

***Remarks on acceptance of the O'Hern Award***

***Joseph A. Hayden Jr.***

I am both honored and humbled for having been chosen as the recipient of the 25<sup>th</sup> Annual O'Hern Award for Professionalism in the practice of law. I would be less than candid if I did not express my disappointment that I am not receiving this award in a live event because I have been to these luncheons in the past, and I have always been inspired by the quality of the lawyers and the enthusiasm of the audience for the recipients. However, I recognize that we are living in an era of a pandemic which threatens our health and safety, and I applaud the leaders of the Commission on Professionalism who have made the tough decision to protect our health and safety.

The receipt of the O'Hern Award is particularly meaningful to me because I knew Justice O'Hern and had the opportunity to socialize with him. I first met him when I was at a Bar conference in London and

Matty and Darrel Boylen and Katharine and myself were going to dinner and we met up with Justice O’Hern in a pub, and spent a delightful evening with him. Through the years I would see him at Bar events from time to time and we would speak of the dinner in London. In terms of competence, integrity and compassion, Justice O’Hern represented what was best in the Bench and best in the Bar throughout his career.

First of all, I would like to express my appreciation to Rutgers Law School, where I received a superb legal education during an exciting time period—the late 60’s.

Whatever professionalism I learned or exhibited during my 50-year career as a trial lawyer, I learned by example from some of the Giants in the Bar who I looked up to and taught by example, such as, Raymond A. Brown, Mike Querques, Fred Lacey and Matthew Boylen. Each of these lawyers never took shortcuts and were incapable of giving a client anything less than their very best. I think it was St. Francis who once said: “Preach the Gospel at all times and when necessary use words.”

These Giants taught me and other younger lawyers what professionalism was about by their power of example and work ethic.

I remember many years ago, I tried a multiple defendant case in federal court where my client failed to appear at trial and the judge ruled she was voluntarily absent so I had to try the case without her. To my surprise, in this difficult situation I worked just as hard preparing for my opening, my cross-examination and summation as I would have if the defendant was present and I had a chance to win. Only after the trial did I realize that I worked so hard out of professional pride. I was not about to mail it in, this was the way I was taught how to do it!

Another role model for me as to resiliency and professionalism was my father Joseph A. Hayden, Sr. Dad developed a sterling reputation in Essex County and North Jersey as a trial lawyer, and in 1967 he was elected as the President of the Essex County Bar Association.

Subsequently, he almost lost everything, including his license to

practice law, because of alcoholism. But fortunately, he entered recovery and was sober the last 20 years of his life. Once sober, he was hired as an entry-level assistant prosecutor in the Essex County Prosecutor's Office but rose during his 17-year career to become the Chief Trial Attorney in that office where he tried many of the major homicide cases. I always felt that dad's greatest gift to me was to show me a brilliant "second act" of life after he hit the floor but did not stay down for the count.

Here is one lesson my father taught me when I was a young lawyer and he was in the Essex County Prosecutor's Office. I had represented the Chief of Police of Orange in two high-profile criminal trials during the 70's and both cases resulted in hung juries. Since a hung jury is usually considered to be a win for the defense, there were pictures on the front page of the Star Ledger of us leaving the courthouse in a happy mood after a positive result. We tried the indictment against the Chief a third time and the case could not have gone in better, but the jury

came back fast only to shock us with a quick conviction on both counts. The picture in the paper the next day had the lawyers and client coming out of court with a glum and somber look. The next day dad called me and asked how I was doing, and I responded in a snippy way: “How do you think I’m doing, did you see the paper?” With that dad immediately responded, in a firm and forceful way: “If you are not prepared to try a case and lose, and have the verdict reported on the front page, do something else because you’re in the wrong business. It is going to happen.” I believe that professionalism is learning how to lose because it is part of the process, and the lawyer has to learn to accept it. To the same extent, professionalism requires us to be a gracious winner and not attempt to grind our adversary or his/her client into the ground.

During my career, I have had the good fortune to try dozens of high-profile cases with still cameras in the courtroom and at least five cases with TV cameras in and out of the courtroom. But the most meaningful

courtroom experience I ever had was not in a high-profile case but when I was sitting in the courtroom waiting to be reached in Municipal Court. It was early in my career and I went to Paterson Municipal Court on a Monday morning where dozens of individuals who were arrested over the weekend were brought into the courtroom en masse and jointly told by the judge a little bit about the legal process, their rights, and what was going to happen that day. What I saw was horrified individuals, who clearly did not understand the legal terms and maybe did not even understand the language, looking up at their lawyers with the same expression: “Help me, I need your help.” It was at that point that I came to appreciate the awesome responsibility of representing somebody whose liberty and self-worth are in the hands of their lawyer. And all I could think to myself was, if a lawyer is going to assume this responsibility, he or she cannot be hung over, bored, too unprepared, or too distracted to perform the responsibility they are given. Either you are all in as a lawyer or you are not, and if you are all in that’s what they call professionalism.

When I started to practice, Raymond A. Brown was considered to be the Dean of the Trial Bar. Ray used to say that in trial work a lawyer starts out as an apprentice, is trained to become a journeyman and a lucky few become Masters. But the duty of the Masters is to train and mentor the apprentices. Well the same is true for professionalism, and I am here today thankful for the Masters who trained and worked with me and showed me how to be a professional.

Thanks for allowing me to share my thoughts with you.