

Opening Statements

EDITED BY LIANE JACKSON / LIANE.JACKSON@AMERICANBAR.ORG

CATHERINE
KEENER

JEANNE
TRIPPLEHORN

CALLUM KEITH
RENNIE

LITTLE PINK HOUSE

They Wanted Her Out. She Wouldn't Budge.



NOT
FOR SALE!!

Just Compensation

A controversial Supreme Court decision lands on the big screen

IT'S RARE TO SEE A RECENT U.S. SUPREME COURT DECISION TURNED INTO a movie. But the case of *Kelo v. New London* uniquely galvanized a community, spurring one filmmaker to bring it to the big screen.

In the 2005 case, the Connecticut city of New London wanted to condemn the homes of Susette Kelo and her neighbors to make room for a redevelopment project. The waterfront land, in the blue-collar neighborhood of Fort Trumbull, would be used to build a hotel, shopping and other attractions. That is, Kelo would be displaced not for a road or a school but for the benefit of private businesses. She argued that this violated the Fifth Amendment, which requires just compensation when “private property [is] taken for public use.”

She lost 5-4. But the public reaction was almost

uniformly sympathetic to Kelo's plight, with disapproval cutting across political, geographic and racial lines. (One exception: Now-President Donald Trump, who at the time said, “I happen to agree with it 100 percent.”) One poll found that more than 80 percent of Americans disapproved of the decision and at least 45 states passed eminent domain reform laws in reaction.

“It just seemed like a terrible affront to justice,” says Ted Balaker, who runs the film company Korchula Productions in Culver City, California, with his wife, Courtney.

Balaker helped cover the case for ABC News, where he worked at the time. That's how he got to know Kelo's attorneys at the Institute for Justice, a libertarian public interest firm. Some time after he left to go into film, the firm called to tell him the film rights to *Little Pink House*, a book about the case by journalist

Jeff Benedict, were available.

That launched the newly formed Korchula Productions into the yearslong process of making a movie. In addition to tasks like raising the money and securing the talent, they had the challenge of finding a house just like Kelo's. This wasn't easy for one of the reasons Kelo didn't want to sell in the first place: It's rare to find a home with waterfront views that she could afford with her income as a nurse and EMT.

"Susette couldn't just move someplace else, because there's no way she could have afforded to buy a similar house," Balaker says.

They eventually found what they needed in British Columbia (though they had to paint it pink).

Another staging challenge was filming oral arguments before the Supreme Court—without access to the court. The filmmakers ultimately used an opera house, and set crews built interiors that Balaker says passed muster with several attorneys who had argued before the real court—including the attorneys who represented Kelo, who acted as legal consultants for the film. Screenwriter Courtney Balaker also used transcripts of the real trials as much as possible, Ted Balaker says—not only for authenticity but also to try to fairly represent the arguments.

"We wanted to give both sides the opportunity to lay out their best cases for why they thought they were right," he says. "Even among our film crew when we were shooting, there was a lot of discussion."

Little Pink House premiered in February at the Santa Barbara International Film Festival. Balaker hopes for a release in summer or fall, and Korchula Productions was still trying to find distribution at press time. For updates, check facebook.com/littlepinkhousemovie.

—Lorelei Laird

Making It Work

is a new column in which lawyers share how they manage both life's challenges and work's demands.

By Joanna Horsnail

I AM FORTUNATE TO HAVE ENJOYED the last 20 years of my life practicing law. I can truly say I enjoy my work and I am proud to be a partner at Mayer Brown. This is not to say, however, that the practice of law is not without its challenges. Life brings its own challenges, as well.

I faced the toughest challenges of my life, and career, over one particularly turbulent 10-year period: My mom died; I got married; I got pregnant; I made income partner; I had a baby; my dad died; I had a second baby who was born with significant disabilities; my marriage ended; and I made equity partner. I navigated these ups and downs by keeping sight of my goals and leaning on friends, family and colleagues for support. After being a single parent for 10 years and a partner for 13 years, I feel I can offer tips for "making it work" while real life goes on around you.

