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Judge John Gleeson's Keynote Address at the 2011 Judges Dinner

Thanks, Dale. I want to add my personal congratulations to you, Judge Gajarsa, on the recognition you so clearly deserve and also to the family members of Judge Rich, who must be very proud of his long and distinguished service to his country, to his court and to this organization.

I bet many of you were wondering why I am your keynote speaker tonight. I have been wondering about that myself. I am not a household name, as quite a few of the previous keynote speakers have been. I'm not from the Federal Circuit; I'm not even a circuit judge. I'm a district judge, a trench dweller, from Brooklyn no less.

There's one obvious possible reason: these are tight budget times and though I don't have any specific knowledge on the subject, I bet my appearance fee compares favorably to the fees of some of your recent keynote speakers. It's just a guess. When all is said and done tonight, you may decide on this keynote speaker subject that you get exactly what you pay for.

But beyond that possibility I have no idea why I'm up here. Dale was courteous, but his invitation didn't shed any light on why I was invited. He didn't suggest to me what to talk about or not to talk about. Naturally, I began to wonder: this is an association of intellectual property lawyers. Do they want me to talk about intellectual property? I was willing to try. I thought maybe I might comment on a recent decision of the Federal Circuit, and I even found a good candidate, a case from this past December. It explored whether a post-*Bilski* GVR order affected a holding that asserted claims were drawn not to a law of nature, but to a particular application of naturally occurring correlations, and accordingly do not preempt all uses of the recited correlations between metabolite levels and drug efficacy or toxicity. That case is definitely a gold mine for after dinner speakers, but I concluded for three reasons I probably ought to stay away from lecturing on IP law.

The first is a straightforward application of the "know thyself" rule: I'm not an expert in IP law. I don't want to overstate it or sell myself short; it's not like I bring no IP knowledge whatsoever to this podium. In fact I've had cases in your field both as a lawyer and as a judge. For example, when I was a prosecutor, I had this murder investigation. The victim was a successful loan shark. The secret to his success was the people who owed him money actually paid him the 3 points a week he charged. You may not know this, but getting people to pay interest at a rate of 150% a year is a loan shark's greatest business challenge. The way this loan shark rose to that challenge was he told his customers he was a made guy in the Gambino Crime Family. This scared them, and that's why they paid up.

This business model worked like a charm until the loan shark came to the attention of a Gambino captain a couple of neighborhoods away. The captain was perplexed about two things: first, if this loan shark was a made guy, how come he'd never heard of him; second, and even more important, why wasn't he getting a piece of the loan shark's profits? So he sent his henchmen to bring him the loan shark, who immediately broke down crying and admitted he wasn't a made member of any family, let alone the Gambino Family. He said he was just using the Gambino Family name to help his business. So they whacked him and took over his loans.

I can tell some of you are still searching for the intellectual property connection. Think about it – it was really a trademark infringement case. The Gambino Family mark may not be registered, but it is very strong. And the holder of the mark has its own forms of alternate dispute resolution and punitive damages.

As a judge, I have experience with patent cases. Granted, it consists of just one trial. It was about lacrosse sticks. The plaintiff made some improvements to how you attach the nets to the different kinds of sticks, and he sued a stick manufacturer, claiming that it infringed his patents. The most challenging part of the case was when the jury asked me during deliberations if I'd send the 15 lacrosse sticks I'd received in evidence into the jury room. I wasn't sure how to respond. Like any good judge I was thinking one move ahead. What if I sent the sticks in and then they asked for a ball? What if they started fighting?

So I'm not a complete blank slate when it comes to intellectual property, but my experience is a bit thin. So my instincts told me I wasn't invited here to educate you on the fine points of patent, trademark or copyright law.

The second reason I figured I ought to steer clear of that some of you already know, and that is the last time I tried it, I got in trouble. It was almost ten years ago, and I was asked to speak to smaller gathering of lawyers from this very same organization. I was a young judge then and eager to please, and my idea was to try to be funny about a current hot topic in IP law. So I did some research and found something I thought I could work with: there was this growing body of case law back then known as cyber-griping, or "Companysucks.com" law. People were creating websites that consisted of a well-known company name followed by the word "sucks." Ballysucks.com; Coca-Colasucks.com, you name it, followed by sucks.com. These sites existed for the sole purpose of bashing the companies whose names were being borrowed. The companies saw no humor in this at all, so they brought lawsuits, trying to shut them down on the ground that they were infringing their trademarks. And the courts were very unsympathetic. The companies were losing these claims on the ground that the sites were obviously just a form of parody -- no reasonable consumer was going to be confused and think that the companies really had anything to do with them.

