Remarks from Deputy U.S. Attorney Audrey Strauss on Receiving the Leon Silverman Award: Getting Out From Behind The Desk

At the annual dinner hosted by the Downstate New York Fellows on April 8, 2019, at The Century Association, Fellow **Audrey Strauss**, was presented with the Leon Silverman Award. The Leon Silverman Award was created in 2005 to honor a lawyer or senior judge who exemplifies the qualities of ethics and professionalism embodied in the College’s *Code of Pretrial and Trial Conduct* and whose accomplishments manifest a lifetime commitment to advancing the administration of justice.

Her remarks follow:

Thank you for those kind words. I am honored to be given this award by this particular group: The most respected trial lawyers in the country—respected not only for their skills in the courtroom but also, for their professionalism and integrity.

The award is given in the name of my former partner and mentor, Leon Silverman, which increases my delight and humbles me further.

I became Leon’s partner when I joined Fried Frank in 1990 together with my two partners, Jed Rakoff and Howard Goldstein. When we arrived at Fried Frank, Leon had been a leader of the firm for decades and a mentor to a generation of Fried Frank partners.

Leon immediately took the three of us, and me in particular, under his wing. From the outset, Leon told me what the College meant to him and how important it was to the profession. Leon encouraged me to be active in the College and to attend meetings. He wanted me to get out from behind my desk and become known in the bar.

And he did his very best to make sure this happened. I recall the first time I attended a federal bar council thanksgiving luncheon after I joined Fried Frank. Leon made a point of traveling to the Waldorf with me, and he did not leave my side.

You know the set up at the Waldorf - two rooms for cocktails with a corridor in between. Normal practice, what had been my normal practice, I’d pick a room, get a drink, look for a friend, and then stand in place chatting until the chimes rang for lunch.

But on this occasion, Leon took my arm and steered me through the rooms. As we came to anyone he knew, and he knew everyone, he announced, ‘This is Audrey Strauss, my new partner.’ He steered me around both rooms until it was time to sit down for lunch.

Judge Barbara Jones addressed this group last year and she talked about the importance of sponsorship for women. She distinguished between mentorship and sponsorship. She said, ‘The sponsor actively advocates of that person both inside and outside the firm.’

Looking back now, I realize, that Leon was giving me his sponsorship. He sent me the message that he not only had my arm, he had my back. There is so much to be said about Leon.

I will resist the temptation to list his legion of accomplishments that explain why an award for public service epitomizes Leon. Instead, I will share just one more personal vignette about Leon.

When Leon was embarking on his retirement, he still came into the office most days to work on matters for the College and the Supreme Court Historical Society. After watching his routine for a while, one day I asked him if he was going to add some leisure activities, like golf, to his life.

He looked utterly insulted and said, ‘Audrey, I have never committed an athletic act in my life-and I don’t intend to start now.’

Leon was a lion of the bar and I will treasure this award especially because it is named for him and will always remind me of him. This award is given to me as I am serving in my second tour in the U.S. Attorney’s Office for the Southern District of New York.

It was my greatest pleasure and honor to serve in the office the first time and now to come back and serve again is almost too good to be true. I am getting the opportunity to get to know a whole new generation of assistants. They are outstanding in every way but especially in the fact that they carry on the traditions of the office - doing their best to do justice in every case. It is my great privilege to get up every day and go to the office to serve with them and to provide whatever support I can as they do their jobs.

Among the jobs they do is trying cases. There is a lot of worry in our community of trial lawyers about whether the next generation of trial lawyers will even exist. Will there be enough opportunity for new lawyers to try cases and learn the craft? I will not claim there is no cause for concern, but I will report that in this past year that I have spent in the office I find there are reasons to feel some cheer. True, there are fewer trials per assistant than in our day, but still I am seeing AUSA’s, even with fewer trials, developing into remarkably good trial lawyers.

For example, a very experienced judge recently called a unit chief to shower high praise on an assistant who had summed up that day in a case before him. The judge asked, ‘How many cases had she tried?’ The chief reported: it was her first. The judge couldn’t believe it. He was so impressed that he also mentioned the assistant’s performance to Geoff Berman, our U.S. Attorney, when he next saw him.