1. Don't leave before you ask for what you need. This is the corollary to Sheryl Sandberg's "don't leave before you leave." You may be surprised by the accommodations your employer is willing to make in order to retain you. And you may be surprised that even some simple fixes can make what's on your plate seem manageable. Before I went on maternity leave with my first son, I made it clear to my management that I hoped to be put up for income partner but that I also wanted to return to work on a 70 percent schedule. Friends told me I was crazy for disclosing that I wanted to reduce my hours before I got the promotion. But a career is built on trust and relationships, and I felt I had to be honest and ask for what I needed at that time. I got the promotion and the modified schedule, and I proceeded to have an alternative work schedule for the next 10 years as I was promoted to equity partner and given a number of leadership positions. Now I am back to a full-time commitment as my kids are older, and I am loyal to the firm for this flexibility. Ask for what you need to make your career succeed before you give up.

2. Don't let the perfect be the enemy of the good. Most lawyers have a "high need for achievement" personality type, and it can be paralyzing when we don't feel we are doing everything perfectly. But "having it all" is such a strange thing to strive for—no one is perfect at everything every day. You can't be a perfect lawyer, perfect significant other, perfect parent, perfect child and perfect friend all the time. Triage, prioritize and drop things that aren't critically important to you. Practice saying no to things that you don't have to or want to do, and say yes to the things that bring you the most satisfaction.

3. You can't clone yourself—ask for help. Even when we are not striving to be perfect, we encounter times when we are expected to be in two or three places at once. I used to hate asking for help, but I have



Joanna Horsnail

learned that there are times when I simply cannot be in multiple places and I must ask others to step in. Now, I initiate the requests for soccer carpools, I pay my nanny for some extra hours for grocery shopping and other errands, and I ask grandparents and friends to pitch in with my kids when work travel is demanding. And I ask for help at work. There have been times when my son has been hospitalized and I have had to ask a colleague to handle negotiations on a deal on a moment's notice. I find if you are a good colleague and you support others when they need help, they will do the same for you. I have been touched to learn that many people truly enjoy helping.

4. Strive to keep perspective—life really is a marathon and not a sprint. Don't blow challenges out of proportion and assume they will last forever. I have been surprised to learn that I can change more than I ever thought, and that circumstances around me also change in the blink of an eye. Time brings perspective and changes how you prioritize your goals. So don't be impetuous about making life- or career-changing decisions. I certainly had points in my career when I wanted to throw my hands up and quit, but those were the times when I had a particularly challenging client and a new baby and a bad cold. I also have days when I'm on the beach on vacation with my kids and I can't believe my great fortune. If you are faced with a hurdle that seems insurmountable, ask yourself how it may seem different in a week, a month, a year. Sleep on it—for a while.

5. When you make it work for you, you make it work for others. When we push the boundaries in the workplace, we change the possibilities for future generations of lawyers—women and men. The more you reach for what you want, despite your hurdles, the more you are a role model for others that it is possible. I talk openly about my challenges and my coping strategies in the hope that it may inspire others. Volunteer your time to talk to colleagues who need support in making it work, and advocate for what others need when you are in a position to do so. And try not to judge others for making different choices than you. We all make it work in different ways, and that is the beauty of this sometimes crazy life. It's yours to live as you choose. ■

Joanna Horsnail is a partner in the Chicago office of Mayer Brown with a focus on complex design-and-construction transactions. She received the firm's 2015 Diversity Champion Award and serves on the boards of the Anixter Center, Cabrini Green Legal Aid and the PURA Syndrome Foundation. Horsnail gave a TEDx Talk in 2016 about her journey with her younger son.

UNIVERSITY OF WASHINGTON

Trump and the Constitution

Law course explores the limits of executive power

FOR THIRD-YEAR LAW STUDENT KELLY HOLLER, simply reading the headlines wasn't enough. She wanted more insight and perspective on the limits of the law under a Donald Trump presidency.

That's why she signed up for a new course at the University of Washington: "Executive Power and its Limits." Holler is one of 40 students enrolled in the class, which seeks to provide students with the tools—and critical thinking skills—needed to analyze the Constitution and the presidency.

"In the wake of the presidential election, I felt a sense of urgency to understand how I, as a future attorney, can act to preserve the integrity of our constitutional system and hold elected officials accountable to the rule of law," Holler says. "Lawyers have privileged access to the tools of justice, and I want to be ready to advocate for government accountability."

