seats before Pennsylvania's voters. While we will not campaign for individual judges, know that protecting and a fair and impartial court system through experienced, competent, qualified judges rated as recommended by our Judicial Evaluation Commission is a priority of the organized Bar. We cannot allow those who serve as judges to stop their careers, train themselves on how to be a good jurist through the first several years of their judicial experience and then have them stand for retention a few years later, without supporting the retention of those experienced, qualified, competent judges rated as recommended by our JEC.

When we speak of judicial independence, we mean fair and impartial courts. Independence, meaning freedom to decide the case based on the facts and the law presented ... independence to reach the right decision under the law despite public pressure or outcry, despite political pressure or threatened reprisal, and despite financial consequence or intimidation ... independence to follow the rule of law, not independence from the rule of law.

Let us never forget that when we talk of judicial independence, that having fair and impartial courts and judges to decide cases is absolutely vital to the rule of law, our system of government, and an orderly society that we as lawyers must all protect. We are bipartisan in our support, and we will not be political, but we cannot and will not abandon our hard-working judges found competent and qualified and rated as recommended by our Judicial Evaluation Commissions.

As I said earlier in my remarks and in conclusion, Ken Horoho has set a very high bar for me personally and for the Association. But, although this makes the challenge great, it also provides a tremendous opportunity to take this great Pennsylvania Bar Association to new heights. That can only be done with support from each and every one of you over the next year. Thank you and God bless you all.