I thought it might be funny to speak about these cases. My idea was I'd say that the companies were losing them because courts couldn't feel their pain. Judges are so coddled in our society that they can't appreciate what it's like to be ridiculed that way. Maybe if there were a SecondCircuitsucks.com they might feel a little differently about the matter. Since my premise was there was no such site, I of course needed to check my facts. So I did a search for SecondCircuitsucks.com. Actually, I had to do it twice. When I did it at work I got a screen that said that my request was an "inappropriate search" that was prohibited by our screening software. I went home that night, did the same search, and sure enough, I couldn't find any SecondCircuitsucks site. I was ready for my speech.

As luck would have it, we had a Board of Judges meeting within a week or so of my inappropriate search. There was a huge debate within the judiciary at that time about whether we should even have this screening software, and we were being briefed by our District Executive about how it was working. He told us it was working great, and we had hardly any inappropriate searches on any of the computers in the courthouse, mostly because the staff knew there was a log each week that listed every inappropriate search request and who made it. The deterrent effect of that log was great – there were only one or two inappropriate requests on the log each week. This was all news to me, and of course this business about an inappropriate search log caught my attention. As nonchalantly as I could, I asked what we did with the log. I was told that it was forwarded at the end of each week to the Chief Judge of the Second Circuit. I tried to picture in my mind's eye the Chief Judge – it was John Walker at the time – sipping his Monday morning coffee over the inappropriate search log, which had only one or two entries on it, and seeing that Gleeson over there in Brooklyn tried to log on to SecondCircuitsucks.com.

So I wasn't eager to go down that road again. But the third and most powerful reason I decided not to speak about intellectual property law tonight was a particularly blunt conversation I had with a friend of mine, someone I've known a long time. He's a lawyer, and said to me "look, these people are intellectual property lawyers. They handle some of the most difficult, complex and sophisticated litigation in the world. If they wanted somebody to speak to them about what they do, they'd get someone with more brains than you; they'd get a judge from the Southern District."

Ouch, right? An A+ for candor, I suppose, and you do want your friends to level with you, especially after you become a judge, when everyone else except your spouse stops leveling with you, but that's a little harsh, don't you think?

Let me unpack my friend's comment a little for the non-lawyers among us. First, the part about the sophistication of the lawyering that's done by people in this room is beyond dispute. Here's just a tiny sampler of typical issues in recent Federal Circuit cases: Do the algorithms and formulas used in a digital image half-toning patent bring it too close to abstractness? Was there infringement under the doctrine of equivalents of a patent for a biasing/erasing oscillator in a magnetic tape recording apparatus having an erasing head for signals recorded in an azimuth track? Here's my favorite: Does a vaccine for treatment of Postweaning Multisystemic Wasting Syndrome in pigs – sounds pretty messy, don't you think? – infringe a patent claiming certain porcine circoviruses? I love that one. That's enough – you get it. You definitely have to have brains to do this work. In fact, the cases brought by the

lawyers in this room are so specialized and difficult to access that Congress gave them their own private court of appeals. We honor those Federal Circuit judges here tonight, and take it from me, they deserve to be honored. I have admired the judges of the Federal Circuit from the moment the court was created back in 1982. Before then the appeals from patent cases went to the regular circuit courts, and I learned literally on my first day as a law clerk in one of those courts why we needed the Federal Circuit so badly. It was 1980, and I was lucky enough to clerk for Boyce Martin, a great guy and a great judge, who sits in Louisville, Kentucky on the Sixth Circuit. On my first day as his law clerk, his secretary sent me in to see the judge after I filled out my forms. I walked into his office and found him seated with his back to me at a huge conference table. As I got closer I saw he was surrounded by paper -- two-foot high stacks of different colored briefs and thick white appendices, which included the transcript of a long trial.