Kathryn Watts is one of two professors teaching the course. *(Continues on page 12)*



Kathryn Watts and Sanne Knudsen are teaching the popular class.

YOU WORK HARD.
REAP THE BENEFITS.



ABA members get a free day on a weekly rental, plus up to 25% off the base rate* on car rentals all year and enjoy extra perks and savings.

LEARN MORE AT [HERTZ.COM/ABA](https://www.hertz.com/aba)

Hertz

*Taxes, fees, and options excluded. © 2017 Hertz System, Inc. All rights reserved.

10 QUESTIONS

'Putting Pieces Together'

From family court to haute couture, this Indiana solo helps clients present their best

IF THERE WERE AN OFFICIAL LIST FOR show business success, it would be topped with these two must-haves: an elegant evening gown and a good divorce attorney. Fortunately for starlets, singers and anyone else seeking both glamour and conscious uncoupling, there's Mark Roscoe. From his home base in Valparaiso, Indiana, Roscoe heads both a thriving family law and mediation solo practice and a haute couture atelier, where his clients include Hollywood A-listers, a Carnegie Hall pianist, a Las Vegas headliner and even a young cancer patient who wanted to rock her senior prom. Family law and fabulous clothing are an improbable career combination, but Roscoe pulls them together, seamlessly.



Mark Roscoe taught himself to sew to help out his mother.

did costumes for a movie starring Robin Givens, Malcolm McDowell and Iyad Hajjaj; fans of your neckties include actors Michael Keaton and Carl Weathers; and you've dressed actresses Bai Ling and Alice Amter of *The Big Bang Theory*. Two years ago, you won three Emmy awards for a Mark Roscoe Design marketing video. With all of this success, are you ever tempted to put your law practice on hold and see where fashion design takes you?

Not at all. I get so much satisfaction from the work that I do as a lawyer because of my ability to mediate and to help people through difficult times. But I also receive equal gratification through designing. As long as I continue to derive joy from what

I am doing, I will continue to do both.

Tell me about your mental process—do you keep law and fashion compartmentalized, or is it more of an integrated flow of ideas?

My mind is always flowing back and forth. If I am working on a divorce case, I process it while I am in the studio working with my hands. When you calm your mind, that's when the magic happens: Ideas come that inspire you. Designing is like architecture—it's how things work together. In the same manner, a divorce case or a mediation is like putting pieces together: How can I help this family through a difficult time in the best possible way? I am always processing my cases, thinking of ways to approach them and resolve them. I am never just a designer, and I am never just a lawyer.

Have you ever thought about going on a reality



show like *Project Runway*? I would totally tune in to watch a lawyer-mediator who could also design.

I had the opportunity to audition for it, but I decided I didn't want the drama to be associated with my brand. If the focus were truly on skill and artistic value, I'd do it; but the behind-the-scenes cattiness is not me. Oftentimes you leave the season remembering the drama and not the talent.

You probably see enough drama in divorce court. How did you get into fashion design?

My mom was a plus-size woman, and for many years, she would go out on shopping trips and come back empty-handed and with tears in her eyes. I thought: Why aren't there designers out there creating garments for curvy women? This was 20 years ago, and back then, it was just about covering the body. There was no style or sense of design. So I purchased a sewing machine, and I taught myself to sew so I could make clothes for my mom. As she started looking better, she started taking better care of herself. When you look good, you feel good. One thing led to another, and I started designing for other women.

How many people work for Mark Roscoe Couture?

At the moment, just my loving family that donates their time and energies. My sister, Valerie, and cousin, Ginger, are my extra hands and motivators that keep me focused. My secretary, Juanita, maintains my schedule and appearances, and Chef William keeps us all well-nourished during sewing marathons!

And you have a great in-house counsel! That's the benefit of being a lawyer! I handle the entire business end on my own.

You're building a fashion brand from small-town Indiana. Is that a challenge?