I began to think about what could have accounted for that—an assistant delivering her first summation, mistaken for a more experienced trial lawyer?

I have a few hunches that I thought I would share with you. For starters, I would give credit to the increase in trial practice teaching in the law schools. When I was in law school, there were few trial advocacy courses offered. Now those who have a real interest in becoming trial lawyers can get trial practice while still in law school. Fellows, such as our Downstate Fellows, many of you here tonight, have contributed to the early training of many of our young trial lawyers by their teaching.

The College itself contributes with its National Trial Competition every year. Similarly, clinical programs have offered opportunities to go to court while still in law school. And the adjustment of court rules has allowed law students into court.

I would also give credit to the many firms, including those represented here tonight, that have made increasing efforts to give their associates opportunities for hands-on courtroom experiences, in client matters and in robust pro bono programs.

We see this in our applicant pool. Many applicants we see have had some kind of courtroom experience. As notable examples, one firm created a program where an associate is regularly selected for a six-month rotation into a DA’s office to try misdemeanor cases. Others have let associates take on pro bono cases where they have had contested hearings, for example, in cases before immigration judges. One applicant had been appointed by the court, SDNY, to try a civil rights case as first chair, representing a prisoner with a credible claim against prison guards.

I would also point to the work we do to provide trial advocacy training during an assistant’s first year in the office. Once we have a critical mass of new general crimes assistants, our two senior litigation counsel lead two days of trial training for them. This training uses a case file filled with thorny problems and provides an opportunity to do openings, summations, direct and cross of an agent, cooperators, and defendants, as well as practice objecting and arguing to the court.

Senior assistants are present to provide critiques and every AUSA walks away with a video that the assistant can bring home to their significant other, to watch together on a Saturday night, very romantic.

In addition,nowadays moot courts of opening statements are part of normal trial preparation. Even summations are mooted if there is time.

One further contributor to the development of trial skills in the office today is the blast email. In my day, the U.S. attorney and other executives got a list of upcoming and ongoing trials every day. This allowed them to drop in to see what we were doing and provide feedback to us afterwards.

Now, as a matter of regular practice, when a trial is about to begin, one member of the trial team sends out a blast email to all AUSA’s in the criminal division, with a dramatic description of the trial, to drum up interest. This initial teaser is followed by updates that alert everyone exactly when to show up, such as Kyle opens this morning at 10:00 am, courtroom 110, come support; or Sarah will be cross-examining the defendant at 1 pm, come support; or don’t miss Laurie’s rebuttal summation at 3 pm. Come support!

‘Come support’ is the rallying cry. All of us on the eighth floor depend on these alerts to time our own visits to see the assistants’ trial work. But when we walk into the courtroom, there is almost always a gang of assistants who have come to support their colleague—but also to watch and to learn. This is another way our AUSA’s are accelerating their learning of trial practice.

So, all is not lost. We have a very talented and motivated generation of trial lawyers in the making. They are learning their craft, a little differently than we did, but learning they are.

A word about women.

I thought it would be of interest to you to know that the percentage of women in the USAO SDNY today is 43%. I bring this up as a point of encouragement.

Among the exceedingly talented assistants in the SDNY delivering their jury addresses and occasionally drawing praise from an experienced judge, it so happens that many of them are women. So, there is reason to believe that the College will be able to find women fellows, in greater numbers, in upcoming years.

I have had extraordinary female and male mentors. They have not only taught me but also befriended me, and many of you are here tonight. I thank you all.

I will mention just two by name.

Bob Fiske and Jed Rakoff.

Bob gave me opportunities within the office and thereafter, time and again. Most importantly, he gave me his example as a role model. It is always with me. Jed was my close colleague in the office, then my unit chief and then my partner. He probably would say that he taught me everything I know—and it would be true.

So, thank you Bob and thank you Jed.

Last, but not least, thank you to my very own Fellow, Rusty. Rusty has been my constant booster and supporter. His boundless optimism has carried me through every challenge I ever faced. Thank you to the Downstate Committee and the college for this honor, the Leon Silverman Award, which I will always treasure.