But the judge wasn't reading briefs or looking at appendices. And you could tell he hadn't – they were still bound by rubber bands in very neat piles, just like they look when they come out of the boxes from the Clerk's office. Instead, he was leaning way back in his chair holding two pieces of paper up to the ceiling lights. First one, then the other, then one on top of the other, and he repeated that a couple of times. After about 30 seconds, he finally noticed me standing off to his side. When he did, he gave me his big, friendly grin and said "Hey, John! Great to see you! I was just deciding a patent appeal!"

The second part of what my lawyer friend told me is less obvious, especially to the non-lawyers, and much more controversial. It's this business about if they wanted someone with enough brains to discuss the fine points of IP law they'd have gotten a judge from the Southern District, not someone like me from the Eastern District. As painful as that was to hear, it's certainly not the first time in my life I've been exposed to the suggestion that maybe the Eastern District isn't quite up to par with the Southern. C'mon, let's face it, people have been whispering about this subject behind the backs of us Eastern District folks forever, at least for the 30 years I've been a lawyer and judge. Southern and Eastern District judges spend their entire professional lives mingling together at functions like these, and this alleged Southern District superiority is always the 800-pound gorilla in the room nobody mentions. It may be an uncomfortable topic, but I think it's about time we dragged it out into the light, and addressed it head-on, like the mature adults we are.

This is the only city of any size in the country that is divided into two federal districts, the Southern and Eastern Districts of New York. You are seated right now in the Southern District; its beautiful federal courthouse is in lower Manhattan and the district embraces Manhattan, the Bronx and some counties to the north. Across the river in Brooklyn you'll find our equally beautiful courthouse, and our district, which was carved out of the original Southern District by President Lincoln in 1865, embraces Brooklyn, Queens, Staten Island and Long Island. The striking similarities between the districts don't end with the lovely courthouses. The Southern District has the Empire State Building, the Woolworth Building, the Chrysler Building. The Eastern District has the Williamsburg Bank Building and 26 Court Street. The Southern District has Lincoln Center; the Eastern District has Coney Island. Southern has the New York Yankees, the most storied sports franchise in history. Eastern has the Mets. Southern has Madison Square Garden and the New York Knickerbockers; we have a hole in the ground and a team that plays in Jersey. Southern has Central Park right up the road here, with its magnificent Jacqueline Kennedy Onassis Reservoir. We have the Gowanus Canal, which, by the way, was recently designated a Superfund site.

Okay, enough with the striking similarities. There are some differences between the districts that affect what goes on in our courthouses, and I think when we drill down into this long-simmering Southern District v. Eastern District issue, you find its origins in those differences.

The Southern District is home to Wall Street, the financial capital of the world. It's got the stock exchanges, the investment banks, the big brokerages firms, captains of industry. Its United States Attorney's office is the flagship of the Department of Justice, and is staffed with the best and brightest lawyers in the country. Its bench? – the crème de la crème. Just like young baseball players dream of someday playing for the Yankees, young lawyers dream of being Southern District AUSAs, or judges, or both. They dream of prosecuting or maybe presiding over the trial of the next Michael Milken, Bernie Ebbers, Martha Stewart, Bernie Madoff. The patent bar brings to the Southern District judges a rich array of patent disputes – pharmaceuticals, medical devices, software, electrical engineering, you name it, no matter how complicated, those Southern District judges are ready for it.

And across the river in the Eastern District? We don't have stock exchanges or brokerage firms. We don't have a huge supply of patent litigation. What do have? We have gangsters. Brooklyn and Queens are the gangster capital of the world. Not every single one of them lives in our district. Just like the big banks have some back office employees in Queens and Brooklyn, our Cosa Nostra families have some back office gangsters here in

Manhattan and up in the Bronx. But make no mistake about it, organized crime is our bread and butter, as much a part of our identity as potatoes are to Idaho. Maine's got lobsters; we've got mobsters.

