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SPEECH AT THE ACCESS TO JUSTICE FELLOWS GRADUATION

Remarks Chief Justice Gants delivered at the 2020 graduation ceremony from the Access to Justice Fellows Program, a project of the Massachusetts Access to Justice Commission and the Lawyers Clearinghouse that enables senior lawyers and retired judges to partner with nonprofit organizations, courts, and other public service entities to increase equal justice for all.

This is my ninth graduation ceremony for the Access to Justice Fellows program. I think I've been to each and every one of the graduations because this program has always been one which has been close to my heart. And as I get older in age, it's becoming one which I am aspiring, at some point in my life, to be prepared to join. But that time is not yet here.

So let me speak a little bit about what has been happening in the last three months. I think in the same breath of the phrase, "It has been a quiet week in Lake Wobegon," which it has not. But then I was also thinking of the words of Charles Dickens, speaking about the French Revolution in *A Tale of Two Cities*. And what he wrote in those first few lines actually bears pretty well on what's happened with regard to the last three months:

It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way

And that is a pretty good summary of basically what's been occurring over the last three months. So, depending on how you look at it, it has been a tragedy—and no doubt it has been a tragedy that has damaged or destroyed so many lives—but it has also been an opportunity for us to begin to transform ourselves in ways that we have never really had to do before.

In the court system, we have had to transform ourselves in a matter of weeks from a system that depended almost entirely on in-person appearances to do justice, to a court system that went almost entirely virtual. We do intend to open to a limited extent in the foreseeable future, but I think it's also apparent that even when we do reopen, in order for us to do our business in a way that's going to permit public health and social distancing within our courthouses, a great deal of work is still going to need to be done virtually.

So that has transformed how we see the world, and it's also transformed the way that legal services organizations have had to do business.

So I look to what the eviction process used to be in the “good old days,” when there would be two hundred people descending upon a Boston court to do an eviction session, and there would be a presentation by the presiding judge, who would then direct people to go to the Lawyer-for-the-Day desk, and then to the Court Service Center, and then begin to do some mediations, and then ultimately move to the various stations, until they ultimately ended up with either a resolution or a trial or a continuance. And now all of that has to be done virtually.

So the challenging news is that in the world of legal services and providing access to justice for the poor—whose needs are of course greater than they’ve ever been before—we are now needing to find ways to find them and work with them virtually, where many of them are going to be not only challenged in terms of issues of language and poverty, but also in terms of technology. And that has inspired an enormous amount of imagination, which I guess is the “season of hope” part of this process, which is that Sue Finegan and many others with the Access to Justice Commission have pulled together, in a remarkable collaborative effort, folks to figure out how we can manage to provide legal services and advice to these individuals in the coming months.

And there’s just an avalanche of need. When the moratorium on evictions ends, which is scheduled right now in late August, we’re going to have an avalanche of eviction cases that we’re going to need to resolve. And if we’re going to resolve those sensibly, it will diminish the extent of homelessness. If it’s not so sensible, we’re going to find ourselves with a second wave of homelessness that’s going to coincide with the second wave of the pandemic in the winter.

There will be an avalanche of debt collection cases that will be coming in, and the extent to which individuals can obtain the guidance and assistance they need, and that the protection of exempt income will be respected, is going to be an enormous challenge, both for the courts and also for legal services.

And of course, every other organization has been challenged, whether it be health organizations, food organizations, every other organization has been challenged in ways it’s never been before.

We have been essentially facing what I think of as the four horsemen of the apocalypse: the pandemic; then the depression; then the recognition of the extent of systemic racism and the extent to which that has been demonstrated over the course of the last few months—not only by the tragedies involving police interactions with individuals, but also the extent to which persons of color have been hit hardest by the pandemic, and all of the challenges which they face have been exposed during the course of this; and then the fourth horseman that we’re dealing with is the inequality in terms of technological capacity, not only in terms of the courts’ limited technology—and that is, for me right now, one of the greatest challenges, trying to run a virtual court system with a court system whose IT we all recognize to be inadequate—but also attempting to do a virtual court system where individuals themselves are not equal in terms of their capacity to have

computers to do Zoom hearings or the knowledge needed to be able to perform in those particular ways.

So the importance of persons volunteering and providing assistance to all of these individuals, and providing the legal support and assistance which the Fellows Program historically has always done, has really never been more important. It is a time in which not only do we need people's commitment, but also we need people's imagination, and we are finding new ways to do things that we've never done before.

The "season of hope" aspect to it is that we are also discovering that much of what we're doing now is long overdue. By way of example, in the area of drug treatment: before, they would never give individuals any amount of methadone; they had to go each day to the methadone treatment center and pick up their daily dose, and of course that was incredibly disruptive to their daily lives. But as a result of the pandemic, they've had no choice but to give either seven days' or thirty days' supply to those individuals and, lo and behold, it has turned out that doing so has gone remarkably well. And that, I trust, will change the way that methadone maintenance is done. With regard to issues of mental health, the extent to which individuals are able to attend sessions virtually that they previously may have missed, the rate of non-appearance, has been transformed now that we have begun to permit appearances to be made virtually.

The capacity of our court system to have people be able to do court business without physically having to leave children and the elderly and jobs and whatever else to appear in court is going to be transformed when this is done. I am confident that we will have a more efficient, more thoughtful court system when this pandemic is over.

So part of what we are doing now, in terms of getting through the next many months until the pandemic is over, is also to be the foundation for what will be a new court system.

So that is what we are looking at. The most challenging of times, the most challenging certainly in my lifetime, probably the most challenging in many people's lifetimes. I don't think, probably since the Depression was transformed into World War II, have we had times as challenging in this country as we are now facing. And we will emerge from it, I hope, stronger, as we did emerge from the Depression and World War II stronger as a nation and as a society. And Lord knows there is so much to do.

So with that, it is time to allow you new folks to get your bachelor's degrees in access to justice, so you can get your graduate degree in access to justice. And I was thrilled during a tribute video to hear one Fellow basically say that, having finished this program, she's now ready to move on to receive her Masters or her Ph.D. in access to justice.

Thank you for committing your time, your energy, and your passion to this life-altering work in these tremendously challenging times.