

**Honorable Federico Hernández Denton
Chief Justice
Supreme Court of the Commonwealth of Puerto Rico**

**Roger Williams University School of Law
Commencement speech**

May 2009

Good afternoon.

I am honored to join the Roger Williams community as an Honorary Degree recipient and as the Speaker of this Commencement Ceremony. I am grateful to President Roy J. Nirschel of Roger Williams University, to Dean David A. Logan and to the Board of Trustees of Roger Williams University School of Law for this wonderful distinction. I also want to express my appreciation to the Honorable Bruce M. Selya, a member of the Board of Trustees, for his friendship, his sense of humor and his

words of wisdom during my tenure at the Supreme Court of Puerto Rico.

Finally I am indebted to my beloved wife, Isabel Picó for her continuous support and affection during our forty three years of marriage. I dedicate this honorary degree to her.

I am also pleased to be among such distinguished guests, professors and fellow judges, all of whom have made important contributions to society, in both academia and the public sphere. With all due respect to these distinguished personalities, my message today is for the Class of 2009.

Let me first congratulate you on your successful completion of demanding legal studies. You have received a superb education at the only law school of Rhode Island. Certainly, as you receive your law degrees today and enter a new professional dimension, you will mark a new beginning in your lives, a commencement in every sense of the word.

Your professors and fellow students have challenged and emboldened you. They have dared you to be the best lawyers you can be, to broaden your talents in public service or in private practice. Frequently, in that process, your preconceptions are shattered, forcing you to look at legal and social problems from new perspectives.

As part of your education, you have been called upon to devise new methods to confront diverse problems, in society and in your personal lives. In sum, the legal education you have received at Roger Williams has empowered you to become the seers and inventors, the humanists and the politicians, and the entrepreneurs and philanthropists of the future. Our future will be better and brighter because of you.

I am enormously pleased to see so many women in the graduating class of 2009. As the legal scholar Deborah Rhode recently stated: “[t]he legal landscape has been totally transformed.” According to statistics compiled in 2008 by the American Bar Association,

more than 200 women are federal district and appeals court judges. Approximately one fifth of the nation's law school deans and more than 45% of law firm associates are women. More women than usual are on President Obama's shortlist as he prepares to nominate his first Supreme Court justice. In Puerto Rico, three of the seven Supreme Court justices are women. Today, the rising prominence of women in the legal profession is more relevant than ever and I congratulate Roger Williams for contributing to this important trend.

In another regard, we are all aware of the recent developments related to the global financial crisis. As you prepare to cross the threshold that separates

this beautiful campus from the gritty workplace, you should know that what lies ahead is neither a smooth or easy ride. There is much uncertainty in the legal job market. Many law firms are facing the difficult decision of either laying off associates or closing whole divisions or departments of their practices.

As Chief Justice of the Supreme Court of Puerto Rico, I can assure you that the impact of the financial crisis on the legal profession goes well beyond private practice, seeping into the very foundations of our system of justice. As a result of the current economic downturn, most states and countries are facing budgetary shortfalls this year,

and severe fiscal problems are likely to continue into the following year as well. Courts in most states and countries have not been exempt from this troubling reality, which has unfortunately been widely overlooked.

That's why I think it essential that I talk to you today about your role as young lawyers during these difficult times. The idealism, creativity, dynamism, hard work and commitment your generation represents are instrumental in turning things around and leading the legal systems of your respective states and countries into a new era. Specifically, I would like to discuss the importance of strong courts during this recession, and what you

can do to contribute to the strengthening of our systems of justice.

This audience is well aware that our citizens depend on strong courts to uphold the Constitution, and that judges rule on cases fairly and impartially based solely on the facts and the law. Strong courts are an essential part of our democracy, for, through the system of checks and balances, they provide the vital balance in our government.

This is why the Judicial Branch in every state and country must be independent of outside influences, be they popular prejudices or political interference. A fair and impartial legal system is crucial to maintaining the rule of law and

expediently and effectively upholding the laws that govern societal relations.

