

REMARKS

Carolyn Dineen King
United States Circuit Judge
Acceptance of Distinguished Service Award
American College of Bankruptcy
Annual Meeting
March 14, 2014

Jan's introduction has been overly generous. Let me give you my highly personal slant on my career as a lawyer and tell you how much I admire all of you.

As Jan has told you, I was in private practice for seventeen years before I went on the bench. I absolutely loved practicing law. I did what would now be called transactions work, public offerings, private placements, mergers, acquisitions, tender offers, work-outs. I thoroughly enjoyed burrowing into the heart of a business and an industry. In 1977, Stratford of Texas, my firm's biggest client, filed a Chapter 11 proceeding. We didn't have a bankruptcy lawyer. So we hired Rochelle, King & Balzersen, the best bankruptcy lawyers in the Southwest. And I second-chaired Bill Rochelle for 18 months in handling a very large Chapter 11. I was captivated. What I

discovered is that bankruptcy lawyers practice a wide range of law, handling all kinds of legal questions. And instead of working on one piece of the right hand side of the balance sheet, they work on all the pieces. All those years, I had thought that I had the best legal practice imaginable. I discovered that bankruptcy lawyers really had that; my legal practice had just been a pale shadow.

I became a Circuit Judge with great reluctance. I loved private practice, and besides, corporate lawyers are all snobs. They think that courts are where their carefully crafted legal work will fall victim to the untutored. It's a long story, not for today, but at the end, I finally agreed to do it. One dividend is that we occasionally get bankruptcy cases, small and big, such as *Timbers* and some of the other cases that Jan mentioned.

Jan also mentioned that I volunteered to sit as a bankruptcy judge during the mid-1980's, when the oil industry was in a particularly severe periodic down draft and

all of Houston was in distress. We had 30,000 bankruptcy cases pending, with only two bankruptcy judges then sitting. At least at that time, many of the district judges viewed bankruptcy cases like floors and windows: they didn't do them. So I, comparatively ignorant, volunteered to take whatever the bankruptcy judges didn't want to do. They liked that arrangement. They had a peculiar practice of assigning all motions for all those cases to one judge. I got elected. So every Monday, Tuesday and Thursday I handled motions, 200-250 per day. I made my way to a small bankruptcy courtroom using the public elevators because the judges' elevator in those days didn't stop on the bankruptcy floors. I thought that fact was stunning. I began every calendar by reminding the assembled lawyers, usually 100 or so, streaming out the doors of the courtroom, that I was not a bankruptcy judge or lawyer and that we would all benefit if they would begin every case by bringing me up to speed on the

law involved. They were very patient with me. By and large, we all eventually got it right.

But one dreadful day, I had an experience that you will enjoy. Two lawyers were engaged in a ferocious debate on a motion that somehow involved a previously entered "order for relief." I had no idea what that was, and it became clear that I wouldn't be able to figure it out just by listening (which was my standard M.O.). So I reminded them and the assembled group of lawyers of my bankruptcy ignorance, and said that I had to ask a question that would stun them. But without the answer, I couldn't decide the motion. So I asked them: "What is an 'order for relief?'" The collective gasp by 100 lawyers sucked all the air out of the room. One of the combatants finally started in on an answer. He got a couple of sentences out, and my light bulb flashed. I asked: "Did that used to be called an adjudication?" He nodded. I said "Good. I've got it. Let's move on." Big sigh of relief in the courtroom. Jan, and all of you,

are you sure you don't want to rescind today's award for distinguished service?

A few words about the *Executive Benefits* decision. Although I have thought long and hard about that case, I have absolutely no idea about how it is going to come out. I confess I am anxious about it. I have a hard time understanding why thirty plus years have gone by without the Court deciding something as basic as whether a magistrate judge can enter a final judgment in a civil case under § 636(c) with the consent of the parties. And I have an equally hard time understanding why basic questions about the jurisdiction of the bankruptcy courts are still unresolved. Doubtless we will know more at the end of June than we know today. But, as you understand perhaps even better than I do, the repercussions of the Court's decision could be very serious. Again, color me anxious.

I am particularly honored by the fact that today's award comes from an august group of excellent bankruptcy lawyers and judges. After thirty-five years on a federal appellate

court, I believe more strongly than ever that bankruptcy law is one of the most important areas of law we handle, and it is clearly, for me, the most fascinating. All of you here today are blessed to be practicing or judging in an area of law that is richer and more demanding than almost any other field. And what you do really matters to so many people. In my view, you are the heroes and heroines of our profession. You honor me very much with your presence and with your award. May you and your tribe increase and prosper.

Thank you.