I do maintain a satellite studio in Chicago. That's where I conducted the fittings with Keegan-Michael Key when I dressed him for the Emmy awards. But if I need to meet a client in Los Angeles or Las Vegas or New York, I just fly out there. You don't have to be physically located in the city where the work is performed, so long as you get your brand out there. It's been really nice to have those opportunities from little old Valparaiso.

Do you have any goals or dreams for your practice and your atelier?

Fortunately, I have been living my dreams. I try to stay in the moment and realize the full benefit of each experience without looking too far ahead. There is still so much to learn in my law practice and as a designer. Every lesson learned is important in my personal evolution and in creating that final picture. It's interesting: When you give yourself emotional permission to do something, things just seem to happen. When your heart and your mind are in the right place, and your motivation is to help and to heal, opportunity flows. —Jenny B. Davis

(Continued from page 11)

TRUMP AND THE CONSTITUTION

She says administrators responded to student demand when they created the class, and it filled quickly upon being announced.

"Our law students feel they should have a good grasp of the law that defines presidential powers and defines the limits of presidential powers," Watts says.

One example she gives deals with the president's promise to build a wall on the border of Mexico to deter illegal immigration. Is President Trump within his rights to do so? Does he need the approval of Congress beforehand?

Watts says it's these sorts of issues the class is able

to dissect and discuss in real time.

Kevin Eggers, another 3L, is also in the class. He says it's fascinating to watch history unfold.

"We get to take current stories coming from the news cycle, compare them to similar historical circumstances, and use this analysis as a means of understanding the powers and limits of the Office of the President," Eggers says. "Perhaps most interesting is the fact that at the end of our analysis, we often conclude that the contours of a specific power of the president are not as well-defined as we might have presumed before taking the class."

The class meets twice a week for a total of three hours. Students look at case studies and hear from different experts in the field.

PHOTOGRAPH COURTESY OF MARK ROSCOE

"We just wanted to give students a class that was more specialized and dive into current events," says Sanne Knudsen, who teaches the course with Watts.

Both professors say there has been an outpouring of interest. Professors at UW have asked whether they could sit in, and other schools have requested the course information and syllabus. Meanwhile, those in the community have expressed interest in the material as well, prompting Knudsen and Watts to provide reading resources through the law library. —Cristin Wilson

CP[®]
CERTIFIED PARALEGAL

NATIONALLY ACCREDITED CERTIFICATION

The CP credential signifies that a paralegal is capable of providing superior services to firms and corporations.

This credential is recognized by the American Bar Association as a designation ranking a high level of professional achievement.

NALA
THE PARALEGAL ASSOCIATION
www.nala.org

HP Mandates Diversity

General counsel say bold moves are necessary to achieve lasting change

ACHIEVING DIVERSITY IN BIGLAW has proved an uphill battle for advocates of inclusion. But many general counsel—who are uniquely positioned to influence the dynamic of legal teams—have chosen to direct their business to firms that show a commitment to diversity.

Kim Rivera, chief legal officer and general counsel at HP, says new tactics are in order. “Despite decades of sustained effort, we’re not demonstrating any kind of sustained practice for diverse lawyers,” Rivera says. “We’re past the point of continuing to talk about it and are doing more bold things, pushing boundaries, pushing the envelope to come up with better ideas.”

For Rivera and her team, this meant implementing a groundbreaking program that leverages the power of the purse. HP’s “diversity holdback mandate” allows the company to withhold up to 10 percent of billed invoices from law firms that don’t meet or exceed minimum requirements for diverse staffing.

“For people like me—I’ve been working on diversity and inclusion in one fashion or another for over 20 years,” she says. “Now I have this rare, wonderful platform of support ... to tell law firms we work with: This is important to us. It’s so important to drive performance and innovation that it’s going to be mandatory.”

HP’s initiative builds on the work of general counsel who’ve maintained pressure on outside counsel to create more opportunities for female and minority lawyers. Former Wal-Mart GC Tom Mars and Roderick A. Palmore, formerly general counsel at Sara Lee and General Mills, are just two of many who worked within, and outside of, their organizations to promote change. Mars terminated Wal-Mart’s relationship with firms that didn’t meet diversity targets, and in a 2004 “Call to Action” letter, Palmore urged his peers to commit to ending or limiting relationships with firms that lacked a “meaningful interest in being diverse.”