People think you don't have to be so smart to catch mobsters. There, I said it. It's painful to say that out loud but at the same time it's therapeutic. In fact, I'll say it again: people think you don't have to be so smart to catch mobsters. I suggest to you that that simple assertion – that misconception – lies at the core of this supposed superiority of the Southern District. Right? Here in the Southern District, you have to be able to read financial statements, know what a Markman hearing is, what an audit committee does, what claim construction means. People think all you have to know over in Brooklyn is the names of the five families and wholesale value of a kilo of heroin. Let's face it, people think you elevate the importance of a case and the quality of the people involved in it when the case is here in the Southern District.

It is my goal in my remaining time tonight to destroy this myth, and by destroying the myth I hope to put an end to this Southern District-is-better nonsense. No more snickering, no more eye rolling, no more talking about us after we leave the room.

The truth is people just don't understand how unbelievably difficult it is to make a case against gangsters. I'm going to help you come to that understanding. Patent lawyers will tell you – to give you just one example – that the burden of proving the invalidity of a patent is "especially difficult" when the infringer attempts to rely on prior art that was before the patent examiner during prosecution. I have no idea what that means – I just lifted it from a recent Federal Circuit opinion – but I admit it sounds pretty difficult. But when push comes to shove, it's no more complicated than a mob case. Right off the bat, you run into a problem that's as vexing as anything you'll run across in a patent case. You have to prove the existence of the criminal organization – the "enterprise" we call it in racketeering circles.

If you're going to charge someone with conducting the affairs of a Cosa Nostra through a pattern of racketeering activity, you better be prepared to *prove* the Cosa Nostra. La Cosa Nostra – translated it means "This Thing of Ours" – and made men are "Amica Nostra," which means "Friends of Ours". Ladies and gentlemen, these are *secret* societies. There's no web site for the Genovese Family. It doesn't file annual reports or 10Ks with the SEC. If you arrest a Luchese Family soldier, you won't seize a business card with an interlocking "LF" logo on it. These centuries-old organizations are secret, and the members of every Cosa Nostra family make it their business to keep them that way. It's very important to them that they don't even talk about La Cosa Nostra, *especially* in circumstances where they might be recorded. In fact, it's so important to them that they actually talk quite a lot about how important it is for them not to talk about La Cosa Nostra.

In a moment I'm going to demonstrate that for you with a recording. Before I do, a little warning about this recording and the others I'll be playing. There's some bad language on them. Mobsters cuss. It doesn't make them bad people. I've tried very hard several times to surgically bleep out the numerous curse words and still leave the rest for you to hear. It was very difficult, and in a way I'm glad my 13-year-old daughter couldn't be here, but hopefully what remains will not offend.

Okay? So let's listen to one mobster talking on tape about how important it is not to talk about La Cosa Nostra:

[recorded conversation]

AND FROM NOW ON, I'M TELLIN' YOU IF A GUY JUST MENTIONS "LA," IF HE WANTS TO SAY, "LA, LA, LA, LA." HE JUST SAY "LA," THE GUY, I MEAN I'M GONNA STRANGLE THE **********. YOU KNOW WHAT I MEAN? HE DON'T HAVE TO SAY "COSA NOSTRA," JUST "LA."

So you tell me – how do you prove the existence of La Cosa Nostra when your targets are so disciplined, so tight-lipped they won't even say "La"? Can it even be done? Don't worry, I'm not just asking questions here – I'm going to answer them for you. The answer is yes, it can be done … it's hard, but it can be done. How? You scour the results of your investigation for every bit of circumstantial evidence that you can find of that secret society. Anything, no matter how subtle or oblique or indirect, knowing full well that you'll have your skills as a lawyer to weave it together for the jury in summation. Then you present your circumstantial evidence to the jury. It might sound something like this:

[recorded conversation]

IT'S NOT A TOY. I'M NOT IN THE MOOD FOR TOYS, OR GAMES, OR KIDDING (ia). I'M NOT IN THE MOOD FOR CLANS, I'M NOT IN THE MOOD FOR GANGS, I'M NOT IN THE MOOD FOR NONE OF THAT STUFF THERE. THIS IS GONNA BE A COSA NOSTRA TILL I DIE. BE IT AN HOUR FROM NOW, OR BE IT TONIGHT, OR A HUNDRED YEARS FROM NOW WHEN I'M IN JAIL. IT'S GONNA BE A COSA NOSTRA. THIS AIN'T GONNA BE A BUNCH OF YOUR FRIENDS ARE GONNA BE "FRIENDS OF OURS," A BUNCH OF SAM'S FRIENDS ARE

GONNA BE "FRIENDS OF OURS." IT'S GONNA BE THE WAY I SAY IT'S GONNA BE. A COSA NOSTRA. A COSA NOSTRA!

