Court Cases Open Door to More Political Criticism

The politically controversial yet legally significant decisions issued this summer involving gay marriage and school funding have triggered my desire to stand on my soapbox and rant a little about access to justice.

Google “access to justice” and you will find a long list of organizations and bar committees promoting such access. Included among that group is the U.S. Department of Justice, which established the Access to Justice Initiative (ATJ) to address what the agency referred to as “the access-to-justice crisis in the criminal and civil justice systems.” The ATJ mission is to “help the justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth and status.”

This definition resonates with me in the debate about our independent judiciary and the funding of our courts because the key terms are “fair” and “accessible to all.”

In my opinion, fair courts are those not driven by a particular political agenda and those not worried about pleasing a particular constituency. Because a fair court is open to listening to all the parties and deciding cases based upon the letter of the law and not popular opinion, the United States judicial system has rendered some controversial decisions. In hindsight most, if not all, of the decisions are lauded as brave and fair, but at the time they were issued, the same may not have been said. We should contemplate our country today without some of those polarizing decisions: Griswold v. Connecticut, Miranda v. Arizona, Gideon v. Wainwright, and Brown v. Topeka Board of Education.

We might all pick a different set of cases but the point is the same—politically drafted laws and public opinion polls are not always fair and just for all the citizens of our country.

“Accessible to all” requires sufficient judges and court personnel to process and hear legal matters. Access irrespective of wealth and status would require a system where litigants aren’t required to pay for each motion filed or a system that can be accessed without paying an exorbitant filing fee. As the Kansas Legislature continues to push for the judiciary to find ways to fund itself, increasing filing fees will be required. Currently, a person earning minimum wage would need to spend half a week’s wages to pay the filing fee for a Chapter 60 case. Not only should our courts be fully funded but access to justice for all also requires the funding of organizations like the Board of Indigent Defense Services and Kansas Legal Services.

The political rhetoric that follows a controversial decision, like “activist judges” or “legislators in robes,” demonstrates the very sentiment that works against fairness in our judicial system. This rhetoric suggests judges must agree with popular opinion or the politician’s opinion of an issue at all times or the judge isn’t acting properly. Is it truly the right standard? Is our goal to let every citizen appear before a judge who will agree with that citizen? This is hardly a realistic view since court cases are generally contested. Of course, I might agree with this standard if all the judges agreed with my opinions, but I’m sure that doesn’t seem very fair to you.

Like a Lawyer

My Facebook presence is pretty non-existent. I check it out once every six months or so and over the last five years I’ve probably “liked” two things. But here is what I do know—I like lawyers and it seems to be a good time to remind our neighbors and communities that they like lawyers too. Please consider joining me in finding ways to remind other Kansans how much lawyers contribute in dollars, time, etc., to the community. We kicked off this effort in Topeka. As you know, lawyers deal with lots of briefs. So after a local volunteer mentioned the need to fill the donation bin with “briefs,” the Topeka Bar Association and KBA encouraged members to donate “briefs” to Let’s Help!

Lawyers are having fun everywhere

It has been a wonderful month of seeing old friends and meeting new ones. I hope you enjoy seeing some of the activities of your fellow bar members.

Fredonia

The Southeast Kansas bar members enjoyed an entertaining ethics presentation by Bethany Roberts and topped the
day off with good food and a pleasant golf game. Thanks to Jill Gillett for adopting me as her golf cart companion for the afternoon.

**Wichita**

Congratulations to the Wichita Bar Association on reaching its 100th anniversary and hosting a knock out celebration. Champagne, dinner, dancing, and a mini-bar show made this a night to repeat. Executive Director Karin Kirk together with an officer team lead by Jennifer Hill can plan a party for me anytime. There are lots of professional photos online and a few amateur ones included here.

**Newton**

For those of you who haven’t heard, Judge Richard Walker is retiring from the 9th Judicial District Court. The respect of the lawyers in that district was evident not only from the size of the lunch crowd but also from the boisterous and humorous storytelling that took place. Judge Walker had a wonderful message to share about protecting our judicial system. You should invite him to speak!

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**About the President**

Natalie G. Haag currently serves as executive vice president/general counsel for Capitol Federal Savings Bank. She has been a member of the Kansas Bar since 1985, and received her bachelor’s degree from Kansas State University in 1982 and her law degree from Washburn University School of Law in 1985.

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