Last September, the ABA House of Delegates passed Resolution 113, calling on corporate legal departments to use their purchasing power to increase economic opportunities for diverse attorneys. Two dozen

in-house counsel from top U.S. companies, including McDonald’s, CBS and Verizon, signed a letter pledging to uphold the resolution and urged other GCs to utilize the ABA’s model diversity survey to accurately measure the effectiveness of diversity and inclusion in the legal teams they engage.

As businesses cater their sales strategies to a growing diverse demographic, they are seeking contractors who reflect the community at large. A wealth of research has demonstrated that diversity benefits the bottom line. One study published by the market research house Acritas found that law firms offering “very diverse teams” tend to receive a 25 percent greater share of legal spending than nondiverse teams.

But research supporting the business case for diversity has had minimal impact on law firm hiring and retention practices, although general counsel have been steadily employing the carrot—and the stick.

“I think GCs need to keep up the pressure in any way they can,” says Arin Reeves, a former lawyer and the founder and president of Nextions, a research and consulting firm in Chicago. “It’s the structures in firms that don’t support this. The structures in firms are too heavily weighted toward people’s comfort zones. As long as you’ve got systems of retention and advancement—especially promotion, and promotion into leadership in firms—that are incredibly subjective, comfort-zone-based systems, everything else is going to nibble around the edges.”

Rivera says she’s seen an immediate effect from HP’s initiative, with the teams coming to pitch business “more diverse than ever before.” But it’s only the first step—Rivera is collaborating with other GCs and looking at ways to expand the program.

“How can we help smaller and medium-sized practitioners? How can we help firms rethink the traditional economic structures that have been a barrier to diversity? But I want to walk before we run. I want to build something that’s sustainable, and then we can build upon it as we go.” —Liane Jackson



Kim Rivera

HP

Hearsay

GRE vs. LSAT

Harvard Law School is putting its imprimatur on the GRE as an alternative to the LSAT for law school applicants. The school announced it will accept the Graduate Record Examination beginning this fall, with the goal of expanding access to law school, particularly for international students. In February 2016, the University of Arizona’s James E. Rogers College of Law became the first ABA-accredited law school to accept either the LSAT or the GRE for admission.

Source: today.law.harvard.edu/gre (March 8).

Free Prep

In other LSAT news, the Law School Admission Council has teamed up with Khan Academy, a nonprofit, online provider of free educational services, to offer LSAT test prep beginning next year. Khan Academy also offers free SAT test prep in partnership with the College Board. The website’s goal is to offer supplemental learning and tutoring to further the accessibility of education.

Source: lsac.org (Feb. 28).

Did You Know?

Finally! The dispute over whether the Snuggie is a blanket or a garment is over. The U.S. Court of International Trade has ruled that Customs and Border Protection improperly categorized the Snuggie as a garment, making it subject to a 14.9 percent tariff vs. 8.5 percent for blankets. In its determination, the court noted that the addition of sleeves alone does not transform the blanket into clothing, despite government arguments that the Snuggie was akin to priestly vestments or scholastic robes.

Source: bna.com (Feb. 13).



Top 10

Because a legal education shouldn’t just be about lectures, studying and whatnot, a new report has compiled the top 10 “lifestyle law schools,” based on a mashup of location, social life and national ranking. Rounding out the top five are the law schools at the University of Colorado, University of Florida, University of Virginia, University of Alabama and Northwestern University.

Source: law.com (Jan. 26).



Cartoon Caption Contest

CONGRATULATIONS to Kevin K. Peek of St. Louis for garnering the most online votes for his cartoon caption. Peek’s caption, right, was among more than 150 entries submitted in the *Journal’s* monthly cartoon caption-writing contest.

JOIN THE FUN

Send us the best caption for the legal-themed cartoon at right. Email entries to captions@abajournal.com by 11:59 p.m. CT on Sunday, May 14, with “May Caption Contest” in the subject line.

For complete rules, links to past contests and more details, visit ABAJournal.com/contests.



Piccolo

“How did the meeting with your attorney go?”
“He said these balloons had a better chance of getting me out than he did.”

—Kevin K. Peek of St. Louis

SHUTTERSTOCK