Still, we should never take a strong independent judiciary and legal system for granted. Chief Justice Margaret Marshall of the state of Massachusetts recently noted that *“a perfect storm of circumstances threatens much that we know, or think we know, about our American system of justice.”*

The drastic revenue shortfalls currently facing the public sector pose an additional obstacle to an independent legal system. All public entities – including the Judicial Branch—must make painful and difficult choices to bear their fair share of the fiscal crisis. However, some court systems are being

asked to take on a heavier load, effectively threatening the stability and independence of the judiciary.

To operate within a reduced budget, the Chief Justice in Vermont ordered the Supreme Court, district court, and family court in that state to close for half a day each week. Budget cuts in Florida have left hundreds of court personnel without jobs. In Minnesota, three judicial districts have been shut down for a half day each week, a courthouse has been permanently closed, and various civil arbitration services have been terminated. In Spain, judges went on strike demanding better working conditions and new technologies for their

courtrooms. Here in Rhode Island the steep budget shortfalls could threaten the capacity of the Public Defender's office to represent indigent clients throughout the state.

These are just a few examples of how the economic disaster has reached the courts in the United States and abroad. In most of these cases, such drastic measures were direct results of inadequate funding. They are examples, not of judicial accountability, but of a looming crisis that can fundamentally alter the constitutional system of checks and balances. Judge Learned Hand once warned us that *"if we are to keep our democracy, there must be one commandment: Thou shall not*

ration justice.” His words of wisdom are more relevant than ever today, as states and countries deal with a crisis of unprecedented proportions.

Some courts are reaching the point of being almost unable to function at even minimally adequate levels. This is particularly more troubling during times of financial distress, when people turn in even greater numbers to their courts for relief and protection.

Jonathan Lippman, the Chief Judge of the State of New York, recently compared state courts to “*the emergency room[s] for society’s worst ailments – substance abuse, family violence, mental illness, mortgage foreclosures, and so many more.*” In Puerto

Rico, this disconcerting trend is increasingly evident.

For example, from 2002 to 2009, cases related to home foreclosures increased almost 90 per cent.

Contract disputes, child support cases and criminal cases related to robbery, burglary and shoplifting offenses are also steadily congesting our court system. The government of Puerto Rico has announced that it could carry out a massive layoff program of public employees over the next few months, a situation that is likely to result in a substantial increase in employment law cases. This is certainly a consequence of our current economic situation.

In 2002, the Legislature of Puerto Rico approved a statute that implemented an automatic funding formula for the Judicial Branch, allowing us to undertake austerity measures without compromising the ability of our courts to provide effective justice. This measure has proven to be an effective safeguard against the possibility of improper economic pressure on the judicial system.

During these perilous times, our goal is to conduct business in a cost effective and accessible manner that promotes institutional accountability and meaningful access to justice, as well as respect for our independence and the rule of law. I urge you to support this goal. Know that, unless courts

remain strong, impartial, accessible and independent, your future clients and cases will be directly affected by the current fiscal crisis. An expeditious and efficient legal system depends on the strengths of the judiciary and the administration of justice.

Once again, I commend the Class of 2009 for the achievements that we celebrate today. I invite each of you to continue supporting and defending the role of the courts in our democracy. We need your support, more than ever.

Let me conclude with an inspiring thought from the great jurist Oliver Wendell Holmes: *“as life is action and passion,”* he said, *“it is required of a man*

that he should share the passion and action of his time at peril of being judged not to have lived.”

My Colleagues:

If we want to preserve the legal system that has guaranteed and upheld the rule of law with independence and transparency, (and of course we do) each of you must play a fundamental role. I urge you to reject complacency and to use your many talents to fortify and galvanize our system of justice.

As President Obama so aptly emphasized in his commencement speech at Arizona State University, there is always more to be done, more to learn, more to achieve. You are graduating in one of the most challenging times of history and you will have an extraordinary opportunity to rebuild this country

and the world. Your creativity and drive are needed now more than ever before in the history of this nation and particularly its judiciary. Your body of work awaits you.

Thank you very much.