And then after you present your evidence you dig down and summon all the lawyering skills God gave you and that you've honed over the years to convince the jury that those bits of evidence form a mosaic that proves the Cosa Nostra. I tell you – and the trial lawyers in the room know exactly what I'm talking about – nothing compares to the feeling you get when you see the light bulbs going off in the jury box. You see in their faces that you've finally persuaded them that what he's actually talking about in that conversation is a Cosa Nostra, that most secret of secret societies. I get goose bumps all over again just talking about it. This is why we became trial lawyers.

But that's only step one. Proving the existence of the criminal enterprise is just the beginning. It's just like a patent case – a patent lawyer isn't done once she proves a patent; then she's got to prove the infringement. Same with organized crime cases; after you prove that the Cosa Nostra actually exists, then you have to prove some crimes.

And if you think gangsters are careful when it comes to talking about La Cosa Nostra, that's nothing compared to how careful they are when it comes to crimes. Ask your average patent or securities fraud lawyer and they'll probably tell you proving infringement of a software patent or loss causation in a 10b-5 case is way more complicated than proving an organized crime murder. They'll say they need to master the computer science or the complicated market dynamics, and then they need to find and prepare an expert. They think organized crime prosecutors have it easy, like gangsters don't do anything but sit around hidden microphones and talk about who they whacked.

[recorded conversation]

WHEN "DiB" GOT WHACKED, THEY TOLD ME A STORY. I WAS IN JAIL WHEN I WHACKED HIM. I KNEW WHY IT WAS BEING DONE. I DONE IT ANYWAY. I ALLOWED IT TO BE DONE ANYWAY.

Okay, well sometimes they do sit around and talk about who they whacked, and I admit that makes the job a little easier. But don't get the impression that all mobsters do is sit around and talk about who they murdered. Actually, sometimes they talk about who they're *going* to murder:

[recorded conversation]

LOUIE DiBONO. AND I SAT WITH THIS GUY. I SAW THE PAPERS AND EVERYTHING. HE DIDN'T ROB NOTHIN'. YOU KNOW WHY HE'S DYING? HE'S GONNA DIE BECAUSE HE REFUSED TO COME IN WHEN I CALLED. HE DIDN'T DO NOTHIN' ELSE WRONG.

I know what you're thinking – I can feel it, and I see it in your faces. You're thinking maybe this isn't as hard as Gleeson says it is. Raise your hand if that's what you're thinking. Well, I've got you right where I want you, because there's something you haven't thought of yet. And here it is: who was that speaking on the tape? That tape was recorded by a bug – a FBI Special Operations listening device – hidden deep inside a building that 50 men hang out in every night, and 50 men were in there when those words were spoken. You think it's so easy because *someone* happened to be recorded talking about crimes? Well, you can't put *United States v. Someone* in the caption of your indictment, or *United States Against One of Fifty Men in the Ravenite Social Club*. You've got to name your defendant, and then you have to prove that the person you indicted is the guy on that tape.

And by the way, whenever I say "prove," I'm not talking about the wimpy burden of proof you IP lawyers have. You only have prove your case by a preponderance of the evidence. Once you're 51% right, you're done and it's off to the golf course. When prosecutors reach a preponderance of the evidence they're just getting started, because they shoulder a much tougher burden – proof beyond a reasonable doubt. That's right – beyond a reasonable doubt. I can feel all the knees getting weak, as the civil lawyers all over the room realize how much more difficult someone else's job can be.

So who's on that tape? Which one of the more 50 gangsters in that building at that time is being recorded? Doesn't look so easy any more, does it? And you know what else? The defendant in a mob trial *never* opens his mouth before the jury – it's part of the oath of omerta – so the jury can't hear his voice and compare it to what's on the tape. You can feel all the smugness in here melting away. Lawyers are starting to sweat. Their wheels are turning furiously. How do we prove beyond a reasonable doubt who's on the tape?

