

MCBA president: A lawyer's role in our society

By: Mark J. Moretti | September 7, 2016



I've always enjoyed the company of lawyers. We're well-read, usually well-traveled, can express ourselves, have broad interests, and usually can see both sides of an issue (sometimes depending on who pays the retainer).

Most importantly, we seem to recognize our role as leaders in our communities. Alexis de Tocqueville, writing long ago about American lawyers observed, "Lawyers belong to the people by birth and interest and to the aristocracy by habit and taste; they may be looked upon as the connecting link of the two great classes of society." I view us more as first among equals in providing leadership to community boards and governmental functioning in the communities we live in.

We are as a group generous to the communities we live in, not only with our money, but with our time, whether it be devoted to providing leadership to community groups or donating our time to the indigent through programs like VLSP.

We as lawyers become involved in all aspects of human existence.

We see people at their best and worst and try and help them chart a course through the complexities of modern society. Some will say that American society has more lawyers than other modern societies and that we are accordingly a drag on the economic system. But it is because of those lawyers that we Americans are as free as we are and that our right to our own personal "pursuit of happiness" is protected. And American business has done pretty well despite us or actually because of us.

Indeed, American society is structured on the balance of power of competing interests and ideals. We balance power between three branches of government, and between the state and federal governments. We balance the rights of the individual with those of society. We balance the rights of labor with those of management. We balance the privacy rights of the mother with the rights of the unborn. We balance our interests for security and law and rules with our personal freedoms. We balance our right to free speech with the duty not to falsely call fire in a crowded theater and the duty not to libel.

We balance the efficiency, effectiveness, and dynamic nature of true free market capitalism with the harm that can occur when it is completely unregulated. It is a form of "controlling the flame" that allows capitalism to work its magic, but in a way that mitigates its excesses so that it doesn't burn out of control. The Securities and Exchange Commission was designed to prevent securities fraud, and the antitrust laws were designed to prevent an accumulation of power that harms the public.

It is the lawyers in American society who are the instruments by which we balance these competing rights by our advocacy for one point of view or the other, and judges who must ultimately decide where the balance is drawn.

It is, in other words, the lawyers who bring structure to the very society we live in. Shakespeare's oft-quoted line, "Let's kill all the lawyers," was spoken, of course, by an anarchist and was Shakespeare's clever compliment to lawyers' ability to bring structure and order to civilized society. I thought of that play when I recently heard about an ISIS anarchist's murder of 70 lawyers in Pakistan at the funeral of a lawyer.

Do not underestimate the importance of the role lawyers play in civilized society and, in particular, American society. We are the bedrock of a free nation.

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