

# "May you live in interesting times ..."

By Micha Star Liberty



As we enter this century's roaring twenties, it would be a mistake to ignore the last.

The 1920's brought initial economic prosperity that ended with the Great Depression, First Wave Feminism that led to the passage of the 19th Amendment, and a resurgence of the Ku Klux Klan that yielded the passage of the Immigration Act of 1924, setting quotas for certain nationalities entering our country.

The more things change, the more they stay the same.

When one focuses on the political and legislative year ahead, it is easy to become overwhelmed with the constitutional and civil rights crises we face as a nation: The U.S. House of Representatives has impeached the president, there is proof of significant acts of crime, corruption and cronyism in the federal government, we have politicians with ties to monsters who traffic girls for sex, and a White House staff that includes proud white supremacists.

Yet, CAOC and I are totally committed to continuing to fight for your practices, for your clients, and for the civil rights of all Californians. We've been warned. We've been given an explanation. Nevertheless, we have persisted.

As I prepare and fortify myself for 2020, I am reminded of the speech called Day of Affirmation that Robert Kennedy delivered in 1966 in Cape Town, South Africa. Kennedy talked about individual liberty, apartheid, and the need for justice in the United States at a time when the American

civil rights movement was at a crescendo. He emphasized inclusiveness and the importance of youth involvement in society to insure social justice and the dismantling of discriminatory social norms.

"There is ... nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success than to take the lead in the introduction of a new order of things. Yet this is the measure of the task of your generation and the road is strewn with many dangers," he said.

This same task is ours in 2020.

Kennedy said three dangers that those working for social justice reform would face were futility, expediency, and timidity.<sup>1</sup>

## Your resistance is not futile

It is easy to focus on the negative. There are immigrant children in cages, the cost of healthcare is bankrupting working families, the caustic impact of social media is psychologically damaging our children. But let us not fall victim to the belief that just because things seem dire, there is nothing we can do.

The 2020 presidential race is the election of a lifetime for us and for our clients because it is the election of a lifetime with respect to the makeup of the federal judiciary.

As of December 2019, the United States Senate has confirmed 174 Article III judges nominated by President Trump, including two Associate Justices of the Supreme Court of the United States, 50 judges for the United States Courts of Appeals, 120 judges for the United States District Courts, and two judges for the United States Court of International Trade. There are currently 46 nominations to Article III

courts awaiting Senate action. There is currently one vacancy on the U.S. Courts of Appeals, 79 vacancies on the U.S. District Courts, two vacancies on the U.S. Court of International Trade, and 14 announced federal judicial vacancies that will occur before the end of Trump's first term (one for the Courts of Appeals and 13 for District Courts). These numbers do not include appointments or vacancies for Article 1, nor Article 5, judges.

For those of us who practice in federal court, we have seen and felt the impact of having our clients' rights significantly and negatively impacted by inexperienced or anti-consumer and anti-worker judges selected by the Federalist Society.

For this reason alone, I submit this call to action: We as trial lawyers must donate to any U.S. Senate candidate who will take seriously his or her duty to "advise and consent" on any judicial nominee. There are presently 19 GOP senators who are up for re-election in 2020. In 2018, there were 12 races with a margin of victory under 10%, three under 3% and one that was only .12%.

Every vote and every dollar matters in making sure we protect our federal courts. Regardless of how we got here, we will persist.

## Expediency, Political or Otherwise

Our hopes and beliefs should never yield to the necessities of the process, whatever that may be. In politics, the necessities are simple: money. Thankfully, despite the damaging U.S. Supreme Court decision of *Citizens United*, CAOC need not sacrifice its core values when lobbying or supporting candidates for political office.

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## President's Message

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There are myriad politicians who share our principles.

But there is much work to do.

In the California Legislature this election year, there are five termed-out Senators who have always been supportive of our clients' rights. CAOC is hard at work vetting, endorsing, and raising PAC money for the early March 3, 2020 primary. Additionally, there are six trial lawyers running for legislative office, and four who happen

to be women. It is our duty to do whatever is necessary to elect pro-worker and pro-consumer politicians, regardless of the effort it takes. Their priorities align with our own hopes and beliefs: that the rights of hardworking Californians are protected.

In case your visceral reaction is to say to yourself, "it's too time consuming and expensive to make sure we have the right people elected into office in 2020," take a moment and imagine what it would have been like if there were more trial lawyers or more pro-consumer politicians in the

Legislature in 2012 when SB 1528 was introduced to fix the horrific impact *Howell v. Hamilton Meats* has had on injured plaintiffs.

Together we can change the political and legislative landscape. Although all politics is local, as goes California so goes the nation in terms of progressive legislation. Join me in this fight.

## Don't get too comfortable

Robert Kennedy spelled out a fourth and final danger: "For the fortunate amongst us, the fourth danger is comfort; the temptation to follow the easy and familiar path of personal ambition and financial success so grandly spread before those who have the privilege of an education. But that is not the road history has marked out for us. There is a Chinese curse which says 'May he live in interesting times.' Like it or not, we live in interesting times. They are times of danger and uncertainty; but they are also the most creative of any time in the history of mankind. And everyone here will ultimately be judged – will ultimately judge himself – on the effort he has contributed to building a new world society and the extent to which his ideals and goals have shaped that effort."

We have the opportunity and challenge, the right and responsibility, to build a better world for Californians in 2020.

Politically, on both a national and local scale, it is easy for us to be too comfortable. This state is solidly pro-consumer and pro-worker. We have a governor and a super majority in the Legislature that have demonstrated their courage and commitment to improving the lives of their constituents. In the 2020 presidential election, we will likely back a presidential candidate who believes in the rule of law and that the rights of the marginalized must be protected rather than systematically stripped away.

But we cannot get so complacent that we sit back and fail to fight. California is a legislative beacon of hope for the disenfranchised, the abused, and the forgotten. Together, let's work to keep it this way. ■

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<sup>1</sup> Trial lawyers are not timid. It is not really in our nature. Enough said. But for those who do not spend their nights and weekends tilting at real and imaginary windmills, take note. It's time for a gut check. And action.