The way this is going, I'm not sure I want to share any more of my trade secrets with you, but you did let me invite my family and a few friends, so here goes, the final lesson. Listen up. You start by listening to your evidence with exquisite care, over and over again. We can't do it here obviously, but it's not unusual to listen to a recorded conversation 100 times in a row. You scrutinize every single sound for anything that might be a clue: an accent, a lisp maybe, a mispronunciation, an unusual turn of phrase or figure of speech – something, any kind of clue – that you can put together with the rest of your evidence to help prove that the voice on that tape is the person you claim spoke those words.

Okay? Now, let's see if you can do it. There's a clue in the recording I'm about to play you to the identity of the speaker who is the target of your investigation. He's irritated that another organized crime group – it happens to be a Greek crime family – is moving a gambling business into the same neighborhood where our target already has a gambling business. Let's see how many of you pick it up the clue:

[recorded conversation]

MALE #1: THIS SPIRO, WAIT, WAIT, LET ME TELL YOU. WE GOT A GAME THERE FOR 20 YEARS. IS THIS RAT ****ING GREEK'S NAME SPIRO?
MALE #2: THAT'S RIGHT.
MALE #1: YOU TELL THIS PUNK I, ME -- JOHN GOTTI -- WILL SEVER YOUR MOTHER******* HEAD OFF! YOU **********. YOU'RE NOBODY THERE. "LISTEN TO ME," TELL HIM, TELL HIM "LISTEN, YOU KNOW HIM. HE'LL SEVER YOUR MOTHER******** HEAD OFF! YOU KNOW BETTER THAN TO OPEN A GAME THERE."

Raise your hand if you think you spotted the clue?

I actually thought I'd need more time than I had to make my point, but I think you got it already. Our bread and butter litigation in the Eastern District may not involve digital image half-toning patents or Postweaning Multisystemic Wasting Syndrome, but so what? It doesn't mean it's any less challenging or any less rigorous intellectually. And it doesn't mean that the prosecutors who do it, or the judges who preside over their cases, are not every bit as able as their counterparts over here across the river or on the Federal Circuit.

Even 17 years later, I still haven't lost that trait that all trial lawyers develop – I truly believe in my heart that by the time I sit down I have completely persuaded everyone in the room. But unfortunately, not everyone who needs persuading on this subject was able to make it here tonight, so I hereby deputize each of you to continue to spread the word – to continue the debunking of the myth about my beloved Eastern District. It'll come up now and then – associates talking about clerkships; a colleague trying to decide where to file a complaint. Maybe you'll even overhear a conversation like the one I'm about to play. It occurred two and a half years after that disastrous acquittal Dale mentioned to you. John Gotti beat our seven month racketeering case – the case Diane Giacalone and I prosecuted – in part by suborning some outrageous perjury about us both and by buying one of the jurors. Then he got wind of a new federal investigation of him two and a half years later when some subpoenas were served. Here's what he, his underboss and his consigliore had to say on the subject we've been discussing tonight:

[recorded conversation]

JOHN: THIS ****** PUNK OVER HERE. THEY HATE ME, THEM ****ING PROSECUTORS. IF THIS IS GLEESON AGAIN, THIS ****I** RAT MOTHER****** AGAIN.
SAMMY: YOU THINK IT'S GONNA BE HIM?
FRANKIE: I THINK THEY'LL ELEVATE IT.
SAMMY: YOU THINK THEY'LL ELEVATE – I DON'T THINK IT'S GONNA BE BY GLEESON OR GIACALONE … GET
JOHN: (COUGHS)
SAMMY: … MACK OR SOMEBODY …
JOHN: I THINK – I WOULD SAY …
SAMMY: … WITH MORE BRAINS.
JOHN: SOUTHERN DISTRICT. I THINK WE'LL GO SOUTHERN DISTRICT.
SAMMY: I THINK SOMEBODY WITH MORE BRAINS. THEY DON'T WANNA LOSE THIS CASE.

Funny, right? You know it's been over 20 years since the FBI recorded that conversation, and I've been telling myself ever since that those men underestimated me and the wonderful lawyers on my trial team – Laura Ward, Pat Cotter, and Jamie Orenstein, as well as our boss Andy Maloney, who joined us for that trial. But I think I have to revisit that because I've made a pretty good case tonight that rather than underestimating us, they just overestimated themselves.

All of this in jest of course, intended only to bring a little levity to tonight's proceedings. For the record, the Eastern District --from the streets of downtown Brooklyn to Montauk Point -- is a beautiful, diverse, endearing place that I truly love. The more than 8 million people who live there are served by a group of dedicated district, magistrate and bankruptcy judges whose talents and expertise cover the entire legal spectrum, and whose collegiality and support never cease to amaze me. The same is true of our brother and sister judges here in the Southern District. All kidding aside, we're actually great friends, and we respect each other enormously.

And I know I speak for them and for all the judges in the room when I offer a special salute to our senior judges. Few people fully appreciate how much our courts depend on our senior colleagues who essentially work for no money. They not only shoulder a very large part of our caseload; they also provide the rest of us with their leadership and wisdom. We'd be sunk without them.

I want to say thanks to the New York Intellectual Property LawAssociation. Not just for the invitation to

be your keynote speaker, although I am indeed honored by that, but thanks on behalf every one of the more than 100 judges in this room for all of this – the dinner, the cocktail hour, the dancing that follows and really for the Association itself. Occasions like this are so important to our legal community. I don't have to tell anyone in this room that life and work have a way of swallowing us whole, especially in this profession and in this city. We all have our lists: mine includes judging, teaching a couple of courses at NYU, homework checker and study helper, and participating whenever asked in CLE programs or moot courts. You have your own lists, but they all add up to the same thing – we are all so busy with our lives that we really *need* occasions like this. They make us stop and take a couple of steps back from the daily routine and catch up with and enjoy our colleagues, even if only for a few hours and even if there are almost 3,000 colleagues here. As far as our professional lives go, this is the good stuff – it is so important to gather like this, and to enjoy it, and to appreciate how fortunate we are to be part of this great profession. And especially today, on this somber 100th anniversary of one of our city's great tragedies – the Triangle Shirtwaist Fire – we shouldn't lose sight of how fortunate we are.

So thank you, for honoring us judges and including us in your gathering.

Indulge me for just a moment while I thank my family, and by thanking them I am also thanking the families of all public servants. The families of federal judges don't ask for or deserve sympathy from anyone. Like a lot of us here, Susan and I are from relatively modest backgrounds. In the immigrant's household I grew up in, the parents were short on education, short on money, in fact they were short on just about everything except faith and children. I'm the youngest of seven and when I was born that made nine of us in our two bedroom apartment in the Bronx. So no one appreciates more than Susan and me how well-off all of the public servants in this room are, in absolute terms, when compared to the rest of our society, especially in these difficult financial times, and when compared to our colleagues on the state bench, who really need the help of the organized bar to get a much-needed increase in their salaries. That said, the fact remains there are unsung heroes in the federal judiciary, and they are not judges. The opportunity costs of public service are real, but the people who bear the brunt of them are the spouses and the kids of judges. They bear the financial consequences of public service without the enormous satisfaction that comes from being a public servant – from serving you, your clients and our community. So once again, I find myself thanking Susan. When we got married almost 34 years ago, I was a foreman in a house painting company and had my own house painting business on the side. Financially, it's been downhill ever since, and now she's stuck with a public servant for life. But she and our beautiful girls Molly and Nora know how much my job means to me, and so they put up with me and even support me in it. I will be eternally grateful to them as a result.

My extended family – and by that, of course, I mean my law clerks – is well represented here tonight. My current clerks, Hayley Horowitz, Alicyn Cooley and Miriam Glaser, are all here with me, as is Ilene Lee, my wonderful case manager. And there are a few former clerks here as well. Law clerks are the very best part of a judge's job, which is saying something, because there are a lot of great parts of a judge's job.

I'm afraid I have overstayed my welcome, so I'll sit down in a moment. Thanks again to Dale and the entire New York Intellectual Property Law Association for having us judges here tonight. Thank you for listening and enjoy the rest of the evening.